

Village of Bayville Local Waterfront Revitalization Program

Adopted:

Village Board, October 28, 2002

Approved:

NYS Secretary of State Randy A. Daniels, February 11, 2003

Concurred:

U.S. Office of Ocean and Coastal Resource Management, May 16, 2003

This Local Waterfront Revitalization Program (LWRP) has been adopted and approved in accordance with provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42) and its implementing regulations (19 NYCRR 601). Federal concurrence on the incorporation of this Local Waterfront Revitalization Program into the New York State Coastal Management Program as a routine program change has been obtained in accordance with provisions of the U.S. Coastal Zone Management Act of 1972 (P.L. 92-583), as amended, and its implementing regulations (15 CFR 923).

The preparation of this program was financially aided by a federal grant from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended. Federal Grant No. NA-82-AA-D-CZ068.

The New York State Coastal Management Program and the preparation of Local Waterfront Revitalization Programs are administered by the New York State Department of State, Division of Coastal Resources, 41 State Street, Albany, New York 12231.



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

April 17, 2003

Honorable Victoria Siegel
Mayor
Village of Bayville
34 School Street
Bayville, NY 11709

Dear Mayor Siegel:

I am pleased to inform you that I have approved the Village of Bayville Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive management program that promotes the balanced preservation, enhancement, and utilization of the Village's valuable waterfront resources.

I am notifying state agencies that I have approved your Local Waterfront Revitalization Program and am advising them that their activities must be undertaken in a manner consistent, to the maximum extent practicable, with the program.

I look forward to working with you, as you endeavor to revitalize and protect your waterfront.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy A. Daniels". The signature is stylized with a large, sweeping initial "R" and a long, horizontal flourish extending to the right.

Randy A. Daniels

RAD:mo\gn

REGULAR MEETING OCTOBER 26, 2002

Trustee Horgan MOVED BE IT RESOLVED to adopt proposed Local Law 2002-7 as Local Law 2002-7, the Village of Bayville Waterfront Consistency Review Law.
 Poll of Board: Trustee Watson, aye, Trustee Laurine, aye, Trustee Kennedy, aye, Trustee Horgan, aye, Trustee McBride, aye, Mayor Siegel, aye.

RESOLUTION 2002-138

Trustee Watson moved BE IT RESOLVED that the Board accept the following Resolution,

WHEREAS, the Village of Bayville initiated preparation of a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of the Executive Law; and

WHEREAS, preparation of the Local Waterfront Revitalization Program was financed through an Environmental Protection Fund grant awarded to the Village of Bayville by the Department of State; and

WHEREAS, a Draft Local Waterfront Revitalization Program (DLWRP) and related local laws were prepared under the guidance of a Citizen's Advisory Committee and the Village's Board of Trustees; and

WHEREAS, a Full Environmental Assessment Form was prepared and considered for the DLWRP in accordance with the requirements of Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, a Negative Declaration was subsequently issued by the Village Board as Lead Agency in accordance with the requirements of Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, a DLWRP was circulated by the Department of State to appropriate regional, county, state, and federal agencies in accordance with the requirements of Executive Law, Article 42 and Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, all meetings of the Village's Local Waterfront Revitalization Program Advisory Committee were open to the public, and a public hearing was advertised and held by the Village Board on July 29, 2002 to receive and consider comments on the DLWRP; and

WHEREAS, modifications were made to the DLWRP in response to comments received; and

WHEREAS, the Village has enacted all local laws necessary to implement the Local Waterfront Revitalization Program,

NOW THEREFORE, BE IT RESOLVED, by the Board of Trustees of the Village of Bayville, New York, that the Village of Bayville Local Waterfront Revitalization Program is hereby adopted.

BE IT FURTHER RESOLVED, that the Board of Trustees of the Village of Bayville hereby directs the Mayor of the Village to formally transmit the adopted LWRP, and all related local implementing laws, to the New York State Secretary of State for approval pursuant to Article 42 of the NYS Executive Law -- the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

Seconded by: Trustee McBride

Poll of Board: Trustee Watson, aye, Trustee Laurine, aye, Trustee Kennedy, aye, Trustee Horgan, aye, Trustee McBride, aye, Mayor Siegel, aye.

RESOLUTION 2002-138





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

Mr. George R. Stafford
Director, Division of Coastal Resources
New York Department of State
41 State Street
Albany, New York 12231

MAY 16 2003

DEPARTMENT OF STATE
COASTAL PROGRAMS

MAY 22 2003

RECEIVED

Dear Mr. Stafford:

The Office of Ocean and Coastal Resource Management (OCRM) concurs with your request to incorporate the Village of Bayville Local Waterfront Revitalization Program (LWRP) into the New York State Coastal Management Program as a Routine Program Change (RPC). We did not receive any comments objecting to incorporating the LWRP as a RPC. This approval assumes you will make no further changes to the document in addition to the ones submitted.

Pursuant to your RPC submission, OCRM has identified the following new or revised enforceable policies: 1, 3, 4, 5, 6, 9, 10, and 11. Other changes to the state's enforceable policies based on the LWRP are essentially the same as those found in state law under 19 NYCRR, Part 600.5.

In accordance with the Federal Coastal Management Regulations, 15 CFR 923.84, Federal Consistency will apply to the enforceable policies contained in the revised Village of Bayville LWRP after you publish notice of our approval.

Sincerely,

John R. King
Acting Division Chief



**SECTION I
LOCAL WATERFRONT
REVITALIZATION AREA BOUNDARY**

WATERFRONT REVITALIZATION AREA BOUNDARY

The boundary of the Waterfront Revitalization Area encompasses the entire upland area of the Incorporated Village of Bayville.

In general, as shown in [Figure 1](#), the Village's corporate boundary follows along the mean high water line on the foreshore. However, this boundary extends offshore a distance of approximately 300 feet into Mill Neck Creek in the vicinity of Creek Road. Additionally, the Village boundary lies offshore in Oak Neck Creek. The Village has full regulatory jurisdiction under the Village Code within the water areas delineated by this boundary, similar to what applies to the upland area.

The existing coastal area encompasses the coastal waters of Long Island Sound, Oak Neck Creek, Mill Neck Creek, Mill Neck Bay and Oyster Bay Harbor to a distance of 1,500 feet from shore. Within this area, the Village has the authority to regulate the use, speed, operation, anchorage and mooring of vessels, pursuant to Section 46-a of the New York State Navigation Law.

SECTION II INVENTORY AND ANALYSIS

A. **Orientation and Community Profile**

The Village of Bayville is located on the north shore of Long Island, New York, in the eastern portion of Nassau County. The study area for this LWRP, which encompasses the entire Village of Bayville and is defined as the Local Waterfront Revitalization Area (LWRA), is in an incorporated area of the Town of Oyster Bay, and is one of several incorporated villages that lie adjacent to the Oyster Bay/Cold Spring Harbor Complex.

The Village of Bayville, incorporated in 1919, is greater than one square mile in area. The terrain is largely rolling and hilly, especially in the western portion of the Village, due to its position on the Harbor Hill terminal moraine. The portion of the Village to the east of Washington Avenue, and the Village's extreme western end, are low-lying.

The Village has shoreline on both the Oyster Bay Harbor Complex (including Mill Neck Creek and Oak Neck Creek) to the south and Long Island Sound to the north. The characteristics of these two water bodies are very different. Oyster Bay Harbor is an enclosed embayment, which is fairly well protected from the most damaging wave action during storms, but also experiences restricted tidal flushing which causes the accumulation of contaminants in its innermost reaches, especially in the Mill Neck/Oak Neck Creek system. Long Island Sound has better water quality than the harbor complex due to a greater degree of tidal circulation, but is also exposed to severe waves during major storms that can cause coastal erosion and physical damage to waterfront structures. The Village has more than five miles of shoreline, approximately equally divided between the Sound-side and the bay-side.

Land use in the Village is primarily residential. There are limited areas of open space, mostly in public parkland. A number of marine commercial uses are present along the southerly shoreline of the Village, primarily in the vicinity of the Bayville Bridge. Commercial uses also are important in the Village, especially in the business district extending from the intersection of Ludlam Avenue and Bayville Avenue.

The Village is essentially fully developed at the present time, with very limited future development potential.

Historic Development

The Village of Bayville, which was known as the Village of Oak Neck until 1859, has grown from a population of about 75 in 1840 to 1,000 in 1930, 2,000 in 1950, and about 8,800 at present. As with many other areas on Long Island, the Village of Bayville changed from agrarian to summer residential, and then to its present status as a year-round residential community.

The early settlers (in the area that is now the Village of Bayville) were heavily involved in oyster and clam fishing, and trading with the Native Americans. As an outgrowth of this effort, lime was manufactured from the accumulated shell residue for a short time around 1700. Shellfishing has continued to be an important activity in the community to this day, for both commercial and recreational use. At one time, lumber from Bayville was harvested for use in New York City, but this activity was discontinued because of tree depletion. The Village of Bayville became a major asparagus growing area from 1825 until about 1900, when a blight destroyed the crop. In the latter half of the 1800s, the mining of sand and gravel for construction projects in New York City was an active industry in this area.

There was a serious mosquito infestation problem in the area until about 1880, at which time scientific developments in mosquito extermination technologies resulted in the elimination of the problem. This made the area more attractive as a summer resort, and by 1885, affluent people began to purchase property for their summer estates. Bayville became a thriving summer community. The era of large summer estates lasted until the 1930s. Many of the summer residents decided to settle permanently in Bayville. Some of the houses are still used as summer homes by the owners, and are rented during the remainder of the year.

The only shellfishing company presently operating in the Village of Bayville, Frank M. Flower and Sons, Inc., was started in 1887 at Shu Swamp in Mill Neck. In 1900, the firm moved to a location on the Mill Neck side of the Bayville Bridge and, then in 1940, to its present location on the Bayville side of the bridge. Although there presently are about 40 employees, the firm has had as many as 60 employees. Flower provides oysters and clams primarily to the northeastern part of the United States, but has sold its product throughout the nation, as well as to Canada and Europe. Oyster Bay Harbor also is used for the harvesting of clams and lobsters by independent commercial baymen and lobstermen, as well as by persons involved in recreational shellfishing.

Until 1898, when the drawbridge from Bayville to Mill Neck was constructed, the only land access to Bayville was from the west through Locust Valley. The bridge provided another accessway, southward through Oyster Bay hamlet. Previously, access to Oyster Bay hamlet was long and indirect, past Factory Pond, through Mill Neck over Beaver Dam, onto Cleft Road, and finally to Oyster Bay. The current bridge was originally constructed in 1938, and was extensively renovated in 1992.

There are two Nassau County roadways (Bayville Avenue and Ludlum Avenue) and one Town of Oyster Bay roadway (West Harbor Drive) within the Village of Bayville. Perry Avenue, Creek Road, Mountain Avenue, Godfrey Avenue, School Street, and Merrit Lane are under the Village's jurisdiction. The remaining roads in the Village are privately owned. Bayville Avenue, the main east-west County roadway through Bayville, was originally built as a dirt road in 1754 through Oak Neck to Centre Island. Public and private roads were constructed gradually over the years. Sidewalks were first installed in the Village in 1920.

Bayville Avenue connects Bayville to Locust Valley through the Village of Lattintown and the City of Glen Cove to the west, and to Ludlam Avenue and West Shore Road through the Village of Mill Neck to Oyster Bay to the east. Major Long Island highways (e.g., the Long Island Expressway and Northern State Parkway) to the south are accessible to Village residents by way of both Glen Cove and Oyster Bay. The construction of these major Long Island highways from New York City after World War II, and the availability of low-cost automobiles, gave impetus to population growth in Bayville.

Better access to New York City was provided by both land and sea. The two railroad stations that are closest to Bayville are in Locust Valley and Oyster Bay. When the Locust Valley Railroad Station was built in 1869, the population of Bayville increased because of better access to New York City. In 1870, a boat made daily trips from Steamboat Landing to New York City; and in 1906, a water taxi operated from the bridge area to the Oyster Bay Railroad Station. Between 1920 and 1937, ferries that operated out of Ferry Beach carried passengers to Rye, New York, and Stamford, Connecticut. Although there was daily bus service through the Village at one time, it was abandoned due to economic considerations. At present, limited bus service to shopping areas is available. Taxis are also available in the Village.

There were a number of other factors that also contributed to the growth of Bayville. The provision of electrical power lines in 1906 helped to modernize the Village. The installation of the first central water system in 1965 further modernized the Village. Returning World War II veterans settled on Long Island, including the Village of Bayville, in the late 1940s and 1950s, greatly accelerating the population growth of these communities. In 1919, Bayville was incorporated as a village.

B. Natural Resources

1. Geology, Topography and Soils

Subsurface Geology

Bayville is underlain by approximately 400 feet of unconsolidated and relatively soft geologic material of Cretaceous and Pleistocene age. These deposits rest on hard, dense crystalline bedrock which is referred to as the basement complex.

The unconsolidated deposits are the main source of groundwater for the Village of Bayville and elsewhere on Long Island. At the very base of the unconsolidated section is the formation known as the Lloyd Member of the Raritan Formation. The Lloyd Aquifer is on the order of 100 feet thick in Bayville and is moderately permeable, and serves as the source of public water for the Village of Bayville.

It has only been in recent years that the subsurface sedimentary formations in Bayville and other locations along the north shore of Long Island have been thoroughly examined. Test

drilling and offshore seismic investigations have been carried out by the United States Geologic Survey (USGS) in the area from Great Neck to Bayville. While the information from this work is still being evaluated, the preliminary results indicate that the geologic history of this area is very complicated, and simple correlation of formations in this area with comparable units elsewhere on Long Island cannot be made with confidence. All that can be concluded with certainty regarding the lower portion of the geologic sequence in Bayville is that the Lloyd Sand is present and comprises the lowest geologic unit which rests upon the bedrock. The Jameco Gravel formation also may be present. However, other formations common to Long Island, including the Magothy formation, are entirely absent from the Bayville area. The Magothy layer, which is a primary source of drinking water on Long Island, has been removed by erosion in the Bayville area, as evidenced by north-south trending buried valleys under Long Island Sound, and has been replaced by deposits of Pleistocene age which are known collectively as the Upper Glacial Formation consisting mainly of silt and clay.

In summary, the principal geologic units in the Village of Bayville, from the surface downward, are:

Glacial Deposits - These are the deposits of the terminal moraine created by the last advance of the glacial ice sheet, which form the uplands in the Village of Bayville. Here, as in many other areas on Long Island, these deposits were mined for sand and gravel.

Undifferentiated Clay Deposits - These may either be undifferentiated Gardners Clay or Glacial deposits. The Magothy formation, which generally is found in this position in the sediment column on Long Island, is not present in Bayville.

Lloyd Sand Member - Below the undifferentiated clay deposits is a unit that is correlated with the Lloyd Sand member of the Raritan Formation. This unit is about 100 feet thick in the Bayville area and is moderately permeable. This unit rests directly on the basement crystalline bedrock floor.

Having determined that the geologic history of the Bayville area is extremely complicated, the USGS may no longer attempt to correlate the individual formations of this area with their approximate counterparts elsewhere on Long Island. Instead, they may reclassify and rename these units to reflect the obvious complexities. The USGS currently is considering a proposal to rename and classify the deposits in this area as the "North Shore Formation".

The new understanding of the sub-surface geology of Bayville may have an important bearing on how much water can be extracted from the deep sand aquifer in this area without causing undesirable impacts. For example, the Bayville aquifer may not correlate or correspond with similar sandy beds found elsewhere on the Island and may therefore warrant management as a separate and independent aquifer. At this point, there is no way of knowing the nature and extent of the correlation and, therefore, the effects of pumping the Bayville deep wells on other supply wells and outpost wells in the area.

Surface Geology and Topography

The low-lying eastern end of the Village of Bayville is a relatively flat surface which generally is 12 feet or less above sea level. Geographers refer to this type of landform as a tombolo, which is a sandy strip of land joining an island to the mainland. This Bayville tombolo is approximately 1.5 miles in length, between Centre Island and the more elevated western portion of Bayville, and ranges from 1,500 to 2,000 feet in width. The Bayville tombolo was formed by the deposition of materials that were eroded from the adjacent upland areas and carried in an east-west direction by long-shore currents, until the connection between Centre Island and the mainland was completed.

The more elevated area at the western end of the Village of Bayville historically has been called Oak Neck. This area is roughly circular in outline and is slightly less than one square mile in area. The highest elevation is approximately 150 feet above mean sea level. The topography of this area is hilly, and has the distinctive characteristics of a terminal moraine formed by a continental glacier. There are a number of overlooks and discontinuous bluffs in this part of the Village, but no continuous ridge or line of bluffs of the type found elsewhere on north shore of the Island. Because most of the incident precipitation infiltrates into the soil rather than running off over the surface, and due to the narrow width of the Village, Bayville lacks significant streams.

The beach along the Long Island Sound side of Bayville averages approximately 150 feet in width. Within the area of extra-territorial jurisdiction extending up to 1,500 feet from the mean high-water line, the water depth drops off to approximately 30 feet. (Note: unless otherwise specified, all water depths reported in this LWRP are in reference to mean low water.)

On the south side, Bayville is bordered by Mill Neck Creek, Oak Neck Creek and Oyster Bay Harbor. The shoreline of Mill Neck Creek and Oak Neck Creek is bordered mostly by areas of tidal marsh. The Oyster Bay Harbor shoreline of the Village is bordered primarily by natural and man-made beaches. The deepest section of Mill Neck Creek lies beneath the Bayville Bridge, where depths in the ten-foot range are encountered. Depths in the inner portion of Mill Neck Creek adjacent to the Village of Bayville generally range from 2 to 3 feet, while Oak Neck Creek generally becomes tidal flat at low water. The depth of Oyster Bay Harbor within the Village's 1,500-foot area of extra-territorial jurisdiction generally ranges from 5 to 10 feet, but attains depths as great as 20 feet in the deepened offshore areas.

The surface geology of Bayville reflects the recent geologic origins and history of the area. The tombolo is mapped and characterized as a well-graded sandy deposit that was transported and deposited by long-shore currents in Long Island Sound. The Oak Neck upland was formed from unsorted materials that were pushed ahead of the advancing glacier and were left behind when the ice sheet receded. The hilly and hummocky topography of this area is characteristic of the glacial terminal moraines on Long Island.

The geologic deposits consist primarily of sandy units. These sediments are highly variable in thickness; in some places they may be over 400 feet. As noted previously, offshore seismic surveys by the USGS Geological survey indicate the existence of deep buried valleys of glacial origin that may have completely eroded through the entire sequence of Cretaceous deposits, all the way to the bedrock floor at a depth of 400 feet. The tidal marshes and beaches along the shoreline are of recent origin, and are still in the process of forming. This marshland was created by the gradual infilling by sediment and decaying vegetation. Some sections of the shoreline have been filled in artificially, with miscellaneous demolition debris and, perhaps, dredge spoil.

Soils

Soil boundaries were taken from the *Soil Survey of Nassau County* (U.S. Department of Agriculture, Soil Conservation Service, 1987). In general, the soils reflect the nature of the geologic deposits from which they are derived. They also reflect the environment and the topography in which the soils were formed. On the broadest scale, the five principal soil-forming environments in the Village of Bayville are:

- a. Soils that have formed on the tombolo. These soils generally are very rapidly draining and are not very rich in organic material. Because of this poor fertility, this area does not support abundant plant life. Udipsamment soils (i.e., man-made fill and borrow areas) together with reworked urban-land soils predominate in this area. These soils are nearly level to gently sloped (up to 3 percent gradient) and excessively drained, and are composed of coarse-textured sand.
- b. Upland soils, in the more elevated western portion of the Village (Oak Neck). These soils have developed on the glacial moraine, are well drained to excessively drained, and are rich in organic materials. These characteristics allow the soils to support an abundance of natural vegetation. This area generally contains Riverhead and Plymouth soils, which have been substantially modified by development, with slopes generally in the 3 to 15 percent range.
- c. Organic and tidal marsh soils. These are poorly drained and dense soils that are formed by the gradual infilling of the tidal estuary areas in Mill Neck Creek and Oak Neck Creek, due to twice-daily inundation by salt water caused by tidal action. They are generally classified as Ipswich Soils.
- d. Soils that form on steep slopes. These soils have unique characteristics that are derived from their thickness and drainage properties. These are a special classification of soils such as Plymouth, Riverhead and Montauk, which form on slopes ranging from 15 to 35 percent.

- e. Beach soils. These soils were formed by the beach building processes along the land-water interface, and are shown as a separate unit on the soil map.

2. Surface Water Resources

Surface Waters

The surface waters in the LWRA are mainly salty and brackish. These include: Mill Neck Creek, Mill Neck Bay, Oak Neck Creek (which is a northerly tributary to Mill Neck Creek), Oyster Bay Harbor, and Long Island Sound. Although there are no significant freshwater bodies within the Village of Bayville, freshwater drainage from watersheds located to the south of the LWRA have had significant impact on the quality of waters that surround the Village of Bayville. This freshwater drainage system is discussed in great detail in the Draft Harbor Management Plan for the Oyster Bay/Cold Spring Harbor Complex (September 1997), and includes the following drainage systems:

- 479-acre Oak Neck watershed;
- 459-acre Factory Pond watershed;
- Kentruck Pond and the 2,715-acre Shu Swamp; and
- Beaver Brook/Beaver Lake watershed.

The Bayville-Centre Island watershed is 830 acres in size, and affects the water quality of Long Island Sound to the north, and Oyster Bay Harbor and its tributary water bodies to the south (including West Harbor, Turtle Cove and Mill Neck Creek). The major water quality problems for these surface waters are caused by contaminant loadings contributed by stormwater runoff, malfunctioning on-lot sanitary systems (i.e., cesspools and septic systems), and other non-point pollution sources).

Applicable Water Quality Standards and Related Criteria

The New York State Department of Environmental Conservation (NYSDEC) monitors water quality of Nassau County coastal waters on a regular basis. This work is carried out by the Department's Bureau of Shellfisheries. The monitoring program focuses on the safety of marine waters for the harvesting of shellfish for human consumption. The monitoring focuses on the measurement of coliform bacteria levels and the potential release of coliform bacteria from such uses as sewage treatment plants, marinas, mooring areas, and anchorages.

The Nassau County Department of Health monitors water quality off public bathing beaches to determine if the waters meet with public health requirements which are based on coliform bacteria concentrations.

New York State Shellfishing Harvesting Criteria

The quality of marine and estuarine waters can be assessed on the basis of a variety of variables, including color, odor, floating and suspended solids, oil, toxic compounds, and other deleterious substances. Water quality classifications in New York State currently are based primarily on three indices: total coliform level, fecal coliform level, and dissolved oxygen concentration.

The primary objective of most on-going water quality monitoring programs in New York State is to prevent human health impacts from exposure to pathogenic bacteria and viruses which can result from either direct contact with contaminated water or the consumption of tainted shellfish. However, the detection of these pathogens is generally a time consuming and tedious undertaking. Consequently, water quality testing typically entails the use of coliform bacteria, which are relatively easy to measure; these bacteria co-occur with the pathogens of primary concern and serve as indicators of the possible presence of those pathogens.

In order to be certified as a shellfish harvesting area, the median total coliform level for any series of samples must be no greater than 70 MPN/100 ml or less (where MPN/100 ml is the most probable number of organisms per 100 milliliters of sample). New York State (2 NYCRR Part 701.20) classifies these certified shellfishing waters as “SA”, which designates the highest level of water quality, and establishes the best intended usage of these waters as shellfish harvesting for market purposes, and primary and secondary contact recreation (Table 1).

TABLE 1

**NEW YORK STATE WATER QUALITY CLASSIFICATIONS
DEFINED ACCORDING TO BEST USAGE**

Freshwater Classification	Best Usage
AA	Source of water supply for drinking, culinary or food processing purposes and any other usages.
A	Source of water supply for drinking, culinary or food processing purposes and any other usages.
B	Primary contact recreation and any other use except as a source of water supply, for drinking, culinary or food processing purposes.
C	The waters are suitable for fishing and fish propagation. The water quality shall be suitable for primary and secondary contact recreation even though other factors may limit the use for that purpose.
D	The waters are suitable for fishing. The water quality shall be suitable for secondary contact recreation even though other factors may limit the use for that purpose. Due to such natural conditions as intermittency of flow, water conditions not conducive to propagation of game fishery, or stream bed conditions, the waters will not support fish propagation.
Saline Classifications	Best Usage
SA	The waters shall be suitable for shellfishing for market purposes and primary and secondary contact recreation.
SB	The waters shall be suitable for primary and secondary contact recreation and any other use except for the taking of shellfish for market purposes.
SC	The waters are suitable for fishing and fish propagation. The waters shall be suitable for primary and secondary contact recreation even though other factors may limit the use for that purpose.
SD	All waters not primarily for recreational purposes, shellfish culture or the development of fish life, and because of natural or man-made conditions cannot meet the requirements of these uses.
Special Classification	Best Usage
I	The waters shall be suitable for secondary contact recreation and any other usage except for primary contact recreation and shellfishing for market purposes.

All of the marine surface waters in the Village of Bayville LWRA are classified SA. However, certain areas in these waters do not comply with SA criteria for all or part of the year. In particular, the entire area within West Neck Creek and Oak Neck Creek generally fails to satisfy the shellfish harvesting standards and, therefore, is uncertified for this activity on a year-round basis. A portion of Mill Neck Creek may be open for shellfishing conditionally during the colder months, since contaminant loadings to coastal waters generally are decreased at that time of year, provided that monitoring indicates that compliance with the SA standards is achieved. A small part of Oyster Bay Harbor, just east of the Bayville Bridge, is available for seasonal harvesting season between November 1 and April 30 each year.

It is important to note that surface water areas that are classified SA, but which are unable to attain SA criteria due to excessive pathogen loadings, still are governed by the requirements established by NYSDEC for the regulation of SA waters. Thus, projects that are proposed in or adjacent to such water bodies are required to meet the strictest standards for the protection of water quality. In general, the long-range objective of this practice is eventually to improve water quality to the point that shellfish harvesting may be viable at some time in the future.

Nassau County Bathing Beach Criteria

The SB standard is used to define surface waters whose best intended usage is for primary and secondary contact recreation - where primary contact activities are those, such as swimming, for which there is direct contact with the water; and secondary contact activities are those, such as boating, for which contact with the water may occur as a secondary result of the activity. The SB criteria require that the monthly median total coliform level is 70 to 2400 MPN/100 ml, where no more than 20 percent of the samples exceed 5000 MPN/100 ml, and where the monthly geometric mean value is 200 MPN/100 ml or less for a minimum of five samples.

The quality of swimming waters at all Bayville public beaches has consistently met the SB criteria. There have been no recent beach closings caused by failure to meet these requirements.

Definitions:

- **Best usage of waters** as specified for each class shall be those used as determined by the commissioner and the administrator in accordance with the considerations prescribed by the Environmental Conservation Law and the Federal Water Pollution Control Act of 1972.
- **Primary contact recreation** shall mean recreational activities where the human body may come in direct contact with raw water to the point of complete submergence. Such uses include swimming, diving, water skiing, skin diving and surfing.
- **Secondary contact recreation** shall mean recreational activities where contact with the water is minimal and where ingestion of the water is not probable. Such uses include, but are not limited to, fishing and boating.

Point Source Discharges

Point source discharges into surface waters in New York State are regulated by State Pollution Discharge Elimination System (SPDES) permits. These permits set specific water quality standards and a compliance schedule for each discharge.

Point source discharges include the stormwater outfall at the end of Adams Avenue and the outfall at the southeast corner of Bayville near West Harbor Drive. Another well documented point source discharge into Turtle Cove, a stormwater outfall, is beyond the limits of the LWRA. However, because this discharge may affect the quality of surface waters in the LWRA it is identified in this discussion.

One significant SPDES-regulated discharge is into Oak Neck Creek from a subdivision in the community known as “The Birches” (or “Continental Villas”, or “Davis Park”) in the unincorporated area of Locust Valley. This discharge is suspected of being a major source of coliform bacteria in the waters of the Bayville LWRA, and currently is the subject of a regulatory corrective action that is in the planning and design stages.

Existing Water Quality Conditions

As noted above, the water quality of all of the marine waters in Oyster Bay Harbor complex — in the vicinity of the Village of Bayville — are classified as SA. Areas within the LWRA that have been closed to shellfishing, due to failure to conform to the SA standards, include:

- approximately 300 acres in Mill Neck Creek and Oak Neck Creek, some portions of which can be opened to shellfish harvesting on a conditional basis, depending on the ability of these waters to conform to the SA standards temporarily based on coliform testing results; and
- a triangular area extending eastward from the Bayville Bridge and an area in the northern end of Turtle Cove (just outside the LWRA boundary), which together total approximately 40 acres. While both of these areas are uncertified for shellfishing, they are opened seasonally for harvesting between November 1 and April 30.

The degraded water in Turtle Cove is generally associated with rainfall events exceeding two inches in a single storm. Degraded water quality conditions in the area east of the Bayville Bridge is most likely related to ebb tide discharges from Mill Neck Creek and runoff from Bayville.

Long Island Sound waters adjacent to the Village of Bayville are open year-round to shellfishing, without seasonal or conditional restrictions.

Dissolved oxygen (DO) levels in the LWRA are not known to become significantly depressed, and there have been no significant occurrences of hypoxia (i.e., occurrences of depressed DO concentrations, generally below 3 ppm). There was one reported hypoxia event in October 1985 of unknown cause that resulted in a fishkill in Mill Neck Creek. However, there generally is sufficient tidal flushing in the Oyster Bay Harbor system to prevent DO deficiencies, due primarily to the large volume of water exchanged during each tidal cycle (the mean tidal range is approximately 7 feet).

In a stormwater sampling program completed in 1993, chemical analyses were performed on water samples from six stormwater outfalls at representative locations around the Oyster Bay Harbor complex. The sampling was carried out immediately after rainfall events in order to measure the first flush effect of storm runoff on surface water quality. A suite of 30 constituents was measured for each sample and the results indicate the following about the dissolved constituents in the stormwater:

- arsenic cadmium, mercury and nickel were not measured at levels exceeding the detection limits for each of these constituents;
- two out of twenty samples showed elevated concentrations of chromium;
- three out of 20 samples were found to be above the 0.1 mg/l detection limit for nitrate;
- one out of twenty samples exceeded the 2.5 mg/l detection limit for petroleum hydrocarbons;
- the remaining 13 constituents - including, copper, lead, zinc, BOD-5, COD fecal coliform, ammonia, nitrate, phosphate, suspended solids, total kjeldahl nitrogen and total nitrogen - generally were found at levels in excess of their respective detection limits; and
- the coliform bacteria levels were generally highest at an outfall discharging street runoff from West Harbor Drive in Bayville, and direct street runoff from the north end of Turtle Cove.

Stormwater and Non-Point Source Pollution

The water quality conditions described in the foregoing sections are largely the product of stormwater discharges from streets and other paved surfaces and by overland runoff. Region-wide, as described in the *Long Island Comprehensive Waste Treatment Management Plan* (also known as the Long Island 208 Study, by the Long Island Regional Planning Board, 1978), these sources contribute the majority of contaminants to coastal waters, and this is true in the Bayville area.

Although there is ample evidence to show that these sources contribute significantly to the coliform bacteria levels in the receiving waters, specific sources in the Village of Bayville have not yet been classified and prioritized. One of the most important goals of this LWRP is to complete this inventory of stormwater and non-point sources, and subsequently implement projects to mitigate the impact to local coastal water quality resulting from these discharges. The Village has accomplished a significant amount of work in this area, and has received broad-based commendation for its efforts. Completed projects have included:

- systems of interconnected drainage rings on Perry Avenue/Bayville Park Boulevard in the western part of Bayville and along Bayville Avenue, which provide subsurface water retention chambers that collect stormwater and allow it to recharge into the shallow subsurface, thereby diverting the “first flush” of stormwater from discharging directly to surface waters; and
- artificial wetland at former Schmitt property, to the southeast of the intersection of Ludlam Avenue and West Harbor Drive, which provides bio-filtration to surface runoff flow prior to discharge to Oyster Bay Harbor.

However, much work remains to be completed in order to achieve the Village’s overall goal of improving water quality to the point that the area available to shellfish harvesting is expanded in the future.

Like many older communities on Long Island, the drainage system in the Village of Bayville originally was designed to effect the rapid removal of stormwater from streets and areas of development in order to prevent flooding. Little thought was given at that time to providing treatment capabilities (i.e., the removal of pollutants prior to discharge to receiving waters), other than for the settlement of coarse-grained sediments to prevent clogging of pipes and other drainage structures. More recently, however, structural improvements have been retrofitted into portions of the Village’s drainage system which prevent the direct discharge of stormwater into the surface waters. This improved system conveys stormwater into the shallow sandy deposits which are present over a large part of the Village.

Although the Village of Bayville does not have a large number of stormwater outfalls, certain local features and conditions contribute to stormwater and non-point pollution of adjacent coastal waters. These include:

- uncontrolled runoff from paved surfaces directly into surface water still occurs in some areas of the Village;
- high levels of coliforms and nutrients are discharged from malfunctioning on-lot sanitary systems and from overflows of these systems in low-lying areas during times of heavy rainfall and flooding;

- hilly topography and steep slopes in the western portion of the Village contribute to a high rate of runoff;
- areas of pavement generate runoff at a much high rate, compared to unpaved areas which allow the infiltration of a larger percentage of incident rainfall; and
- the Village contains areas of very dense development, which magnifies the adverse effects on coastal water quality resulting from problems with on-lot sanitary systems, use of landscaping chemicals and fertilizers, home maintenance involving the use of household hazardous wastes, leakage from parked automobiles, and similar human activities.

In an effort to reduce the impact to local coastal water quality caused by development, a grant was recently awarded to the *Friends of the Bay*, based in Oyster Bay hamlet. Under this grant, which was awarded through the Long Island Sound Study, a program will be developed to educate homeowners in the area regarding the proper maintenance of on-site wastewater treatment systems.

3. Groundwater Resources

Groundwater occurs in two zones in the Village of Bayville. Currently, the sole source of potable water for municipal use is the Lloyd aquifer, which occurs at a depth of approximately 400 feet. The second zone occurs at shallower depth in the Glacial Aquifer, which was the source of supply for one municipal well whose use was discontinued because of saltwater intrusion. The depth of the Glacial Aquifer is highly variable.

The sustainable yield of the Lloyd aquifer has not been determined for the Bayville area. Sustainable yield is the rate at which water can be withdrawn without either: a) exceeding the rate at which water is recharged to the aquifer via the infiltration of precipitation; or b) the rate at which water can be withdrawn without causing significant movement of the underground saltwater-freshwater interface toward the pumping wells. This latter aspect of sustainable yield is particularly important in low-lying coastal communities on Long Island like Bayville, where saltwater intrusion can render wells unusable for potable supply.

Although the safe yield of the Lloyd aquifer in the Bayville area cannot be determined from the current data base, the recent installation of observations wells and follow-up monitoring may provide the necessary information to complete this task. The USGS currently is analyzing the results of their investigation in this area, and is preparing a report that will answer some of these questions. This report is expected to be completed in approximately one year, according to the USGS.

Further monitoring of water levels in the aquifer beneath Bayville will continue over the next few years in order to determine the water level drawdown effects resulting from pumping. The same observation will be used to monitor water quality trends, and to determine any changes

or trends in the levels of chloride in the aquifer. This information will be used in evaluating the likelihood, if any, of saltwater intrusion into Bayville's freshwater supplies.

The total diversion of groundwater from the Lloyd aquifer to the Bayville municipal system amounted to 303,553,773 gallons in 1997, which averages approximately 832,000 gallons per day to the Village from three wells. The three currently-active wells are 1-1 N7620, 1-3 N-8776 and 2-1 N-10144. Aside from one well in Centre Island, there are no other diversions from the Lloyd aquifer anywhere in the vicinity of Bayville. It probably is safe to say that the total amount of water being withdrawn from this unit at present totals approximately one million gallons per day. It also is safe to assume that this diversion will not be increased significantly, or that any new diversion will be allowed from the Lloyd aquifer on the north shore of Long Island.

Available information regarding water levels in Lloyd wells shows no significant trend or decline in response to pumping in recent years. Long-term monitoring shows a net decline in the hydrostatic head of approximately ten feet since the turn of the century. If the results of the current monitoring program show that there has been no further decline in hydrostatic head in response to pumping, it may be concluded that the current rate of pumping from the Lloyd unit is within the sustainable yield of the aquifer in this area and that pumping at the current rate may therefore be continued without interruption, provided that saltwater intrusion does not occur. However, the water available from the Lloyd aquifer clearly is a limited resource, with a finite capacity, and efforts must continue to conserve both the quantity and quality of this important water supply source.

The shallow Upper Glacial aquifer system is considered to be a potential source of water for the Village of Bayville. One of the four existing Village supply wells taps this unit but, as mentioned previously, is not currently in service due to excessive chloride levels. This well, identified as Well 1-2 N-7643, is 218 feet deep and obtains water from a 45-foot screened zone between 167 and 212 feet. The Upper Glacial aquifer is present over a good part of Bayville, and currently is being monitored at a number of locations for water level changes and water quality. While this unit may be an abundant source of water, further work needs to be done to fully evaluate its potential and to determine whether its exploitation would be significantly limited by water quality factors. Based on current understanding, if the Upper Glacial aquifer is used for water supply purposes, it likely would have to be blended with water drawn from the Lloyd unit and would have to be treated to achieve drinking water standards.

4. Wetland Ecology

There are no designated freshwater wetlands (as designated pursuant to the Freshwater Wetlands Act, New York Environmental Conservation Law, Article 24) in the Village of Bayville. In fact, aside from two artificial drainage sumps which temporarily retain stormwater, there are no significant areas of standing freshwater in the Village. There are local

concentrations of freshwater wetland indicator species such as skunk cabbage, but no sites are known where these types of plants are present in great numbers.

Tidal wetlands are abundant along the shoreline in the Village of Bayville. These features serve as a home and food source for a wide variety of fish and wildlife. Tidal wetlands are the breeding ground for many types of fish found in saltwater. Both shellfish and finfish find protection there as they grow. They are important feeding sources for the widely diverse migratory and wintering bird population that relies on this area. Many of the plants found in these areas are able to absorb deleterious chemicals, thereby removing these pollutants from the harbors and bays. Tidal wetlands also trap fine particles and, thereby, prevent sediment from being transported into the open waters of the harbors and bays. They prevent erosion by holding the shoreline sediment deposits in place, and also absorb waves caused by wind and boat traffic that would otherwise contribute to the erosion process. Tidal wetlands are an important recreational resource, as they form a diverse and interesting ecosystem that attracts naturalists, bird watchers, recreational fishers/fishermen, and researchers.

Tidal wetlands have been inventoried and mapped by the New York State Department of Environmental Conservation (NYSDEC) on 1974 aerial photographs. Tidal wetland boundaries were officially adopted in 1977 when the State's Tidal Wetlands Regulations (6 NYCRR Part 606, adopted pursuant to Article 25 of the Environmental Conservation Law) were promulgated. Tidal wetlands in the Village of Bayville comprise six primary ecological zones:

- **High marsh or salt meadow:** Designated as HM on NYSDEC tidal wetlands maps, this is the uppermost tidal wetland zone, which usually is dominated by salt meadow cordgrass (*Spartina patens*), spike grass (*Distichlis spicata*), and black grass (*Juncas gerardi*). This zone is periodically flooded by spring and storm tides, and is often vegetated by low-vigor smooth cordgrass (*Spartina alterniflora*) and seaside lavender (*Limonium carolinanum*). The upper limits of this zone often include black grass, marsh elder (*Iva frutescens*) and groundsel (*Baccharis halimifolia*).
- **Intertidal Marsh:** Designated as IM on NYSDEC Tidal Wetlands maps, this vegetated zone lies generally between the average high and low tidal elevation, and is usually dominated by smooth cordgrass (*Spartina alterniflora*).
- **Coastal shoals, bars and mud flats:** Designated as SM on NYSDEC Tidal Wetlands maps, this zone includes areas that are exposed at low tide or covered by water to a maximum depth of one foot, and which contain no appreciable rooted vegetation.
- **Formerly-connected tidal wetlands:** Designated FC on NYSDEC Tidal Wetlands maps, this zone includes wetlands that have been wholly or partially blocked from tidal inundations due to the construction of man-made facilities such as dikes or roadways. This zone may support stands of common reed (*Phragmites australis*). In low-lying

areas where daily tidal exchange has been cut off, some of these zones are experiencing a transition, and support vegetation indicative of freshwater wetlands.

- **Littoral Zone:** Designated LZ on NYSDEC Tidal Wetlands, this zone of open water includes shallow bay bottoms with a maximum depth of six feet measured from mean low water elevation. This is a highly productive zone of great value to waterfowl, fish and shellfish.

The locations of mapped tidal wetlands in and adjacent to the Village of Bayville is shown on [Figure 3](#).

5. Upland Ecological Environment

The nature and diversity of the upland vegetative communities in the Village of Bayville are most readily observed in the public parkland known as the Harrison Williams Woods, located along the east side of School Street. This 27-acre property, which was donated to the Village by the estate of Harrison Williams as a forever-wild nature preserve, is the largest upland parcel of open space in the Village. The following summarizes survey information regarding the trees, shrubs and other plants found in Harrison William Woods:

The indicator trees are chestnut oak, scarlet oak and white oak. The indicator undergrowth is comprised of mountain laurel, low blueberry and black huckleberry. Mature chestnut oaks dominate the upland surface. The understory in this area includes young sassafras, black cherry, black oak and some red maple. The shrub layer is chiefly maple leaf viburnum, laurel, black huckleberry and low blueberry.

Non-native trees are reported growing along the west border of the Woods, along School Street. Tree-of-heaven and white mulberry, both native to China, flourish in the sunnier areas, as does wisteria. Proceeding from this area southward and then east along School Street, an open area is noted with smaller trees and more groundcover. Gray birch is noted which reportedly indicates a change from an old field to woodland setting. From this open terrain in an easterly direction and into a sloping area, red oak and laurel reappear (G.E. Lotowyez, May 18, 1977).

Beyond this description of the basic plant ecology, the survey identifies all trees, shrubs and vines that were observed during the survey of the Woods. The remainder of the upland part of Bayville is essentially fully developed, and the majority of native plants have been replaced by ornamental plantings and other landscaping treatments.

6. Oyster Bay National Wildlife Refuge

The Oyster Bay National Wildlife Refuge (OBNWR) includes more than 3,000 acres of submerged land and tidal marsh. The OBNWR is owned and managed by the Fish and

Wildlife Service (FWS) of the U.S. Department of the Interior. The OBNWR covers most of Oyster Bay Harbor, but only a small part lies within the LWRA. The portion of the refuge within the LWRA includes part of Mill Neck Creek and the portion of Oyster Bay Harbor that lies within the Village's 1,500-foot jurisdictional area.

Most species of Long Island's waterbirds have been documented within the OBNWR. Numerous waterfowl species can be observed in the refuge during the winter months, with upward of 7,000 ducks reported during peak use. The most common waterfowl species include black duck, scaup, Canada goose, canvasback, bufflehead, mallard, goldeneye, and merganser.

The portion of the LWRA within the OBNWR is subject to certain regulatory powers that are vested in the FWS. The FWS is charged with the responsibility of protecting and managing wildlife and migratory bird populations within the refuge. Since certain human uses of the harbor complex can adversely affect these ecological resources, the Town of Oyster Bay and the FWS jointly signed a Memorandum of Understanding (MOU) in January 1969. The MOU establishes that fishing, swimming, boating, and other authorized recreational activities may be continued in accordance with the rules prescribed by the Town for related lands and waters under Town jurisdiction, provided that such use is regulated so as to avoid any interference with wildlife, to maintain the quality of the environment and the quality of outdoor recreation, and to preserve the natural beauty of the area.

The Village of Bayville has not entered into a separate, formal MOU with the FWS to address uses within the Village's 1,500-foot area of water surface jurisdiction. Inter-agency discussions are needed to resolve jurisdictional overlap issues of over-water regulation among the Village of Bayville, neighboring Villages, Town of Oyster Bay, and FWS.

7. New York State-designated Significant Coastal Fish and Wildlife Habitats

The New York State Department of State has designated two areas within the LWRA as Significant Coastal Fish and Wildlife Habitats. These are: the Mill Neck Creek Wetlands, including the upper portions of Oak Neck Creek and surrounding tidal wetlands; and Oyster Bay Harbor, which comprises those portions of the harbor that lie outside the boundaries of the OBNWR. The Oyster Bay Harbor habitat area extends into the harbor from the eastern end of the Village of Bayville (i.e., south of West Harbor Drive). These areas are illustrated on [Figure 3](#).

The two New York State-designated habitat areas in the LWRA are described as follows, based on the habitat narratives prepared by the Department of State in 1987. These narratives are planned for updating in the future.

Mill Neck Creek Wetlands

Location and Habitat Description

Mill Neck Creek is a narrow coastal bay that empties into the western side of Oyster Bay Harbor, between Oak Neck and Mill Neck, in the Town of Oyster Bay, Nassau County. The fish and wildlife habitat consists of two wetland areas adjoining Mill Neck Creek, most of which is included in the Oyster Bay National Wildlife Refuge. The two areas are: an approximately 120-acre area northwest of Mill Neck Creek, referred to as Oak Neck Creek; and Beaver Lake, which is an approximately 60-acre freshwater body located south of Mill Neck Creek, outside the Bayville LWRA. Oak Neck Creek is composed of relatively undisturbed salt marsh and tidal creeks draining into Mill Neck Creek. Much of Oak Neck Creek is owned as undeveloped Nassau County parkland (Mill Neck Preserve), bordered by moderately dense residential development on the north and east sides, and by large estates and undeveloped woodlands to the west and south.

Fish and Wildlife Values

The Mill Neck Creek Wetlands are an integral part of the Oyster Bay Harbor ecosystem, which is one of the several major embayments on Long Island Sound. Oak Neck Creek is one of the largest undeveloped salt marshes remaining on the north shore of Long Island. Oak Neck Creek and Beaver Lake are important as resting and feeding areas for Oyster Bay Harbor's wintering waterfowl populations. The Mill Neck Creek area supports regionally significant wintering waterfowl concentrations (November-March). Mid-winter aerial surveys of waterfowl abundance for the ten-year period between 1975 and 1984 indicate average concentrations of approximately 550 birds in this area each year (1,150 in a peak year), including approximately 310 black ducks (650 in a peak year) and 100 Canada geese (440 in a peak year), along with lesser numbers of mallard, scaup, canvasback, bufflehead, common goldeneye, American pigeon, mute swan, red-breasted merganser and oldsquaw. Waterfowl use of Oak Neck Creek and Beaver Lake during winter is influenced in part by the extent of ice cover each year. Concentrations of waterfowl also occur in these areas during the spring and fall migrations (October-November and March-April, respectively).

In addition to waterfowl use, many other fish and wildlife species inhabit the Mill Neck Creek Wetland habitat area. Wintering bald eagles (State-listed endangered species) have been reported using these wetlands on several occasions in recent years. This is one of the few areas on Long Island where eagles have been frequently sighted during mid-winter. These wetlands provide suitable nesting habitat for yellow-crowned and black-crowned night herons, green-backed heron, Canada goose, mallard, black duck, gadwall, fish crow, red-winged blackbird, sharp-tailed sparrow, and possibly least bittern (State-listed species of special concern). The area also is used for feeding by osprey, herons, egrets, shore birds and passerines. Oak Neck Creek serves as nursery and feeding habitat (generally between April and November) for

various marine fish species, such as scup, bluefish, Atlantic silversides, menhaden, winter flounder, and blackfish. This wetland also is important because it contributes organic matter and nutrients to New York State's most significant commercial oyster beds, located in Oyster Bay Harbor.

Impact Assessment

Any activity that would substantially degrade the water quality in the Mill Neck Creek wetlands would affect the biological productivity of this area. All species of fish and wildlife would be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation and waste disposal. Elimination of open water or wetland areas, through excavation or filling, would result in a direct loss of valuable habitat area. Alteration of tidal patterns in Oak Neck Creek could have major impacts on the fish and wildlife species present. Efforts should be made to maintain high water quality in this area, in order to protect the Oyster Bay Harbor shellfishery.

Oyster Bay Harbor

Oyster Bay Harbor is located on the north shore of Long Island, between Mill Neck and Cove Neck, in the Town of Oyster Bay, Nassau County. The bay is approximately 2,500 acres in size. The fish and wildlife habitat consists of open water and wetland areas extending from the Bayville Bridge on the west to Plum Point on the east, excluding portions contained in the Oyster Bay National Wildlife Refuge (approximately 1,800 acres). Portions of this habitat that are in the National Wildlife refuge were not evaluated. These areas will be evaluated and considered for inclusion in the future.

Most of Oyster Bay Harbor ranges from 6 to 30 feet in depth below mean low water. The mean tidal fluctuation is approximately 7 feet. The bay is bordered by dense residential development and extensive recreational boating facilities with only a few areas of undeveloped salt marsh remaining.

Fish and Wildlife Values

Oyster Bay Harbor is one of several major embayments on Long Island's north shore. This protected coastal bay is important to fish and wildlife throughout the year. Oyster Bay Harbor is the most important waterfowl wintering area (November-March) on the north shore. Mid-winter aerial surveys of waterfowl abundance for the ten year period between 1975 and 1984 indicate average concentrations of nearly 1,600 birds in the bay each year (6,380 in a peak year), including approximately 1,350 scaup (6,230 in a peak year), along with lesser numbers of mallard, Canada goose, common goldeneye, bufflehead, oldsquaw, and red-breasted merganser. Waterfowl use of the bay during the winter is influenced in part by the extent of ice cover each year. Concentrations of waterfowl also occur in Oyster Bay Harbor during spring and fall migrations (March-April and October-November, respectively).

In addition to waterfowl use, Oyster Bay Harbor is a highly productive area for marine finfish and shellfish. The harbor serves as a nursery and feeding area (generally between April and November) for striped bass, scup, summer flounder, blue fish, Atlantic silversides, menhaden, winter flounder, and blackfish. As a result of the abundant fisheries resources in the area, and its proximity to the metropolitan New York area, Oyster Bay Harbor receives heavy recreational fishing pressure, of regional significance. The harbor also is widely renowned as one of the most important oyster-producing areas in New York State.

Oysters are generally found in waters greater than 6 feet deep, with spawning occurring in early summer. Most of the underwater lands in Oyster Bay Harbor are certified for shellfishing and are leased for commercial harvesting (i.e., farming) of this resource. Some recreational collecting of oysters takes place in the area as well. Fiddler crabs, ribbed mussels, and hard clams also are abundant in the area. The hard clam populations provide a commercial and recreational harvest of county-level significance. Salt marsh areas and tidal flats surrounding Oyster Bay Harbor are important for maintaining the biological productivity of this ecosystem.

Impact Assessment

Any activity that would substantially degrade the water quality in Oyster Bay Harbor would affect the biological productivity of this area. All species of fish and wildlife would be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, sewage discharges, and waste disposal. It is essential that high water quality be maintained in this area to protect the commercial shellfishery, through control of vessel waste discharges, sewage effluents and upland runoff. Excavation of new navigation channels should be minimized, and maintenance dredging activities should be scheduled in late fall or winter to minimize impacts on most aquatic organisms. Dredged materials should be deposited in upland containment areas. Thermal discharges, depending on the time of year, may have variable effects on use of the area by marine species and wintering waterfowl. Installation and operation of water intakes could have a significant impact on juvenile (and adult, in some cases) fish concentrations, through impingement or entrainment. Construction of shoreline structures, such as docks, piers, bulkheads or revetments, in areas not previously disturbed by development (i.e., natural beach or salt marsh), may result in the loss of productive areas which support fish and wildlife resources of Oyster Bay Harbor.

Regionally Important Natural Area

The Long Island Sound Coastal Management Program (January 1999) identifies Oyster Bay/Cold Spring Harbor as one-of-thirteen regionally important natural areas (RINAs), formally known as *Outstanding Natural Coastal Area* or *ONCA*, along the Long Island Sound coast. This characterization identifies the harbor complex as an environmentally sensitive area where the state's priority is resource protection. The harbor area is a highly productive area for shellfish and is widely renowned as the most important oyster producing area in New York

State. With 85% of the complex open to shellfish harvesting, the Oyster Bay/Cold Spring Harbor RINA is home to the best water quality of all the north shore harbors and embayments.

The Department of State, in cooperation with the Department of Environmental Conservation; the U.S. Fish and Wildlife Service; Nassau and Suffolk Counties; the Towns of Oyster Bay and Huntington; the 14 villages surrounding the harbor complex; and, civic, business, and environmental groups, has prepared a draft natural resources management plan for the Oyster Bay-Cold Spring Harbor RINA watershed. The plan outlines short- and long-term protection and restoration strategies with site-specific recommended actions.

The entire harbor complex is an important wintering area for a variety of waterfowl. Oyster Bay Harbor is characterized by the state as the most important waterfowl wintering area on the north shore of Long Island, while Mill Neck Creek and Oak Neck Creek are noted as being regionally important. The vast wetlands in this area provide important habitat for a variety of nesting birds, including waterfowl. The entire harbor complex is also a highly productive area for marine finfish.

8. Flooding and Erosion

Natural Protective Features and Man-Made Shoreline Conditions

The LWRA includes shorefront property along both Long Island Sound and the Oyster Bay Harbor Complex. This discussion covers these two areas as separate and unique environments.

On the Sound-side of the Village, the shoreline is subject to the substantial wave action during severe storms, especially in the Oak Neck area. Consequently, this section of shoreline historically has been subject to active erosion, and has been hardened by an essentially continuous line of protective structures such as seawalls and groins, for a distance of about a mile from the western edge of the Village. Over the long term, the Long Island Sound shoreline of the Village also has been reshaped by long-shore currents, which carry coarse-grained sediments along the shoreline, in a generally eastward and westward direction away from the Oak Neck headland. As noted previously, this long-shore transport process was responsible for the creation of the tombolo that forms the low-lying, eastern end of the Village.

The eastern end of the Village's Long Island Sound shoreline either is unprotected, or is protected by natural or soft protective features such as artificial sand dunes, wetlands, grass-stabilized areas, and the like.

A well developed and continuous beach, varying in width to approximately 150 feet, which extends along the full length of the Long Island Sound shoreline, may be the most important natural protective feature in the Village. Although the beach itself is subject to erosion, it tends to buffer and absorb some of energy of waves and tidal currents that otherwise would tend to erode areas on the landward side of the beach.

On the south side of the Village of Bayville, the shoreline environment to the east of the Bayville Bridge benefits from natural protective features, such as tidal marshes and wetlands, and relatively shallow waters. These features limit the maximum height and damaging force of waves, thereby moderating shoreline erosion. Aside from the boat ramp at West Harbor Beach, there are no hardened features (e.g., bulkheads, revetments, and seawalls) along this entire stretch of Oyster Bay Harbor. West Harbor Drive has been raised above normal flood elevations and, therefore, may prevent the intrusion of seawater into the Village from the Harbor-side.

West of the Bayville Bridge along Mill Neck Creek, the Village's shoreline has been hardened by bulkheads and other structures associated with marina and oyster farming activities. Most of the private homes and lots that border on Mill Neck Creek in this area are subject to storm-related waves and currents, and the wave action generated by vessel wakes. Almost all of these residential properties have been reinforced and hardened in one way or another by the individual homeowners, which has abated erosion. Further to the west, in the Oak Neck Creek area, the shoreline is protected and buffered by natural tidal marsh grasses and other vegetation, and is not subject to significant erosion.

Flood-Prone Areas

The Village of Bayville includes areas that have been designated by the Federal Emergency Management Agency (FEMA) as susceptible to potential flood damage. Coastal flooding in this area can be caused by a variety of different meteorological events, such as extreme waves and flood surges from Long Island Sound generated by northeast storms ("nor'easters"), from storm surges in Oyster Bay Harbor, and from heavy rains.

FEMA has prepared Flood Insurance Rate Maps (FIRMS) to delineate areas that are flood-prone. FEMA has classified flood zones into several general categories, based on the degree of susceptibility to potential flood damage. Three general flood zones define the limit of the 100-year flood within the Village of Bayville (where the 100-year flood has a probability of occurring once in every 100 years, on average, or a one percent probability in any given year; the one percent flood is projected to become more frequent in the future due to rising sea level), as summarized below:

Zone VE: encompasses the land area that would be inundated by water to a specified depth (termed the "base flood elevation") and would be subject to breaking waves of three feet or greater in height during the 100-year storm.

Zone AE: encompasses the land area that would be inundated by water to a specified depth (i.e., the base flood elevation) during the 100-year storm, but would not be subject to significant wave action.

Zone X (shaded): encompasses the land area between the limits of 100-year flood and 500-year flood, and certain areas subject to 100-year flooding with average depth less than one foot, or where the contributing drainage area is less than one square mile.

Zone X (unshaded): encompasses the land area that is subject to minimal flooding only.

Figure 3 depicts the portions of the LWRA that lie within the 100-year flood plain (i.e., Zones VE and AE). In general, Zone VE in the Village occurs as narrow bands along the shoreline in areas that are exposed to open waters; primarily on Long Island Sound, but also at the north end of Oyster Bay Harbor. Zone AE typically is found in the low lying areas landward of Zone VE. Small areas of land in Zone X (shaded) are present in the LWRA. Most of the upland area in the Village lies outside the limits of the 500-year flood plain, in Zone X (unshaded).

Base flood elevations along the Village's shoreline range from 17 feet on the Long Island Sound frontage, to 15 feet directly along the shoreline on Oyster Bay Harbor, and 12 feet in the Mill Neck/Oak Neck Creek areas.

There are several areas in Bayville that are subject to flooding as a result of rainfall/runoff events. These are low lying areas, some with unique topographic configurations that tend to inhibit natural drainage or otherwise cause water to be retained on the land surface. Some flood prone areas are caused by flaws in the stormwater drainage systems.

The Village of Bayville completed a "Floodplain Management and Hazard Mitigation Plan" in December 1998, which was prepared under a grant from the New York State Emergency Management Office (SEMO) pursuant to the guidelines of the federal National Flood Insurance Program (NFIP). The following is a summary of relevant information taken from that report.

The primary objective of the plan is to identify measures that can be taken to reduce flood losses, thereby reducing the cost of flood insurance to the municipal government and private property owners in the Village. The plan also satisfies the requirements and standards of the Community Rating System (CRS), as provided under the NFIP, to earn credit points under that system to effect a reduction in flood insurance costs for homeowners and businesses in Bayville.

The plan was developed through the efforts of the Floodplain Management Task Force, which was comprised of local officials, representatives from SEMO, and professional planners and engineers. The Task Force coordinated with other agencies having jurisdiction or interest in floodplain management planning in the Village of Bayville, including the U.S. Army Corps of Engineers, U.S. Geological Service, New York State Office of Parks, Recreation and Historic Preservation, Division of Coastal Resources in the New York State Department of State, New York State Department of Environmental Conservation, New York State Department of Transportation, Sea Grant Extension Program, Nassau County Soil and Water Conservation Service, Nassau County Emergency Management Office, Nassau County

Department of Public Works, and Nassau County Division of Data Processing (for Geographic Information System mapping).

The plan characterizes the causes of flooding problems in the Village, and identifies factors that exacerbate the severity of flooding. Areas of frequent flooding are identified as follows: "president streets" area (i.e., Washington, Adams, Jefferson, Madison), directly to the west of the Bayville Bridge; Bay Beach and Bayville Avenue, east end (Ludlam/Bayville Avenue and Sound Beach drainage areas); Bayville Avenue, west end and Tides Motel; Bayville Park Boulevard, south of Bayville Avenue; Hickory Road area; and Washington/Shore Road on Mill Neck Bay. Flooding in these areas causes water to enter basements on low-lying properties, standing water that limits the movement of emergency vehicles along emergency thoroughfares, and frequently prevents residents from reaching their homes.

Flood insurance policies are in effect for more than 700 homes in the Village, with a total insured value of \$89 million. More than 80 properties were found to have submitted significant claims in the floodplain, totaling over \$7.6 million. Most of these claims were submitted for damages incurred during 11 storms, primarily "nor'easters", between 1978 and 1996. Flooding from these storms mostly have resulted from inundation of coastal waters from Long Island Sound, although high tides in Mill Neck Creek and Oyster Bay Harbor also are significant contributors to flooding.

The goals of the plan, as developed during a September 1998 meeting of the Task Force, included: provide "flood-free" roadways, to allow the passage of vehicles during frequent flooding and the passage of emergency vehicles during severe storms; improve the stormwater drainage system, through proper maintenance and capital projects, to increase the effectiveness and efficiency of this system; reduce frequent local flooding by providing additional subsurface storage capacity; provide for increased property protection; provide for coastal flood protection and erosion control; reduce flood insurance premiums; provide flood awareness and emergency planning; improve accuracy of flood information; and limit development in the floodplain and retain undeveloped areas for the siting of flood control measures, through ongoing acquisition of open spaces.

Based on the goals enumerated above, and the inventory and analysis of existing conditions and historical flooding patterns, the Task Force formulated a series of recommendations for directly reducing flooding and high surface water levels in flood-prone areas in the Village. The recommendations also include measures to improve the Village's CRS ranking score, so as to effect a reduction in flood insurance premiums for Village homeowners and businesses. Those recommendations that have not already been implemented, and which are still considered feasible and desirable, are described in Section 2.3.10.A of this LWRP.

Erosion Hazard Areas

The Village of Bayville has 2.6 miles of shoreline on Long Island Sound which is in a Coastal Erosion Hazard Area (CEHA), as designated by the New York State Department of Environmental Conservation pursuant to the Coastal Erosion Hazard Areas Act of 1981 (Article 34 of the Environmental Conservation Law). In 1992, pursuant to the powers granted under Part 505, the Village adopted a local coastal erosion management law. The Village's law (Chapter 20, Coastal Erosion Hazard Area) is more restrictive than the minimum requirements established in Part 505 of the State Code, and has expanded the regulated area to include the Village's harbor-side shoreline.

The State-designated CEHA map is based on the presence of natural protective features, which includes nearshore areas, beaches, dunes and bluffs. The Village expanded the regulated area to include its southerly shoreline, as delineated on a "Supplementary Map of Erosion Control Areas on the Bay Shorefront" adopted by the Village at the time the local law was enacted in 1992. This bay-side erosion hazard area, which is depicted on [Figure 3](#) in this LWRP, comprises a 50-foot wide zone extending landward from the mean high water line, but not beyond the ten-foot elevation contour or beyond building structures or improved rights-of-way. In June 1999, NYSDEC's Bureau of Flood Protection issued a written statement which found "the Village to be properly administering and enforcing the Village's Local Coastal Erosion Management Program" and concluded that no further action was needed by the Village at this time with regard to this program.

9. Scenic Resources

One of the most valuable natural resources available to the residents in the Village of Bayville is the beautiful scenic views of the surrounding environment. Almost all of the Village's boundaries continuously abut surface waters - Long Island Sound to the north, and Mill Neck/Oak Neck Creek and Oyster Bay Harbor to the south.

From the Village's southern shore, east of the Bayville Bridge, the expanse of Oyster Bay Harbor in its beautiful natural setting can be viewed, as well as the historic Bayville Bridge to the west. This striking view of open waters, bordered by wetlands and dotted with boats during the warmer months, is accessible from various locations, including the Village-owned West Harbor Memorial Beach.

Vistas of Mill Neck Creek wetlands, as well as the Village's Creek Beach, can be seen from the Village's southern shore, west of the Bayville Bridge. The expansive marshes in Nassau County's Mill Neck Preserve, with its abundant avian population, can be viewed at the western end of Oak Neck Creek.

From the Bayville Bridge, looking west, one can see a picturesque view of the F.M. Flower and Sons shellfish facility, with clam boats nearby, and various boats moored in the Creek. The wetlands and open spaces, both to the east and west of the bridge, provide interesting vistas.

From the northern shore of Bayville, which includes the Village's Soundside Beach, the Town's Ransom Beach, and several waterfront restaurants within the Village, one can view the open waters of Long Island Sound.

Perhaps the most important scenic resource on the inland portion of the Village is Harrison Woods, where residents can walk the paths and enjoy the flora and fauna of the area. Other points of visual interest are the older/architecturally-appealing structures and sites throughout the Village.

C. Land and Water Uses and Zoning

1. Existing Land Use

The Long Island Sound Coastal Management Program (January 1999) identifies the Village of Bayville as a focal point for commercial, recreational, and cultural activities within the region, and as a community which historically has contained concentrations of water-dependent businesses. As shown on [Figure 2](#), this variety of land uses remain in the Village of Bayville, including residential, commercial, recreational and undeveloped open spaces. This discussion presents issues and problems relating to land and water uses in the Village, along: (1) Long Island Sound, and (2) Oyster Bay Harbor and Mill Neck/Oak Neck Creek.

Long Island Sound

The beach along the northern shore of Bayville is one of the major assets of the community. There are public beaches, as well as a number of beaches with access restricted to nearby residents. This is an excellent swimming area, and an attractive location for walking and viewing the Sound. This view from the beach is highly valued by the community.

At one time, a ferry landing was located to the north of the current Bayville Bridge site. However, there are no boating facilities in this area at the present time, aside from some scattered moorings. Although a number of the most notable restaurants in Bayville overlook the Sound, this area is mainly developed for residential uses, and there is very little undeveloped or open area on the north side of Bayville. The beach serves as a partial buffer to waves and storm surges from the Sound. Seawalls and groins have been constructed along parts of this shoreline, especially at the western end of the Village, to harden the shoreline and protect individual homes and lots.

Some of the specific issues and conflicts that are known to this area include:

- conflicting approaches to erosion control;
- questions of access and use of the beaches;
- potential problems deriving from existing and potential stormwater discharges from Bayville into the Sound;
- potential problems arising from the use of on-lot septic systems for servicing large commercial establishments near the beach; and
- the interest in some quarters in the creation of barriers to flooding from the direction of the Sound and conflicts that probably would arise because of lost views and limitations on access.

Oyster Bay Harbor and Mill Neck/Oak Neck Creek

The shoreline on the south side of Bayville includes Oyster Bay Harbor in the area to the east of the Bayville Bridge, and the Mill Neck/Oak Neck Creek system in the area to the west of the bridge. The low-lying area bordering Oyster Bay Harbor has a relatively open and uncongested shoreline, which is characterized by extensive tidal wetlands and the artificial fill that underlies West Harbor Beach. Most of the storm drainage in this area seeps into the ground and, therefore, does not discharge to the surface waters directly. Some overflow from existing storm drains may occur during heavy rainfall events and direct discharges may occur from paved surfaces.

The shoreline of Mill Neck Creek is developed for commercial uses near the Bayville Bridge, and for residential uses and very limited marina and boating uses elsewhere. The upland area adjacent to Oak Neck Creek is mainly undeveloped open space.

Issues and conflicts between competing uses that may exist in this part of the LWRA include:

- known discharges from failing on-lot sanitary systems (e.g., The Birches subdivision);
- stormwater drainage from the Adams Avenue stormwater outfall;
- stormwater drainage and suspected sanitary waste discharges from other adjacent residential areas surrounding Oak Neck Creek;
- potential impacts caused by inadequately treated wastewater discharges from commercial uses at the head of Oak Neck Creek;
- mooring field "creep", into areas that previously have not been occupied by moorings, caused by an increased number of boats vying for limited space in the harbor;
- local shoreline erosion;
- flooding from the direction of Oyster Bay Harbor and Mill Neck Creek;
- encroachments into bordering tidal marshes due to land development; and
- potential impacts caused by freshwater discharges into this area from the watersheds to the south, outside the Bayville LWRA, particularly through the Beaver Lake system at the south end of Mill Neck Creek.

Water-Dependent and Water-Enhanced Uses

Water-dependent uses contribute significantly to the economic vitality and public enjoyment of the coastal zone. A water-dependent use is an activity that requires a location on, in, or adjacent to the water because such activity requires direct access to the water body and which involves, as an integral part of the activity, the use of water in order to function or exist. A water-enhanced use does not require a waterside location, but derives a benefit from being situated on the water which the public can enjoy. Restaurants are a good example of a water-enhanced use, because the public can enjoy vistas of the waterfront area while dining.

Water-dependent (WD) and water-enhanced (WE) uses are major contributors to the Bayville economy and to the quality of life of the community. Examples of these two types of uses are listed as follows:

- Beaches (WD)
- Marinas (WD)
- Moorings and docks (WD)
- Boat and canoe/kayak rentals (WD)
- Aquaculture and commercial fishing facilities (WD)
- Restaurants (WE)

For boaters, there is a public marina at Creek Beach. A privately-owned commercial facility, the Bridge Marina, is located on Village-owned land just west of the Bayville Bridge. There also are four docks: one at Creek Beach, one at West Harbor Beach, and two at the Bridge Marina. The two public boat mooring areas are at Creek Beach and West Harbor Beach. The Bridge Marina also has its own boat mooring area. Swimming beaches include West Harbor, Soundside, and Ransom. For boat maintenance there is the Bridge Marina, and Twin Harbor Marine on Ludlam Avenue near Bayville Avenue. The facilities of the Flower Oyster Company are another important water-dependent use that is located within the LWRA.

2. Surface Water Uses

There are a wide variety of surface water uses in Bayville LWRA, most of which have been discussed in other parts of this text. The following is a listing of the principal uses of the surface waters surrounding the Village, illustrated on [Figure 2](#).

Marinas

There are two marinas in the Village: the privately-owned Bridge Marina, which is located on Village-owned land immediately to the west of the Bayville Bridge; and Creek Beach Marina, which is a public facility in Mill Neck Creek.

Mooring, Anchorage Areas and Boat Rentals

The Village of Bayville has two designated mooring areas in its waters, neither of which is organized into a grid. The mooring area at Creek Beach is located to the west of the Bayville Bridge, in Mill Neck Creek. The West Harbor Beach mooring area is located at the north end of Oyster Bay Harbor. Access to the mooring areas is gained through the parking lots at the two beaches, with dinghies or rafts stored at those locations for over-water transport.

Small fishing boats, kayaks and canoes can be rented at the Bridge Marina.

Shellfish Farming

The Frank M. Flower and Sons, Inc. nursery and office facilities are located on Mill Neck Creek, to the west of the Bayville Bridge.

Swimming

Public swimming beaches in the Village of Bayville include West Harbor, Soundside, and Ransom Beaches.

All roads leading to Long Island Sound within the Village of Bayville are private, except for Merrit Lane which is owned by the Village. Since the use of these private roads is restricted to local residents, the beaches at the ends of these roads are not readily accessible to the public. Therefore, these road-end beaches effectively function as private beaches, although no formal beach associations control these locations.

Fishing

Shorefront fishing is available from all of the swimming beaches in the Village, as well as Creek Beach. Additionally, fishing access is available at the Village-owned land located at the end of Merrit Lane.

3. Zoning

Chapter 80 (Zoning) of the Code of the Village of Bayville regulates land uses and the construction of all property improvements in the Village. The original zoning law, enacted in 1937, allowed high residential densities because the Village functioned largely as a summer

colony at that time, with bungalows crowded along and near the waterfront. Subsequently, the residential character of the community changed to year-round occupancy, increasing the demands on resources and infrastructure. In response to this dramatic alteration in the overall character of land use in the Village, the “Comprehensive Plan for Development and Zoning Improvements for the Incorporated Village of Bayville, New York, for the Prevention of Harm to its Surrounding Surface Water Groundwater Resources and the Public’s Environment” was issued in September 1985.

The Comprehensive Plan identified a number of conditions associated with overly-dense development which contribute to environmental degradation and detract from the quality of life in the Village. These conditions include: the intensified demand that an increased population places on public services, particularly Village services and the drinking water system; increase in the Village’s overall susceptibility to flood damage, due to further construction in the flood plain; potential degradation of the quality of adjacent coastal waters, caused by the construction of additional on-lot sanitary systems which would increase the incidence of sewage overflows in times of flooding and higher groundwater levels; adverse effects on groundwater quantity and quality due to increased pumpage and increased development; potential impairments to important natural resources, including wetlands and shellfish beds; and magnified fire hazard associated with increased development density.

During the analysis phase of the Comprehensive Plan, it was determined that the residential land use density in many areas of the Village was much less than was permitted under the zoning law that was in place at that time. This, combined with the fact that the Village already was experiencing certain problems under existing development densities, as enumerated above, raised substantial concern regarding the likelihood that these problems would be exacerbated if significant new development occurred in the Village. Consequently, the Comprehensive Plan concluded that a decrease in the allowable development density was necessary, with the maximum generally being the existing (1985) density, but with the allowable density actually decreased below existing levels in special problem areas.

In response to the issues highlighted above, the Village Board incorporated the following amendments into the zoning law: minimum lot sizes were increased for new construction; the commercially-zoned strip along Bayville Avenue, extending a distance of 100 feet on either side, was changed to residential zoning; and any existing nonconforming, commercial establishment in a residential district that is not actively used for commercial purposes for any period of ten consecutive months loses its legal non-conforming status, such that uses established thereafter are required to be in full conformance with the current residential zoning. These changes have helped the Village retain its character as a quiet, residential community, with complimentary water-related activities. Presently, the Village is almost completely developed, and is making efforts to maintain the land use character in the community that initially attracted its residents.

The existing zoning in the Village is shown on [Figure 6](#).

Other Land Development Controls

Village Controls

A number of other chapters of the Village Code also regulate land use, directly or indirectly. Direct regulations are those that specifically control construction or alterations of structures or property. Indirect regulations are those which control the use of structures and property.

Direct Regulations

- Chapter 12 (Building Construction) regulates construction under the New York State Building Code.
- Chapter 13 (Building Construction Administration) regulates the construction, alteration, repair, and removal and demolition of buildings and structures.
- Chapter 20 (Coastal Erosion Hazard Area) regulates use and development in areas that are subject to coastal flooding and erosion. This serves to protect human life, natural resources, structures, and erosion protection facilities. This law prohibits development in erosion-prone nearshore areas, controls any excavation or filling that would diminish erosion protection, prevents steepening of slopes, prohibits use of motorized vehicles in the regulated area, and regulates erosion protection structures.
- Chapter 27 (Flood Damage Protection) regulates property uses in the flood plain. This includes requirements that the lowest floor in new or substantially modified structures located in flood-prone areas be raised above the base flood elevation. This law also controls such matters as the proper design of structures to withstand flood hazards (with stricter standards applying to structures in Zone VE, due to the potential for wave impact damage), alteration of flood plains, and construction of flood barriers.
- Chapter 61 (Sewage Disposal Systems, Individual) regulates the construction of individual sewage disposal systems, and requires provision for stormwater disposal.
- Chapter 66 (Subdivision of Land) regulates the subdivision of land in conformance with the Village's Comprehensive Plan for Development and Zoning Improvements and other applicable laws and regulations.

Indirect Regulations

- Chapter 7 (Beaches) regulates the use of beaches, including swimming, fishing, parking, boating, and hours of operation.
- Chapter 9 (Boats and Docks) regulates moorings, hazards to navigation, boat operation, time of use, vessel sanitation, commercial vessels, and excursion boats.

- Chapter 24 (Environmental Conservation Commission) established an Environmental Conservation Commission to advise the Village Board, the Zoning Board of Appeals, and other Village Boards and Commissions on matters affecting preservation, development, and use of natural and man-made features and conditions relating to the environment.
- Chapter 24A (Environmental Quality Review) carries out the requirements of the New York State Environmental Quality Review Act (SEQRA) for the Village.

Land Development Controls by Other Agencies

- The U.S. Army Corps of Engineers (Corps) has responsibilities for coastal erosion and flood control.
- The Corps regulates all waters of the United States, including most freshwater wetlands within the State.
- The New York State Department of Environmental Conservation's responsibilities include administration of the permit program for activities undertaken within or adjacent to tidal wetlands, administration of the permit program for wastewater discharges (known as the State Pollution Discharge Elimination System, or SPDES), regulation of hazardous materials and spill cleanup oversight, and coastal erosion control.
- The New York State Department of State is responsible for implementing the State's Coastal Management Program, mitigating coastal erosion and flooding, and overseeing local waterfront development.
- The New York State Emergency Management Office is responsible for flood management and flood hazard mitigation.
- The Nassau County Department of Health has jurisdiction over approval of subdivisions of more than five houses and individual on-site sewage disposal systems, regulates hazardous material storage (including container storage areas, and underground and aboveground tanks) through a permit system that applies to all facilities that exceed certain volume storage thresholds, and is an involved agency during hazardous substance spills in the coastal waters of the LWRA.
- The Nassau County Department of Public Works is charged with the responsibility of maintaining West Shore Road and the Bayville Bridge, which provide a vital transportation link to the Village of Bayville.

Water Surface Controls

Village Controls

- Chapter 7 (Beaches) regulates the use of beaches, including swimming, fishing, boating, and hours of operation.
- Chapter 9 (Boats and Docks) regulates moorings, hazards to navigation, boat operation, time of use, vessel sanitation, commercial vessels, and excursion boats.

Water Surface Controls by Other Agencies

- The U.S. Army Corps of Engineers exercises regulatory authority over actions undertaken within the waters of the United States (e.g., dredging, and the placement of fill and structures such as docks and bulkheads); permits generally are required for such actions.
- The U.S. Department of the Interior, Fish and Wildlife Service, administers the Oyster Bay National Wildlife Refuge; permits are required for most activities in the refuge.
- The United States Environmental Protection Agency has jurisdiction over all wastewater and stormwater discharges to surface waters; permits are required for such discharges.
- The United States Coast Guard has jurisdiction over the cleanup of any water quality accidents which occur in offshore surface waters.
- The New York State Department of State is responsible for implementing the New York State Coastal Management Program, including waterfront revitalization and harbor management; and, using the consistency review process to examine projects and activities of federal agencies for compliance with the State's Coastal Management Program and with approved Local Waterfront Revitalization Programs.
- The New York State Department of Environmental Conservation has wide ranging responsibilities, including: the implementation and enforcement of the provisions of the National Shellfish Sanitation Program, to ensure that harvested shellfish resources are safe for human consumption; administration of the permit program for activities undertaken within or adjacent to tidal wetlands; administration of the permit program for the SPDES program, relating to discharges to surface waters; and regulation of hazardous materials and spill cleanup oversight, including those that occur in coastal waters.
- The New York State Office of General Services is the administrator of the Public Trust, pursuant to the Public Lands Law.

- The New York State Emergency Management Office has responsibilities for flood control and hazard mitigation.
- The Nassau County Department of Health regulates the waters at public beaches, surface water pollution, and cleanup of water quality accidents.
- The Town of Oyster Bay enforces vessel activity and other water use regulations in Village waters, and shellfish harvesting requirements on Town-owned underwater lands.

Each incorporated Village in the State of New York, pursuant to Section 46-a of the New York State Navigation Law, has the authority to regulate the over-water uses of vessels up to 1,500 feet from the shore. In some locations, the 1,500-foot area of jurisdiction for the Villages of Lattingtown, Mill Neck Creek, and Centre Island overlap the boundaries of the Village of Bayville's 1,500-foot area of jurisdiction. The Village's corporate boundary generally follows along the mean high water line on the foreshore. However, this boundary extends offshore a distance of approximately 300 feet into Mill Neck Creek in the vicinity of Creek Road. Additionally, the Village boundary lies offshore in Oak Neck Creek. The Village has full regulatory jurisdiction under the Village Code within the water areas delineated by this boundary, similar to what applies to the upland area.

The Town of Oyster Bay holds proprietary rights over Town-owned underwater lands within Oyster Bay Harbor, including those that lie adjacent to the Village of Bayville. Therefore, the Village of Bayville will be coordinating its LWRP with these three Villages and with the Town of Oyster Bay.

In addition, since most activities within the Oyster Bay National Wildlife Refuge - which includes portions of Oak Neck Creek, Mill Neck Creek, Mill Neck Bay, and Oyster Bay Harbor - are regulated by the U.S. Department of the Interior, Fish and Wildlife Service, the Village also will coordinate activities with that agency.

4. Public Access and Recreation

Public Trust Doctrine and Underwater Land Ownership

Public Trust Doctrine

When New York attained Statehood, it succeeded the King of England in ownership of all lands not already granted away, including all rights and title to the navigable waters and the soil under them. The State owns title to the vast stretches of foreshore and submerged lands along Long Island Sound, and all underwater lands not otherwise conveyed by patents or grants. The State holds title to these tidelands and submerged lands in its sovereign capacity in trust for the use and enjoyment of the public, under the Public Trust Doctrine. The New York State Office of General Services is the administrator of the Public Trust, pursuant to the Public Lands Law.

Public trust lands means those lands below navigable waters, with the upper boundary normally being the mean high water line. Public trust lands, waters, and living resources are held in trust by the State (or by the trustees of the individual towns) for the people to use for walking, fishing, commerce, navigation, and other recognized uses of public trust lands. When the foreshore is covered by tides the public may use the water covering the foreshore and underwater lands for boating, bathing, fishing, recreation and other lawful purposes. When the tide is out the public may pass over the foreshore as a means of access to reach the water for these purposes, may travel along the foreshore, and may lounge and recline on foreshore lands, provided that such activity does not cause impairment of habitat areas.

State title to the public foreshore and submerged lands, and the power of disposition, is incident and part of its sovereignty which cannot be surrendered, alienated, or delegated, except for some public purpose or some reasonable use for the public benefit, and without impairing public rights in the remaining lands and water. Inherent in the nature of public trust lands is that they support diversified and important ecosystems without which many public rights, including fishing, swimming and the like, would be impossible to enjoy. The public interest demands the preservation and conservation of this vital natural resources against pollution, overuse, destruction and infringement by others, whether public or private.

It is in the public interest that State, Town and other governmental ownership of public trust lands be maintained and when possible, recovered from private ownership. Where full public ownership no longer exists, the application of the Public Trust Doctrine requires that any remaining rights of the public to use such lands should be preserved and protected for present and future enjoyment.

Occupation of public trust lands by littoral and riparian owners for purposes of gaining access to navigable waters should be undertaken in a reasonable manner which does not unnecessarily interfere with the public's right of passage upon and use of the waters overlying such lands, and other public trust purposes. Considerations of public safety, resource protection and the need for access at a given location may be utilized as factors in determining the level and types of access to be provided. Public use of publicly-owned foreshore and underwater lands, and lands immediately adjacent to the shore shall be discouraged only where such use would be inappropriate for reasons of public safety, military security, or the protection of coastal resources.

Physical access to trust lands often is hindered by natural features, development conditions, or land ownership patterns along the shoreline. The presence of high bluffs, for example, will effectively block land-side access to the adjacent beach. In some areas, the intertidal portion of trust lands have been entirely eliminated, as has occurred where bulkheads extend into the littoral zone. In some cases where public lands are present at the shore front, perpendicular access to trust lands is limited by residency restrictions, such as are typically applied to municipally-owned parklands. In other areas, lateral access along the public foreshore is obstructed by docks, groins, and similar structures.

Underwater Land Ownership

The land and title to all common lands and land beneath creeks, streams, harbors, and bays in the Nassau County portion of the Oyster Bay/Cold Spring Harbor Complex were originally conveyed to the Town of Oyster Bay through the Andross Patent in 1677. Chapter 157 of the New York Laws of 1920 confirmed the Town's ownership of all common lands in the Town, and placed these lands under the authority and control of the Oyster Bay Town Board.

In 1968, the ownership of more than 3,000 acres of underwater land in the Oyster Bay/Cold Spring Harbor Complex, 17 acres at Mill Pond and vicinity (in Oyster Bay hamlet), and 90 acres at Frost Creek (adjacent to Stehli Beach) were transferred to the U.S. Department of Interior (administered by the U.S. Fish and Wildlife Service) for the establishment of the Oyster Bay National Wildlife Refuge. The Refuge includes areas within the Bayville LWRA, such as Mill Neck Creek and Oak Neck Creek, and the northwestern corner of Oyster Bay Harbor (just east of the Bayville Bridge). The Town has retained ownership of all lands outside the Refuge that were originally in its ownership.

Over the years, the Town has issued underwater land leases for shellfish aquiculture and harvesting in Oyster Bay Harbor and Mill Neck Creek. Presently 1,830 acres throughout the harbor complex are leased to Frank M. Flower and Son Company, including areas within the Bayville LWRA.

Many of the Town-issued leases exist on bottom lands that are owned by the U.S. Fish and Wildlife Service as part of the OBNWR. When the Town of Oyster Bay conveyed these lands to the federal government, the conveyance was subject to, and the Town retained authority over:

- Existing leases and agreements, including leases for piers and shellfish, and renewals of leases and agreements covering the same; and
- Permits for the taking of shellfish and other products, and the right to fix and receive revenue for such agreements.

These leases, agreements, permits, and renewals, were to continue in perpetuity, provided that they were compatible with the use of these lands as a wildlife refuge.

The Village of Bayville owns approximately 12 acres of underwater land on the north side of Mill Neck Creek, extending about 300 feet offshore and along 1,800 feet of Village shoreline. This area is excluded from the OBNWR.

The State of New York owns all of the underwater land from the mean high water line out to the New York-Connecticut line, on the Long Island Sound side of the LWRA. The Office of

General Services is the State of New York's administrator for the Long Island Sound underwater, from mean high water to the Connecticut-New York line.

Village Recreational Resources

Residents enjoy much public access to the natural resources of Bayville. Soundside Beach on Long Island Sound is easily accessible for swimming, picnicking, and fishing. At West Harbor Beach, on Oyster Bay Harbor, there is swimming, boat launching, fishing, tennis, bocci, and a ballfield. Boating facilities with associated moorings, and a comfort station, are available to residents at Creek Beach on Mill Neck Creek. There also are privately owned boating facilities with associated moorings in the LWRA.

Harrison Williams Woods provides public access for walking and enjoying the natural setting of this forever-wild preserve that is widely used by the community. This 16-acre, Village-owned parkland represents the natural upland ecology of the area, and has been extensively inventoried and is actively maintained on a voluntary basis by community groups. The Bayville Garden Club has identified the major plants in the Woods, and the Boy Scouts have marked the trail system. The trails on the site have been damaged by trail bikes, which has diminished the attractiveness of the facility for other users. The Village regards the Woods as a critical recreational resource, and recognizes that the maintenance of the vegetative communities on this site is important for preserving one of the few remaining areas of the Village's natural vegetative setting.

Other Village-owned recreational facilities are: the Community Center (where Senior Citizens and teen groups have social meetings); basketball and volley ball courts near the Community Center; the ice skating rink behind the Village Hall; Bayville Commons, a public open space at the intersection of Ludlum Avenue and Bayville Road; and the woodlands and wetlands on the former Schmitt property.

Town Recreational Resources

The public has access to four Town of Oyster Bay Beaches within the Village of Bayville and vicinity: Ransom Beach in Bayville on Long Island Sound, at the west end of the Village; Stehli Beach west also on the Sound, just west of the Village line; and Centre Island Beach, including frontage on both the Sound and Oyster Bay Harbor, just east of the Village Line. Stehli Beach and both of the Centre Island Beaches are in unincorporated areas of the Town of Oyster Bay.

Federal Recreational Resources

The Oyster Bay National Wildlife Refuge (OBNWR), which encompasses portions of Oyster Bay Harbor, Mill Neck Creek and Oak Neck Creek, is accessible via the water, by boat. From Bayville, boats can be launched from Creek Beach or West Harbor Beach, or from the

commercial Bridge Marina facility. The OBNWR is one of the most actively used water-side recreational facilities in the Village. The recent addition of kayak and canoe rental and instructional facilities at the Bridge Marina provides ready access to the sheltered waters and wetlands of the Mill Neck/Oak Neck Creek area. This opens additional opportunities for bird watchers and other naturalists in an area with an abundant wildlife populations, including occasional sightings of rare avian species like the osprey and the bald eagle. As indicated previously, there are beautiful views of the Refuge from Village Beaches and from other locations on the Harbor-side shoreline.

Private Recreational Resources

The LWRA contains a number of beaches that are accessible only to local homeowners via private roads, some of which are owned by associations or developments. These are described in Section 2.3.2.

Across Bayville Avenue from Ransom Beach, there are a string of small restaurants and an amusement park facing the water, as well as a large restaurant immediately east of the beach with a panoramic view of the Sound, and another large restaurant with panoramic views near the Soundside Beach, which are open to the public.

5. Cultural Resources

Local History

Bayville has had a long and interesting history. Highlights of this history are summarized below.

Shellfish harvesting started with the Matinecock Indians, who were the earliest inhabitants of the area that is now Bayville. This important use of local marine resources has continued to this day, through the activities of Frank M. Flower and Sons, Inc. (founded in 1887), independent baymen, and local residents. A detailed history of shellfishing in Bayville can be found in the Bayville Historical Museum, located in the Village Complex on School Street.

Asparagus farming was a thriving industry in Bayville from 1825 to 1900, as is also documented by memorabilia in the Bayville Historical Museum.

As families settled in the Bayville area, there was a need to establish facilities to educate their children. To satisfy that need, the first school, a one-room, wood-frame schoolhouse, was built in 1851. As the local population grew, a second school building, containing two classrooms, was constructed in 1895 on School Street. In 1931, a third school was built on Mountain Avenue, which was followed by the construction of a Primary School in 1961. There now are two public schools in Bayville, an Intermediate School and the Primary School, both on Godfrey Avenue, south of the Village Hall.

The Bayville Bridge is historically important, since it greatly enhanced roadway access to Bayville. As noted previously, the original land-side access to Bayville was from the west, via a circuitous route that passes through Locust Valley, Lattingtown and Glen Cove. In 1898, the first drawbridge constructed of wood was erected to connect Bayville to Mill Neck, thereby providing a shorter access route to the south via Oyster Bay hamlet. In 1904, an iron truss bridge was installed. A third bridge was built in 1922, and a fourth bridge in 1938. In 1991, the bridge was completely reconstructed.

The first Bayville Library was established in a candy store at Merrit Lane and Bayville Avenue in 1903. The library was moved to a home on Library Lane in 1908, and then to its present location on School Street in 1956.

There are two historic churches in Bayville. The Old Village Church was built in 1859 on Bayville Avenue and Merrit Lane. The Old Village Church structure is still standing, but currently is a private residence. In 1909, St. Gertrude's Roman Catholic Church was erected on the corner of School Street and Bayville Avenue.

Other sites of local historic importance include: the Bayville Cemetery, which was established in 1860; and the building that housed the first telephone in the 1890s, which at that time was the O.H. Perry General Store.

At one time, a number of ferries and passenger boats operated on the Long Island Sound side, carrying passengers between Bayville and various destinations. From the Ferry Landing dock at Reinhart's Beach, which operated from 1920 to 1937, one could travel by ferry to Rye, New York, and Stamford, Connecticut. Around the late 1800s, residents could commute by boat to New York City from the Oak Neck Steamboat Wharf at the end of Madison Avenue. Between 1906 and 1915, a water taxi landing was present in the vicinity of the northerly end of the Bayville Bridge, with service to the Oyster Bay Railroad Station. In addition to these facilities, the Godfrey Dock, a privately-owned pier, was constructed on Mill Neck Creek in the 1890s.

The first Bayville Post Office was constructed in 1877 at the present location of St. Gertrude Roman Catholic Church. The Post Office later was relocated to its present site on Bayville Avenue, near Ludlum Road.

The Bayville Police Department was established in 1920 on Perry Avenue. However, in 1962 the Village force was disbanded, and its responsibilities were transferred to Nassau County. Presently, there is a small police booth on Bayville Avenue and Ludlum Avenue, which serves the Nassau County Police Department.

The first Bayville Fire Department building was constructed in 1923 on Bayville Avenue near Ludlum Avenue, and was rebuilt in 1929.

Other structures important to the history of the Village that are still standing include the: American Legion Building (constructed in 1957); United Cerebral Palsy and Jones Manor Facilities, which originally was the Clarkson Estate, then the P.W. Rouse Estate, then the Oyster Bay Hospital between 1961 and 1967; Joseph A. Physioc House, built in 1850s; and George W. Patterson Mansion, built in 1920, and presently the Rectory of St. Gertrude's Roman Catholic Church.

In 1926, Harrison Williams purchased an estate along School Street. Twenty-four years later, 27 acres of this estate were donated to the Village. The Village Complex was developed on the portion of this property on the west side of School Street, while the land to the east of School Street was dedicated as the forever-wild Harrison Williams Woods.

The Village acquired West Harbor Beach in the 1950s, and purchased Soundside Beach in 1986.

The first centralized Village water system was constructed in 1965 on School Street, consisting of a well, water tower, and distribution piping. A second well was later installed at this site. A third well was installed on Godfrey Avenue in 1970, and a fourth well at West Harbor Beach in 1984.

The Village is located within the Long Island North Shore Heritage Area, which encompasses the entire north shore of the Island, north of Route 25A. A State-designated planning commission, working with local leaders and citizens, is charged with drafting a management plan to develop, preserve and promote the area's unique natural and cultural resources. The plan is due to be completed by July 2002, and must be reviewed by the Commissioner of Parks, Recreation and Historic Preservation.

There are no structures, sites or areas in the Village of Bayville that are locally designated or nominated to be on, or determined to be eligible for inclusion on, the National or State Registers of Historic Places.

Protection and Preservation of Resources

All publicly-owned resources of local historic importance are maintained by the Village. These include the Village Complex, Harrison Williams Woods, the Bayville Historical Museum, and the Bayville Cemetery. Important privately-owned historic resources are maintained by churches, institutions (e.g., the United Cerebral Palsy and Jones Manor facilities), and individual private owners.

Archeological Resources

In 1974, a Native American campsite was discovered at the corner of Arlington Lane and Shore Road, in the vicinity of Mill Neck Creek. Skeleton fragments and other artifacts that

were uncovered at this site were tested by the Garvey Museum via radiocarbon dating, and were determined to be from the early 1500s.

The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) has determined that the Bayville coastal area has multiple site sensitivity, and is suspected of containing archeological resources. These resources remain threatened by development and other actions. The OPRHP recommends that a "Phase 1 Survey" be conducted at all proposed development sites, unless prior ground disturbances can be documented.

Shipwrecks have been found in the waters along the waterfront, and it is likely that this area contains significant remains of piers, wharves, docks, and ships.

6. Infrastructure

Public Water Supply

The Village of Bayville was served mostly by individual wells until 1920. Two private systems (i.e., the Godfrey System and the Carr System) also were in operation, serving some nearby residents. The Locust Valley Water System started supplying water to Bayville residents after 1920, and operated until 1930. In the 1930s, the Village of Bayville acquired ownership of the distribution system within its boundaries, and in 1964 the Bayville Water District was formed.

The Village water system consists of: two wells and an elevated 600,000-gallon water tank, located on School Street; one well on Godfrey Avenue; one well at West Harbor Beach; and a distribution system. One of the wells, which drew water from the Glacial Aquifer, currently is out of operation. The three active wells, each rated at 1,000 gallons per minute, pump water from the Lloyd aquifer.

The older distribution pipes, acquired from the Locust Valley Water System, are composed of cast iron. In the 1950s, some asbestos-cement pipes were installed, but were removed in the 1980s. The most recently installed pipes in the distribution system are ductile iron composition. Since the mid-1960s, these pipes have been installed with cement linings. About 10 years ago, a water leak detection survey found that approximately 12 percent of the total water volume pumped by the system could not be accounted for. The Bayville Water Department, as required by the New York State Department of Environmental Conservation, adopted a water conservation program, as of June 30, 1987. These measures include restrictions on watering of lawns and increase in water rates, as well as an education program to inform residents of voluntary measures that should be taken to reduce water consumption.

There are 305 hydrants and about 2,500 water meters in the Village's water system. About 30 percent of the meters are installed at the curb, and the remainder are located inside buildings.

Most of the service connections are copper, but a few still are lead. The lead connections are being replaced with copper at a rate of about 12 connections per year.

The Village's yearly total pumpage of water has ranged from 300 to 332 million gallons per year during the last few years. The high-water level in the elevated storage tank is 99 feet from ground level, which is equivalent to a pressure of 45 pounds per square inch (psi) in the distribution system at that point. The highest pressure in the distribution system at ground level is 100 psi.

The Fire System is rated as Class ISO 4 by the Insurance Services Organization, which is considered a good rating by that organization (1 is the best rating, 10 the poorest). The rating is based mostly on the adequacy of the water system and the effectiveness of the Fire Department. The residential fire insurance rates for Classes 1 to 8 do not change significantly, if at all.

The water in the Village system is slightly corrosive, and sodium hydroxide is routinely added to raise the pH in order to decrease the acidity of the water and protect the pipes from corrosion.

Wastewater Disposal

There are no wastewater treatment plants in the Village of Bayville. Presently, all sewage is handled by on-site individual subsurface sewage disposal systems. In some areas of the Village, sanitary overflows may occur during heavy rainfalls or major storms which raise the groundwater levels, especially where the soils have poor permeability.

Approximately 50 residences at the north end of the unincorporated community of Locust Valley (just outside the Bayville LWRA) on the west shore of Oak Neck Creek, adjacent to the Mill Neck Preserve, are known to be suffering from chronically malfunctioning sanitary systems. Because of high groundwater elevations in this area, the subject development (known variously as "The Birches", "Continental Villas", and "Davis Park") had been releasing poorly treated sewage into the creek. In an effort to address this problem, the Nassau County Department of Health (NCDH) installed a chlorine contact chamber, through which the wastewater from approximately one-half of the affected homes is conveyed for disinfection prior to discharge into the creek. However, this device has not achieved satisfactory results, and sewage contamination of the creek continues to occur. Consequently, NCDH signed a Consent Order with the New York State Department of Environmental Conservation in May 1999 to install a sewage treatment package plant to replace the chlorine contact chamber. The County has received a grant under the New York State Clean Water/Clean Air Environmental Quality Bond Act for construction of the new facility, and the design phase of the project currently is under way. The selected technology is a Chromoglass package treatment plant, which is expected to be operational within two years, according to the NCDH.

In addition to the above-noted problem in the Davis Park community, there are a number of other known or suspected non-point sources of contamination in Oak Neck Creek. These include: the individual on-site sanitary systems serving the waterfront homes in the low-lying area on the east side of the creek, and commercial facilities at the head of the creek, both of which lie within the Village of Bayville; a stormwater outfall that carries septic flow at the end of Meleny Road, in the Davis Park area; another discharge containing wastewater at the end of Hernan Avenue, which also is located in the unincorporated area on the west side of the creek, outside the Bayville LWRA; and tidal exchange with the southerly arm of Mill Neck Creek, which receives outflow from the Beaver Lake system. The Village has proposed to undertake further investigations to assess the importance of each of these contaminant sources to water quality conditions in the Mill Neck/Oak Neck Creek system, and to determine whether other significant sources may also be contributing to this problem, through a number of pending grant applications.

Roadways, Traffic Circulation, Parking and Public Transportation

The main road through Bayville is Bayville Avenue, which leads westward through Lattingtown, Locust Valley, and Glen Cove, and eastward to Centre Island. From Bayville Avenue, one can turn south on Ludlum Avenue, travel over the Bayville Bridge to Shore Road in the Village of Mill Neck, and continue on to Oyster Bay hamlet. Both Bayville Avenue and Ludlum Avenue are Nassau County roadways.

West Harbor Drive is a Town of Oyster Bay roadway. The Village of Bayville has jurisdiction over Mountain Avenue, Godfrey Avenue, Creek Road, Perry Avenue, School Street, and Merrit Lane. All other roads in the Village are privately-owned or owned by associations.

During most of the year, traffic operations generally are acceptable in the Village, since the main roadways (i.e., Bayville Avenue and Ludlum Avenue) pass entirely through, and out of, Bayville, and can readily accommodate normal flows. However, traffic congestion often occurs in the summer, especially on holiday weekends. The Village has addressed this seasonal problem by restricting traffic into Bayville during the highest volume periods, using measures such as the institution of temporary one-way restrictions on Bayville Avenue.

Although the roadway system in the Village generally is adequate with respect to existing traffic flows, except during certain summertime peak periods, traffic disruption often occurs as a result of recurring flooding problems (see Section 2.2.8.B). Passenger car travel is interrupted on a regular basis along some of the roadways in low-lying areas of the Village due to the accumulation of stormwater runoff and/or coastal waters inundating the land surface. During severe storm events, the depth and extent of flooding in some areas is particularly severe, creating a public safety hazard by blocking the passage of emergency vehicles.

Parking is available at all public facilities, at commercial sites, and along most streets. In addition, public parking is available at the Bayville Commons.

The nearest railroad stations are at Locust Valley to the west and Oyster Bay to the southeast, both on the Oyster Bay Line of the Long Island Railroad (LIRR). However, Hicksville Station, which is located on to the south Route 106 on the LIRR's Main Line, has more frequent trains, and is used by most commuters from Bayville. Syosset Station on the Port Jefferson Line also is used by some Bayville commuters; and, on weekends, some Bayville residents use Manhasset Station on the Port Washington Line.

At one time, the Hendrickson Bus Company operated a bus from Bayville to a nearby train station, but this was abandoned due to economic infeasibility. Presently, there is bus service which carries local residents to shopping areas. The Village purchased a bus in August 1999, using grant monies, and has instituted service through Bayville to train stations and shopping centers on Fridays and Saturdays.

Storm Drainage Systems

The Village is served by a Nassau County stormwater drainage system, which serves Bayville Avenue and Ludlam Avenue. This system directs stormwater into a network of pipes that are designed to allow seepage to occur through slotted and perforated sections. As originally designed and constructed in the 1950s, this system had no outlet to Mill Neck Creek, and was designed to discharge all stormwater to the ground. An outfall from this drainage network subsequently was added at the end of Adams Avenue, which allows some of the stormwater to be directed into Mill Neck Creek. There also are a few drainage channels that have outlets in the wetlands on the south side of Bayville. A portion of the stormwater from this system is directed to County-owned recharge basins, which presently are overgrown with vegetation, thereby decreasing their storage capacity.

The existing stormwater drainage system in the Village is not adequate to handle heavy rainfalls and, as a result, flooding occurs in certain areas, including the "president streets" area, the east and west ends of the Village, and other low-lying areas. Much of the system is unable to discharge during high tides, when the outfalls become submerged under coastal waters. Many of the pipes have not been properly maintained and, as a result, are clogged with accumulated sediment.

A "Floodplain Management and Hazard Mitigation Plan" was completed by the Village in December 1998, which addresses the problems identified above, as discussed in detail in Section 2.2.8.B.

Solid Waste Disposal

Residential solid waste is collected by Village vehicles and delivered to the City of Glen Cove transfer station. Commercial solid waste is collected by private carters, and disposed at facilities selected by the respective carters. A hazardous waste collection program is offered by the Town of Oyster Bay, which is available to Bayville residents.

Electric Power and Gas

Electric power is supplied by the Long Island Power Authority (formerly LILCO). Natural gas is available in areas of the Village where gas transmission mains are located.

Telephone and Cable

Telephone service is available from the Verizon (formerly Bell Atlantic Company). Cable service is provided by the Cablevision Company.

Harbor Area Support Facilities

In keeping with its location as a waterfront community, the Village of Bayville has a variety of facilities supporting the harbor area. For boaters, there is a public marina at Creek Beach, in Mill Neck Creek; and a private facility, the Bridge Marina, located immediately to the west of the Bayville Bridge. There are four docks, one at Creek Beach, one at West Harbor Beach, and two at the Bridge Marina. Public boat mooring areas are located at Creek Beach and West Harbor Beach. The Bridge Marina also has its own mooring area. Boat maintenance needs are served at the Bridge Marina, and Twin Harbors, on Ludlum Avenue near Bayville Avenue.

Swimming and fishing activities in Bayville take place at Creek Beach (fishing only), West Harbor Beach, Soundside Beach, Village-owned land on the Sound at Merrit Lane (fishing only), and the Town's Ransom Beach. In addition, one can also swim and fish at other nearby Town facilities, just outside the LWRA, including: Stehli Beach, on the Sound, to the west; and at the Centre Island Beaches, on the Sound and on the Harbor, to the east.

7. Vessel Usage of Waterways

Oyster Bay Harbor is heavily used by both recreational and commercial water craft. The high density of use has caused conflicts and problems with respect to waterway usage, including boat dockage, mooring and anchorage, and navigation. Many of these issues are discussed below.

Navigation

Waterway hazards and obstructions within the navigable waters of Oyster Bay Harbor include shoals and sand bars. Abandoned vessels are also hazards to navigation, and removal is difficult since they are often not registered, which makes it difficult to trace the owner so that the costs of removal may be assigned to the responsible party. The Town of Oyster Bay's

program for mooring registration creates a record of resident vessels, but is not useful for obtaining ownership information on transient vessels. Floating debris often is generated as a result of storms and tides, or ice damage to structures. The Town is responsible for removing navigation hazards within Town waters, and in the past has performed this task in Village waters at the Village's request. The Town of Oyster Bay places and maintains the vast majority of navigational aids in LWRA waters, including areas within the Village's jurisdiction. The responsibility of placing and maintaining these navigation aids, including the channel marker buoys in Mill Neck Creek and a 5-mile-per-hour sign on a buoy near the Bayville Bridge, presently lies within the Town. Navigation aids on the Bayville Bridge, including lights and 5-mile-per-hour signs, are maintained by Nassau County.

Perhaps the most pressing navigation problem in Oyster Bay Harbor is the proliferation of recreational moorings and floats. Improperly located moorings and floats, even if these devices are themselves situated outside navigation channels, may cause vessels to extend into the channels, creating a hazard for boat traffic. Bulkhead and dock extensions require a U.S. Army Corps of Engineers permit. A number of docks have been extended without this permit. Although the floats themselves do not cross into channels, boats docked at these floats can extend into channels.

Jurisdiction

Jurisdiction with respect to over-water vessel uses within Oyster Bay Harbor and Mill Neck Cove is divided among the Town and the Villages. Except in those areas where the Village's corporate boundary extends out into the water, the Village has no authority to regulate structures seaward of mean high water. However, the Village does have the authority to regulate the use, speed, operation, anchoring, and mooring of vessels up to 1,500 feet from the shore, pursuant to Section 46-a of the Navigation Law. As discussed previously, the Village of Bayville's 1,500-foot area of extra-territorial jurisdiction extends into areas of potential jurisdiction of the Villages of Lattingtown, Mill Neck Creek, and Centre Island - in some locations.

Dredging and Dredge Spoil Disposal

Dredging in the Bayville LWRA is regulated by the U.S. Army Corps of Engineers and the New York State Department of Environmental Conservation. Dredging activity taking place on Town of Oyster Bay-owned underwater lands, including areas within the Village jurisdiction, is also subject to the proprietary rights of the Town. Similar rights pertain to the U.S. Department of the Interior for areas within the Oyster Bay National Wildlife Refuge. Dredging in the Bayville LWRA, when it does occur, is carried out by private contractors, and is not performed on a regular schedule.

There are no federal channels in the Bayville LWRA. Consequently, the U.S. Army Corps of Engineers is not responsible for maintaining channels in this area, and the Village must

undertake any dredging work in public channels and basins as may be required. Progressive shoaling in the area of the public marina at Creek Beach is creating problems for deeper draft vessel at lower stages of the tide, and maintenance dredging is needed to make full use of this important public recreational facility. However, the high cost of dredging and dredged material disposal has prevented the Village from proceeding with this work. An application has been submitted to New York State to funding to undertake dredging in the vicinity of Creek Beach, which would alleviate the navigational problem in this area.

Dredging of channels and basins serving private marinas and yacht clubs has been performed over the years by those private entities benefitting from the dredging.

Moorings

A significant area of the waterways in the LWRA is dedicated to moorings. Although moorings represent an important water surface use in the LWRA, the actual number of moorings in Mill Neck Creek and Oyster Bay Harbor was not known until recently. With the mooring permit process in place it is now known that there are approximately 150 moorings in total, with 100 moorings at the Creek Beach facility and 50 moorings at West Harbor Beach.

In an effort to help avoid conflicts and navigational hazards resulting from overcrowded mooring areas, the Village instituted a mooring permit program - approximately 20 years ago. Prior to this program, moorings were installed on a first-come, first-served basis. The Village mooring permit program was implemented for two reasons: (1) to serve as a means of identifying the owner of a mooring and the boat it serves, and (2) to provide mooring space to residents before non-residents, when space is limited. There is a fee of \$50.00 per year plus \$1.50 per foot of boat length for Village residents. There is an additional fee of \$25.00 for dingy rack rental. Since the program's inception, the Village has been able to accommodate all those who have applied for permits, both residents and non-residents alike. The program is administered by the Village Administrator's Office.

The Village mooring permit program creates a level of control that is a vast improvement over the previous unregulated situation. The information that is provided on the permit application allows the Village to resolve conflicts between parties vying for the same mooring spot (permit files are used to determine which party established a mooring first) and to notify owners of boats damaged by the fire, storm or other events.

Vessel Restrictions

The Town of Oyster Bay employs harbormasters and bay constables to enforce laws on waterways. Town harbormasters and bay constables are authorized to enforce all State and local laws regulating vessels. The Nassau County Police Marine Bureau also enforces State and local laws.

As noted previously - pursuant to Section 46-a of the State Navigation Law, the Village of Bayville has the authority to regulate the use, speed, operation, anchoring, and mooring of vessels on waters to a distance of 1,500 feet from the shore.

In accordance with Section 130.17(3) of the New York State Town Law, the Town of Oyster Bay has the authority to regulate vessels upon waters within its municipal boundary, but not within 1,500 feet from the mean high water line adjacent to incorporated villages.

The Village entered into an agreement with the Town of Oyster Bay for the Town to provide harbormaster services, which includes the establishment of a pattern for anchorage and mooring in that part of the Oyster Bay Harbor Complex under the Village's jurisdiction, and to provide regulatory oversight and policing of all anchorages and moorings. This agreement was adopted by Village Board Resolution in 1997.

As discussed previously, the underwater lands in Oyster Bay Harbor and Mill Neck/Oak Neck Creek are owned primarily by the Town of Oyster Bay and the U.S. Department of the Interior (Fish and Wildlife Service); the Village of Bayville owns approximately 12 acres of underwater land on the north side of Mill Neck Creek. These agencies have proprietary rights to control the use of their lands.

A coordinated, inter-municipal approach is needed to address the overlapping jurisdictions among neighboring Villages, the Town of Oyster Bay, and the U.S. Fish and Wildlife Service. The Village of Bayville will make appropriate amendments to the Village Code to establish regulations governing the Village's area of water surface jurisdiction once the coordination process has been completed.

8. Commercial and Recreational Shellfish Harvesting and Finfishing

Commercial Fishing

The commercial fishery in the Bayville LWRA consists predominantly of shellfish harvesting within the Oyster Bay Harbor Complex. The coastal waters within this water body are a productive shellfish growing area, especially for oysters and hard clams.

Oyster and clam farming is performed on a large scale in the LWRA by Frank M. Flower and Sons, Inc. Oyster and clam seed nurturing occurs at the company's hatchery on Mill Neck Creek, within the Village of Bayville. The company stocks and harvests from leased shellfish beds in Oyster Bay Harbor and elsewhere in this area. The harvesting operation is based at the Oysterman's Dock in Oyster Bay hamlet.

Sites on the waterfront for baymen to access the commercial fishery resource (i.e., vessel mooring areas, and facilities to load equipment and unload product) are considered to be an important component of the Bayville waterfront. The Village contains an ample number of such sites, both private and public, for these purposes. Presently, there are several locations

throughout the area from which commercial fishermen can access their vessels, including: Frank M. Flower and Sons, Inc. (oysters and clams), the Bridge Marina (lobsters and clams), Creek Beach (clams), and West Harbor Beach (clams). These facilities are illustrated on [Figure 2](#).

Recreational Fishing

Fishing occurs from recreational boats launched at local ramps or marinas and from local beaches. Transient boaters also frequent the waters in the Bayville LWRA.

Varieties of fish typically caught in the Oyster Bay Complex include striped bass, snapper, bluefish, fluke, flounder, weakfish, blackfish, and eel. Recreational shellfishing requires a permit which is available only to Town of Oyster Bay residents, and can be obtained from the Town Clerk for a fee of \$5.00. Clams, oysters and mussels are the primary species of shellfish sought by local recreational fishermen.

9. Summary of Issues

Initially, seven broad issues were identified for special consideration in this LWRP, as listed below:

1. Coastal Flooding*
2. Coastal Erosion*
3. Water quality*
4. Habitat restoration*
5. Stormwater flooding
6. Failure of on-lot sanitary systems
7. Restoring shellfishing in areas that currently are closed

The seven original issues were reviewed and examined by the LWRP Committee, which selected four of these issues (as identified by asterisks above) for more detailed analysis, with the ultimate goal of identifying opportunities for actions to preserve and enhance important coastal resources and resolve problems related to these issues.

Subsection A through D, below, provide a detailed analysis of the four critical issues. Section 2.3.10 presents a corresponding discussion of the opportunities that exist for addressing these issues.

Coastal Flooding

Flooding during heavy storms is one of the foremost issues facing Bayville. The Village has endured numerous major flooding events over the years, including those that accompanied severe storms in the fall of 1992. Therefore, the control of storm-generated street runoff and coastal flooding is one of Bayville's highest priorities, as endorsed by the LWRP Committee.

Flooding affects the Village and its residents in a variety of different ways. Public safety is threatened if inundation of the low-lying section of Bayville Avenue in the eastern portion of the Village prevents the passage of emergency vehicles. Additionally, groundwater levels often rise during severe flooding events, posing potential public health impacts due to the overflow of wastewater from subsurface sanitary systems. The community also is impacted by flooding as a direct result of physical damages to development, as well as secondary effects such as the interruption of business activities. Residents in flood-prone areas are affected economically, even if they are able to avoid flooding, through higher flood insurance premiums.

Flooding impacts the environment, as well. The quality of adjacent surface waters is adversely impacted by elevated pathogen levels, which are correlated with heavy rainfall events, due both to runoff and discharges from flooded sanitary systems. Flooding also can damage sensitive habitat areas, although these effects generally are temporary, and typically are reversed after a period of recovery.

The soils at the extreme west end of the Village consist of organic and tidal marsh material, which is poorly drained, and may not be suitable for subsurface sanitary systems. In 1999, the Nassau County Health Department denied an application for construction of such a system for a commercial establishment in that area, because of failure to meet design requirements.

It is reported that the soils in the eastern end of the Village, in the tombolo area between the Oak Neck upland and the Centre Island Village line, are very rapidly draining. However, because of low ground elevations and gentle slopes, the eastern portion of the Village is particularly susceptible to flooding at times of heavy rains and coastal storms.

The soils on the glacial moraine in the Oak Neck area, where higher ground elevations occur, are very well drained, and generally are not subject to flooding. However, the topography of this area directs the stormwater runoff from the upland area toward Bayville Avenue, and from there into the "president streets" area, contributing to the flooding there.

When heavy rainfalls occur, much of the runoff ends up in adjacent coastal waters, thereby contributing to the degradation of those water bodies, especially Oyster Bay Harbor and Mill Neck/Oak Neck Creek. This is especially true during the early stages of a major rainfall, when contaminants that have accumulated on the land surface are washed rapidly to receiving water by the "first flush" of runoff.

Coastal Erosion

Another significant impact from heavy rainfalls and storms is the loss of waterfront beaches and private land due to erosion. Within the Village of Bayville, erosion has occurred along the shoreline of Mill Neck Creek, as well as on Long Island Sound. Although the U.S. Army Corps of Engineers is planning to perform further studies regarding protection from major

storms in the flood plain, it will be a few years before the initiation of such studies and even longer before the implementation of possible mitigation measures.

The scope of this LWRP includes actions that should be taken to address coastal erosion in the Village. The benefits deriving from flood protection go beyond the immediate and obvious issue of reducing property damages. Erosion also increases the loadings of sediment that may clog and overburden the Village's stormwater drainage systems.

Water Quality

Oyster Bay Harbor is certified for shellfish harvesting by the New York State Department of Environmental Conservation (NYSDEC), based on frequent water quality testing results that conform to State shellfish sanitation standards. In contrast, Mill Neck Creek is uncertified for shellfish harvesting because water quality consistency fails to meet those standards, except during a few months in the winter when harvesting is permitted due to seasonal improvements in water quality.

An inadequately treated point-source septic discharge causes degradation of water quality in Oak Neck Creek and the contiguous sections of Mill Neck Creek. There is a pending NYSDEC Consent Order requiring the installation of a sewage treatment package plant to replace the existing chlorine contact chamber at this location. The Nassau County Department of Health expects that this plant will be operational within two years. However, this action will not eliminate all of the sources of pathogen contamination emanating from development in this area. While more investigative work is needed to arrive at the proper remedies, this location clearly is one of the most important sources of coliform bacteria in the LWRA. This issue was selected as one of the leading concerns by the Village.

Further investigation is required to pinpoint the location and significance of the other point and non-point sources of contamination, especially pathogens which adversely affect the availability of shellfish beds for harvesting. A new surfacewater sampling program currently is being conducted by *Friends of the Bay*, an environmental group based in Oyster Bay hamlet, in order to identify and determine the effects of specific sources of contamination by septic wastes in Mill Neck Creek and Oak Neck Creek.

Habitat Restoration

The coastal waters and associated wetlands along the south side of the Village of Bayville either have been incorporated into the Oyster Bay National Wildlife Refuge under the ownership of the U.S. Fish and Wildlife Service, or have been classified by the New York State Department of State as part of a Significant Coastal Fish and Wildlife Habitat. These designations identify these areas as an important ecological resource, which is specially targeted for preservation and, as feasible, restoration.

Over the years, marine habitats in the LWRA and elsewhere throughout the region, have been degraded by human actions in the coastal zone, including development of adjacent upland areas and certain in-water activities. Direct impacts have resulted from the historical filling of wetlands. Indirect impacts have been caused by discharges of contaminated stormwater and inadequately treated sanitary wastewater. Although current environmental regulations have virtually halted further direct losses of habitat, there was a considerable net decrease in the most valuable habitat areas (i.e., vegetated wetlands) prior to the enactment of those requirements. Furthermore, indirect impacts persist, especially with respect to water quality impairments. With this in mind, the LWRP Committee concluded that habitat restoration is an important issue, for which solutions should be actively pursued. Habitat restoration seeks to reverse the adverse effects of human actions in the coastal zone, thereby enhancing the value of these areas for fish and wildlife populations and, ultimately, for human recreational enjoyment.

10. Summary of Opportunities

With the completion of the LWRP, the Village of Bayville is in a better position to implement viable solutions to some long-standing engineering and environmental problems which have threatened the long-term safety and environmental quality of the community. As outlined in Section 2.3.9 above, the LWRP Committee identified four major issues - flooding, erosion, water quality, and habitat restoration - which are the focus of this program. The following discussion examines opportunities for resolving these issues.

Coastal Flooding

High intensity storms (i.e., hurricanes and nor'easters) are among the most serious and damaging events in Bayville. These storms cause inundation of the low-lying areas in the Village due to tidal surges from Long Island Sound and the harbor complex, and inadequate drainage of stormwater from the land surface. Such events occur relatively frequently, are extremely costly, and endanger human health and safety. The Village has demonstrated, through their past efforts, including drainage improvement projects, that the damaging effects of flooding from extreme precipitation events and tidal surges can be lessened.

Past projects that have contributed beneficially to the reduction of flooding in the Village of Bayville include:

- **Perry Avenue/Bayville Park Boulevard interconnected drainage rings in the western part of Bayville.** This is a system of subsurface water retention chambers that collect stormwater and allow it to recharge into the shallow subsurface. Water quantities that exceed the capacity of the recharge structure are conveyed via an overflow structure to down-gradient recharge structures.

- **Bayville Avenue interconnected drainage ring system.** Similar in design and purpose to Perry Avenue facilities, this project covered the area between School Street and the "president streets".
- **Artificial wetlands at former Schmitt property.** This facility captures and stores excess stormwater, thereby allowing sediments to settle and preventing the discharge of these materials into marine surface waters south of Bayville.
- **First Street project.** This is a stormwater collection and discharge system, which is designed to control the outflow of water into the marine surface waters at the east end of the Village.
- **Adams Avenue outfall.** A tidal gate has been installed on the outfall at the end of Adams Avenue, which prevents the back-flow of coastal waters into the drainage system, while still allowing the discharge of stormwater into marine surface waters south of Bayville.

Flood control and stormwater management will provide a variety of benefits to the Village of Bayville, in such areas as water quality improvement, habitat restoration, mitigation of sanitary system failures, and a number of related environmental, waterfront, and engineering issues. Some of the specific benefits and justifications associated with these project opportunities include:

- 1) There is a broad base of support for flood control projects in the Village. The Village experienced a number of damaging storms in recent years, which have been very costly to Village residents. In addition, the Village completed a Floodplain Management Study in 1999, in which specific plans were developed for addressing the stormwater problem.
- 2) The soils and upland geology/topography in most of the Village are favorable for the types of stormwater control measures that are proposed and described in Section IV of this LWRP.
- 3) The types of stormwater control measures proposed in this LWRP provide a corollary benefit of reducing the loadings of contaminants to adjacent coastal waters caused by non-point discharges, especially with respect to the "first flush" of runoff from the land surface in the early stages of rainfall events.
- 4) The New York State Department of Environmental Conservation is exercising its recently established authority to reduce the impact of non-point sources on surface water quality, thereby providing another incentive for improved stormwater management.

- 5) The successful, but limited, results of stormwater management projects in Bayville that rely on discharge to the ground provide encouragement for additional projects of this type in the future.
- 6) Bayville Avenue is a Federal Aid roadway, which is eligible for New York State Department of Transportation-supported funding. This roadway, and its associated storm sewer, could serve as a principal right-of-way for improvements to the Village's storm drainage system.
- 7) Bayville has a reasonably stable water table elevation, which is sufficiently deep in the higher-elevation portions of the Village to accommodate the storage of stormwater.
- 8) Improvements to the Village's stormwater drainage system will benefit the important commercial shellfish habitat in the adjacent waters of Oyster Bay Harbor and Mill Neck/Oak Neck Creek; this habitat is very sensitive to degraded water quality, and is closely monitored by environmental agencies.
- 9) The water quality enhancements resulting from stormwater improvement projects will benefit the local shellfishing industry based in the Oyster Bay Harbor Complex, which is highly valued by the State of New York and the local community.
- 10) The Bayville community is centered around water-dependant and water-related recreational values. These values would be enhanced by floodwater control projects that would improve the quality and appearance of coastal waters, thereby making this area more inviting as a recreational resource.

The flood control/stormwater management opportunities that are recommended by this LWRP for further action are as follows:

- Expand the system of interconnected drainage rings that has been installed on Perry Avenue and Bayville Park Boulevard, so that this system covers a larger area in western Bayville.
- Control and eliminate the overflow of inadequately treated sanitary wastewater into Oak Neck Creek.
- Elevate the top of the berm structure on the south side of Bayville, to the west of the Bridge Marina, in order to prevent the tidal inundation of adjacent low-lying areas.
- Extend the interconnected drainage rings along Bayville Avenue throughout the Village.
- Install a "duckbill" tide gate at the Adams Avenue outfall, which will serve the dual purpose of preventing the backflow of coastal waters onto the land surface and allowing

the settlement of sediments and associated contaminants from terrestrial floodwaters prior to discharge to adjacent receiving waters. The tide gate will be designed in such way to minimally constrict tidal flow. It is further proposed that a series of portable emergency pumps be procured, to be placed into operation by the Nassau County Department of Public Works whenever needed to alleviate incidents of flooding along Bayville Avenue in the low-lying easterly portion of the Village. This proposed system of portable pumps, which supersedes a prior proposal to install two permanent pumping stations in the vicinity of Adams Avenue and Shore Avenue, would provide emergency stormwater drainage at times when flooding in the project area is exacerbated by the effects of high tide. One or more permanent discharge pipes would have to be installed, to which the proposed pump system would be connected, in order to convey flood waters off the land surface and into adjacent coastal waters.

Coastal Erosion

Coastal erosion is an important issue with respect to both environmental and public safety considerations. Such erosion causes the breaching of natural and artificial protective structures, and may thereby lead to the loss of life and property. The beaches on the Long Island Sound side of Bayville, in particular, have been affected by significant erosion. Attempts have been made to counteract and remediate damaged areas, through the construction of an artificial dune at one location, and the planting of grasses and other vegetation in other unstable areas. Erosion along the bay, on the south side of Bayville, has occurred at points where tidal marsh areas have been breached, exposing the shoreline directly to waves, tidal action, and boat wakes.

Erosion in upland areas can contribute to the accumulation of sediment in the stormwater structures (i.e., piping, catch basins, etc.), a circumstance which has increased the municipal burden to maintain these systems. Erosion also increases the turbidity of stormwater discharged to adjacent coastal waters, thereby causing deterioration of water quality and related environmental impacts.

There have been a number of earlier projects in the Village directed at reducing erosion which, although limited in scope, have been successful. Some of these projects, which are described briefly below, will serve as models for the erosion control opportunities that are recommended for future action:

- The Soundside Beach erosion control project on Long Island Sound included the planting of beach grasses to reduce erosion and the construction of an artificial sand dune. The planting of the beach grasses was accomplished by volunteers. The artificial dune building was completed with the assistance of grant funding provided by the NYS Department of State.

- A second beach stabilization project was carried out on the Long Island Sound beaches along The Boulevard, in the "president streets" area. This work was limited to the planting of beach grasses and was carried out by volunteers.
- The Mill Neck Creek shoreline stabilization project was a beach replenishment effort at the foot of Washington Avenue, to repair coastal erosion damage that had occurred in this area.

Erosion control provides a number of benefits that contribute to the maintenance of critical recreational assets in the community, and serves to protect human life and the environment. Some of the specific benefits and justifications associated with project opportunities for erosion mitigation include:

- 1) Erosion poses a safety hazard because of the possible breaching of structures that protect the Village from flooding.
- 2) Erosion contributes to the turbidity of stormwater discharges, thereby reducing the quality of surface waters.
- 3) Erosion adversely affects and reduces the viability of both aquatic and terrestrial habitats.
- 4) Excessive erosion diminishes scenic values and, as a result, reduces the recreational potential of the Village.
- 5) The residual sediments from erosion accumulate in stormwater drainage structures, increasing cost incurred by the Village and other agencies to maintain these structures.
- 6) Erosion contributes to sedimentation in the creeks and harbors, thereby impacting navigation and use of mooring areas and other boating facilities.
- 7) Erosion reduces the depth of water at bathing beaches, decreasing their suitability for swimming.

Based on the importance of the erosion issue to the health and safety of the Bayville community and the vitality of local habitats, the following project opportunities are recommended for implementation as part of this LWRP:

- Complete an evaluation of the of the Soundside Beach artificial sand dune, and investigate possible locations for similar dunes along the Long Island Sound shore of the Village.
- Identify potential locations for artificial wetlands along the southerly shoreline of Bayville. Such wetlands could serve a number of purposes, including the retention of stormwater in order to reduce sediment discharges into the harbor complex. These

wetlands also may serve as recreational resources (e.g., nature study, bird watching, and similar passive activities), and may provide additional fish and wildlife habitat.

- Complete the evaluation of the use of gabions to stabilize the shoreline on the south side of Bayville. Select a trial location for this application and evaluate the results.
- Repair and replant areas along the south shore of Bayville where gaps have formed in the existing line of marsh vegetation. These vegetative gaps allow high intensity waves to reach the shore and cause damaging erosion.
- Although it is beyond the boundary of the LWRA, the area of extreme beach erosion at the Centre Island police booth should be repaired. Any further erosion in this area could result in the complete breaching of the peninsula at this point, which would cut off Centre Island from the mainland and result in a disruption of normal traffic flow in this part of Bayville.

Surface Water Quality

By improving the quality of surrounding marine surface waters, the Village of Bayville will benefit by: having maintained or increased swimming and fishing opportunities; restoring critical habitats; and restoring water quality to the point where closed shellfishing areas may be re-opened. Also, the overall health and welfare of the community would be improved by eliminating or reducing the levels of health-threatening pathogens and chemical contaminants.

Improvements to water quality will be accomplished by the stormwater management and recharge concepts discussed in the preceding subsection. Water quality enhancement also will be aided by the retention of stormwater in artificial wetlands, and by eliminating non-point pollution sources such as discharges from malfunctioning on-lot sanitary systems.

Examples of current and past projects that have beneficially improved water quality in the Bayville area include the following actions:

- The Village of Bayville has played an important role in eliminating the discharge of point source wastewater into Mill Neck Creek from the Birches subdivision, in the unincorporated community of Locust Valley. While the actual source is outside of the Bayville LWRA, the discharge affects the quality of marine surface waters in the LWRA. At this time, work is proceeding on the design and installation of an state-of-the-art wastewater treatment plant to serve 218 homes in the area.
- The Village has actively pursued and developed an interconnected system of drainage rings and has completed an artificial wetland on the former Schmitt property. These projects have contributed to the improvement of water quality by reducing the loadings of contaminants delivered to receiving waters in the first-flush of stormwater runoff.

- *Friends of the Bay*, a local environmental group, is playing an active role in monitoring, sampling, analyzing, and reporting on the results of marine surface water testing which is being carried out in the harbors and bays along the south side of Bayville. This work is being undertaken in support of a number of local programs, including this LWRP.
- *Friends of the Bay* also is involved in public education programs concerned with the maintenance of domestic sanitary systems and the monitoring of critical shoreline areas for evidence of non-point discharges.

The favorable results of efforts to manage and improve surface water quality are well documented, and recommendations of this LWRP are justified and fully supported by the following considerations:

- 1) There is available land and the potential for public property ownership that would support the creation of constructed wetlands for the retention of stormwater before it is discharged into adjacent coastal waters.
- 2) There is general agreement that constructed wetlands would provide improvements in water quality by reducing turbidity and pathogen loadings.
- 3) There is a need to manage and maintain on-lot sanitary systems. This could be accomplished through local laws.
- 4) There may be places in the Village where the water table is too close to the surface to accommodate conventional on-lot wastewater treatment systems. New designs and concepts may be needed in these areas.
- 5) The New York State Department of Environmental Conservation generally encourages the implementation of non-point pollution control measures, and would look favorably on any actions by the Village of Bayville to improve surface water quality by mitigating non-point sources.
- 6) The elimination of highly contaminated point sources, of the type that has been identified and partly remedied in the Birches (Davis Park) subdivision, will provide further water quality improvement.

Specific water quality improvement projects, and/or topics that are recommended in this LWRP for further consideration include:

- Expanding the non-point source reduction program by identifying and eliminating or correcting areas of malfunctioning or overflowing on-lot sanitary systems.

- Providing training and raising public awareness regarding the maintenance of on-lot sanitary systems, and the need to upgrade systems and provide more advanced technologies in certain critical areas.
- Identifying areas of high groundwater, where special sanitary system designs may be needed and where system maintenance schedules may have to be upgraded.
- Undertaking a more active and aggressive water quality monitoring program in the marine waters south of Bayville.
- Purchasing land and constructing artificial wetlands at appropriate locations, as was done on the former Schmitt property, in order to provide open space areas for the natural retention of stormwater.

Habitat Restoration

Restoration of fish and wildlife habitats is another important action which will render a number of benefits to the natural resource base and community of Bayville. The flooding control and water quality preservation/enhancement considerations listed in the preceding subsections will contribute to stable and thriving habitats.

Bayville has played an active role in the management and restoration of local aquatic and terrestrial habitats. Prime examples of this initiative include the shellfish aquaculture industry that is centered in Bayville, and the current efforts that are being made to improve the Harrison Williams Woods.

Examples of current or recent habitat restoration projects in the Village of Bayville include:

- Development of the former Schmitt property to preserve and protect woodlands and shore areas, and to install an artificial wetland for environmental benefit and recreational value.
- Grass planting on the Village's Long Island Sound beaches by local citizen groups to stabilize this environment and to preserve existing terrestrial habitats.
- Activities by the Frank M. Flowers and Sons shellfish farming operation, which have helped to maintain a healthy marine environment in support of their business.
- The siting of nesting towers in the Oak Neck Creek area to attract ospreys to this area.
- The restoration of the Harrison Williams Woods to make this area a more attractive recreational resource, and to maintain terrestrial habitats that sustain local flora and fauna.

The expected benefits of the habitat restoration program advocated by this LWRP include:

- 1) The restoration of water quality, through such measures as stormwater control projects and artificial wetland creation, may improve habitat conditions which, in turn, may improve shellfishing and recreational fishing prospects. Water quality restoration also may allow the opening of an area of more than 70 acres for shellfishing that presently is closed to this activity.
- 2) Restoration and/or preservation of tidal wetlands and habitats protect important feeding areas for fish and wintering waterfowl. Wetlands also protect the shoreline from the effects of wave action, thereby reducing shoreline erosion.
- 3) Beach stabilization and erosion control, through the planting and preservation of beach flora, protect an important natural habitat which otherwise may require expensive and problematic shoreline hardening protective measures.

Project opportunities that will result in the improvement of aquatic and terrestrial habitats, as well as rendering environmental and health and safety benefits to the Village of Bayville, include:

- Expected improvements in marine water quality in the waters south of Bayville - through the elimination of point source discharges of wastewater from locations like the Birches subdivision, or the reduction of non-point pollution from malfunctioning on-lot sanitary systems - may make it possible to restore shellfishing in an area of more than 70 acres that now is closed to this activity. As the shellfish habitat is improved, and perhaps expanded, as a result of the habitat restoration initiative, further water quality benefits may be realized through the augmented water filtering capabilities of expanded shellfish populations.
- Based on the favorable results of the new water quality monitoring program that is being carried out by *Friends of the Bay*, it may subsequently be possible to expand the available shellfishing area by seeding. As this work proceeds, water quality monitoring results will be evaluated to determine whether the expanded shellfish populations provide a further water quality benefit by their water filtering function. It is proposed that these studies and monitoring actions be undertaken as the referenced projects unfold.
- The proposed restoration of the recreational trail system in the Harrison Williams Woods will result in the preservation of a natural terrestrial environment which comprises an important upland habitat for the native flora and fauna of this area. A number of enhanced habitat values will be derived from this project, including the preservation and protection of a natural area.

SECTION III LOCAL WATERFRONT REVITALIZATION PROGRAM POLICIES

OVERVIEW

This section presents the coastal management policies that shall apply to the Incorporated Village of Bayville Local Waterfront Revitalization Area (LWRA). These local policies follow the 13 regional policies that are defined under the Long Island Sound Coastal Management Program (LISCMP). The main policy statements have been retained exactly as they appear in the LISCMP. The sub-policies and policy explanations have been modified and expanded to reflect the unique conditions in the Bayville area, and new sub-policies have been added to address specific issues and opportunities that apply to Bayville.

These policies are based on the economic, environmental and cultural characteristics of the Village of Bayville waterfront area, and represent a balance between economic development and preservation, which will permit beneficial use of and prevent adverse effects on Bayville's coastal resources. The policies shall serve as the basis for local, State, and federal consistency determinations for activities affecting the LWRA. No policy shall be viewed as being more significant than another. These policies should be read in conjunction with the specific standards of the Village of Bayville local laws.

As with the LISCMP, the Village of Bayville LWRA policies are organized under four policy headings: developed coast, natural coast, public coast, and working coast.

DEVELOPED COAST POLICIES

- Policy-1 Foster a pattern of development in the Long Island Sound coastal area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location, and minimizes adverse effects of development.
- Policy-2 Preserve historic resources of the Long Island Sound coastal area.
- Policy-3 Enhance visual quality and protect scenic resources throughout Long Island Sound.

NATURAL COAST POLICIES

- Policy-4 Minimize loss of life, structures, and natural resource from flooding and erosion.
- Policy-5 Protect and improve water quality and supply in the Long Island Sound coastal area.
- Policy-6 Protect and restore the quality and function of the Long Island Sound ecosystem.

Policy-7 Protect and improve air quality in the Long Island Sound coastal area.

Policy-8 Minimize environmental degradation in the Long Island Sound coastal area from solid waste and hazardous substances and wastes.

PUBLIC COAST POLICY

Policy-9 Provide for public access to, and recreational use of, coastal waters, public lands, and public resources of the Long Island Sound coastal area.

WORKING COAST POLICIES

Policy-10 Protect Long Island Sound's water-dependent uses and promote siting of new water-dependent uses in suitable locations.

Policy-11 Promote sustainable use of living marine resources in Long Island Sound.

Policy-12 Protect agricultural lands in the eastern Suffolk County portion of Long Island Sound coastal area. *(This policy is not applicable to the Village of Bayville).*

Policy-13 Promote appropriate use and development of energy and mineral resources.

DEVELOPED COAST POLICIES

POLICY 1 FOSTER A PATTERN OF DEVELOPMENT IN THE LONG ISLAND SOUND COASTAL AREA THAT ENHANCES COMMUNITY CHARACTER, PRESERVES OPEN SPACE, MAKES EFFICIENT USE OF INFRASTRUCTURE, MAKES BENEFICIAL USE OF A COASTAL LOCATION, AND MINIMIZES ADVERSE EFFECTS OF DEVELOPMENT.

Explanation of Policy

The Village of Bayville plays an important role in the overall pattern of development in the Long Island Sound coastal area. As a traditional waterfront community, the Village historically has contained concentrations of water-dependent businesses; possessed a distinctive character; and served as a focal point for commercial, recreational, and cultural activities within the region.

The character of the Village of Bayville is defined by the pattern of land development along its shores, which includes residential communities, marine commercial facilities, and open space. These land uses reflect the Village's maritime heritage, and serve as focal points for commercial, cultural, and recreational activities for the local population. Natural areas, parks, and wetlands comprise the primary open space component of the Village's pattern of development. This

component is limited in extent, and is intermingled with areas of residential and commercial development that dominate the waterfront.

The limited acreage of open space in the LWRA lends special significance to these areas, which provide ecological, scenic, recreational, and economic benefits to the residents in areas beyond the LWRA boundary.

Development that does not reinforce the traditional pattern of human use would result in an undesirable loss of the community and landscape character in the Bayville coastal area. Development, public investment, and regulatory decisions should preserve open space and natural resources and sustain this historic waterfront community as a center of activity. New water-dependent uses should be encouraged to locate in the existing center of maritime activity that rims the lower harbor area (i.e., in Oyster Bay hamlet, outside the Bayville LWRA) in order to support the economic base and maintain the maritime character of that area, and to avoid disturbance of shorelines and waters in open space areas.

The policy is intended to foster a development pattern that provides for beneficial use of the coastal resources of Bayville, the Oyster Bay Harbor Complex, and Long Island Sound. The primary components of the desired development pattern are: strengthening traditional waterfront communities as centers of activity, encouraging water-dependent uses to expand in maritime centers, enhancing stable residential areas, and preserving open space.

1.1 Concentrate development and redevelopment in or adjacent to the Village of Bayville.

- Maintain the Village as a traditional waterfront community and ensure that development supports and is compatible with the character of the community.
- Locate new development where infrastructure is adequate or can be upgraded to accommodate new development. Concentrating development to use existing infrastructure must be accompanied by maintenance and improvement of that infrastructure.

1.2 Ensure that development or uses take appropriate advantage of their coastal location.

- Reserve areas adjoining and within coastal waters for water-dependent uses and water-dependent activities to the maximum extent practicable.
- Accommodate water-enhanced uses along the waterfront where such uses are compatible with surrounding development, do not displace or interfere with water-dependent uses, and reflect the unique qualities of a coastal location through appropriate design and orientation.

- Avoid uses on the waterfront that cannot, by their nature, derive economic or social benefit from a waterfront location.
- Allow other uses that derive benefit from a waterfront location, such as residential uses and restaurants, in appropriate locations.

1.3 Protect stable residential areas.

- Maintain stable residential areas and allow for continued compatible residential and supporting development in or adjacent to such areas.

1.4 Maintain and enhance natural areas, recreation, and open space.

- Avoid expansion of infrastructure and services which would promote conversion of these areas to other uses.
- Avoid loss of economic, environmental, and aesthetic values associated with these areas.
- Maintain natural, recreational, and open space values.
- Preserve Village-owned open-space areas and retain such lands in perpetuity for the benefit and enjoyment of future generations.

1.5 Minimize adverse impacts of new development and redevelopment.

- Minimize potential adverse environmental, economic, and land use impacts that would result from proposed development.
- Minimize the potential for adverse impacts from types of development that individually may not result in a significant adverse environmental impact, but which when taken together could lead to or induce subsequent significant adverse impacts.

1.6 Undertake redevelopment in a manner that maintains a mix of recreational and working waterfront uses and other compatible uses.

- The unique character of Bayville is based largely on its working harbor uses. The LWRA also contains a number of shorefront properties that provide the public with physical and visual access to coastal waters. Actions that would significantly detract from or diminish either of these two important types of uses should be avoided.

1.7 Undertake redevelopment consistent with environmental and physical conditions, particularly with respect to surface water drainage.

- Surface water drainage in the portion of Bayville adjacent to Oyster Bay Harbor and the Mill Neck Creek system suffers from flooding, especially during “nor’easters” and hurricanes. Residents of the area have indicated that this condition adversely affects their quality of life. Actions that would exacerbate these impacts should be avoided, and actions that would mitigate these impacts should be encouraged.
- Flooding damages property and is a threat to human life. Any new development, redevelopment, or expansion of existing facilities is to be fully analyzed with respect to potential surface water flooding impacts.

1.8 Formulate appropriate measures to mitigate flood-prone roads and low lying areas through inter-agency cooperation.

1.9 Eliminate the presence of non-conforming commercial uses in residential zoning districts, where such uses create conflicts with existing residential development.

1.10 Explore the feasibility of consolidating Village land holdings to create larger areas of contiguous public property.

The Village presently owns a number of isolated parcels of land that are undeveloped and unutilized. Because of these circumstances, it would be difficult for the Village to put the lands in question to good public use, since they are somewhat remote from other Village-owned facilities. Under one possible plan of action, some of these parcels could be used in trade to acquire other lands that are in closer proximity to the Village’s usable public lands.

POLICY 2 PRESERVE HISTORIC RESOURCES OF THE LONG ISLAND SOUND COASTAL AREA.

Explanation of Policy

The intent of this policy is to preserve the historic and archeological resources of the Village of Bayville coastal area. While this LWRP addresses all such resources within the Village of Bayville, it actively promotes preservation of historic, archeological, and cultural resources that have a coastal relationship.

2.1 Maximize preservation and retention of historic resources.

- Avoid potential adverse impacts of development on nearby historic resources.

- Preserve the historic character of the resource by protecting historic materials and features or by making repairs using appropriate measures.
- Minimize loss of historic resources or historic character when it is not possible to completely preserve the resource.
- Provide for compatible use of the historic resource, while limiting and minimizing alterations to the resource.
- Relocate an historic resource only when the resource cannot be preserved in place.

2.2 Protect and preserve archeological resources.

- Prohibit appropriation of any object of archeological or paleontological interest situated on or under lands owned by New York State, except as provided for in Education Law, § 233.
- Minimize potential adverse impacts by redesigning projects, reducing direct impacts on the resource, recovering artifacts prior to construction, and documenting the site. A “Phase 1” Survey shall be conducted according to the specifications of the New York State Office of Parks Recreation and Historic Preservation.

2.3 Protect and enhance resources that are significant to the coastal culture of the Village of Bayville.

- Protect historic shipwrecks.
- Prevent unauthorized collection of artifacts from shipwrecks.

2.4 Increase public awareness of the historical resources of the Village.

POLICY 3 ENHANCE VISUAL QUALITY AND PROTECT SCENIC RESOURCES THROUGHOUT LONG ISLAND SOUND.

Explanation of Policy

Visual quality is a major contributor to the character of the Long Island Sound region and the Village of Bayville, and is the primary basis for public appreciation of the waterfront. The intent of this policy is to protect and enhance visual quality and protect locally recognized scenic resources in the Village of Bayville.

3.1 Protect and improve visual quality throughout the Bayville local waterfront area.

- Recognize water-dependent uses as important additions to the visual interest of the Bayville waterfront.
- Enhance and preserve existing scenic characteristics by minimizing the introduction of discordant features. In particular, avoid new structures or expansion of existing structures that would contravene current height restrictions specified under the Village's Zoning Code.
- Preserve existing vegetation and establish new vegetation to enhance scenic quality.
- Preserve and restore vegetated wetlands.
- Restore deteriorated structures and remove degraded visual elements, and screen activities and views that detract from visual quality.
- Group or orient structures to preserve open space and provide visual organization.
- Anticipate and prevent impairment of dynamic landscape elements that contribute to ephemeral scenic qualities.
- Control development and limit the clearing of woodlands on hillsides so as to preserve the scenic quality.
- Protect scenic values associated with public lands, including public trust lands and waters, and natural resources.

NATURAL COAST POLICIES

POLICY 4 MINIMIZE LOSS OF LIFE, STRUCTURES, AND NATURAL RESOURCES FROM FLOODING AND EROSION.

The Long Island Sound shoreline of the Village of Bayville is exposed to storm and tidal action and is vulnerable to erosion and flooding. The bay-side shoreline (including Mill Neck Creek, Oak Neck Creek, and Oyster Bay Harbor) is relatively well-protected from destructive wave action generated during severe coastal storms, but also has experienced significant erosion in certain areas.

In response to existing or perceived erosion and flood hazards, many landowners have erected erosion protection structures. Over the past few decades, there has been a dramatic increase in the extent of shoreline hardening throughout the Long Island Sound region.

In the absence of adequate down-drift remediation, erosion protection structures often contribute to erosion both on and off the given project site. Poor siting and design of these structures also can result in aesthetic impairments, loss of public recreational resources, loss of habitats, and water quality degradation. The cumulative impact of these structures can be large. Before a permit is granted to allow construction of an erosion protection structure, the purpose, function, impact, and alternatives to the proposed structure need to be carefully evaluated in order to ascertain that the structure is necessary and will accomplish the desired objectives without resulting in significant, undesirable adverse impacts.

Although the Long Island Sound shoreline has been heavily fortified, there are significant stretches of the coast that remain in a natural state. Similarly, the Village of Bayville shoreline contains significant stretches of shoreline with structural protection, which mostly is associated with marine commercial uses, but also contains sections that have been retained in their natural state. These portions of the shoreline that are not fortified should generally remain in a natural condition to respond to coastal processes.

Development and redevelopment in hazard areas must be managed to reduce exposure to coastal hazards. Hardening of the shoreline should be avoided except when alternative means are not effective. Alternatives to traditional structural measures, such as beach nourishment and re-vegetation, are preferred approaches to control erosion because these measures result in fewer environmental impacts compared to traditional structures. Hard structures may be more practical to protect principal structures or areas of extensive public investment.

The Village is an area of extensive public investment. Barrier landforms that protect significant public investment or natural resources should be maintained. Soft structural protection methods are to be used to conform with the natural coastal processes. Barrier beach landforms should be maintained by using clean, compatible dredged material, when feasible, for beach nourishment, offshore bar building, or marsh creation projects. Sea level rise should be considered when projects involving substantial investments of public expenditures are designed.

This policy seeks to protect life, structures, and natural resources from flooding and erosion hazards in the Bayville coastal area. The policy reflects State flooding and erosion regulations, and provides measures for reduction of hazards and protection of resources.

4.1 Minimize losses of human life and structures from flooding and erosion hazards.

- Use the following management measures, which are presented in order of priority:
 - 1) avoid development other than water-dependent uses in coastal hazard areas;
 - 2) locate or move development and structures as far away from hazards as practical;

- 3) use vegetative, non-structural measures that have a reasonable probability of managing flooding and erosion, based on shoreline characteristics, including exposure to wave impacts, shoreline geometry, and sediment composition;
 - 4) enhance existing natural protective features and processes, and use non-structural measures that have a reasonable probability of managing erosion;
 - 5) use structural erosion protection measures for control of erosion only where the above measures are not sufficient to protect the principal use or where the use is water-dependent.
- Mitigate the impacts of erosion control structures.
 - Manage development in flood plains outside of coastal hazard areas so as to avoid adverse environmental effects, to minimize the need for structural flood protection measures, and to meet federal flood insurance program standards.

4.2 Preserve and restore natural protective features.

- Minimize interference with natural coastal processes by: providing for natural supply and movement of unconsolidated sediments; minimizing intrusion of structures into coastal waters and interference with coastal processes; and mitigating any unavoidable intrusion or interference.
- Prevent development in natural protective features, except development as specifically allowed in 6 NYCRR Part 505.8. A “natural protective feature” means a nearshore area, beach, bluff, primary dune, secondary dune, or wetland, and the vegetation thereon. A “natural protective feature area” means a land or water area containing natural protective features, the alteration of which might reduce or destroy the protection afforded other lands against erosion or high water. All natural protective feature areas are delineated as such on coastal erosion hazard area maps (ECL 6 NYCRR 505, Section 505.2).
- Maximize the protective capabilities of natural protective features by: avoiding alteration or interference with shorelines in a natural condition; enhancing existing natural protective features; restoring impaired natural protective features; and managing activities to minimize interference with, limit damage to, or reverse damage which has diminished the protective capacities of the natural shoreline.

4.3 Protect public lands and public trust lands and the use of these lands when undertaking all erosion or flood control projects.

- Retain ownership of public trust lands that have become upland areas due to fill or accretion resulting from erosion control projects.

- Mitigate unavoidable impacts on adjacent property, natural coastal processes and natural resources, and on public trust lands and their use.
- Avoid losses or likely losses of public trust lands or use of these lands, including public access along the shore, which can be reasonably attributed to or anticipated to result from erosion protection structures.

4.4 Manage navigation infrastructure to limit adverse impacts on coastal processes.

- Manage navigation channels to limit adverse impacts on coastal processes by designing channel construction and maintenance to protect and enhance natural protective features, prevent destabilization of adjacent areas, and make beneficial use of suitable dredged material.
- Manage stabilized inlets to limit adverse impacts on coastal processes.

4.5 Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.

- Expenditure of public funds is: limited to those circumstances where public benefits exceed public cost; and prohibited for the exclusive purpose of protecting private development, except where actions are undertaken by an erosion protection district.
- Give priority in expenditure of public funds to actions which: protect public health and safety; mitigate flooding and erosion problems caused by previous human intervention; protect areas of intensive development; and protect substantial public investment in land, infrastructure, and facilities.

4.6 Consider sea level rise when siting and designing projects involving substantial public expenditures.

Projects should be sited at a sufficient distance from the current shoreline and elevated sufficiently above high water levels to prevent flooding and erosion damages related to the anticipated long-term rise in sea level over the expected life of the project.

4.7 Minimize adverse impacts associated with existing flooding and erosion.

Low-lying, near-shore areas in the Bayville - especially the tombolo area at the eastern end of the Village and the areas around the Mill Neck/Oak Neck Creek system - can experience inundation by coastal waters during major storm events. However, except for narrow bands directly along the Long Island Sound and Oyster Bay Harbor shorelines, the Village generally is not subjected to physical damage caused by storm wave impacts. Suitable capital projects

should be pursued to reduce the susceptibility of the Village's 100-year flood plain area to inundation during coastal storms.

In addition to coastal flooding, inadequacies of the stormwater drainage system cause flooding in Bayville. Such flooding is common during heavy rains in certain sections of the Village, including the Bayville Avenue corridor and the low-lying district of the "president streets" directly to the east of the Oak Neck upland area. At times, the depth of flood waters makes the streets and roadways of the Village impassable to vehicles, thereby creating a potential safety hazard and disrupting the lives of local residents.

Although some studies have been performed to define the problems and develop alternative flood mitigation plans, no action has been taken to date. Additional efforts are needed to achieve progress on this issue. Structural solutions should be explored to alleviate stormwater flooding in the critical problem areas. This should involve the cooperative action of both the NYS Department of Transportation and the Nassau County Department of Public Works (which has jurisdiction over the Bayville Bridge). Any flood abatement project that is undertaken in accordance with this policy should also provide water quality abatement to the degree practicable.

Coastal erosion has resulted in a number of adverse impacts to the Village of Bayville, including: the loss of valuable shorefront land; and the breaching of natural and artificial protective structures, exposing development in adjacent upland areas to increased potential flooding. Stormwater-induced erosion in upland areas can contribute to: the accumulation of sediment in drainage structures, thereby increasing maintenance costs; and degraded quality in receiving waters due to increases the turbidity of stormwater discharges. Appropriate action should be taken to reduce these erosion-related impacts.

POLICY 5 PROTECT AND IMPROVE WATER QUALITY AND SUPPLY IN THE LONG ISLAND SOUND COASTAL AREA.

The purpose of this policy is to protect the quality and quantity of water in the Long Island Sound area. Quality considerations include both point source and non-point source pollution management. The primary quantity consideration is the maintenance of an adequate supply of potable water in the region.

The Comprehensive Conservation and Management Plan developed by the Long Island Sound Study (1994) clearly summarizes the major surface water quality impairments in the region. These impairments reflect the intensity of upland and water uses in the Sound coastal area, and result from both point and non-point sources. Impairments also result from pollution sources outside of the Sound's coastal area, including discharges into the waters around New York City. Consequences of water quality impairments include: hypoxia, a major problem in the western portion of the Sound;

reduced availability of crustaceans and certified, marketable shellfish; increased closure days for beaches; and reduced enjoyment of the Sound shoreline.

Due to the geologic and soil characteristics of the Sound coastal region, the pollution of fresh surface waters can readily contaminate underlying groundwater resources. The sandy, highly porous soils of Long Island allow chemicals and other pollutants to pass readily into aquifers. Since Long Island is entirely dependent upon regional aquifers for its potable water supply, activities that introduce pollutants to recharge waters must be controlled. In addition, nutrient input from groundwater flow into coastal embayments is, in some cases, a significant factor in the impairment of water quality in those water bodies. For these reasons, land use, even in upland areas, can have permanent adverse effects on water quality in this region.

Water quality protection and improvement in the region must be accomplished by a combination of managing new sources of pollution and remediating existing sources. In some areas with existing water quality impairments, more aggressive remediation measures will be needed than for the region as a whole.

5.1 Prohibit direct or indirect discharges that would cause or contribute to contravention of water quality standards.

- Restore water quality of surface waters adjacent to the Village of Bayville by reducing impairments caused by major sources of pollution by: reducing nitrogen discharges sufficient to limit the occurrence of hypoxia and remediating existing contaminated sediment, and limiting introduction of new contaminated sediment.
- Prevent point source discharges into coastal waters and avoid land and water uses that would: (1) exceed applicable effluent limitations, or (2) cause or contribute to contravention of water quality classification and use standards, or (3) materially or adversely affect receiving water quality, or (4) violate a vessel waste no-discharge zone prohibition.
- Ensure effective treatment of sanitary sewage by proper management of on-site disposal systems.
- Implement suitable public education measures aimed at controlling the generation of contaminants that may be discharged to surface water bodies. This includes continuation of the Village's program to stencil the pavement near storm drains with warnings regarding the environmental consequences of discharging hazardous substances to these water bodies through the storm drains.
- Implement suitable non-point controls for municipal marina facilities, including pertinent measures specified in the NYSDEC's *Marina Operations for Existing Facilities*. Where feasible, use the same standards to improve non-point mitigation

at existing marinas and similar facilities that are subject to Village discretionary approvals, such as expansions or major improvements.

5.2 Manage land use activities and use best management practices to minimize non-point pollution of coastal waters.

In addition to ensuring that best management practices are followed for private development projects that are subject to its approval, the Village will continue to implement such practices to the maximum extent practical for its own actions. This includes street sweeping operations to remove contaminated deposits from roadway surfaces before they are washed into surface waters, and the use of integrated pest management for Village facilities.

5.3 Protect and enhance the quality of coastal waters.

- Protect water quality based on physical factors (pH, dissolved oxygen, dissolved solids, nutrients, odor, color, and turbidity), health factors (pathogens, chemical contaminants, and toxicity), and aesthetic factors (oils, floatables, refuse, and suspended solids).
- Minimize disturbance of streams, including their beds and banks, in order to prevent erosion of soil, increased turbidity and irregular variations in velocity, temperature, and water level.
- Protect water quality of coastal waters from adverse impacts associated with excavation, placement of fill, dredging, and disposal of dredged material.
- Preserve and restore vegetated tidal wetlands.
- Seek to implement a program of actions that will incrementally improve water quality in the Mill Neck/Oak Neck Creek system with the ultimate goal being to attain this water body's current SA criteria.

5.4 Limit the potential for adverse impacts of watershed development on water quality and quantity.

- Protect water quality by ensuring that watershed development protects areas that provide important water quality benefits, maintains natural characteristics of drainage systems, and protects areas that are particularly susceptible to erosion and sediment loss.
- Limit the impacts of individual development projects to prevent cumulative water quality impacts upon the watershed which would result in a failure to meet water quality standards.

5.5 Protect and conserve the quality and quantity of potable water.

- Prevent contamination of potable waters by limiting discharges of pollutants and limiting land uses that are likely to contribute to contravention of surface and groundwater quality classifications for potable water supplies.
- Prevent depletion of existing potable water supplies by limiting saltwater intrusion in aquifers through conservation methods or restrictions on water supply use and withdrawals and allowing for recharge of potable aquifers.
- Limit cumulative impacts of development on groundwater recharge areas to ensure replenishment of potable groundwater supplies.

5.6 Where feasible, and as budgetary considerations allow, mitigate existing stormwater-derived sources of contamination to the Mill Neck/Oak Neck Creek System and Oyster Bay Harbor.

- Water quality in the creeks and harbors adjacent to the Village of Bayville is impacted by a variety of sources. On a regional basis, stormwater discharges generated in the upland watershed are the main source of contaminants delivered to these surface water bodies. Thus, any comprehensive effort intended to improve water quality in the LWRA should focus on the contaminant loadings contained in stormwater.
- Water quality problems in the LWRA arising from contaminated stormwater runoff can be addressed primarily in two ways, summarized in general terms as follows:
 - a) Measures can be implemented to reduce contaminant loadings in the effluent carried by individual stormwater discharges (e.g., outfalls and streams, etc.). This approach treats stormwater runoff as a “point source”, and typically involves the installation of structural devices that address a relatively small portion of the entire contributing watershed area, but which can be very effective in mitigating acute, localized water quality problems.
 - b) The rate of contaminant generation and transport in the upland areas can be controlled through the use of “best management practices”, public education initiatives, and other non-structural means. This “watershed-wide” approach treats stormwater runoff as a “non-point source” and typically involves relatively inexpensive implementation measures.
- For optimal effectiveness, comprehensive stormwater mitigation programs should employ both approaches outlined above. Within the Bayville watershed, this should include an evaluation of alternatives for projects to provide improved treatment to stormwater discharged into the harbor complex.

In addition to capital projects to mitigate existing sources of stormwater-derived contamination in Oak Neck Creek, Mill Neck Creek, Mill Neck Bay, Oyster Bay Harbor and Long Island Sound, a number of watershed controls can be implemented to achieve this goal. These practices include:

- timely street sweeping operations, to remove pollutant-laden sediments from roadway surfaces before they get washed into drainage systems;
- regular clean-out of sediment collection structures in the drainage system, including catch basins and leaching wells, to maintain the capacity of these structures and prevent flow bypassing; and
- public education programs, to reduce the loadings of contaminants generated by resident activities, such as landscaping with chemical treatments, improperly disposed household hazardous wastes, and poorly maintained on-site sanitary systems.

POLICY 6 PROTECT AND RESTORE THE QUALITY AND FUNCTION OF THE LONG ISLAND SOUND ECOSYSTEM.

The ecosystem on Long Island Sound consists of physical (non-living) and biological (living) components, and their interactions. The physical components include environmental factors such as water, soils, geology, energy, and contaminants. The biological components include aquatic plants and animals, and all other living things that inhabit the area around the Sound.

Certain natural resources that are important for their contribution to the quality and biological diversity of the Sound ecosystem have been specifically identified by the state for protection. These natural resources include: regulated tidal and freshwater wetlands; Department of State-designated Significant Coastal Fish and Wildlife Habitats; and rare, threatened, and endangered species. In addition to specifically identified, discrete natural resources, the quality of the Sound ecosystem also depends on more common, broadly distributed natural resources, such as the extent of forest cover, the population of overwintering songbirds, and benthic communities. These more common natural resources collectively contribute to the quality and biological diversity of the Sound ecosystem.

6.1 Protect and restore ecological quality in the Village of Bayville.

- Avoid permanent adverse change to ecological processes.
- Avoid fragmentation of natural ecological communities and maintain corridors between ecological communities. Maintain structural and functional relationships between natural ecological communities to provide for self-sustaining systems.

- Retain and add indigenous plants.
- Maintain values associated with natural ecological communities.
- Avoid significant adverse changes to the quality of the ecosystem of the Bayville LWRA that would result from physical loss, degradation, or functional loss of ecological components.
- Reduce or eliminate adverse impacts of existing development, when practical.
- Mitigate the impacts of new development.

6.2 Protect and restore the Mill Neck Creek Wetlands and Oyster Bay Harbor Significant Coastal Fish and Wildlife Habitats.

- Protect Mill Neck Creek Wetlands and Oyster Bay Harbor from uses or activities that would destroy habitat values, or would significantly impair the viability of these areas beyond the tolerance range of indigenous organisms (i.e., the ecological range of conditions that supports viable populations of these species), or would impair the potential for the habitat to support restored populations where practical.

The habitat impairment test presented in each Significant Coastal Fish and Wildlife Habitat narrative (Section 2.2.7 of this LWRP) must be met for any activity that is subject to consistency review. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within, or outside the designated area.

- Where destruction or significant impairment of habitat values cannot be avoided, minimize potential impacts through appropriate mitigation. Use mitigation measures that are likely to result in the least environmentally damaging feasible alternative, according to the following hierarchy (in decreasing order of preference):
 1. Avoid potential adverse impacts, including:
 - a) avoid ecologically sensitive areas,
 - b) schedule activities to avoid vulnerable periods in life cycles, or to avoid creating unfavorable environmental conditions, and
 - c) prevent fragmentation of intact habitat areas.
 2. Minimize unavoidable potential adverse impacts, including:
 - a) reduce scale or intensity of use or development,

- b) design projects to result in the least amount of potential adverse impact, and
 - c) choose alternative actions or methods that would lessen potential impacts.
- 3. Implement specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized, in order to prevent habitat destruction or significant habitat impairment.
- 4. Implement specific protective measures, as identified under the “Impact Assessment” in the State narratives for the Mill Neck Creek Wetlands and Oyster Bay Harbor Significant Coastal Fish and Wildlife Habitats.
- Wherever practical, enhance or restore the Mill Neck Creek Wetlands and Oyster Bay Significant Coastal Fish and Wildlife Habitats, so as to foster their continued viability as natural systems.

6.3 Protect and restore tidal wetlands.

- Comply with the statutory and regulatory requirements of the State’s wetland laws.
- Use the following management measures, which are presented in order of decreasing priority:
 - 1) Prevent the net loss of vegetated wetlands by avoiding fill or excavation;
 - 2) Provide and maintain adequate buffers between wetlands and adjacent or nearby uses and activities to protect wetland values and restore tidal wetlands wherever practical to foster their continued existence as natural systems;
 - 3) Minimize adverse impacts resulting from unavoidable fill, excavation, or other activities; and
 - 4) Provide for compensatory mitigation for unavoidable adverse impacts.

6.4 Protect vulnerable fish, wildlife, and plant species, and rare ecological communities.

6.5 Restore tidal wetlands along the shores of Oyster Bay Harbor and the Mill Neck/Oak Neck Creek system.

- Over the years, human activities have caused the direct loss of significant areas of tidal wetlands, as well as indirect impairments to this important ecological resource. Wetland restoration projects would reverse this historical trend and enhance the

harbor's natural resource value. One area that appears to be well suited to such projects is the Mill Neck Preserve.

6.6 Protect natural resources and associated values in the Oyster Bay-Cold Spring Harbor Regionally Important Natural Area.

- Protect and enhance activities associated with sustainable human use or appreciation of natural resources.
- Provide for achievement of a net increase in wetlands when practical opportunities exist to create new wetlands or restore former wetlands.
- Adhere to the management plan for the Oyster Bay-Cold Spring Harbor Regionally Important Natural Area.

POLICY 7 PROTECT AND IMPROVE AIR QUALITY IN THE LONG ISLAND SOUND COASTAL AREA.

This policy provides for protection of the Long Island Sound coastal area from air pollution generated within the coastal area or from outside the coastal area which adversely affects coastal air quality.

7.1 Control or abate existing and prevent new air pollution in the Village of Bayville.

- Limit pollution resulting from vehicle or vessel movement or operation.
- Limit actions that directly or indirectly change transportation uses or operation in a manner that would result in increased pollution.
- Limit pollution from new or existing stationary air contamination sources, consistent with applicable standards, plans, and requirements.
- Recycle or salvage air contaminants using best available air cleaning technologies.
- Restrict emissions of air contaminants to the outdoor atmosphere that are potentially injurious or unreasonably interfere with enjoyment of life or property.

7.2 Limit sources of atmospheric deposition of pollutants to the Sound and all waters surrounding the Village of Bayville, particularly from nitrogen sources.

POLICY 8 MINIMIZE ENVIRONMENTAL DEGRADATION IN THE LONG ISLAND SOUND COASTAL AREA FROM SOLID WASTE AND HAZARDOUS SUBSTANCES AND WASTES.

A variety of substances, ranging from improperly disposed motor oils to industrial waste dumps, may pose immediate problems and can preclude or delay appropriate reuse of coastal lands. Smaller and more incremental solid waste problems arise from littering.

The intent of this policy is to protect people from sources of contamination and to protect coastal resources from degradation through proper control and management of wastes and hazardous materials.

8.1 Manage solid waste to protect public health and control pollution.

- Plan for proper and effective solid waste disposal prior to undertaking major development or activities generating solid wastes.
- Prevent the discharge of solid wastes into the environment by using proper handling, management, and transportation practices.
- Manage solid waste by reducing the amount of solid waste generated and reusing or recycling material.

8.2 Manage hazardous wastes to protect public health and control pollution.

- Eliminate or reduce the generation of hazardous wastes to the maximum extent practical.
- Ensure maximum public safety through proper management of industrial hazardous waste treatment, storage, and disposal.

8.3 Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.

- Prevent the release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources.
- Prevent environmental degradation due to persistent toxic pollutants by: eliminating discharges of bio-accumulative substances, avoiding resuspension of toxic pollutant and hazardous substances and wastes, and avoiding reentry of bio-accumulative substances into the food chain from existing sources.
- Prevent and control environmental pollution due to radioactive materials.

- Protect public health, public and private property, and fish and wildlife from inappropriate use of pesticides.
- Take appropriate action to correct all unregulated releases of substances hazardous to the environment.

8.4 Prevent and remediate discharges of petroleum products.

- Minimize adverse impacts from potential oil spills by ensuring that petroleum fueling and loading facilities are appropriately sited.
- Clean up and remove any petroleum discharge, giving first priority to minimizing environmental damage.
- Prevent discharges of petroleum products by following approved handling and storage, and facility design and maintenance principles.
- Develop and implement adequate plans for the prevention and control of petroleum discharges at any major petroleum-related facility.

8.5 Transport solid waste, and hazardous substances and waste, in a manner that protects: the safety, well-being, and general welfare of the public; the environmental resources of the State; and the continued use of transportation facilities.

PUBLIC COAST POLICIES

POLICY 9 PROVIDE FOR PUBLIC ACCESS TO, AND RECREATIONAL USE OF, COASTAL WATERS, PUBLIC LANDS, AND PUBLIC RESOURCES OF THE LONG ISLAND SOUND COASTAL AREA.

The Long Island Sound shoreline is one of the most densely populated coastal regions along the eastern seaboard, yet physical and visual access to coastal lands and waters is limited for the general public. This is not the case in the Village of Bayville, however, where the layout of streets, the topography of the land, and the absence of walls and other obstructions provide opportunities for reaching or viewing the waterfront.

This policy addresses the need to maintain and improve existing public access and facilities in order to accommodate existing demand, and to capitalize on all available opportunities to provide additional visual and physical public access along with appropriate opportunities for recreation.

9.1 Promote appropriate and adequate physical public access and recreation throughout the Village of Bayville.

- Provide a level and type of public access and recreational use that takes into account proximity to population centers, public demand, conservation of historic and cultural resources, natural resource sensitivity, accessibility, compatibility with on-site and adjacent land uses, and the needs of special groups.
- Provide additional physical public access and recreation facilities at public sites.
- Protect and maintain existing public access and water-related recreation.
- Provide convenient, well-defined, physical public access to and along the shore for water-related recreation.
- Include physical public access and/or water-related recreation facilities as part of development whenever development or activities are likely to limit the public's use and enjoyment of public coastal lands and waters.
- Provide physical access linkages throughout the Bayville LWRA.
- Provide incentives to private development that includes public access and/or water-related recreation facilities.
- Ensure access for the general public at locations where State or federal funds are used to acquire, develop, or improve parkland.
- Restrict public access and water-related recreation on public lands only where incompatible with public safety and the protection of natural resources and submerged cultural resources.

9.2 Preserve visual access from public lands to coastal lands and waters and, where physically appropriate and feasible, enhance existing public facilities to provide new opportunities for the viewing of the scenic resources within the Village of Bayville.

The existence of a high level of scenic quality in an area is of real benefit to the public only if convenient physical access is available to suitable viewing locations. Furthermore, even where such physical access is provided, the level of utilization may be low because the facilities at a given site are not attractive and inviting to the public. Therefore, in order to make best use of Bayville's outstanding visual resources, readily accessible viewing locations should be made available at various locations along the waterfront. To achieve this goal, the following general policy standards should be applied:

- Avoid the loss of existing visual access by limiting physical blockage by development or activities. Minimize adverse impacts on visual access.
- Mitigate the loss of visual access by providing for on-site visual access or additional and comparable visual access off-site.
- Increase visual access wherever practical.

9.3 Preserve the public interest in and use of lands and waters held in public trust by the Village of Bayville, Town of Oyster Bay, State of New York, and federal government.

- Limit grants, easements, permits, or lesser interests in lands underwater to those instances where they are consistent with the public interest in the use of public trust lands.
- Determine ownership, riparian interest, or other legal right prior to approving private use of public trust lands under water.
- Reserve such interests or attach such conditions as are necessary to preserve the public interest in use of underwater lands and waterways and as will be adequate to ensure public access, recreation opportunities, and other public trust purposes.
- Evaluate opportunities to re-establish public trust interests in existing grants or leases that are not used in accordance with the terms of the grant/lease, are in violation of the terms of the grant/lease, or where there are significant limitations on public benefits resulting from the grant/lease in contravention of the public trust doctrine.

9.4 Assure public access to public trust lands and navigable waters.

- Use the following factors in determining the minimum access necessary at any given location: the upland user's dependence on access to navigable waters, the range of tidal fluctuation, the size and nature of the water body, the uses of the adjacent waters by the public, the traditional means of access used by surrounding similar uses, and whether alternative means to gain access are available.
- Allow obstructions to public access when necessary for the operation of water-dependent uses and their facilities.
- Ensure that the public interest in access below mean high water and to navigable waters is maintained.
- Mitigate substantial interference or obstruction of public use of public trust lands and navigable waters.

9.5 Ensure that the form of new or enhanced public access at any given location is based on site-specific environmental, infrastructural, and social constraints.

- In general, new or enhanced public access to the Bayville waterfront should not take a form that would likely encourage a large number of people to congregate at a given location, due to traffic constraints and parking limitations, further congestion and other possible disruption of the social characteristics of the community, and potential adverse impacts to environmental resources. The most suitable types of improvements or expansion to public recreational facilities along the shoreline are those that involve relatively small-scale passive recreational activities, such as picnicking, nature viewing, bird watching, walking, and similar uses.

9.6 Enhance the Mill Neck Preserve for passive recreational uses in association with habitat restoration.

It is recommended that consideration be given to undertaking a habitat restoration of the Mill Neck Creek Preserve. This project could be tied into a larger effort to open this area to public access. Presently, the shoreline of this area is accessible at only a few locations. Viewing platforms and benches placed at strategic locations would also enhance the passive recreational value of this site.

9.7 Ensure that vessel operations do not significantly impair the use of established bathing beaches.

Vessel operation and swimming are generally incompatible uses. The incursion of vessels into swimming areas can have potentially dire consequences for swimmers, including serious injury and health consequences due to vessel waste discharges. The proximity of vessel operations also diminishes the enjoyment of the resource by swimmers. In order to ensure that swimming coexists with vessel uses within the Bayville LWRA, swimming areas are designated at existing bathing beaches, within which the operation of vessels is excluded.

9.8 Retain existing public lands in public ownership in perpetuity, so as to ensure that adequate facilities are available for public access and recreation.

The lands under public ownership in the Village of Bayville provide extensive opportunities for public access to the waterfront and a broad range of recreational pursuits. These lands serve a vital function to the community, and contribute substantially to the high quality of life enjoyed by Village residents. In order to ensure that these benefits are available to future generations, all lands within the Village that are in public ownership shall remain as such in perpetuity. Any relief from this policy shall occur only where it can be demonstrated that an overriding public purpose would be served.

WORKING COAST POLICIES

POLICY 10 PROTECT LONG ISLAND SOUND'S WATER-DEPENDENT USES AND PROMOTE SITING OF NEW WATER-DEPENDENT USES IN SUITABLE LOCATIONS.

The intent of this policy is to protect existing water-dependent commercial, industrial, and recreational uses and to promote suitable use of maritime centers (as identified in the Long Island Sound Coastal Management Program, January 1999). It is also the intent of this policy to enhance the economic viability of water-dependent uses by ensuring adequate infrastructure for water-dependent uses and their efficient operation in *maritime centers*.

Although not a State-identified *maritime center*, the Village of Bayville's water-dependent commercial and recreational uses are vital to the health of the local economy, and its maritime character.

10.1 Protect existing water-dependent uses in the Village of Bayville.

- Avoid actions that would displace, adversely impact, or interfere with existing water-dependent uses.

10.2 Improve the economic viability of water-dependent uses by allowing for non-water-dependent accessory and multiple uses in the Village, particularly water-enhanced and maritime support services.

10.3 Minimize adverse impacts of new and expanding water-dependent uses, and provide for their safe operation.

- Expand and improve existing marinas and other boating facilities where there is: adequate upland for support facilities and services; sufficient water-side and land-side access; appropriate nearshore depth to minimize the need for dredging; suitable water quality classification; minimal effects on wetlands, shellfish beds, or fish spawning grounds; and adequate water circulation.

10.4 Provide sufficient infrastructure for water-dependent uses.

- Protect and maintain existing public and private navigation lanes and channels at depths consistent with the needs of water-dependent uses.
- Avoid placement of dredged material in the open waters of Long Island Sound when opportunities for beneficial reuse of the material exist.

- Allow placement of suitable dredged material in nearshore locations to advance maritime functions, provided it is adequately contained and avoids negative impacts on tidal wetland areas and the Mill Neck Creek Wetlands and Oyster Bay Harbor Significant Coastal Fish and Wildlife Habitats.
- Provide new or expanded navigation lanes, channels, and basins where necessary to support water-dependent uses.
- Use suitable dredged material for beach nourishment, dune reconstruction, or other beneficial uses.
- Avoid shore and water surface uses that would impede navigation.
- Provide for services and facilities to facilitate commercial and recreational navigation.
- Give priority to existing commercial navigation in determining rights to navigable waters.

10.5 Promote efficient harbor operation.

- Limit congestion of harbor waters, conflict among uses, foster navigational safety, and minimize obstructions in coastal waters to reduce potential hazards to navigation.
- Prohibit intrusions or encroachments upon navigation channels and other identified vessel use areas.
- Prohibit any increase or additional use of coastal waters if such an increase or addition poses a public safety hazard that cannot be mitigated.

10.6 Optimize surface water uses for various user groups, while minimizing adverse effects on natural resources and the human environment.

The surface water area within the Bayville LWRA is utilized for a variety of activities. For the most part, use areas have been differentiated informally over the years, with major areas relegated for moorings for commercial shellfishing boats and for commercial marinas. Individual moorings may be placed in special mooring areas. The channels are well marked, and are off-limits to moorings so as to preserve unimpeded navigation. The swimming areas at Village beaches are delineated during the summer season by floats to prevent incursions by boats from the adjacent mooring area. In general, these water uses areas should remain in-place, as designated on a water use map for the Village's Harbor Management Area (see [Figure 4](#)).

10.7 Facilitate timely public dredging projects.

The availability of waterways free of navigational impediments is essential to boater safety and their enjoyment of the resource, especially in heavily utilized bodies of water like Oyster Bay Harbor and Mill Neck Creek. At the present time, dredging is performed on an as-needed basis, prompted by the actual occurrence of problems communicated to the Village by boaters. A more effective strategy for addressing dredging needs would entail the regular monitoring of areas that have historically experienced shoaling problems.

10.8 Seek to establish a cooperative mechanism among the adjacent municipalities sharing jurisdiction over the water surface area in the Bayville LWRA, in order to ensure effective oversight of in-water activities.

Jurisdiction over in-water activities in the Bayville LWRA is shared among the Town of Oyster Bay, and the Incorporated Villages of Bayville, Lattintown, Mill Neck, and Centre Island. As discussed in Section 2.3.7.B of this LWRP, there is some degree of overlap between the jurisdiction of the Town and the Villages. The most desirable course of action to address this issue would be to further the cooperative mechanism that was used under the ONCA program to coordinate among the various municipalities and governmental entities having jurisdiction over the Oyster Bay/Cold Spring Harbor Complex and its watershed.

POLICY 11 PROMOTE SUSTAINABLE USE OF LIVING MARINE RESOURCES IN LONG ISLAND SOUND.

Commercial and recreational uses of the living marine resources of Long Island Sound play an important role in the local and regional social and economic well-being. Commercial products provide high-protein food sources to consumers and are distributed throughout the State and nation, and to expanding international markets. In addition to the food value of the Sound's living marine resources, they have economic significance in the commercial development of value-added food stuffs, pharmaceuticals, cosmetics, and oils. These same resources provide recreational experiences and important accompanying economic activity.

Continued use of the Sound's living resources depends on maintaining long-term health and abundance of marine fishery resources and their habitats, and on ensuring that these resources are sustained in usable abundance and diversity for future generations. This requires the State's active management of marine fisheries, protection and conservation of habitat, restoration of habitats in areas where they have been degraded, and maintenance of water quality at a level that will foster occurrence and abundance of living marine resources. Allocation and use of the available resources must be consistent with the restoration and maintenance of healthy stocks and habitats, and must maximize the benefits of resource use so as to provide valuable recreational experiences and viable business opportunities for commercial and recreational fisheries.

11.1 Ensure the long-term maintenance and health of living marine resources.

- Ensure that commercial and recreational uses of living marine resources are managed in a manner that: results in sustained usable abundance and diversity of the marine resource; does not interfere with population and habitat maintenance and restoration efforts; uses best available scientific information in managing the resources; and minimizes waste and reduces discard mortality of marine fishery resources.
- Ensure that the management of the State's trans-boundary and migratory species is consistent with interstate, State-federal, and inter-jurisdictional management plans.
- Foster occurrence and abundance of Bayville's marine resources by: protecting spawning grounds, habitats, and water quality; and enhancing and restoring fish and shellfish habitat, particularly for anadromous fish, oysters, and hard clams.
- Protect, manage, and restore sustainable populations of indigenous fish, wildlife species, and other living marine resources.

11.2 Provide for commercial and recreational use of the Bayville LWRA's finfish, shellfish, crustaceans, and marine plants.

- Maximize the benefits of marine-resource use so as to provide a valuable recreational resource and viable business opportunities for commercial and recreational fisheries.
- Protect the public health and the marketability of marine and fishery resources by maintaining and improving water quality.
- Where fishery conservation and management plans require actions that would result in resource allocation impacts, ensure equitable distribution of impacts among user groups, giving priority to existing fisheries in the State.
- Promote development of artificial reefs at suitable locations to improve marine resources habitat and expand nearshore fishing opportunities.

11.3 Maintain and strengthen a stable commercial fishing fleet in the Village of Bayville.

- Protect and strengthen commercial fishing harvest operations, facilities, and waterfront infrastructure to support a stable commercial fishing industry.
- Protect commercial fishing from interference or displacement by competing land and water uses.

- Strengthen the economic viability of the commercial fishing fleet based in Bayville through appropriate domestic and international marketing.
- Support nearshore harvesting by providing access, berthing, and off-loading facilities suitable for nearshore operators.

11.4 Promote recreational use of marine resources.

- Provide adequate infrastructure to meet recreational needs, including appropriate fishing piers, dockage, parking, and livery services.
- Provide opportunities for recreational use of marine resources.

11.5 Promote managed harvest of shellfish originating from uncertified waters.

- Allow for the harvest of shellfish from uncertified waters for transplant to certified waters, provided that adherence to shellfish sanitation regulations and protocols are ensured for the protection of public health, and provided that such operations are undertaken in a manner that does not cause significant adverse effects on the Bayville marine ecosystems.
- Limit environmental disturbance of the harvest area by using the scale or method of shellfish harvesting that is most appropriate to the resource and the physical characteristics of the harvest area. Allow sufficient shellfish spawning stock to remain in the harvest area to maintain the resource while reducing the likelihood of illegal harvesting.

11.6 Promote aquaculture.

- Encourage further development of aquaculture of economically important species.
- Protect native stocks from potential adverse biological impacts from aquaculture.

POLICY 12 THE LONG ISLAND SOUND COASTAL POLICY REGARDING AGRICULTURAL LANDS IS NOT APPLICABLE TO THE VILLAGE OF BAYVILLE.

POLICY 13 PROMOTE APPROPRIATE USE AND DEVELOPMENT OF ENERGY AND MINERAL RESOURCES.

The Village of Bayville is not the site of a major power generating facility, nor is the Village an appropriate location for a power station. Therefore, the inherent risk to the coastal environment associated with such facilities is not present. The LIPA plant in Glenwood Landing serves energy needs in the Bayville area.

The Sound region faces energy problems more serious than any other region in the State. Long Island faces recurring price hikes and the danger of energy shortages. The Sound region is overly dependent on imported oil for electric generation and home heating. Natural gas is unobtainable in a large portion of the region. Strong reliance on motor vehicle transportation has also resulted in an over-dependence on imported gasoline. The decommissioning of the Shoreham nuclear power plant has resulted in the highest electricity prices in the continental United States.

In dealing with the Sound region's energy problems, the first order of preference is the conservation of energy to the maximum extent practicable. Energy efficiency in transportation and site design, and efficiency in energy generation are the best means for reducing energy demands. Reduced demand for energy decreases the need for construction of new facilities that may have adverse impacts on coastal resources.

For similar reasons, greater use should be made of sustainable energy resources, such as solar, wind, and hydroelectric power. While solar and wind power may make marginal contributions to the Sound's energy needs, the most substantial source of sustainable energy potentially available to the this area is hydroelectricity. Although the Sound offers few opportunities for the development of local hydroelectric generation facilities, the extension of power transmission lines to the Sound for importation of electricity is possible to help meet the region's energy needs.

13.1 Conserve energy resources.

- Promote and maintain energy efficient modes of transportation, including passenger transportation, mass transit, and alternative forms of transportation.
- Plan and construct sites using energy efficient design.
- Improve energy-generating efficiency through design upgrades of existing facilities.

13.2 Promote alternative energy sources that are self-sustaining, including solar and wind-powered energy generation.

- In siting such facilities, avoid interference with coastal resources, including migratory birds, and coastal processes.

13.3 Minimize adverse impacts associated with mineral extraction and subaqueous sand and gravel extraction.

- Commercial sand and aggregate mining is generally presumed to be an inappropriate use in the Bayville LWRA.
- Limit subaqueous sand and gravel extractions to activities necessary for navigation or erosion control.
- Preserve topsoil and overburden using appropriate site preparation techniques and subsequent site reclamation plans.

SECTION IV PROPOSED LAND AND WATER USES AND PROJECTS

PROPOSED LAND USES

The existing land development pattern in the Village of Bayville consists of a complex mix of uses. These include stable residential neighborhoods, marine commercial facilities along the waterfront, general commercial uses, private and public recreational facilities, and some institutional uses (Figure 2). In general, these uses will remain.

The Village does not recommend that any of the existing land uses be changed (Figure 4). Specific projects, for the near-term, are identified in Section 4.3; there will be additional projects over the medium-term.

PROPOSED WATER USES

Water bodies within the LWRA support a wide variety of uses, including recreational and commercial fishing, shellfish aquaculture, swimming, boating, and bird watching. The channels and waterways provide access from Oyster Bay Harbor into Mill Neck Creek, and are used by recreational boaters and commercial fishermen. The navigation channels in Mill Neck Creek are clearly marked, and small boats can navigate as far as the Creek Beach mooring area. Beyond that point, the water is shallow during low stages of the tide, and there are no significant boating or mooring facilities. At high tide, small boats are able to navigate well into the Mill Neck Preserve on Oak Neck Creek, or as far as the Beaver Lake Dam, located at the southern end of Mill Neck Creek.

One of the goals of this LWRP is to restore shellfishing certification in Mill Neck Creek, thereby expanding the area that is open for this important in-water use. This can be achieved by means of water quality improvement measures, especially to abate non-point sources of contaminant loadings such as stormwater treatment and inadequately treated sanitary wastewater discharges. In addition to potentially enhancing the availability of the shellfish resource, such measures also would be expected to improve the suitability of the Mill Neck Creek complex for fishing, swimming, kayaking, canoeing, and similar water-dependent recreational activities, especially in the Mill Neck Preserve.

No new water uses are proposed in this LWRP (Figure 4). This local program focuses on maintaining and, as feasible, expanding the existing, well-established and highly valued uses of swimming, fishing, shellfishing, shellfish mariculture, boating, and bird watching. The proposed projects outlined below will improve environmental conditions on both land and water to protect, preserve and where needed, improve these traditional uses.

PROPOSED PROJECTS

This section presents a program of projects that are proposed or recommended by the Village of Bayville in order to advance the goals and purposes of this LWRP. These projects are subdivided into two categories: proposed land acquisition and associated park improvement projects; and proposed capital improvement projects that focus on non-point source pollution control, stormwater runoff abatement, habitat restoration, coastal erosion mitigation, and waterfront revitalization beyond the area addressed under "park improvement projects".

Figure 5 illustrates the projects that the Village proposes or recommends to advance the goals and purposes of this LWRP.

PROPOSED LAND ACQUISITION AND PARK IMPROVEMENT PROJECTS

Land acquisition for park development and other public uses is one way to advance many of the goals and purposes of this LWRP. Some of the policies and goals that can be accomplished through land acquisition include:

- preserving open spaces to enhance and maintain community character;
- minimizing the impact of development by acquiring land that might otherwise become developed;
- protecting scenic resources throughout the Village of Bayville;
- protecting and restoring the quality of natural land and water habitats (e.g., improving water quality in Mill Neck Creek to the point where it can be re-certified for shellfishing);
- minimizing the loss of life, property and natural resources from flooding and erosion by acquiring land in the flood plain;
- expanding opportunities for public access and recreational uses on public waterfront land and waterways; and
- providing land that can be used for the implementation of LWRP projects (e.g., stormwater mitigation).

Past acquisitions of property for public purposes have been vital to the implementation of a variety of projects that have been completed, are in-progress, or planned in conjunction with this LWRP. Future acquisition opportunities generally are limited, because the Village's upland is mostly built-out. However, the Oak Neck Creek area should be targeted for further land procurement efforts, as feasible, in order to augment the natural open space resources at this location. Additional land

preservation in this area would be especially beneficial, due to the area's environmental sensitivity and its past and ongoing susceptibility to development-related impacts such as malfunctioning on-lot wastewater disposal systems.

Bayville Waterfront Commons

This action involves the creation of a waterfront district, referred to as the Bayville Waterfront Commons, which will link together a number of parcels into a single entity to serve the various interests and needs of the Bayville community. Following this approach, commercial and recreational facilities located in this district would be marine-oriented, and would encourage future development and land uses that focus on the marine setting.

Much of the foundation work for the Bayville Waterfront Commons project already has been completed. The necessary public acquisitions have been effected, and the Village has completed the development of Bayville Commons. The immediate benefits derived from these projects include:

- Enhancement of the appearance of the main entrance to the Village Bayville along Ludlam Avenue.
- Creation of convenient and accessible public facilities at the Bridge Marina and Bayville Commons, both of which are owned by the Village of Bayville.
- Provision of over-the-water access to the Mill Neck Preserve, via availability of small boats and kayaks for rental at the Bridge Marina.
- Provision of passive recreational opportunities at the Village-owned, former Schmitt property.
- Linkage of various sites and facilities by means of improvements to existing easements, which will unify them into a single, coherent park complex, capable of meeting the needs of a wide range of interests. The easements in question are under the jurisdiction of Nassau County, as part of the existing roadway right-of-way. Accomplishing the recommended improvements to the sidewalks in these areas would require the County's permission and cooperation.
- The unification of these water-related and public uses will encourage other developments, including shops, marine services facilities, and restaurants that feature a maritime theme. This will augment the economic vitality of the Village's downtown area.

The Bayville Waterfront Commons project will expand and improve public access to the waterfront and enhance water-based recreation. This project provides a means for connecting and enhancing many of the unique features that are visible upon arriving to the Village after crossing the Bayville

Bridge. Nowhere else in the Village is there such a variety of waterfront and park facilities in a single area. Beginning at the north side of the bridge, the project area follows along Ludlam Avenue to the intersection with Bayville Avenue. The project includes the following sites:

- **Bridge Marina:** This facility is located on the west side of Ludlam Avenue, adjacent to the bridge. Services include boat and engine sales and servicing, mooring service, dock rentals, and rentals of fishing boats, canoes and kayaks. A clam bar and a small boat launching facility also are featured. The facility has ample parking for the existing uses.
- **Frank M. Flower and Sons, Inc.:** This historic oyster farming enterprise has been present in the Oyster Bay area dating back to the 1890s. Flower and Sons is located immediately adjacent to the Bridge Marina, and includes the business offices, shellfish nursery, docking structures, and related facilities. This property is not part of the Waterfront Commons project, but its location, adjacent to the Village-owned land, contributes to the maritime character of the project area. Flower's privately-owned facility performs state of the art cultivation of oysters and clams, which grows shellfish from seed and transplants them to Oyster Bay Harbor Complex locations for full grow-out and harvesting. Guided tours are available by appointment. The Bayville Historical Museum has an excellent exhibit devoted to the Flower's oyster farming operations.
- **Schmitt Woodlands and Wetlands:** This unique waterfront and woodland complex is located directly east of Ludlam Avenue, across from the Bridge Marina. Three types of wetlands are present at this location - high marsh, intertidal marsh, and coastal shoals/mudflats - thereby displaying a range of marine habitats. The south side the property is bordered by Oyster Bay Harbor, along 2,300 feet of shoreline. Immediately offshore are 10 acres of seasonal shellfishing beds. The woodland on the northern portion of the site contains a variety of trees and scrubs. This open space area is unfenced and open to the public, serving as a walking area with excellent views of Oyster Bay Harbor. Public utilization of this facility would be enhanced by the construction of trails and bike paths in damaged parts of the woodland area, including waterfront walkways; undisturbed woodland areas should be retained for wildlife habitat and passive recreational pursuits using existing trails. Where feasible, habitat enhancement should be undertaken.
- **Bayville Commons:** This park, located at the southeast corner of Bayville Avenue and Ludlam Avenue, was developed and dedicated by the Village in May 1999. It contains landscaped gardens and seating for the public, has a public parking area, and is linked by a public easement to the former Schmitt property and the Bridge Marina.

The Bayville Waterfront Commons will comprise the aforementioned facilities and the interconnecting easements which already exist, as well as adjacent restaurants and other commercial establishments. The Waterfront Commons will foster local awareness of the waterfront's unique

values, expand public access and enhance the quality of this important community asset. The project also will include educational and informational signage.

The Village presently is seeking funding assistance to implement the Bayville Waterfront Commons.

Harrison Williams Woods

The Village is committed to protecting natural resources and enhancing activities associated with sustainable human use or appreciation of natural resources. Harrison Williams Woods is a Village-owned property which constitutes an important natural resource with highly valued aesthetic and ecological qualities. This property also provides a critical buffer for the mitigation of surface water flooding and serves as a groundwater recharge area.

The Harrison Williams Woods comprises more than 27 acres of upland terrain containing a cross section of Bayville's natural upland plant communities. This parcel provides public recreational opportunities, through its extensive network of trails, as well as the efforts of citizen groups in identifying important plants. The site's parkland setting, with its historic estate buildings, has been developed into a public complex that includes the Village Hall, Museum, and Library.

The project for this Village-owned property begins with a modest investment in the trail system and other improvements that will make this facility more accessible to all members of the community. Trail restoration is seen as the first step in future facility enhancements that will be carried out by the Village and local volunteer groups. This project is under way; thus far, the trails have been marked and aerial photographs have been taken of the site for use in mapping out a program of improvements for the Village's consideration. This work should include general cleanup and clearing of overgrowth, elimination of ruts in trails and placement of bark chips or other suitable material to upgrade the walking surface, and removal of invasive plants (such as English ivy). This action will prevent the Woods from falling into disuse because of declining accessibility, thereby ensuring that the land continues to serve multiple purposes, including passive recreation, preservation of a locally important ecological community, and buffering to mitigate stormwater flooding.

Other improvements include the installation of benches placed at appropriate viewing locations, signs to identify important and interesting vegetation, and a kiosk at the entrance to the facility with maps and other relevant information for self-guided tours.

West Harbor Beach

The docks and bulkheads at this Village-owned facility are deteriorated, and need to be upgraded.

Former Schmitt Property

As noted previously, a constructed wetland has been installed on the former Schmitt Property, in the area to the north of West Harbor Drive. This wetland area now provides for the retention and biological treatment of stormwater from the 15th Street area, prior to discharge into Oyster Bay Harbor.

An area of existing wetland to the south of West Harbor Drive on the subject property has been targeted for restoration, in order to enhance wildlife habitat and increase acreage of wetlands along the Village's southerly shoreline. Under this project, which is almost complete, miscellaneous fill material has been removed in order to create the lower elevations needed to restore tidal marsh vegetation. Additional plantings may be undertaken — possibly including eelgrass in adjacent shallow waters of the harbor, in an effort to help provide a favorable environment for the growth of scallops in this area. This project is being undertaken in cooperation with the New York State Department of Environmental Conservation using funding provided under the Clean Water/Clean Air Bond Act of 1996.

PROPOSED CAPITAL IMPROVEMENT PROJECTS

The Village's program of proposed capital improvement projects focuses on non-point source pollution control, stormwater runoff abatement, habitat restoration, coastal erosion mitigation, and waterfront revitalization. The project objectives under these categories are summarized as follows:

Stormwater mitigation projects serve a twofold purpose: amelioration of flooding; and reduction of the impact of non-point pollution.

Flood plain management projects will focus on areas (especially along the shoreline of Mill Neck Creek) that already have been damaged by erosion, or where erosion may be likely to occur, which threatens to damage public and private property and roadway infrastructure. These projects will lessen the extent of storm-related damages to public facilities, in order to decrease public expenditures for repairs and to ensure continuity of the availability of these facilities for public use; reduce claims for reimbursement through the FEMA program, which may allow decreases in policy premiums for owners of properties in the Village's flood plain; and reduce the overall disruption of daily activity caused by flooding events.

Habitat restoration projects will enhance the value of the involved areas for fish and wildlife, especially in the Mill Neck Creek area, thereby improving the vigor and diversity of ecological communities.

Waterfront revitalization projects will enhance public use and enjoyment of existing facilities.

Stormwater Mitigation Projects

Stormwater management facilities are an important infrastructure element that supports adjacent areas of development. Improvements to these facilities will address one of the most urgent and persistent problems in Bayville, namely the periodic flooding that results from the accumulation of stormwater runoff during storms. These events are extremely disruptive and, in severe cases, endanger human health and safety. Flooding also causes malfunctioning of subsurface sanitary systems in low-lying areas, resulting in the overflow of inadequately treated sewage into the environment. The Village of Bayville depends on the recharge capacity of the sandy soils in the shallow subsurface to absorb and reduce the impacts of stormwater. The higher elevation areas of the Village (e.g., the Oak Neck area) have an enormous capacity to accommodate and store stormwater. However, the low lying areas, especially the tombolo at the Village's east end and the areas around the Mill Neck/Oak Neck Creek system at the Village's west end, have limited stormwater storage capacity.

Stormwater control in Bayville takes advantage of the fact that the Village is extensively underlain by highly permeable sedimentary deposits. Runoff first is collected into a network of street drains. Perforated storm sewers allow drainage into the underlying unsaturated soils as the stormwater is transported. Stormwater recharge into the ground also occurs via leaching pools, which are 10 feet in diameter and vary from 5 to 20 feet in depth. Leaching pools are particularly effective in reducing drainage discharge volumes to receiving waters, and providing a suitable environment for the removal of stormwater-borne sediments and associated contaminants. The top of each leaching ring is connected via an overflow pipe linkage to the next ring in the down-gradient direction. With this system, drainage water cascades downhill through the system of structures and is prevented from overflowing onto the streets.

This LWRP proposes the wider use of higher elevation areas in the Village for stormwater control. Preliminary designs have been prepared for a network of interconnected leaching pools which would be located at a number of strategic sites. Many of these proposed leaching fields would be linked to an existing network along Bayville Avenue. This project would abate the discharge of stormwater from areas of higher elevation into the low-lying, flood-prone sections of the Village.

The largest area in the Village for which improved stormwater interception and recharge is needed will be addressed by a number of ongoing and pending projects. These include drainage improvements that are the subject of grant applications for federal highway funds, which are proposed for the Bayville Avenue watershed between School Street to the west and the "president streets" area to the east.

In addition to flood mitigation, the proposed stormwater drainage improvements would be expected to improve the quality of adjacent coastal waters to a certain degree, thereby rendering a secondary beneficial effect in terms of fish and wildlife habitats and, potentially, the availability of shellfish beds for harvesting. The concentrations of contaminants (including pathogens) in stormwater drainage typically are significantly elevated during the period immediately following the initiation

of a rainfall event. Consequently, providing mitigation for this "first flush" of runoff is recognized by public health and environmental officials as being of critical importance to achieving and preserving high quality in coastal waters. This would be especially beneficial in Mill Neck Creek, where more than 70 acres of shellfishing beds currently are closed. Additional leaching capacity would reduce the quantity of runoff discharged to receiving waters during the critical "first flush" portion of storm events, when the concentrations of contaminants (i.e., pathogens and chemical pollutants) in the stormwater generally are highest.

The construction of a wetland on the former Schmitt Property helps to filter out pollutants and sediment from stormwater before it is discharged into Oyster Bay Harbor. Similar projects involving the provision of treatment capabilities for stormwater discharges to coastal waters may be carried out elsewhere in the Village, resulting in further improvements to water quality, thereby increasing the benefit to the local environment.

The following projects will expand the coverage of structural controls in the Village's stormwater drainage system, thereby advancing the LWRP's dual goals of water quality enhancement and abatement of stormwater flooding:

Bayville Park Boulevard: This project will serve a drainage area of approximately 30 acres along Bayville Park Boulevard on the west side of the Village's Oak Neck upland area, and currently is in the planning and design stages. This area has suffered from poor drainage and chronic stormwater flooding, which have damaged the roadways. Further investigation is required in order to determine whether the drainage from this area has been a major source of non-point pollution to the receiving waters of Oak Neck Creek. Preliminary plans call for the installation of leaching pools, which will vary in depth. The leaching pools will be connected to storm sewers. An overflow drainage line will interconnect the upper sections of the drainage rings.

Perry Avenue: This project will augment the existing drainage system along Perry Avenue, thereby augmenting the capture and recharge stormwater from local contributing watersheds. This action will prevent stormwater runoff generated in the project area from draining to adjacent low-lying lands along Bayville Park Boulevard where, as noted above, flooding is common under current conditions.

First Avenue: This project will improve surface drainage in the portion of the low-lying tombolo area of the Village to the east of Ludlam Avenue and south of Bayville Avenue. The project involves the installation of drainage sumps, which will be interconnected by a perforated storm sewer line. An outfall near the southeast corner of Bayville will direct excess stormwater discharges into Oyster Bay Harbor.

Flood Plain Management Projects

The Village's "Floodplain Management and Hazard Mitigation Plan" (December 1998) contains a number of projects and programs that will further the policies and objectives of this LWRP, including:

Drainage System Maintenance Program - eliminates obstructions in drainage structures and maintain capacity of the system, particularly with regard to the removal of accumulated sediment deposits, so as to ensure proper operation; the project also would include a mechanism for tracking complaints regarding system performance, which would provide for timely action to address reports of flooding and other problems.

Village Capital Projects Implementation - includes stormwater mitigation projects described above, and the following:

Creek Road - installation of leaching pools, as an extension of the existing drainage system in the area that has employed the same design; and installation of a gabion wall to protect Creek Road.

Hickory Road - to provide local drainage and elevate selected homes.

Bayville Park Boulevard area (i.e., south of Bayville Avenue, between University Road and Violet Court, and on Ash Court) - including cleaning of existing drainage appurtenances, and an investigation to determine system capacity and identify a plan to augment capacity as needed.

Nassau County Capital Projects - include improvements to the County storm drainage system along Bayville Avenue and Ludlam Avenue, and restoration of County recharge basins by removing vegetative overgrowth.

U.S. Army Corps of Engineers Coastal Study - the U.S. Army Corps of Engineers and NYS Department of Environmental Conservation have finalized an agreement to conduct a feasibility-phase study concerning beach erosion and flooding in the Village of Bayville; the federal funding has been procured, and the project will commence when the state funding is in place, with an expected completion within about three years after commencement, according to the Army Corps of Engineers.

Comprehensive Stormwater Management Plan - a number of improvements have been implemented to mitigate stormwater impacts in the Village, and additional measures are identified in this LWRP to advance stormwater management further, a single plan that brings all of these issues together will allow the establishment of a comprehensive, uniform management system, covering all of the various jurisdictions, which will maximize the effectiveness of stormwater abatement on a Village-wide basis.

Building Elevation Program - achieves a reduction in the flood susceptibility of certain existing buildings by raising the first floors above the respective base flood elevations.

The Community Rating System Program - is a federally-sponsored program that increases awareness of issues associated with flooding and reduces flood insurance costs.

Other projects that are important to the abatement of flooding impacts in the Village are described as follows:

West Shore Road: The Nassau County Department of Public Works (NCDPW) has proposed to raise the elevation of the roadbed on West Shore Road, between the Oyster Bay Railroad Station and the Bayville Bridge. Although this project area is outside the Bayville LWRA, implementation of this action would alleviate flooding of West Shore Road during incidents of severe storm surge, and would eliminate a major obstacle for motor vehicle travel to and from Bayville during such events. This project has been authorized for implementation, using monies provided from the State through the Federal Aid Highways program, based on preliminary engineering work that has been completed.

Bayville Avenue, Western Area: The NCDPW has jurisdiction over Bayville Avenue which suffers from periodic flooding at its western end. This disrupts the business operations in the area, which results in adverse economic impacts and detracts from the general quality of life of the local community. The NCDPW is undertaking engineering design to provide a permanent solution to this flooding problem, with funding through the Federal Aid Highways program. The current design calls for the road bed in this area to be elevated to the level of the 50-year storm.

Bayville Avenue, Eastern Area: The Village has applied to the Nassau County Planning Department for funding under the New York State TEA-21 Program for improvements to Bayville Avenue, between Arlington Lane to the west and Beach Avenue to the east. Supplemental funding may also be sought from the New York State Clean Water/Clean Air Bond Act. The main goal of this project is to alleviate the flooding that occurs along Bayville Avenue due to heavy precipitation and tidal flooding from Mill Neck Creek. Mitigation of these conditions will provide safe passage for residents and emergency vehicles, reduce damage to adjacent homes and other structures, prevent flood waters from reaching low-lying areas, and provide treatment to contaminated first-flush stormwater prior to discharge into adjacent coastal waters. In order to accomplish these objectives, the following measures are proposed:

Additional leaching pools will be installed throughout the drainage system to the west of Ludlam Avenue, providing additional stormwater storage capacity in order to moderate the volume of water flowing overland to adjacent areas of lower elevation.

A new "duck bill" tide gate will be installed on the Adams Avenue outfall, which will serve the dual purposes of preventing the backflow of coastal waters onto the land surface and allowing the settlement of sediments and associated contaminants from terrestrial floodwaters prior to discharge

to adjacent receiving waters. The tide gate will be designed in such way to minimally constrict tidal flow.

A berm will be installed along the southerly shoreline between the intersection of Arlington Lane and Shore Drive to the west and the Flower Oyster property to the east. This berm will raise grades to match the existing elevations at the end points, to approximately 12.5 feet above sea level along the entire length of the berm, which requires filling to achieve a maximum increase in elevation of approximately 3 feet at the lowest point. New discharge pipes, equipped with "duck bill" tide gates, will be installed through the base of the berm to allow flood waters to drain from the land surface. Sediment traps and other mitigation will be installed to provide treatment to the discharged stormwater.

In the area to the east of Ludlam Avenue, an existing, dead-end drainage pipe under Bayville Avenue will be connected to the existing outfall that discharges to the wetland on the former Schmitt property.

Two pump stations are planned in the low-lying areas on Bayville Avenue to either side of Ludlam Avenue. Emergency pumps will be placed into operation at these pumping stations on an as-needed basis to alleviate incidents of flooding in the project area. One or more permanent discharge pipes will be installed to convey flood waters from these pumping stations to an outfall in Long Island Sound.

Flood-proofing in the Valentine Beach Area: This project will relieve chronic flooding in the Valentine Beach area, which lies to the south of Wanser Avenue on Mill Neck Bay. It is proposed that a berm be constructed along the Bay to prevent high tides from entering the area, with pipes installed through the base of the berm (similar to the project component described above with respect to the area between the Arlington Lane and Shore Drive intersection and the Flower Oyster property). In addition, existing structures in the adjacent, flood-prone area that do not conform to FEMA elevation standards would be raised to achieve compliance with those requirements, so as to reduce their susceptibility to flooding. An engineering investigation would be needed, as a first phase of this project, in order to determine the best location for the proposed berm, identify the specific structures that should be raised, and assess the feasibility and cost of increasing the elevations of the selected structures. Implementation would then proceed in accordance with the findings of the engineering investigation. This project could be carried out under the "Project Impact" community program, a designation for which the Village recently has applied (see Section 4.3.3).

Flood-proofing in other areas along Mill Neck Creek and Bay: There a number of structures in proximity to Mill Neck Creek and Bay, outside of the Valentine Beach area discussed above, which routinely experience flooding during heavy storms and tidal surge. Under this proposed project, the affected structures would be raised to achieve compliance with FEMA's base flood elevation standards. An initial investigation would be needed in order to identify the specific facilities that

would benefit from such action before proceeding with implementation. This project also could be pursued under the "Project Impact" community program (see Section 4.3.3).

Habitat Restoration

Two main components of the revitalization plan for the Bayville waterfront identified in this document are the control of non-point pollution (related primarily to inadequately treated discharges of stormwater and malfunctioning on-lot sanitary systems) and habitat restoration. The long-range goal of this work is to improve water quality conditions in the Mill Neck Creek system to the point where it may be re-certified for shellfishing at some time in the future. However, a number of benefits would be derived from more modest water quality improvements in this area, including enhanced habitat value and aesthetic characteristics, and heightened enjoyment of these resources by the public.

The Mill Neck Preserve is a tidal wetland located at the upper end of Oak Neck Creek. This undeveloped Nassau County park is one of the outstanding natural resources in the Village of Bayville, and has been classified by the State as being irreplaceable with respect to its natural resource value. Despite the robust presence of the marsh vegetation, there is evidence that this area is being impacted by non-point source pollution, probably derived from overland runoff, discharges from malfunctioning on-lot sanitary systems, and bird and animal wastes.

The substantial reduction in street runoff that will be accomplished by the drainage projects discussed in Subsection A, above, will reduce first-flush impacts. However, other non-point sources, especially malfunctioning on-site sanitary systems, also are significant contributors to the degradation of local coastal waters. A number of measures are available to mitigate these impacts, including: establishing a maintenance and servicing schedule for existing systems; and providing unique designs for individual systems located in areas that are otherwise difficult to serve due to high groundwater levels, poor soil drainage properties, and similar factors.

Discharges of inadequately treated sanitary wastewater to the Mill Neck Creek system primarily are derived from sources that lie outside the Village of Bayville. Of particular concern are certain areas of residential development to the west of Oak Neck Creek, in the unincorporated community of Locust Valley. Consequently, a cooperative approach among neighboring municipalities is needed in order to achieve this LWRP's water quality goals related to the mitigation of non-point source pollution. This LWRP calls for the preservation of natural areas within the Mill Neck Creek system (including Oak Neck Creek), to sustain fish and wildlife habitat and support suitable recreational opportunities. However, these uses would be enhanced by certain environmental restoration actions in the subject area, including actions to protect the shoreline from erosion and to improve water quality.

The Village of Bayville also is calling for the enhancement of low-intensity public access to the Mill Neck Preserve, to improve its availability to pedestrians and non-motorized boats (e.g., canoes, kayaks, etc.), in a manner and at a level that will not result in adverse impacts to the ecological

resources of the preserve. Implementation of this action should raise public awareness of the preserve's natural resource value, and of the need to maintain vigilant control over point and non-point discharges so as to protect this important area.

In order to accomplish revitalization of Mill Neck Creek, the Village proposes the following project steps:

Collect inventory information and undertake water testing to identify the areas of major non-point source discharges. This project will be conducted in cooperation with the Nassau County Department of Health, which has agreed to provide a qualified inspector to verify any unauthorized sewage discharges that are identified through the study. Such verification is necessary to document the problem in a legally sufficient manner, so that responsible party can be compelled to take appropriate mitigative action.

Investigate and implement suitable methods for mitigating these non-point sources.

Waterfront Revitalization Projects

Bridge Marina Upgrade: This Village-owned facility requires a general facility upgrade in order to improve its attractiveness to potential customers, so as to increase utilization. An evaluation should be undertaken, during the initial phase of this recommended project, to determine the scope of improvements that should be implemented.

West Commercial Area: This project includes aesthetic and architectural enhancements to the Village's west commercial area, which lies in the northwest corner of the Village, to the north of Oak Neck Creek. Ransom Town Beach, located directly across Bayville Avenue, opposite this small commercial area, is an important destination which attracts people to the area and supports the local businesses. An upgrade of the existing architectural facades of the commercial buildings would serve to increase user appeal. In addition, it is recommended that Nassau County proceed expeditiously with a planned project to moderate the curvature of the existing sharp bend at the western end of Bayville Avenue, opposite the entrance to Stehli Town Beach, in order to improve the public safety aspects of this road.

Mill Neck Creek Dredging: Dredging is an historical practice in Mill Neck Creek for maintaining channel depth and providing access to waterfront facilities. Areas that once were navigable or useful for mooring and docking of boats now are becoming too shallow for these uses, reducing the availability of local waters to recreational boaters. This problem is becoming particularly acute at the Village's Creek Beach facility, which was last dredged more than 20 years ago. The Village has initiated discussions with agencies that have regulatory authority over dredging activities (e.g., NYS Department of Environmental Conservation and U.S. Fish and Wildlife Service). Landfilling appears to be the most realistic disposal option, at this time.

PROPOSED ENVIRONMENTAL PLANNING STUDIES

The following investigations are recommended in order to advance the objectives, goals and policies of this LWRP:

- On-site sanitary systems have been malfunctioning or overflowing in some areas of the Village where the soil is poorly draining, causing the discharge of inadequately treated sewage to adjacent coastal waters. This problem becomes particularly acute during times of heavy rainfall, when groundwater levels rise and when surface flooding occurs as a result of poor stormwater drainage or inundation by storm surge. A study is needed to evaluate the extent of the problem, and to identify measures that could be taken to prevent such non-point discharges to coastal waters from these sources. This investigation should include monitor groundwater levels and groundwater quality.
- Prepare a comprehensive stormwater management plan for the flood-prone portions of Bayville, as detailed in the Bayville "Floodplain Management and Hazard Mitigation Plan".
- Conduct a non-point source survey, to identify sources of pathogens discharging into Mill Neck Creek.
- Investigate methods for abating inadequately treated septic wastewater discharges from the area to the west of Oak Neck Creek (i.e., the Birches, or Davis Park, subdivision).
- Study erosion and sediment control methods along the Village shorelines on Oak Neck and Mill Creeks, Oyster Bay Harbor, and Long Island Sound, with emphasis on soft protection measures.
- Undertake appropriate planning actions to further mitigate susceptibility of the Village of Bayville to various hazards. Bayville is exposed to natural forces along both the north and south sides, and has limited vehicular access to the mainland, via only two roadways (i.e., Ludlam Avenue to the south and Bayville Avenue to the west). These factors make Bayville especially susceptible to hazards of all kinds, particularly in relation to impacts of severe storms, such as hurricanes and "nor'easters", which include strong winds, serious flooding due to inadequate stormwater drainage and storm surge, and coastal erosion. These types of events can give rise to a number of detrimental secondary effects, such as preventing the safe passage of residents and emergency vehicles, as well as public health threats related to contamination from sewage and hazardous chemical spills. Ice storms, fires, vehicular accidents and other incidents of this type engender their own set of hazards.

In order to be better prepared for some of these hazards, the Village completed a "Coastal Storm Emergency Response Plan" in cooperation with the NYS Emergency Management

Office (SEMO). This plan, which was adopted by the Village Board of Trustees on December 11, 2000 (Resolution 2000-207), is designed to provide detailed procedures to minimize the adverse impacts of coastal storms and other events that cause Bayville to become isolated from the mainland of Nassau County. In addition, the Village has applied to SEMO and FEMA to receive designation as a "Project Impact" community. If the Village is successful in achieving this status and implements the elements of Project Impact, it will become a "Disaster Resistant Community." This program will involve the participation of both the public and private sector, and will include environmental groups, local businesses, other government agencies, and utilities (water, electric, and gas). The program will be a vital planning tool to implement disaster-resistant measures, which possibly would include the following:

hurricane-proofing of structures and public shelters;
provision of emergency response systems to ensure that the community can survive and operate when completely isolated;

development of plans and procedures to avoid hazards or minimize the effect of hazards;

establishment of forecasting systems to detect hazards and prepare for emergencies in advance (e.g., tidal and weather alerts);

emergency response for significant hazards (e.g., accidents, oil spills, and explosions); and

hazard-proofing of utilities (e.g., back-up power, security systems, and placing utility lines underground).

PROPOSED PROCEDURAL ACTIONS

The following new or amended procedural actions are recommended in order to advance the objectives, goals and policies of this LWRP:

- Take steps to earn Community Rating System (CRS) credit, and to otherwise achieve flood insurance rate reductions.
- Take steps to secure funding to implement the approved Bayville Avenue flood management projects, including the Centre Island Beach and Tides Motel sections.
- Prepare and submit grant applications for recovery of expenditures for completed and partly completed projects, including Bayville Waterfront Commons.

- Prepare and submit grant applications for new projects, including the installation of additional drainage rings.
- Complete planned or ongoing surveys to define jurisdictional boundaries in the Bayville LWRA, including resolving ambiguities and uncertainties regarding the boundary between the Village and the Oyster Bay National Wildlife Refuge, and update these boundaries as appropriate.

PROPOSED PUBLIC EDUCATION PROJECTS

Public education programs will be pursued to raise awareness regarding adverse impacts to the quality of adjacent coastal waters caused by malfunctioning on-site sanitary systems. Programs also will be undertaken to address: the environmental impacts caused by the overuse of lawn fertilizer and turf chemicals; the improper disposal of vessel wastes, hazardous wastes and animal wastes; the benefits derived from on-site retention and recharge of stormwater runoff; and the undesirable consequences of feeding and cultivating a population of local, year-round waterfowl. Public education will be included as a component of the Harrison Williams Woods and the Bayville Waterfront Commons project proposals.

SECTION V LOCAL TECHNIQUES FOR IMPLEMENTATION OF THE PROGRAM

A. EXISTING LOCAL LAWS AND REGULATIONS

The Village of Bayville has adopted a number of local laws and regulations that implement policies of this LWRP, as identified in Section 5.7. Existing local laws and regulations are summarized, as follows:

- ▶ **Chapter 7 (*Beaches*)** regulates activities regarding maintenance and specific acceptable uses of beaches in the Village.
- ▶ **Chapter 9 of the Village Code (*Boats and Docks*)** establishes rules and regulations governing activities within all of the Village's coastal waters, within 1,500 feet from the shoreline, including the following: houseboats are prohibited in Village waters; the vessel speed limit is five miles per hour, and the generation of wakes is prohibited; vessels are excluded, other than those propelled by hand, within 200 feet of any regularly used bathing beach, and within 100 feet of lifelines and bathing floats; and water skiing is prohibited in Mill Neck Creek.
- ▶ **Chapter 20 of the Village Code (*Coastal Erosion Hazard Area*)** preserves the natural resources and their erosion protection capabilities, thereby minimizing the susceptibility of development to erosion impacts in the Village, by prohibiting development in the designated Coastal Erosion Hazard Areas along the shoreline on Long Island Sound and the Mill Neck/Oak Neck Creek area.
- ▶ **Chapter 24 of the Village Code (*Environmental Conservation Commission*)** establishes a Commission that advises the Village Board of Trustees, Zoning Board of Appeals, and other Village agencies on matters relating to the preservation, development and use of the environment.
- ▶ **Chapter 24A of the Village Code (*Environmental Quality Review*)** implements the provisions of the State Environmental Quality Review Act (SEQRA).
- ▶ **Chapter 27 of the Village Code (*Flood Damage Protection*)** promotes the public health, safety and general welfare by minimizing public and private losses due to flood conditions in designated, mapped flood zones. This local law incorporates the FEMA construction standards, and includes certain other restrictions that provide additional protection against flood damages.
- ▶ **Chapter 43 of the Village Code (*Open Space Preservation*)** preserves open space in the Village to further the policies and goals of the LWRP.

- ▶ **Chapter 56 of the Village Code (*Refuse and Septic Tank Waste*)** regulates the collection of refuse and the disposal of septic tank wastes, to ensure that these waste materials do not enter surface water or groundwater.
- ▶ **Chapter 61 of the Village Code (*Sewage Disposal Systems, Individual*)** regulates the construction of the on-lot sanitary wastewater disposal facilities, and requires the on-site retention of stormwater.
- ▶ **Chapter 66 of the Village Code (*Subdivision of Land*)** establishes regulations to provide a schedule of procedures, standards and requirements for the review of subdivision proposals.
- ▶ **Chapter 77A of the Village Code (*Waterfront Consistency Review*)**. The Waterfront Consistency Review Law provides a framework for village agencies to consider the policies and purposes contained in the Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions located in the local waterfront area, and assures that such actions and direct actions are consistent with said policies and purposes. The intention of this local law is to achieve a balance, permitting the beneficial use of coastal resources while preventing: loss of estuarine resources and wildlife; diminution of open space or public access to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or, permanent adverse changes to ecological systems. Only those actions subject to consistency review are listed in the Waterfront Consistency Review Law. An agency shall, prior to approving, funding or undertaking the action that is located in the village's waterfront area, make a determination that it is consistent with the LWRP policy standards and conditions (Section III). The applicant, or - in the case of a direct action - the agency, is required to complete and submit a completed Coastal Assessment Form (CAF) to provide information necessary to assist with consistency evaluation. The *Waterfront Revitalization Committee* functions as the authorized entity to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the Village of Bayville LWRP policy standards and conditions. The text of this law is attached as Appendix A.
- ▶ **Chapter 80 of the Village Code (*Zoning*)** regulates all land use activities in the Village and establishes specific land use classifications, or districts, which govern development and redevelopment actions.

B. PROPOSED LOCAL LAWS AND AMENDMENTS TO LOCAL LAWS AND REGULATIONS NECESSARY TO IMPLEMENT THE LWRP

The following action is recommended to implement the policies of this LWRP. *[The policies to be implemented by the action are noted.]*

- **New Local Waterways Regulations** - It is proposed that regulations be formulated to establish new and amended standards, requirements and procedures for the safe and sanitary operation of boats, and to ensure environmental conservation in all surface waters bounding the Village, to a distance of 1,500 feet from the mean high-tide line. The Village of Bayville will work in close cooperation with other governmental entities that have jurisdiction over waters within and adjacent to the Bayville LWRA, including neighboring incorporated Villages, the Town of Oyster Bay and the U.S. Fish and Wildlife Service. This inter-governmental coordination process is a necessary first step to developing a consistent set of consensus standards and rules to govern coastal waters in the LWRA, which most likely would be incorporated into the Village's existing "Boats and Docks" law (Chapter 9). [*Policies 1, 8, 9, 10, and 11*]

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

A number of public and private projects have been identified that would advance the policies and objectives of this LWRP; these projects are described in Section 4.3. Other actions include:

- ▶ The Village of Bayville, working cooperatively with the Town of Oyster Bay and neighboring villages, will request the New York State Department of Environmental Conservation petition the United States Environmental Protection Agency for compliance in support of a *Vessel Waste No-Discharge Zone (NDZ)* designation for the Oyster Bay/Cold Spring Harbor Complex.
- ▶ By agreement (dated February 5, 2002), the Town of Oyster Bay regulates and polices the parts of Oyster Bay Harbor and Mill Neck Creek within the jurisdictional limits of the Village of Bayville. This agreement will remain in effect until December 31, 2005. It may then be renewed by resolution of the respective legislative bodies of the Village and the Town.
- ▶ The Bayville local waterfront area abuts and overlaps a number of other municipal jurisdictions, including the Incorporated Villages of Lattingtown, Mill Neck, and Centre Island, and the Town of Oyster Bay. Consequently, inter-municipal cooperation and joint action are needed to undertake projects to advance the goals of this LWRP with respect to water quality enhancement in coastal embayments and rehabilitation of valuable marine habitats. Some of this work already has been initiated for the area west of Oak Neck Creek. A more formalized, ongoing committee consisting of multi-government agencies on the local, State, and federal levels, elected officials, and interested, private natural resource organizations should be formed to meet routinely and address these natural resource issues.
- ▶ The State of New York Office of General Services (OGS) issues licenses, leases and grants for activities affecting or structures occupying State-owned lands under or formerly under water. This would potentially affect activities in the Long Island Sound area of

Bayville waterfront program. OGS is the repository of records for grants, easements, licenses and other interests in the State's underwater. Proposals affecting State-owned lands underwater should be presented to OGS for determination of the State's interest under the Public Lands Law.

D. MANAGEMENT STRUCTURE TO IMPLEMENT THE LWRP

Incorporated Village of Bayville

The following Village elected officials, employees, boards and committees comprise the management structure that will be directly involved in the LWRP process. The functions and duties of these individuals and groups are broadly defined by the title of the position or the name of the board or the committee.

- The **Mayor** is the chief executive of the Village, and provides leadership and direction to all groups and boards cited in this section.
- **Board of Trustees** carries out the provisions of SEQRA under Chapter 24A of the Village Code (Environmental Quality Review). Based on the review of any given action, the Village Board determines the impact of the action, and the appropriate lead agency. These current SEQRA responsibilities will remain in place following adoption of the LWRP.
- **Village Attorney** provides legal assistance in drafting local laws and amendments to same; assists the Village with general legal matters, including the prosecution of violations of the Village Code, litigation, interpretation of laws and regulations, and issues that cannot be resolved by the Village's boards.
- **Administrator/Clerk/Treasurer** oversees the day-to-day operations of the Village; oversees all matters regarding Village finances; provides general assistance and support to the Mayor in the performance of the Mayor's official duties; has the authority to act in the Mayor's stead on administrative matters when the Mayor is unavailable; signs official documents; authorizes purchases; and maintains Village records.
- **Planning Board** reviews and has approval authority over subdivisions and site plans. The specific duties and powers of the Planning Board are set forth in Chapter 80, Article 19 of the Village Code.
- **Zoning Board of Appeals** reviews and has approval authority over applications for zoning variances. The specific duties and powers of the Zoning Board of Appeals are set forth in Chapter 80, Article 19 of the Village Code.

- **Waterfront Revitalization Committee** monitors all activities and reviews all applications and proposals that may affect local waters; maintains liaison with other appropriate government and civic bodies; investigates sources of funding to implement waterfront-related projects; makes timely and appropriate comments and recommendations to the Mayor, Board of Trustees and other Village boards; promotes public education efforts; and, makes recommendations to the Board of Trustees with respect to revising and updating the LWRP. The specific duties and powers of the Waterfront Revitalization Committee are set forth in Chapter 78 of the Village Code.
- **Committee of Architectural Review** reviews applications for new and modified building construction for consistency with existing character of the neighboring community. The specific duties and powers of the Committee of Architectural Review are set forth in Chapter 80, Article 23 of the Village Code. The Board of Trustees fulfills this role.
- **Environmental Conservation Commission** advises the Village Board, Planning Board, Zoning Board of Appeals, and all other village boards and commissions on matters affecting the preservation, development and use of natural and man-made resources; develops and conducts public information programs designed to foster increased understanding of environmental issues; conducts studies, surveys and inventories of natural and man-made resources in the Village; maintains an up-to-date inventory of open spaces in the Village; and acts as a liaison between the Village and other groups and individuals relative to environmental matters. The specific duties and powers of the Environmental Conservation Commission are set forth in Chapter 24 of the Village Code.

The existing Village management structure is in place, under provisions of the Village Code, to implement zoning, coastal erosion and flood damage protection, regulation of beaches, docks and vessel uses. Consistency review will be performed in conjunction with the environmental review process which is conducted by the Village Board of Trustees under the requirements of SEQRA.

LWRP Consistency Review Procedures

LWRP consistency review is performed in conjunction with the environmental review process which is conducted within the Village under the requirements of SEQRA. A determination of consistency shall be included in each Negative Declaration and SEQRA Statement of Findings issued by the Village for Type I and unlisted actions, and Type II actions not specified in the *Waterfront Consistency Review Law*.

The term "action", as defined herein, is identical to this term as it is applied under SEQRA, and includes: any project directly undertaken or funded by the Village; any

project requiring the issuance of a discretionary permit or approval by the Village; any planning activity by the Village that commits the Village to a future course of action (such as a comprehensive land use plan); and any municipal rules, regulations and policy making decisions.

Local Actions

In order to provide a framework for the Village to consider the policies and purposes of this LWRP when reviewing direct agency actions and applications for actions in the Village, and to assure, to the maximum extent practicable, that such actions are consistent with the policies and purposes of the LWRP, the *Waterfront Consistency Review Law* was adopted. The Village's consistency review law, attached as Appendix A, describes the local management process for reviewing proposed direct and indirect actions by Village agencies to assure that they are undertaken in a manner consistent with the policies and purposes of the LWRP.

1. The Village Board of Trustees shall be responsible for conducting LWRP consistency reviews on behalf of the Village of Bayville. Any such action undertaken directly by the Village or other local government agency, or by a private entity, shall be reviewed in accordance with the procedures that are outlined below.
2. The Village Board of Trustees - as the Village's SEQRA review agency - shall classify the action according to SEQRA. Those (Type II) actions listed in the Village's *Waterfront Consistency Review Law*, and exempt actions, are not subject to LWRP consistency review. Since the local waterfront area encompasses the entire Village, all actions that are classified as Type I or unlisted under SEQRA shall be subject to consistency review. Additionally, (Type II) actions which are not listed in the Village's consistency review law shall be subject to consistency review.
3. For each action subject to LWRP consistency review, the Village Board of Trustees shall require the completion of a Coastal Assessment Form (CAF), which will be an addendum to the SEQRA Environmental Assessment Form (EAF). For any action within the Village involving a private development application, the applicant shall be required to prepare the CAF. The Village Board of Trustees shall prepare the CAF for any direct action by the Village.
4. Upon receipt of the CAF submission, the Village Board of Trustees shall determine if the documentation constitutes a complete statement for the purpose of determining consistency with the LWRP, and may request any additional material as may be deemed necessary to complete the review.

5. The Village Board of Trustees shall refer a copy of the completed CAF to the Waterfront Revitalization Committee within 10 days of its submission and prior to making its determination, shall consider the recommendation of the Waterfront Revitalization Committee with reference to the consistency of the proposed action. If it is determined that there are other involved agencies which must review the consistency assessment materials, a copy of the completed CAF, EAF, application, and any other pertinent supporting materials shall be forwarded to each such involved agency. Additional copies shall be made available to interested parties, upon request.
6. After referral from the Village Board of Trustees, the Waterfront Revitalization Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions. The Waterfront Revitalization Committee shall require the applicant to submit all completed applications, CAFs, and other information deemed to be necessary to its consistency recommendation.
7. The Waterfront Revitalization Committee shall render its written recommendation to the Village Board of Trustees within thirty (30) days following referral of the CAF from the Village Board of Trustees, unless extended by mutual agreement of the Waterfront Revitalization Committee and the applicant or in the case of a direct action, the agency.
8. The Village Board of Trustees shall make a consistency determination based upon its review of the CAF and related materials, the Waterfront Revitalization Committee's recommendation, and any input received from other involved agencies and interested parties. Said consistency determination shall be issued in writing within 30 days following receipt of the Waterfront Revitalization Committee's recommendation and submission by the applicant of any additional required information. This 30-day comment period may be extended by mutual agreement between the Village and the applicant in the case of private development proposals.
9. If the Village Board of Trustees determines that a given action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken, funded or approved by the Village of Bayville unless it is determined that all four of the following conditions apply to that action:
 - a. the proposed action would not significantly hinder the overall implementation of the LWRP; and

- b. no reasonable alternative exists that would permit the action to be undertaken in a manner that is consistent with the specific LWRP policy standards and conditions in question; and
- c. the proposed action and any required mitigation measures would be undertaken in a manner that would minimize all adverse effects on natural and man-made resources within the Village, and would minimize the extent to which the implementation of LWRP policy standards and conditions are hindered; and
- d.. the proposed action would result in an overriding Village, Town, regional or State-wide public benefit.

An action that satisfies all four of the conditions described above shall be deemed to be "consistent to the maximum extent possible" with respect to the policies and purposes of the Village of Bayville LWRP.

- 10. The sponsor of a given action, whether the Village of Bayville or other government agency or private applicant, can propose modifications for any action that is determined to be inconsistent with this LWRP. If the Village Board of Trustees deems that the modifications are sufficient to result in LWRP consistency, said modifications shall become conditions to project approval. All such conditions shall be incorporated into the Conditioned Negative Declaration or the SEQRA Statement of Findings, whichever applies.
- 11. The Village Board of Trustees shall maintain a file for each action subject to a consistency determination. This file shall be made available for public inspection upon request, subject to the requirements of the Freedom of Information Law.

Review of Proposed State and Federal Actions

Proposed State and federal actions will be reviewed for consistency with the LWRP in accordance with guidelines established by the New York State Department of State, which are set forth in Appendix B.

E. FINANCIAL RESOURCES TO IMPLEMENT THE LWRP

The investment of significant financial resources will be needed to implement the proposed projects discussed in Section 4.3 of this LWRP. Some of the projects can be undertaken in the near future, while others require evaluation or study before they can move forward.

The possible funding sources for the proposed projects is discussed as follows:

Stormwater Mitigation and Flood Plain Management

TEA-21. Under the Transportation Equity Act for the 21st Century (TEA-21), the Transportation Enhancements Program (TEP) provides federal funding to implement special transportation-related infrastructure projects that add value to the surface transportation system by enhancing the total environment. Under this program, there are twelve categories of projects eligible for funding - one of these is "mitigation of water pollution due to highway runoff". Since Bayville Avenue and Ludlam Avenue are federally-funded highways, any improvements related to the mitigation of stormwater runoff affecting these highways (such as the drainage facilities and leaching pools proposed under this LWRP) could be eligible for funding. Federal regulations require a minimum funding match of 20 percent. The local share of project costs may include in-kind contributions, certain right-of-way property costs, and some federal and State funds. Each individual project must have a minimum value of at least \$50,000, but not more than \$2,000,000. Eligible activities are planning, design, and construction of mitigation facilities, and creation of permanent filtering systems to filter highway runoff in a sensitive area. The program is being administered by the Nassau/Suffolk Transportation Committee of the New York State Department of Transportation. The project budget for this work is \$1.7 million.

Clean Water/Clean Air Bond Act of 1996. Grants are available from NYSDEC for design and construction of non-point source abatement and control, which would be one of the main purposes of these facilities. The local share, which must comprise at least 50 percent of the project cost, can consist of in-kind services, land acquisition costs, or cash contribution. The project budget for this work is \$1.325 million.

Local Waterfront Revitalization Program, Environmental Protection Fund. Fifty-percent matching grants are available from the NYSDOS for planning and design of non-point source abatement and control. The local match can consist of in-kind services or cash contribution. The project budget for this work is \$150,000.

Habitat Restoration

Clean Water/Clean Air Bond Act. Fifty percent funding is available for aquatic habitat restoration projects, such as the restoration work on the former Schmitt Property. The project budget for this work is \$230,000.

Clean Water/Clean Air Bond Act (NYS Office of Parks, Recreation and Historic Preservation). Fifty percent funding is available for projects to preserve, rehabilitate, or restore parkland facilities, such as Harrison Woods. The project budget for this work is \$44,500.

Gabions on Mill Neck Creek

The budget estimate for this work is \$90,000.

Bulkhead at West Harbor Beach

Clean Water/Clean Air Bond Act. Fifty percent funding is available for design and construction of gabions and bulkheads. The budget for this work has not yet been established.

Drainage and Maintenance

The stormwater drainage system in Bayville has become clogged with sediment, which has reduced its ability to drain the area, thereby causing flooding during times of heavy rains. These pipes should be cleaned routinely to allow the system to carry out the role for which it was designed. Since maintenance of this system is the responsibility of the Nassau County Department of Public Works, the funds for this effort should be provided through the County budget.

F. Projects for Further Evaluation and Study

Sanitary Wastewater Mitigation

The budget estimate for this work is \$40,000. It should be noted that, although the waters impacted by non-point septic effluent extend into the Bayville LWRA, the source of these discharges lies outside of the Village's boundaries. Therefore, the implementation of this project would require financial cooperation from other involved government agencies.

Stormwater Management

A "Floodplain Management and Hazard Mitigation Plan" was prepared by the Village in December 1998 to identify measures that can be carried out to reduce flood losses, which would also eliminate non-point discharges to surface waters. The preparation of a comprehensive stormwater management plan is identified as a project to implement the Village's "Floodplain Management and Hazard Mitigation Plan" (December 1998) to define and prioritize the specific measures that should be taken to mitigate this problem. Funding may be sought through an Environmental Protection Fund grant from the New York State Department of State. The final scope and budget for this work remains to be developed.

Erosion/Sediment Control

Erosion and sedimentation, which has negatively affected the various habitats in both Oak Neck and Mill Neck Creeks, should be evaluated to determine what measures can be taken to improve the environment for these habitats. The proposed budget for this work is \$165,000.

Restoration of Habitats

There are a number of valuable natural habitats in the Mill Neck Creek system which have been adversely impacted by human activities. Suitable restoration projects should be undertaken to reverse this effect, particularly with regard to the valuable shellfish beds, since the Oyster Bay Harbor Complex is considered the largest oyster producing area in New York State. The budget for this work has not yet been established.

G. Summary of Policy Implementation

The following list provides a summary of the actions that will implement the policies of this LWRP:

Developed Coast Policies

- Policy 1** **Implemented or Enforced by:**
- Chapter 7 (Beaches)
 - Chapter 9 (Boats and Docks)
 - Chapter 20 (Coastal Erosion Hazard Area)
 - Chapter 24 (Environmental Conservation Commission)
 - Chapter 24A (Environmental Quality Review)
 - Chapter 43 (Open Space Preservation)
 - Chapter 66 (Subdivision of Land)
 - Chapter 80 (Zoning)
 - Purchase of open space areas
 - Construction of Bayville Commons
- Policy 2** **Implemented or Enforced by:**
- Chapter 24 (Environmental Conservation Commission)
 - Chapter 24A (Environmental Quality Review)
- Policy 3** **Implemented or Enforced by:**
- Chapter 7 (Beaches)
 - Chapter 20 (Coastal Erosion Hazard Area)
 - Chapter 24 (Environmental Conservation Commission)
 - Chapter 24A (Environmental Quality Review)

- Chapter 43 (Open Space Preservation)
- Chapter 80 (Zoning)
- Management of Harrison Woods (Forever Wild Preserve)
- Purchase of open space areas

Natural Coast Policies

- Policy 4** **Implemented or Enforced by:**
- Chapter 20 (Coastal Erosion Hazard Area)
 - Chapter 24A (Environmental Quality Review)
 - Chapter 27 (Flood Damage Protection)
 - Chapter 80 (Zoning)
 - Flood plain Management and Hazard Mitigation Plan
 - Storm water flooding mitigation projects
- Policy 5** **Implemented or Enforced by:**
- Chapter 20 (Coastal Erosion Hazard Area)
 - Chapter 56 (Refuse and Cesspool Wastes)
 - Chapter 61 (Sewage Disposal Systems, Individual)
 - Chapter 66 (Subdivision of Land)
 - Chapter 80 (Zoning)
 - Storm water flooding mitigation projects
- Policy 6** **Implemented or Enforced by:**
- Chapter 20 (Coastal Erosion Hazard Area)
 - Chapter 24 (Environmental Conservation Commission)
 - Chapter 24A (Environmental Quality Review)
 - Chapter 56 (Refuse and Cesspool Wastes)
 - Chapter 61 (Sewage Disposal Systems, Individual)
 - Purchase of open space areas
- Policy 7** **Implemented or Enforced by:**
- Chapter 24 (Environmental Conservation Commission)
 - Chapter 24A (Environmental Quality Review)
 - Village actions to reduce vehicular traffic on summer weekends
- Policy 8** **Implemented or Enforced by:**
- Chapter 7 (Beaches)
 - Chapter 9 (Boats and docks)
 - Chapter 24A (Environmental Quality Review)
 - Chapter 56 (Refuse and Cesspool Wastes) No-Discharge Zone
 - Collection of residential solid waste, disposal to Glen Cove
 - Receptacles provided and solid waste cleanup of Village streets

- Receptacles provided and solid waste cleanup of Village beaches
- Availability of hazardous waste collection depot in Oyster Bay

Public Coast Policy

- Policy 9 Implemented or Enforced by:**
- Chapter 7 (Beaches)
 - Chapter 9 (Boats and Docks)
 - Chapter 20 (Coastal Erosion Hazard Area)
 - Chapter 80 (Zoning)
 - Proposed improvements to Harrison Woods
 - Purchase of open space area
 - Purchase of marina site (completed in 1999)
 - Maintenance of Soundside Beach
 - Maintenance of West Harbor Beach
 - Maintenance of Creek Beach
 - Construction of Bayville Common park

Working Coast Policies

- Policy 10 Implemented or Enforced by:**
- Chapter 7 (Beaches)
 - Chapter 9 (Boats and Docks)
 - Chapter 20 (Coastal Erosion Hazard Area)
 - Chapter 24 (Environmental Conservation Commission)
 - Chapter 24A (Environmental Quality Review)
 - Chapter 80 (Zoning)
 - Purchase of open space areas

- Policy 11 Implemented or Enforced by:**
- Chapter 7 (Beaches)
 - Chapter 9 (Boats and Docks)
 - Chapter 56 (Refuse and Cesspool Wastes)
 - Chapter 61 (Sewage Disposal Systems, Individual)

Policy 12 Not applicable

- Policy 13 Implemented or Enforced by:**
- Chapter 24A (Environmental Quality Review)

SECTION VI
STATE AND FEDERAL ACTIONS AND PROGRAMS
LIKELY TO AFFECT IMPLEMENTATION

State and federal actions will affect and be affected by the implementation of this LWRP. Under State law and the U.S. Coastal Zone Management Act, certain State and federal actions within or affecting the Local Waterfront Revitalization Area (LWRA) must be “consistent” or “consistent to the maximum extent practicable” with the enforceable policies and purposes of the Village of Bayville LWRP. This makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions. While consistency requirements primarily help prevent detrimental actions from occurring and help ensure that future options are not foreclosed needlessly, active participation on the part of State and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

The first part of this section identifies the actions and programs of State and federal agencies that should be undertaken in a manner consistent with the Village of Bayville LWRP. This is a generic list of actions and programs, as identified by the New York State Department of State (NYSDOS) and, therefore, some of the actions and programs listed may not be relevant to this program. Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. Similarly, federal agency actions and programs subject to consistency requirements are identified in the manner prescribed by the U.S. Coastal Zone Management Act and its implementing regulations. The lists of State and federal actions and programs included herein are informational only and do not represent or substitute for the required identification and notification procedures. The current official list of actions subject to State and federal consistency requirements may be obtained from the NYSDOS.

The second part of this section is a more focused and descriptive list of State and federal agency actions that are necessary for further implementation of this 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 Sections IV and V of this document, which also discuss State and federal assistance required to implement this LWRP.

State and Federal Actions and Programs Which Should be Undertaken in a Manner Consistent with the LWRP

State Agencies

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 Program
- 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 License
- 1.16 Plenary Permit (Miscellaneous - Annual)
- 1.17 Summer Beer and Liquor License
- 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 ALCOHOL ABUSE

- 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 Change of Location)
 - 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 Accommodations Office - Banks)
- 1.16 Authorization Certificate (Safe Deposit Company Bank)
- 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

EDUCATION DEPARTMENT

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and Approval Programs:
 - 2.01 Certificate 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 Wholesaler of Drugs and/or Devices
 - 2.07 Registered Wholesaler-Repacker of Drugs and/or Devices
 - 2.08 Storekeeper's Certificate

EMPIRE STATE DEVELOPMENT/EMPIRE STATE DEVELOPMENT CORPORATION

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

ENERGY PLANNING BOARD AND ENERGY OFFICE

- 1.00 Preparation and revision of the State Energy Master Plan.

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 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 Petroleum Gas)
- 9.28 Floating Objects 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 Nets

- 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 (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 - 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 Certificates of Registration
- 9.64 401 Water Quality Certification
- 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 easements and issuance of licenses for land under water, 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, sub. 5 of the Education Law on 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 Subdivision
- 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

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 Home)
 - 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 Commissions)

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 programs for recreational boating, safety and enforcement.

4.00 Funding programs 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 Heritage Areas Systems

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 SOCIAL 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 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 branch lines 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, expansion, or demolition of commercial, industrial and civic facilities and the funding of 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 and the funding or approval of such activities.

Federal Agencies

DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

DEPARTMENT OF COMMERCE

National Marine Fisheries Services

- 1.00 Fisheries Management Plans

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Proposed authorizations for dredging, channel improvements, breakwaters , other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters.
- 2.00 Land acquisition for spoil disposal or other purposes.
- 3.00 Selection of open water disposal sites.

Army, Navy and Air Force

- 4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities).
- 5.00 Plans, procedures and facilities for landing or storage use zones.
- 6.00 Establishment of impact, compatibility or restricted use zones.

DEPARTMENT OF ENERGY

- 1.00 Prohibition orders.

GENERAL SERVICES ADMINISTRATION

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government.
- 2.00 Disposition of Federal surplus lands and structures.

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

- 1.00 Management of National Wildlife refuges and proposed acquisitions.

Mineral Management Service

- 2.00 OCS lease sale activities including tract selection, lease sale stipulations, etc.

National Park Service

3.00 National Park and Seashore management and proposed acquisitions.

DEPARTMENT OF TRANSPORTATION

Amtrak-Conrail

1.00 Expansions, curtailments, new construction, upgradings or abandonments of railroad facilities or services, in or affecting the State's coastal area.

Coast Guard

2.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.

3.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).

4.00 Expansion, abandonment, designation or anchorages, lightening areas or shipping lanes and ice management practices and activities.

Federal Aviation Administration

5.00 Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

Federal Highway Administration

6.00 Highway construction.

FEDERAL LICENSES AND PERMITS

DEPARTMENT OF DEFENSE

Army Corps of Engineers

1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Section 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).

2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).

- 3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- 4.00 Approval of plans for improvements made at private expense under USACOE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- 5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404 (33 U.S.C. 1344).
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.).

DEPARTMENT OF ENERGY

Economic Regulatory Commission

- 1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.
- 2.00 Exemptions from prohibition orders.

Federal Energy Regulatory Commission

- 3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808).
- 4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b)).
- 5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

ENVIRONMENTAL PROTECTION AGENCY

- 1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976.
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300 h-c).
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

DEPARTMENT OF INTERIOR

Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a)).

Mineral Management Service

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.
- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

SURFACE TRANSPORTATION BOARD

- 1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines.

NUCLEAR REGULATORY COMMISSION

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power plants pursuant to Atomic Energy Act of 1954, Title 11 of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

DEPARTMENT OF TRANSPORTATION

Coast Guard

- 1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.
- 2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).
- 3.00 Placement and maintenance of maritime aids to navigation pursuant to 14 U.S.C. 83 and 33 C.F.R. 66.01.

Federal Aviation Administration

- 3.00 Permits and licenses for construction, operation or alteration of airports.

FEDERAL ASSISTANCE*

DEPARTMENT OF AGRICULTURE

- 10.068 Rural Clean Water Program
- 10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans
- 10.410 Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.413 Recreation Facility Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Rental Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.422 Business and Industrial Loans
- 10.424 Industrial Development Grants

- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

DEPARTMENT OF COMMERCE

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Intermodal Transportation

11.509 Development and Promotion of Domestic Waterborne Transport Systems

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects

14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects

14.117 Mortgage Insurance - Homes

14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing

14.125 Mortgage Insurance - Land Development and New Communities

14.126 Mortgage Insurance - Management Type Cooperative Projects

14.127 Mortgage Insurance - Mobile Home Parks

14.218 Community Development Block Grants/Entitlement Grants

14.219 Community Development Block Grants/Small Cities Program

14.221 Urban Development Action Grants

14.223 Indian Community Development Block Grant Program

DEPARTMENT OF INTERIOR

15.400 Outdoor Recreation - Acquisition, Development and Planning

15.402 Outdoor Recreation - Technical Assistance

15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments

15.411 Historic Preservation Grants-In-Aid

15.417 Urban Park and Recreation Recovery Program

15.600 Anadromous Fish Conservation

15.605 Fish Restoration

15.611 Wildlife Restoration

15.613 Marine Mammal Grant Program

15.802 Minerals Discovery Loan Program

15.950 National Water Research and Development Program

15.951 Water Resources Research and Technology - Assistance to State Institutes

15.952 Water Research and Technology - Matching Funds to State Institutes

DEPARTMENT OF TRANSPORTATION

20.102 Airport Development Aid Program

20.103 Airport Planning Grant Program

20.205 Highway Research, Planning, and Construction

20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligation

20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares

20.506 Urban Mass Transportation Demonstration Grants

20.509 Public Transportation for Rural and Small Urban Areas

GENERAL SERVICES ADMINISTRATION

39.002 Disposal of Federal Surplus Real Property

COMMUNITY SERVICES ADMINISTRATION

49.002 Community Action

49.011 Community Economic Development

49.013 State Economic Opportunity Offices

49.017 Rural Development Loan Fund

49.018 Housing and Community Development (Rural Housing)

SMALL BUSINESS ADMINISTRATION

59.012 Small Business Loans

59.013 State and Local Development Company Loans

59.024 Water Pollution Control Loans

59.025 Air Pollution Control Loans

59.031 Small Business Pollution Control Financing Guarantee

ENVIRONMENTAL PROTECTION AGENCY

66.001 Air Pollution Control Program Grants

66.418 Construction Grants for Wastewater Treatment Works

66.426 Water Pollution Control - State and Areawide Water Quality Management Planning Agency

66.451 Solid and Hazardous Waste Management Program Support Grants

66.452 Solid Waste Management Demonstration Grants

66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

* Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

B. State and Federal Actions and Programs Necessary to Further the LWRP

State Actions and Programs

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.

Office of Parks, Recreation and Historic Preservation

- Provision of financial assistance through the Clean Water/Clean Air Bond Act for the acquisition of lands for park, recreation, conservation or preservation purposes, to help preserve wildlife habitats and provide access to the waterfront.
- Planning, development, construction, major renovation, or expansion of recreational facilities or the provision of funding for such facilities.
- Provision of funding for State and local activities from the Land and Water Conservation Fund.
- Planning, development, implementation or the provision of funding for recreational programs.
- Funding or partial funding of eligible activities through the Environmental Protection Fund (EPF) administered by OPRHP-including the acquisition, development, and improvement of parks and historic properties.
- Provision of funding for State and local historic preservation districts.
- Activities under the Heritage Areas Systems.
- Provision of assistance for the nomination of historic structures to the State and National Registers of Historic Places, and/or the Building Structures Inventory and the preservation of historic structures, as well as the provision of legal protection and funding.

Department of Environmental Conservation

- Planning, development, or construction of recreation facilities/projects located in the waterfront.
- Provision of funding for capital projects under Clean Water/Clean Air Bond Act.
- Any proposed activity, including dredging and construction, in or adjacent to any waterway and/or wetland areas must secure the appropriate freshwater and tidal wetlands permit from the DEC. This action must be coordinated with the State and local policies.

Department of State

- Provision of funding for the implementation of an approved LWRP.

- Provision of funding under the Community Services Block Grant Program.
- Funding or partial funding of eligible activities through the Local Waterfront Revitalization Program - Environmental Protection Fund (EPF).

Council on the Arts

- Funding assistance for public education programs related to the natural sciences, historic resources, and associated projects.

Federal Actions and Programs

Department of Housing and Urban Development

- Continue to allocate Community Development Block Grant (CD) funds to the Suffolk Urban County Consortium for community development activities in said consortium which includes the Village of Bayville.

Department of the Interior

Fish and Wildlife Service

- Activities by the Fish and Wildlife Service to manage the Oyster Bay National Wildlife Refuge.
- Through the Office of Ocean and Coastal Resource Management, assist the Village of Bayville with the restoration of fish and other coastal resources.

National Park Service

- Provision of funding under Land and Water Conservation Fund Program.

Department of Defense

Corps of Engineers

- A U.S. Army Corps of Engineers permit would be required for the following activities:
 - dredging and shoreline stabilization
 - repair of breakwaters
 - repair or installation of boat ramps

Department of the Treasury

- Continuation of Incentives for Qualified Building Rehabilitation.
- Provision of appropriate tax-exempt status for nonprofit agencies active in the local waterfront area.

Economic Development Administration

- Assistance under the Public Works and Economic Development Act for Street improvements.

SECTION VII CONSULTATION WITH OTHER AFFECTED AGENCIES

The Village of Bayville's LWRP will affect and be affected by the actions of adjacent municipalities and federal, State, regional, and county agencies. This section describes the interrelationship with other agencies and the efforts made by the Village to involve and/or inform other agencies regarding the development of the LWRP.

Discussions were held with the Nassau County Department of Health regarding point-source control of pollution, coordination of activities for investigating and elimination of non-point contaminant discharges, and water quality monitoring. Meetings were held with the Nassau County Department of Public Works on stormwater control, and improvement projects concerning county roads in Bayville. NYSDEC was involved in discussions on coastal erosion, water quality improvement, control of pollution sources, tidal wetland protection, shellfish management, and funding for LWRP projects. The U.S. Army Corps of Engineers was consulted on flood and erosion control projects planned for the Bayville area. Meetings were held with the U.S. Fish and Wildlife Service regarding tidal wetlands and water quality improvement. There also was close coordination with NYSDOS on all aspects of the LWRP throughout the project. The Village coordinated with the Nassau County Planning Department, the OPHRP, and elected officials at the State, County, and Town levels concerning the LWRP, in relation to the funding of LWRP recommended projects.

A. Review of Draft LWRP by State, Federal and Local Agencies

On the federal level, meetings and consultations were held with the U.S. Army Corps of Engineers during the preparation of the Village's "Flood Plain Management and Hazard Mitigation Plan", which covered flood control and erosion issues that were incorporated into this LWRP. An on-going exchange between the Village and the U.S. Fish and Wildlife Service has been maintained concerning the Oyster Bay National Wildlife Refuge, which encompasses waters included in the LWRA (i.e., portions of Mill Neck Bay, Mill Neck Creek, and Oak Neck Creek). Letters of support for grant funding applications to address LWRP issues were provided by that agency. Discussions were held with the U.S. Geological Survey regarding groundwater levels in Bayville, and informational groundwater maps provided during those discussions were used in the LWRP.

On the State level, particularly close communications were maintained with the New York State Department of State (NYSDOS) on all of the issues relative to in the preparation of the LWRP, as well as for the preparation of grant funding applications to address some of the critical issues defined in the LWRP (e.g., non-point source controls and innovative dredging). There were a number of meetings, consultations, and communications with the New York State Department of Environmental Conservation (NYSDEC) regarding water quality improvement, aquatic habitat restoration, erosion control, stormwater control, tidal wetlands, shellfish certification and management, SEQRA, and preparation of a grant funding applications for water quality restoration by controlling non-point stormwater flows

into Mill Neck Bay, Mill Neck Creek, and Oak Neck Creek. In addition, discussions and meetings were held with the State Office of Emergency Management regarding flood control and funding; and with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) to obtain assistance and input regarding the preparation of grant funding applications for recreational trail rehabilitation in the Harrison Williams Woods, and the acquisition of open space/park area for the Bayville Waterfront Commons. There also were a number of communications with the Nassau-Suffolk Transportation Coordinating Committee and the Department of Transportation concerning the preparation of a TEA-21 grant funding application for control of non-point stormwater discharges to the Oyster Bay Harbor Complex related to drainage from Bayville Avenue, which is a federally-funded highway.

Issues incorporated in this LWRP were discussed at a meeting with the Town of Oyster Bay Department of Public Works. Included in those issues were the regulation of boat navigation and shellfish water quality monitoring, matters for which the Town of Oyster Bay is responsible. Since some unincorporated lands on the waterfront in the Oak Neck Creek area is under the jurisdiction of the Town, the issues of water quality improvement and wetland restoration in this area is of common concern to the Village and the Town.

The Village of Bayville has maintained an on-going liaison with the Villages of Lattingtown, Mill Neck Creek, and Centre Island concerning common water bodies.

B. Regional Consultation

Meetings and consultations were held with the Commissioner of the Nassau County Department of Health (NCDH) and staff concerning the elimination of water pollution sources to Oak Neck Creek, Mill Neck Creek, and Mill Neck Bay (i.e., discharges from malfunctioning on-lot sanitary systems), as well as for the monitoring of water quality in those areas. The NCDH provided letters of support for both the NYSDEC and the NYSDOS grant applications for the control of non-point stormwater source discharges. Extensive communications and meetings were held with the Nassau County Department of Public Works regarding the restoration of the County's Mill Neck Preserve, wetland remediation, groundwater quality issues, and non-point stormwater controls. The Nassau County Planning Commission also was contacted on issues presented in this LWRP, and that agency provided letters of support for grant funding to implement projects addressing those issues. Information regarding soils was obtained from the Nassau County Soil and Water Conservation Service. The Nassau County Division of Data Processing supplied the most recent copy of their GIS database, which was used to develop figures and maps appearing in the LWRP.

The Draft LWRP was reviewed and approved by the Village Board and forwarded to the New York State Department of State (DOS). The DOS then initiated a 60-day review of the Draft LWRP by potentially affected State, federal, and regional agencies pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act and State Environmental Quality Review Act. Copies of the draft LWRP were distributed by DOS to all potentially affected State, federal, regional, and local agencies, and a public hearing was conducted during the review period to provide a further opportunity for comment. Comments received on the Draft LWRP were reviewed by DOS and the Village and resultant changes were made to the LWRP.

The Village did not receive any correspondence or have any discussion with affected agencies that would suggest real, potential, or imagined conflicts with this LWRP. Should conflicts arise, the Village will interact with the respective agency to resolve them. However, no conflicts are anticipated.

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 State Street, ALBANY, NY 12242

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

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

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
OCT 31 2002

19

of Village of Bayville
Village
Local Law No. 7 of the year 2002

MISCELLANEOUS
& STATE RECORDS

A local law Village of Bayville Waterfront Consistency Review Law
(Insert Title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

of Village of Bayville as follows:
Village

BE IT ENACTED, by the Board of Trustees of the Incorporated Village of Bayville, as follows:

PURPOSE:

SEE ATTACHED

EFFECTIVE DATE:

This law shall become effective upon filing in the Office of the Secretary of State.

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

(1)

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 7 of 2002 of the (Village) of Bayville was duly passed by the Board of Trustees on October 28, 2002, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____.
(Name of Legislative Body) (Elective Chief Executive Officer*)
in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

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

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

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

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

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

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

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

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

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

Maria Alfonso-Nardy
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: October 30, 2002

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

STATE OF NEW YORK Nassau
COUNTY OF _____

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

James A. Bailey
Signature

Village Attorney
Title

of Bayville
Village

Date: October 30, 2002

WATERFRONT CONSISTENCY REVIEW

§ 1. Title.

This local law will be known as the "Village of Bayville Waterfront Consistency Review Law."

§ 2. Authority, purpose and Intent.

- A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
- B. The purpose of this local law is to provide a framework for agencies of the Village of Bayville to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the coastal area and to assure that such actions and direct actions are consistent with the said policies and purposes.
- C. It is the intention of the Village of Bayville that the preservation, enhancement and utilization of the natural and manmade resources of the unique coastal area of the village take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss of estuarine resources and wildlife; diminution of open space areas or public accesses to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.
- D. The substantive provisions of this local law shall apply only while there is in existence a village Local Waterfront Revitalization Program which has been adopted by the Village and approved by the Secretary of State.

§ 3. Definitions.

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

ACTIONS:

- A. Either Type I or unlisted actions as defined in SEQRA regulations (6NYCRR 617.2) which are undertaken by an agency and which include:
 - (1) Projects or physical activities, as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
 - (a) Are directly undertaken by an agency: or
 - (b) Involve funding by an agency: or
 - (c) Require one or more new or modified approvals from an agency or agencies.
 - (2) Agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions.
 - (3) Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment.
 - (4) Any combination of the above.

B. This law does not apply to excluded or exempt actions as defined in the SEQRA regulations (6 NYCRR Part 617). The following Type II actions are not subject to review under this law:

- (1) Maintenance or repair involving no substantial changes in an existing structure or facility.
- (2) Agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures and land use changes consistent with generally accepted principles of farming.
- (3) Repaving of existing highways not involving the addition of new travel lanes.
- (4) Street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities.
- (5) Maintenance of existing landscaping or natural growth.
- (6) Routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area and school closings, but not changes in use related to such closings.
- (7) Extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any actions on this list.
- (8) Granting of individual setback and lot line variances.
- (9) Granting of an area variance(s) for a single-family, two-family or three-family residence.
- (10) Public or private best forest management (silvicultural) practices on less than 10 acres of land, but not including waste disposal, land clearing not directly related to forest management, clearcutting or the application of herbicides or pesticides.
- (11) Mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns.
- (12) Information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soil studies that do not commit the agency to undertake, fund or approve any Type I or unlisted action.
- (13) Official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s).
- (14) Routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment.
- (15) Conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided that those activities do not commit the agency to commence, engage in or approve such action.
- (16) Collective bargaining activities.

- (17) Investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt.
- (18) Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession.
- (19) Purchase or sale of furnishings, equipment or supplies, including surplus government property, other than land, radioactive material, pesticides, herbicides or other hazardous materials.
- (20) Adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list.
- (21) Engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of 6 NYCRR Part 617.5 have been fulfilled.
- (22) Civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgement or order, or the exercise of prosecutorial discretion.
- (23) Adoption of a moratorium on land development or construction.
- (24) Interpreting an existing code, rule or regulation.
- (25) Designation of local landmarks or their inclusion within historic districts.
- (26) 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 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 6 NYCRR Part 617.5.

AGENCY – Any board, agency, department, office, other body or officer of the Village of Bayville.

APPLICANT – Any person, other than the agency, who proposes an action located in the Village's coastal area.

BUILDING INSPECTOR –The Building Inspector of the Village of Bayville.

COASTAL AREA – That portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Village of Bayville, as shown on the Coastal Area Map on file in the office of the Secretary of State and as delineated in the Village of Bayville Local Waterfront Revitalization Program.

COASTAL ASSESSMENT FORM (CAF) – The form contained in Appendix A, completed by an agency to assist it in assuring that the action being proposed is consistent with the policy and purposes of the LWRP.

CONSISTENT – The action will fully comply with the LWRP policies and purposes and, whenever practicable, will advance one or more of them.

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

WATERFRONT REVITALIZATION COMMITTEE – The Waterfront Revitalization Committee of the Village of Bayville, as established by Chapter 78 of the Village Code.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) – The Local Waterfront Revitalization Program of the Village of Bayville, approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), a copy of which is on file in the office of the Clerk of the Village of Bayville.

§ 4. Waterfront Revitalization Committee.

The Committee is authorized to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the Village of Bayville Local Waterfront Revitalization Program policy standards and conditions.

§ 5. Review of actions.

- A. Whenever a proposed action is located in the village's coastal area, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards and conditions set forth in Subsection G herein.
- B. Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the coastal area, the applicant, or in the case of a direct action, the agency, shall prepare a coastal assessment form (CAF) to assist with the consistency review of the proposed action.
- C. The agency shall refer a copy of the completed CAF to the Committee within 10 days of its submission and prior to making its determination shall consider the recommendation of the Committee with reference to the consistency of the proposed action.
- D. After referral from an agency, the Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Subsection G herein. The Committee shall require the applicant to submit all completed applications, CAF's and any other information deemed to be necessary to its consistency recommendation.
- E. The Committee shall render its written recommendation to the agency within 30 days following referral of the CAF from the agency, unless extended by mutual agreement of the Committee and the applicant or, in the case of direct action, the agency. The recommendation shall indicate whether, in the opinion of the Committee, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and shall elaborate in writing the basis for its opinion.
 - (1) The Committee shall, along with its consistency recommendations, make any suggestions to the agency concerning modification of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them.
 - (2) In the event that the Committee's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Committee's recommendation.
- F. The agency shall make the determination of consistency based on the CAF, the Committee's recommendation and such other information as is deemed necessary in its determination. The agency shall issue its determination within 30 days following receipt of the Committee's recommendation and submission by the applicant of any additional required information. The agency shall have the authority, in the finding of consistency, to impose practicable and reasonable conditions on any action to ensure that it is carried out in accordance with this local law.

- G. Actions to be undertaken within the Bayville coastal area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Village of Bayville LWRP, a copy of which is on file in the Village Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with:

Policy 1: Foster a pattern of development in the Long Island Sound coastal area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location, and minimizes adverse effects of development.

- (a) **Policy 1.1:** Concentrate development and redevelopment in or adjacent to the Village of Bayville.
- (b) **Policy 1.2:** Ensure that development or uses take appropriate advantage of their coastal location.
- (c) **Policy 1.3:** Protect stable residential areas.
- (d) **Policy 1.4:** Maintain and enhance natural areas, recreation, and open space.
- (e) **Policy 1.5:** Minimize adverse impacts of new development and redevelopment.
- (f) **Policy 1.6:** Undertake redevelopment in a manner that maintains a mix of recreational and working waterfront uses and other compatible uses.
- (g) **Policy 1.7:** Undertake redevelopment consistent with environmental and physical conditions, particularly with respect to surface water drainage.
- (h) **Policy 1.8:** Formulate appropriate measures to mitigate flood-prone roads and low-lying areas through inter-agency cooperation.
- (i) **Policy 1.9:** Eliminate the presence of non-conforming commercial uses in residential zoning districts, where such uses create conflicts with existing residential development.
- (j) **Policy 1.10:** Explore the feasibility of consolidating Village land holdings to create larger areas of contiguous public property.

Policy 2: Preserve historic resources of the Long Island Sound coastal area.

- (a) **Policy 2.1:** Maximize preservation and retention of historic resources.
- (b) **Policy 2.2:** Protect and preserve archaeological resources.
- (c) **Policy 2.3:** Protect and enhance resources that are significant to the coastal culture of the Village of Bayville.
- (d) **Policy 2.4:** Increase public awareness of the historical resources of the Village.

Policy 3: Enhance visual quality and protect scenic resources throughout Long Island Sound.

- (a) **Policy 3.1:** Protect and improve visual quality throughout the Bayville local waterfront area.

Policy 4: Minimize loss of life, structures and natural resources from flooding and erosion.

- (a) **Policy 4.1:** Minimize losses of human life and structures from flooding and erosion hazards.
- (b) **Policy 4.2:** Preserve and restore natural protective features.
- (c) **Policy 4.3:** Protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects.
- (d) **Policy 4.4:** Manage navigation infrastructure to limit adverse impacts on coastal processes.
- (e) **Policy 4.5:** Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.
- (f) **Policy 4.6:** Consider a sea level rise when siting and designing projects involving substantial public expenditures.
- (g) **Policy 4.7:** Minimize adverse impacts associated with existing flooding and erosion.

Policy 5: Protect and improve water quality and supply in the Long Island Sound coastal area.

- (a) **Policy 5.1:** Prohibit direct or indirect discharges that would cause or contribute to contravention of water quality standards.
- (b) **Policy 5.2:** Manage land use activities and use best management practices to minimize non-point pollution of coastal waters.
- (c) **Policy 5.3:** Protect and enhance the quality of coastal waters.
- (d) **Policy 5.4:** Limit the potential for adverse impacts of watershed development on water quality and quantity.
- (e) **Policy 5.5:** Protect and conserve the quality and quantity of potable water.
- (f) **Policy 5.6:** Where feasible, and as budgetary considerations allow, mitigate existing stormwater-derived sources of contamination to the Mill Neck/Oak Neck Creek System and Oyster Bay Harbor.

Policy 6: Protect and restore the quality and function of the Long Island Sound ecosystem.

- (a) **Policy 6.1:** Protect and restore ecological quality in the Village of Bayville.

- (b) **Policy 6.2:** Protect and restore the Mill Neck Creek Wetlands and Oyster Bay Harbor Significant Coastal Fish and Wildlife Habitats.
- (c) **Policy 6.3:** Protect and restore tidal wetlands.
- (d) **Policy 6.4:** Protect vulnerable fish, wildlife and plant species and rare ecological communities.
- (e) **Policy 6.5:** Restore tidal wetlands along the shores of Oyster Bay Harbor and the Mill Neck/Oak Neck Creek system.
- (f) **Policy 6.6:** Protect natural resources and associated values in the Oyster Bay-Cold Spring Harbor Regionally Important Natural Area.

Policy 7: Protect and improve air quality in the Long Island Sound coastal area.

- (a) **Policy 7.1:** Control or abate existing and prevent new air pollution in the Village of Bayville.
- (b) **Policy 7.2:** Limit sources of atmospheric deposition of pollutants to the Sound and all waters surrounding the Village of Bayville, particularly from nitrogen sources.

Policy 8: Minimize environmental degradation in the Long Island Sound coastal area from solid waste and hazardous substances and wastes.

- (a) **Policy 8.1:** Manage solid waste to protect public health and control pollution.
- (b) **Policy 8.2:** Manage hazardous wastes to protect public health and control pollution.
- (c) **Policy 8.3:** Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.
- (d) **Policy 8.4:** Prevent and remediate discharges of petroleum products.
- (e) **Policy 8.5:** Transport solid waste, and hazardous substances and waste, in a manner that protects: the safety, well-being, and general welfare of the public; the environmental resources of the State; and the continued use of transportation facilities.

Policy 9: Provide for public access to, and recreational use of, coastal waters, public lands, and public resources of the Long Island Sound coastal area.

- (a) **Policy 9.1:** Promote appropriate and adequate physical public access and recreation throughout the Village of Bayville.
- (b) **Policy 9.2:** Preserve visual access from public lands to coastal lands and water and, where physically appropriate and feasible, enhance existing public facilities to provide new opportunities for the viewing of the scenic resources within the Village of Bayville.
- (c) **Policy 9.3:** Preserve the public interest in and use of lands and water held in public trust by the Village of Bayville, Town of Oyster Bay, State of New York and federal government.

- (d) **Policy 9.4:** Assure public access to public trust lands and navigable waters.
- (e) **Policy 9.5:** Ensure that the form of new or enhanced public access at any given location is based on site-specific environmental, infrastructural, and social constraints.
- (f) **Policy 9.6:** Enhance the Mill Neck Preserve for passive recreational uses in association with habitat restoration.
- (g) **Policy 9.7:** Ensure that vessel operations do not significantly impair the use of established bathing beaches.
- (h) **Policy 9.8:** Retain existing public lands in public ownership in perpetuity, so as to ensure that adequate facilities are available for public access and recreation.

Policy 10: Protect Long Island Sound's water-dependent uses and promote siting of new water-dependent uses in suitable locations.

- (a) **Policy 10.1:** Protect existing water-dependent uses in the Village of Bayville.
- (b) **Policy 10.2:** Improve the economic viability of water-dependent uses by allowing for non-water-dependent accessory and multiple uses in the Village, particularly water-enhanced and maritime support services.
- (c) **Policy 10.3:** Minimize adverse impacts of new and expanding water-dependent uses, and provide for their safe operation.
- (d) **Policy 10.4:** Provide sufficient infrastructure for water-dependent uses.
- (e) **Policy 10.5:** Promote efficient harbor operation.
- (f) **Policy 10.6:** Optimize surface water uses for various user groups, while minimizing adverse effects on natural resources and the human environment.
- (g) **Policy 10.7:** Facilitate timely public dredging projects.
- (h) **Policy 10.8:** **Seek** to establish a cooperative mechanism among the adjacent municipalities sharing jurisdiction over the water surface area in the Bayville LWRA, in order to ensure effective oversight of in-water activities.

Policy 11: Promote sustainable use of living marine resources in Long Island Sound.

- (a) **Policy 11.1:** Ensure the long-term maintenance and health of living marine resources.
- (b) **Policy 11.2:** Provide for commercial and recreational use of the Bayville LWRA's finfish, shellfish, crustaceans, and marine plants.
- (c) **Policy 11.3:** Maintain and strengthen a stable commercial fishing fleet in the Village of Bayville.
- (d) **Policy 11.4:** Promote recreational use of marine resources.
- (e) **Policy 11.5:** Promote managed harvest of shellfish originating from uncertified waters.
- (f) **Policy 11.6:** Promote aquaculture.

Policy 12: Protect agricultural lands in the eastern Suffolk County portion of Long Island Sound's coastal area.

Policy 13: Promote appropriate use and development of energy and mineral resources.

- (a) **Policy 13.1:** Conserve energy resources.
- (b) **Policy 13.2:** Promote alternative energy sources that are self-sustaining, including solar and wind-powered energy generation.
- (c) **Policy 13.3:** Minimize adverse impacts associated with mineral extraction and subaqueous sand and gravel extraction.

H. Actions not consistent with LWRP policy standards and conditions.

- (1) If the Village agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the Village agency makes a written finding with respect to the proposed action that:
 - (a) 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;
 - (b) The action will be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
 - (c) The action will advance one or more of the other LWRP policy standards and conditions; and,
 - (d) The action will result in overriding village, regional or statewide public benefit.
- (2) Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

I. Each Village agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Waterfront Revitalization Committee. Such files shall be made available for public inspection upon request.

§ 6. Enforcement.

The Village Building Inspector shall be responsible for enforcing this local law. No work or activity on a project in the coastal area which is subject to review under this local law shall be commenced or undertaken until the Village Building Inspector has been presented with a written determination from a Village agency that the action is consistent with the village's LWRP policy standards and conditions.

§ 7. Violations.

A. A person who violates any of the provisions of or who fails to comply with any conditions imposed by this local law shall be guilty of a violation, punishable by a fine not exceeding \$500 for a conviction of a first offense and punishable by a fine not exceeding \$1,000 for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.

- B. The Village 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 village may also enforce this local law by injunction or other civil proceeding.

§ 8. Severability.

The provisions of this local law are severable. If any provisions 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.

§ 9. Effective Date.

This Local Law shall take effect immediately upon its filing in the office of the Secretary of State.

Appendix A

Coastal Assessment Form

A. INSTRUCTIONS (Please print or type answers)

1. Applicants, or in the case of direct actions village agencies, shall complete this CAF for proposed actions which are subject to the Consistency Review Law. This assessment is intended to supplement other information used by a village agency in making a determination of consistency.
2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policies contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Village Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.
3. If any question in Section C, on this form, is answered "yes," then the proposed action may affect the achievement of the LWRP policy standards and conditions contained in the Consistency Review Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent to the maximum extent practicable with the LWRP policy standards and conditions. If an action cannot be certified as consistent with the LWRP policy standards and conditions, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Type of village agency action (check appropriate response):
 - (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction) _____
 - (b) Financial assistance (e.g. grant, loan, subsidy) _____
 - (c) Permit, approval license, certification _____
 - (d) Agency undertaking action: _____

2. Describe nature and extent of action: _____

3. Location of action: _____

4. Size of site: _____
5. Present land use: _____
6. Present zoning classification: _____
7. Describe any unique or unusual land forms on the project site (i.e., bluffs, dunes, swales, ground depressions, other geological formations): _____

8. Percentage of site which contains slopes of 15% or greater: _____
9. Streams, ponds or wetlands existing within or contiguous to the project area?
- (1) Name: _____
- (2) Size (in acres): _____
10. If an application for the proposed action has been filed with the village agency, the following information shall be provided:
- (a) Name of applicant: _____
- (b) Mailing address: _____
- (c) Telephone number: Area Code () _____
- (d) Application number, if any: _____
11. Will the action be directly undertaken, require funding, or approval by a state or federal agency?
 Yes _____ No _____ If yes, which state or federal agency?

C. COASTAL ASSESSMENT (Check either "Yes" or "No" for each of the following questions)

1. Will the proposed action be located in or contiguous to or have a potentially adverse effect upon any of the resource areas identified on the coastal area map:

	YES	NO
(a) Significant fish or wildlife habitats?	_____	_____
(b) Scenic resources of local or statewide significance?	_____	_____
(c) Important agricultural lands?	_____	_____
(d) Natural protective features in an erosion hazard area?	_____	_____

If the answer to any question above is "yes," please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

2. Will the proposed action have a significant effect upon:

(a) Commercial or recreational use of fish and wildlife resources?	_____	_____
(b) Scenic quality of the coastal environment?	_____	_____
(c) Development of future or existing water dependent uses?	_____	_____
(d) Operation of the state's major ports?	_____	_____
(e) Land or water uses within a small harbor area?	_____	_____
(f) Stability of the shoreline?	_____	_____
(g) Surface or groundwater quality?	_____	_____
(h) Existing or potential public recreation opportunities?	_____	_____
(i) Structure, sites or districts of historic, archeological or cultural significance to the village, town, county, state or nation?	_____	_____

	YES	NO
3. Will the proposed action involve or result in any of the following:		
(a) Physical alteration or land along the shoreline, land under water or coastal waters?	_____	_____
(b) Physical alteration of two (2) acres or more of land located elsewhere in the coastal area?	_____	_____
(c) Expansion of existing public services or infrastructure in undeveloped or low density areas of the coastal area?	_____	_____
(d) Energy facility not subject to Article VII or VIII of the Public Service Law?	_____	_____
(e) Mining, excavation, filling or dredging in coastal waters?	_____	_____
(f) Reduction of existing or potential public access to or along the shore?	_____	_____
(g) Sale or change in use of publicly owned lands located on the shoreline or under water?	_____	_____
(h) Development within a designated flood or erosion hazard area? If so where?	_____	_____
(i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?	_____	_____
(j) Construction or reconstruction of erosion protective structures?	_____	_____
(k) Diminished surface or groundwater quality?	_____	_____
(l) Removal of ground cover from the site?	_____	_____

4. PROJECT	YES	NO
(a) If a project is to be located adjacent to shore:		
(1) Will water-related recreation be provided?	_____	_____
(2) Will public access to the foreshore be provided?	_____	_____
(3) Does the project require a waterfront site?	_____	_____
(4) Will it supplant a recreational or maritime use?	_____	_____
(5) Do essential public services and facilities presently exist at or near the site?	_____	_____
(6) Is it located in a flood prone area?	_____	_____
(7) Is it located in an area of high erosion?	_____	_____
(b) If the project site is publicly owned:		
(1) Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?	_____	_____
(2) If located in the foreshore, will access to those and adjacent lands be provided?	_____	_____
(3) Will it involve the siting and construction of major energy facilities?	_____	_____
(4) Will it involve the discharge of effluents from major steam electric generating and industrial facilities into coastal facilities?	_____	_____
(c) Is the project site presently used by the community neighborhood as an open space or recreation area?	_____	_____
(d) Does the present site offer or include scenic views or vistas known to be important to the community?	_____	_____

	YES	NO
(q) Will the project utilize or affect the quality or quantity of sole source or surface water supplies?	_____	_____
(r) Will the project cause emissions which exceed federal or state air quality standards or generate significant amounts of nitrates or sulfates?	_____	_____

D. REMARKS OR ADDITIONAL INFORMATION: (Add any additional sheets to complete this form).

If assistance or further information is needed to complete this form, please contact the Village Clerk at 34 School Street, Bayville, New York, 11709

Preparer's Name: _____

Telephone Number: () _____

Title: _____ Agency: _____

Date: _____

**NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM**

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

I. PURPOSES OF GUIDELINES

- A. 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 (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs 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.
- C. 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.

II. DEFINITIONS

- A. Action means:
 - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
 - 2. Occurring within the boundaries of an approved LWRP; and
 - 3. 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.
- B. 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:
 - 1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
 - 2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and

3. That will result in an overriding regional or statewide public benefit.
- C. 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.

III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
1. Shall fully describe the nature and location of the action;
 2. 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;
 3. Should be provided to the local official identified in the LWRP of the situs 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.)
- C. 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 situs local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against 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 situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- B. If the situs 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.

- C. If the situs 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.
- D. If the situs 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 V 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.

V. RESOLUTION OF CONFLICTS

- A. 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:
 - 1. 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.
 - 2. If the discussion 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.
 - 3. If the consultation between the situs 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 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.
 - 4. 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.

5. 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.
6. 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.

**PROCEDURAL GUIDELINES FOR COORDINATING
NYS DEPARTMENT OF STATE (DOS) & LWRP
CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS**

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 program coordinator (of an approved LWRP) and other interested parties.
2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
3. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.
4. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality 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 DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator and will identify the Department's principal reviewer for the proposed action.
2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS 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 DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.
4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.
5. After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to 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 municipality has "no opinion" on the consistency of the proposed action with local coastal policies.

6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant.
7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

FINANCIAL ASSISTANCE ACTIONS

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.
2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
3. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.
4. The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty days (or other time agreed to by DOS and the program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.
5. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.

COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: **Oyster Bay Harbor**

Designated: **March 15, 1987**

County: **Nassau**

Town(s): **Oyster Bay**

7½' Quadrangle(s): **Bayville, NY-Conn.; Hicksville, NY**

Score Criterion

- 16** Ecosystem Rarity (ER)
One of several major embayments on the north shore of Long Island;
rare in ecological subregion.
- 0** Species Vulnerability (SV)
No endangered, threatened or special concern species reside in the
area.
- 20.5** Human Use (HU)
Commercial oyster farming of statewide significance; recreational
fishery of regional significance. Additive division: $16 + 9/2 = 20.5$.
- 16** Population Level (PL)
Concentrations of American oyster are unusual in New York State.
Also the most important waterfowl wintering area on the north
shore of Long Island, especially for scaup.
- 1.2** Replaceability (R)
Irreplaceable.
-

SIGNIFICANCE VALUE = [(ER + SV + HU + PL) X R]
= **63.0**

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITAT

PROJECT DESCRIPTION

OYSTER BAY HARBOR

LOCATION AND DESCRIPTION OF HABITAT:

Oyster Bay Harbor is located on the north shore of Long Island, between Mill Neck and Cove Neck, in the Town of Oyster Bay, Nassau County (7.5' Quadrangles: Bayville, N.Y.- Conn.; and Hicksville, N.Y.). The bay is approximately 2500 acres in size. The fish and wildlife habitat consists of the open water and wetland areas in the bay, extending from Bayville Bridge on the west to Plum Point on the east, excluding portions contained in the Oyster Bay National Wildlife Refuge (approximately 1800 acres). Portions of this habitat which are in the National Wildlife refuge were not evaluated. These areas will be evaluated and considered for inclusion in the near future. Most of Oyster Bay Harbor ranges from 6 to 30 feet in depth below mean low water, and has a tidal fluctuation of approximately 7 feet. The bay is bordered by dense residential development and extensive recreational boating facilities, with only a few areas of undeveloped salt marsh remaining.

FISH AND WILDLIFE VALUES:

Oyster Bay Harbor is one of several major embayments on Long Island's north shore. This protected coastal bay is important to fish and wildlife throughout the year. Oyster Bay Harbor is the most important waterfowl wintering area (November - March) on the north shore. Mid-winter aerial surveys of waterfowl abundance for the ten year period 1975-1984 indicate average concentrations of nearly 1,600 birds in the bay each year (6,380 in peak year), including approximately 1,350 scaup (6,230 in peak year), along with lesser numbers of mallard, Canada goose, common goldeneye, bufflehead, oldsquaw, and red-breasted merganser. Waterfowl use of the bay during winter is influenced in part by the extent of ice cover each year. Concentrations of waterfowl also occur in Oyster Bay Harbor during spring and fall migrations (March-April and October-November, respectively).

In addition to waterfowl use, Oyster Bay Harbor is a highly productive area for marine finfish and shellfish. The harbor serves as a nursery and feeding area (from April - November, generally) for striped bass, scup, summer flounder, bluefish, Atlantic silverside, menhaden, winter flounder, and blackfish. As a result of the abundant fisheries resources in the area, and its proximity to the metropolitan New York area, Oyster Bay Harbor receives heavy recreational fishing pressure, of regional significance. Oyster Bay Harbor is also widely renowned as one of the most important oyster producing areas in New York State. Oysters are generally found in waters greater than 6 feet deep, with spawning occurring in early summer. Most of the underwater lands in Oyster Bay Harbor are certified for shellfishing and are leased for commercial harvest (i.e., farming) of this resource.

Some recreational collecting of oysters takes place in the area as well. Fiddler crabs, ribbed mussels, and hard clams are also abundant in the area. The hard clam populations provide a commercial and recreational harvest of county-level significance. Salt marsh areas and tidal flats surrounding Oyster Bay Harbor are important for maintaining the biological productivity of this ecosystem.

IMPACT ASSESSMENT:

Any activity that would substantially degrade the water quality in Oyster Bay Harbor would affect the biological productivity of this area. All species of fish and wildlife would be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive

turbidity or sedimentation, sewage discharges, and waste disposal. It is essential that high water quality be maintained in this area to protect the commercial shellfishery, through control of vessel waste discharges, sewage effluents, and upland runoff. Excavation of new navigation channels should be minimized, and maintenance dredging activities should be scheduled in late fall or winter to minimize potential impacts on most aquatic organisms. Dredge spoils should be deposited in upland containment areas. Thermal discharges, depending on time of year, may have variable effects on use of the area by marine species and wintering waterfowl. Installation and operation of water intakes could have a significant impact on juvenile (and adult, in some cases) fish concentration, through impingement or entrainment. Construction of shoreline structures, such as docks, piers, bulkheads, or revetments, in areas not previously disturbed by development (i.e., natural beach or salt marsh), may result in the loss of productive areas which support the fish and wildlife resources of Oyster Bay Harbor.

KNOWLEDGEABLE CONTACTS:

Tom Hart or Andrew Milliken
N.Y.S. Department of State
Division of Coastal Resources &
Waterfront Revitalization
162 Washington Avenue
Albany, NY 12231
Phone: (518) 474-3642

Harry Knoch, Wildlife Manager
NYSDEC - Region 1
State University of New York, Building 40
Stony Brook, NY 11790
Phone: (516) 751-7900

John Poole, Marine Resources Specialist IV
Bureau of Marine Finfish and Crustaceans
NYSDEC - Region 1
State University of New York, Building 40
Stony Brook, NY 11790
Phone: (516) 751-7900

Pieter VanVolkenburgh, Chief
Bureau of Shellfisheries
NYSDEC - Region 1
State University of New York, Building 40
Stony Brook, NY 11790
Phone: (516) 751-7900

Roger Spaulding, Manager
Oyster Bay National Wildlife Refuge
c/o Wertheim National Wildlife Refuge
U.S. Fish and Wildlife Service
P.O. Box 21
Shirley, NY 11967
Phone: (516) 286-0485

NYSDEC-Significant Habitat Unit
Wildlife Resources Center
Delmar, NY 12054
Phone: (518) 439-7486

COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: **Mill Neck Creek Wetlands**

Designated: **March 15, 1987**

County: **Nassau**

Town(s): **Oyster Bay**

7½' Quadrangle(s): **Bayville, NY-Conn.**

Score Criterion

- 16** Ecosystem Rarity (ER)
One of the largest undeveloped wetland ecosystems on the north shore of Long Island; rare in ecological subregion.
- 0** Species Vulnerability (SV)
Bald eagle (E) and osprey (T) frequently sighted in the area, but extent of use is not adequately documented.
- 18** Human Use (HU)
Area contributes biologically to commercial oyster production in Oyster Bay, of statewide significance; birdwatching area of county-level significance. Additive division: $16 + 4/2 = 18$.
- 6** Population Level (PL)
One of the top 10 waterfowl wintering areas on the north shore of Long Island, significant between county and regional level. Geometric mean: $(4 \times 9)^{1/2} = 6$.
- 1.2** Replaceability (R)
-

SIGNIFICANCE VALUE = [(ER + SV + HU + PL) X R]
= **48.0**

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITAT

PROJECT DESCRIPTION

MILL NECK CREEK WETLANDS

LOCATION AND DESCRIPTION OF HABITAT:

Mill Neck Creek is a narrow coastal bay which empties into the western side of Oyster Bay Harbor, between Oak Neck and Mill Neck, in the Town of Oyster Bay, Nassau County (7.5' Quadrangle: Bayville, N.Y.-Conn.). The fish and wildlife habitat consists of two wetland areas adjoining Mill Neck Creek, most of which is included in the Oyster Bay National Wildlife Refuge. The two areas are: an approximate 120 acre area northwest of Mill Neck Creek, referred to as Oak Neck Creek; and Beaver Lake, which is located south of Mill Neck Creek, and is approximately 60 acres in size. Oak Neck Creek is comprised of relatively undisturbed salt marsh and tidal creeks draining into Mill Neck Creek. Much of Oak Neck Creek is owned as undeveloped county parkland (Mill Neck Preserve), bordered by dense residential development on the north and east sides, and by large estates and undeveloped woodlands toward the west and south. Beaver Lake is a freshwater impoundment, approximately 3 feet deep, which drains into Mill Neck Creek through a weir along Cleft Road. Beaver Lake is privately owned.

FISH AND WILDLIFE VALUES:

The Mill Neck Creek Wetlands are an integral part of the Oyster Bay Harbor ecosystem, which is one of several major embayments on Long Island Sound. Oak Neck Creek is one of the largest undeveloped salt marshes remaining on the north shore of Long Island. Oak Neck Creek and Beaver Lake are important as resting and feeding areas for Oyster Bay Harbor's wintering waterfowl populations. The Mill Neck Creek area supports regionally significant wintering waterfowl concentrations (November - March). Mid-winter aerial surveys of waterfowl abundance for the ten year period 1975-1984 indicate average concentrations of approximately 550 birds in the area each year (1,150 in peak year), including approximately 310 black ducks (650 in peak year), and 100 Canada geese (440 in peak year) along with lesser numbers of mallard, scaup, canvasback, bufflehead, common goldeneye, American wigeon, mute swan, red-breasted merganser, and oldsquaw. Data on waterfowl populations in Beaver Lake for 1982-1984 indicate average concentrations of approximately 220 ducks each year (primarily mallard, black duck, and canvasback). Waterfowl use of Oak Neck Creek and Beaver Lake during winter is influenced in part by the extent of ice cover each year. Concentrations of waterfowl also occur in these areas during spring and fall migrations (October-November, and March-April, respectively). In addition to waterfowl use, many other fish and wildlife species inhabit the Mill Neck Creek Wetlands area. Wintering bald eagles (E) have been reported using these wetlands on several occasions in recent years. This is one of the few areas on Long Island where eagles have been frequently sighted during mid-winter. These wetlands provide suitable nesting habitat for yellow-crowned and black-crowned night herons, green-backed heron, Canada goose, mallard, black duck, gadwall, fish crow, red-winged blackbird, sharp-tailed sparrow, and possibly least bittern (SC). The area is also used for feeding by osprey (T), herons, egrets, shorebirds, and passerines. Oak Neck Creek serves as nursery and feeding habitat (from April-November, generally) for various marine fish species, such as scup, bluefish, Atlantic silverside, menhaden, winter flounder, and blackfish. This wetland area is also important because it contributes organic matter and nutrients to New York State's most significant commercial oyster beds, located in Oyster Bay Harbor.

IMPACT ASSESSMENT:

Any activity that would substantially degrade the water quality in the Mill Neck Creek wetlands would affect the biological productivity of this area. All

species of fish and wildlife would be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Elimination of open water or wetland areas, through excavation or filling, would result in a direct loss of valuable habitat area. Alteration of tidal patterns in Oak Neck Creek could have major impacts on the fish and wildlife species present. Efforts should be made to maintain high water quality in this area, to protect the Oyster Bay Harbor shellfishery.

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