

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 Lattintown, 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)