

## SECTION V-Techniques for Local Implementation of the Local Waterfront Revitalization Program

### A. Local Laws and Regulations Necessary to Implement the LWRP

#### 1. Existing Land Use Policies and Regulations

Part of the waterfront revitalization process entails an evaluation of existing policies and regulations pertaining to the waterfront revitalization area in light of the Beacon Coastal Policies found in Section III. Future land use and development in the Waterfront Revitalization Area is guided and regulated by several methods.

The 1974 City of Beacon Development Plan and the Urban Renewal Plan (revised in 1981), are policy guides for the area's long term development. The City's zoning law regulates the development of land on a more immediate basis. In addition, subdivision regulations, wetland regulations and flood hazard requirements are applicable in specific areas of the City.

##### a. 1974 City of Beacon Development Plan

- (1) Beacon's current Development Plan was adopted in 1974. The plan is a statement of policy which provides the framework for the City's zoning regulations. In addition to the specific land use categories contained in the plan, it also calls for the preservation of ecologically important areas (including waterbodies, wetlands, steep slope areas and hilltops) as a matter of policy. It should be noted that the plan reflects an earlier proposal to create a new Route 9D by-pass south of Wolcott Avenue. This proposal has since been abandoned. Thus, there may be a need to re-examine proposed uses in this area.
- (2) The Development Plan is most applicable to the following policies: 1, 1B, 1C, 1D, 1E revitalization of deteriorated and underutilized waterfront areas, 21, 21A, 21B, 21C, 21D, 21E, 22, 22A, the expansion of water- dependent and water-enhanced public recreation uses.

##### b. 1981 Urban Renewal Plan

- (1) The original General Neighborhood Renewal Plan (GNRP) was approved by the City Council in 1965. In 1968, a detailed Urban Renewal Plan was adopted for the western portion of the GNRP area (Project #1), most of which is in the Waterfront Revitalization Area. Over the next decade, almost all of the property acquisition, relocation, clearance and street and utility improvements were implemented. During the same period the State and City reached agreement on a reconstruction of Route 9D between 1-84 and Wolcott Avenue. In 1981, the Urban Renewal Plan for the City was updated in order to reflect current objectives as well as the approved realignment of Route 9D. A major

change in the revised plan is the limiting of building height to two and one-half stories (4 stories where the topography would make this impractical) instead of the 10 stories permitted in the original plan. This is in line with City's desires to preserve water views.

- (2) The Urban Renewal Plan may again need updating since 1981 to more closely reflect recent planning philosophies which will be adopted with the Local Waterfront Revitalization Program. The following policies will be enforced through the Urban Renewal Plan: 1, 1C, 4, 5, regarding the development of waterfront parcels.

**c. Zoning Ordinance**

- (1) The zoning law regulates the use and development intensity of land. As a legal means of control it must reflect the interests of the City. Within the coastal boundary exist mostly residential and industrial districts.
- (2) This law deals most closely with the development of the waterfront, (Policy 1), but also attempts to protect the environmentally sensitive areas of Beacon.

**d. Subdivision Regulations**

- (1) The City of Beacon has subdivision regulations which govern the subdivision of land for development. The power to approve with modifications or disapprove subdivision applications rests with the Planning Board. Subdivision plans must conform to the requirements of the zoning regulations. Plans detailing proposed roadways drainage systems, open space, grading, erosion controls, and utilities are required. In addition, the regulations require the preservation of natural features possessing ecological, aesthetic or scenic value (e.g. wetlands, water courses, rock formations, historic features, valuable tree stands).
- (2) Subdivision regulations, as a means of land use control, will enforce the same policies enforced by the zoning regulations.

**e. City Environmental Quality Review Law**

- (1) This local law was adopted to implement the State Environmental Quality Review Act. It provides a mechanism for the City to determine and assess the impacts upon the environment of a specific development or action. The local law allows a more in-depth analysis by the lead agency of the development through the use of the local Environment Assessment Form and review process.
- (2) This local law implements and enforces many policies described in the LWRP, especially Policies 1B, 1D, 2, 2A and 5 as they relate to the conscious development of waterfront areas; Policy 8 which protects fish and wildlife from the introduction of hazardous waste materials; Policies 11 and 13-17 as they relate to flood hazards; Policy 18 regarding proposed major actions; Policy 23, involving protection of historic sites; Policies 24, 25 and 25A in the protection of Beacon's scenic resources; Policy 27, regarding the siting of energy facilities; and Policies 30, 30A, 30B, 33, 33A and 35-41 pertaining to water and air resources.

### f. Flood Hazard Regulations

- (1) Beacon fully participates in the National Flood Insurance Program (NFIP) which is administered by the Federal Emergency Management Agency (FEMA) to provide flood insurance to property owners in participating localities.

There are two phases in the NFIP: the emergency phase and the regular phase. The regular phase of the program is based on a Flood Insurance Rate Map (FIRM) which shows the boundaries of flood hazard areas and anticipated flood levels within them. The emergency phase of the program relies on a less precise Flood Hazard Boundary Map (FHBM) which shows the approximate boundary of the 100 Year Floodplain. Beacon is a member of the regular phase of the NFIP, and as such has been issued a detailed FIRM (effective date: March 1, 1984).

In 1984 the Beacon City Council enacted local law Number 1 of the year 1984 entitled "A Local Law for Flood Damage Prevention." This law was part of a nation-wide comprehensive regulatory system for controlling development within flood plain areas, also called "areas of special flood hazard." The law defined areas of special flood hazard based upon a scientific and engineering report prepared by the Federal Emergency Management Agency (FEMA) entitled "The Flood Insurance Study for the City of Beacon, of Dutchess County, New York", dated September 1, 1983 with accompanying Flood Boundary and floodway Maps. This Study is more up-to-date than the previous HUD maps which had been used in the earlier zoning regulations. The FEMA study also uses different terms than the HUD maps, including "area of special flood hazard", "floodway", etc. These terms are defined within the law and conform to national standards. This law requires a "Development Permit" for any proposed development within the 100 Year Flood Plain ("area of special flood hazard"). These permits are granted or denied by the City's Commissioner of Public Works. The Zoning Board of Appeals is empowered to hear any appeals from the Commissioner's decision and entertain applications for a variance from the provisions of the law.

In 1987 the City Council enacted Local Law Number 1 of the year 1987 entitled "A Local Law for Flood Damage Prevention." This law brought up to date the applicable standards for development in areas of special flood hazard in order to comply with applicable Federal criteria. Although the previous provisions of the 1963 Zoning Law were inconsistent and incompatible with the terminology and regulatory system established by the Flood Damage Prevention Law of 1987, the zoning provisions were never amended to bring them into conformity with the newer provisions.

During the City's work on the Local Waterfront Revitalization Program this inconsistency between the Zoning Law and the later enacted Flood Damage Prevention Law of 1987 was discovered. Accordingly, the regulations of the Zoning Law have been made consistent with the regulatory scheme established by the Flood Damage Prevention Law (Local Law Number 1 of the year 1987).

- (2) This implements and enforces the LWRP by relating to the flood hazard prevention policies such as 11, the siting of structures to minimize damage; Policy 14 which prevents and increase in flooding and Policy 17, the use of nonstructural measures to minimize flood damage.

**g. Waterfront Commission Regulations**

- (1) The City of Beacon has adopted a local law which created a body of seven members known as the "Waterfront Conservation and Development Commission." The purpose of the commission is to encourage the preservation, conservation and development of historic, recreational and natural resources along the Hudson River by making recommendations to the City Council to establish and enforce rules and regulations to preserve and sensitively develop the waterfront.

The Commission is made up of seven members appointed by the City Council. At all times the City Commissioner of Public Works is to be a member. The chairperson of the Beacon Recreation Commission shall also be a member.

- (2) The Waterfront Commission will be advisory to the City Council and an implementing body for the LWRP and therefore will relate to all of the policies stated in Section III.

**2. New or Revised City Laws and Regulations**

**a. Revisions to the 1981 Urban Renewal Plan**

- (1) The Urban Renewal Plan was revised to assure consistency of proposed actions with the policies and purposes of the LWRP. Most of the changes involved a reduction of building densities. Since the Urban Renewal Project Area's topography includes steep slopes, the reduction in density will help protect these slopes.
- (2) Revision of the Urban Renewal Plan will secure consistency with the development Policy 1D to redevelop the Urban Renewal area in an environmentally sensitive manner.

**b. Revisions to the Zoning Regulations and Map**

**Summary of Zoning Changes**

In order to implement the LWRP and the changes in the Land Use Plan certain zoning changes have also been made.

In many instances the zoning has remained the same since it is in accordance with existing development. In most situations, changes in zoning were made where it was more in accordance with existing development or proposed development than was the previous zoning. In other instances, changes were made to effectuate the LWRP by encouraging development which is more in keeping with coastal goals and protection of coastal resources. An example is the change from "Light Industrial" to "Residential" of the steeply sloped banks of the Hudson River west of South Avenue. Another is the change from "Heavy Industrial" to "Light Industrial" of several parcels east of the railroad tracks.

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However, the most significant change in zoning is along the City's riverfront. Most of this area was previously zoned for "Heavy Industrial" use. The LWRP changes this zoning by eliminating all "Heavy Industrial" districts and replacing them with two new waterfront zones which were developed as an integral part of the LWRP -- the "Waterfront Park" and "Waterfront Development" zoning districts. These zoning districts are discussed below:

**R1-40 Zoning District** This is the lowest density residential zone in the City. Prior to the LWRP, only the Southern Dutchess Country Club area and a section of South Avenue across from Wodenethe and Rosenethe were zoned R1-40. Through the LWRP two additional areas have been rezoned R1-40. The first is Spy Hill (previously zoned RD-3). The R1-40 zone is more consistent with the density of existing development and the value of the historic resources located in the Spy hill area. The second is an area in the very southerly section of the City known as the "Polo Fields", previously zoned R1-20. The R1-40 designation is more appropriate to the density of proposed development in this area and more consistent with the surrounding uses and the proximity to Fishkill Creek.

Additionally, through the LWRP the previous R1-40 zone along the westerly side of South Avenue has now been extended in depth to include a portion of lands (previously zoned "Light Industrial") along the steeply sloped areas overlooking the Hudson.

**R1-20 Zoning District** There were no changes made in the areas zoned R1-20.

**R1-10 Zoning District** Under the previous zoning scheme, only the area to the west of South Avenue and along Denning's Avenue was designated as R1-10.

Through the LWRP, the Bayview/Kitteridge area, previously zoned RD-3, was rezoned to R1-10. This zone is much more in keeping with existing development.

**R1-7.5 Zoning District** Through the LWRP the R1-7.5 zoning in the vicinity of Lafayette Avenue and the westerly frontage along North Avenue was expanded and extended to include the High Street area (previously zoned RD-3). This change in zoning made this area much more consistent with existing development. Additionally, a very small triangle of land in the High Street area, previously zoned "Light Industrial", was changed to be part of the R1-7.5.

The old Tool and Die Works area, including the firehouse, St. Andrews Church and Martin Luther King Center, was changed from RMR-1.5 to R1-7.5 to be more consistent with patterns of existing development. A small area south of Rombout Avenue, previously zoned RD-3, was changed to R1-7.5.

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- RD-6 Zoning District** Through the LWRP an area to the west of Bank Street and to the north of Branch Street known as the Prizzi property, and a small parcel surrounded by the Prizzi property were rezoned from RD-3 to RD-6. These properties are rugged in terrain, which effectively limits their future redevelopment potential. The RD-6 density is in keeping with the actual development potential of the properties for the dwelling unit type (townhouses) most likely to be constructed on the sites.
- RD-3 Zoning District** As described above, certain areas previously zoned RD-3 changed to lower densities. Other areas, including Fishkill Landing North and Fishkill Landing South, remained RD-3. Through the LWRP the lands between Ferry Street and Beekman Street (Urban Renewal Parcels "L" and "W" and including Hammond Plaza) were rezoned from RMF-1.5 to RD-3. The RD-3 zone is consistent with proposed development plans that have been submitted to the City and conforms to the presently existing land use designation. Since this is a major vacant parcel within the Coastal Area, the planning of this site will be very important to the integrity of the LWRP. Strict architectural and design controls will be the most important factor in assuring high quality development and the preservation of views within this portion of the City's Coastal Area.
- RD-1.8 Zoning District** Only the Community Interfaith Housing Development west of South Avenue and east of South Davies Terrace is designated for RD-1.8 zoning. The area is already fully developed.
- LB Zoning District** The area previously zoned for "Local Business" south of the intersection of Beekman Street and Ferry Street, is a triangle of land presently the site of the Epstein Law Offices. Through the LWRP this zoning district was extended to include a small parcel across Beekman Street previously zoned "GB". The uses permitted in the "LB" zone are more appropriate to the size of this site and the nature of the surrounding area. The Loopers Plaza area continues to be zoned "Local Business", as does a small property on Beekman Street opposite lower Main Street.
- LI Zoning District** As noted above certain areas previously zoned as "Light Industrial" have been changed to less intensive districts. These include the steeply sloped areas of the banks west of the residential area on South Avenue (rezoned from LI to R1-40) and the area on Denning's Avenue, rezoned from LI to R1-10.
- Additionally, several areas previously zoned for "Heavy Industrial" use have been rezoned to "Light Industrial". These include the areas south of the Fishkill Creek and the parcel of land on River Street just beyond its intersection with Main Street. Thus, overall, the portion of the City zoned for "Light Industrial" use remains about the same.

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In addition, the City has amended the Schedule of Regulations for Non-Residential Districts in the Zoning Regulations so as to allow the principal and accessory uses permitted in the General Business zoning district to be permitted in the Light Industrial zone as well. This expands the range of uses permitted in the Light Industrial zoning district to those appropriately found in this kind of zone.

### **HI Zoning District**

The "Heavy Industrial" zoning designation has been removed from all properties within the City's Coastal Area as discussed in other sections.

### **WD and WP Zoning District**

**New Waterfront Zones** -A central goal of the LWRP is to revitalize the City's riverfront, encourage appropriate recreational and open space uses of publicly owned land at the river and encourage the revitalization of presently underutilized, privately owned lands at the riverfront. In order to do this, through the LWRP two riverfront zones -- Waterfront Park and Waterfront Development have been developed and adopted. The "Waterfront Park" designation covers all of Riverfront Park, the old Ferry Landing, the City-owned lands at the north shore of Long Dock and encompasses the abutting lands of the railroad. This area was previously zoned Heavy Industrial.

Denning's Point, which also was previously zoned "Heavy Industrial" has been rezoned to "Waterfront Park". This area includes the peninsula itself and the estuary area of the Fishkill Creek.

The remaining areas of the Waterfront which are privately owned, have been zoned "Waterfront Development". This zoning district will encourage revitalization of the riverfront area by promoting mixed use development including residential, marina, restaurant, and small scale retail to serve adjoining uses and the commuter railroad population. These will complement the uses that exist at Waterfront Park and future uses planned for the City's harbor area. Both encourage the provision of pedestrian linkages between Waterfront Park and Denning's Point.

As noted above, the Zoning Law was also amended to eliminate inconsistencies with the later-enacted Flood Damage Prevention Law (see item A(1)(f) above).

The zoning revisions will assist in the implementation of the LWRP in their relation to Policies 1, 1A, 1B, 1C, 2, 4, 4A and 4B regarding development along the waterfront, Policy 18 in the protection of coastal areas, Policies 19, 19A, 19B and 20A in the provision of public access along the waterfront, Policies 21, 21A, 21B, 21C, 21D, 21E, 22 and 22A in the enhancement and encouragement of recreational areas, Policies 23 and 23 A in the protection of significant historic and cultural

structures and sites, and Policies 25 and 25A to preserve the scenic quality of the local topography and character of the city.

**c. Adoption of a Local LWRP Consistency Review Law.**

A Local LWRP Consistency Review Law will assure that local agencies act consistently with the LWRP. Consistency determinations will be made by each agency with jurisdiction or by the lead agency (SEQRA) if there is more than one involved agency. This local law helps implement all LWRP Policies and the proposed land and water uses identified within the LWRP.

**d. City Historic Preservation Law.**

This local law is designed to protect individual structures, buildings, sites or objects designated as architecturally or historically significant or located in an area of the City designated as an Historic Preservation District. It establishes a system for reviewing alterations and demolitions. This local law helps implement State Policies 23 and 23A which are concerned with the preservation of historic and scenic resources.

**e. Architectural Review Law.**

The architectural and design elements of new construction within the Coastal Area are among the most important factors in evaluating such proposals. This local law provides for review of these elements as part of the site plan and special permit processes.

**f. Harbor Management Law**

This local law will regulate the speed, use, operation, anchoring, and mooring of vessels, and the use of waters within the jurisdiction of the City of Beacon in a manner to protect and promote the public health, safety and general welfare. (This law can be found in Appendix C as Chapter 33 Harbor Management.)

## **B. Other Public and Private Actions Necessary to Implement the LWRP**

### **1. Local Government Actions**

**a. Allocation of the City's Community Development Block Grant Funds to Coastal Area.**

- (1) Community Development funding still remains available although funding levels decline yearly. It is primarily allocated to the City through the Dutchess County Consortium. Potentially, funds can be used for public acquisition of waterfront property, repairing of bridges, and park improvements as well as residential and commercial rehabilitation.
- (2) Community Development funding used for projects mentioned in Section IV would implement a range of policies, most specifically the following: Policies 1, 2, and 2A with regard to waterfront development, 9, 9A, 9B, 19B 19C and 20 concerning public access and recreational use of the waterfront.

- b. City Utilization of Infrastructure Funding
  - (1) Beacon should pursue the use of Federal Aid Primary monies and Urban Mass Transit funding for the improvement of local roads, bridges and the train station.
  - (2) Utilization of infrastructure improvement funding primarily relates to Policy 5, ensuring that public facilities are adequate to serve current and proposed development.
- c. Provisions of In-kind Services to Promote Private Projects
  - (1) Beacon can assist in the development of its coastal area by providing funding and/or providing in-kind services to private owners or developers. In-kind services mean giving expert advice, labor, the use of equipment, etc.
  - (2) Provision of funds and in-kind services implements several policies, specifically by promoting. Policies 1, 2 and 5 in the revitalizing of the waterfront and improving public facilities to serve current and proposed development.

## **2. Private Actions.**

### **Development of Long Dock**

Private development of Long Dock as a mixed use project incorporating residential, commercial and water related uses will implement the LWRP as it related to policies which are concerned with the development of the coastal area such as Policies 1A, 2 and 2k

## **3. Joint Public and Private Actions.**

### Utilization of Hudson River Foundation Funding

- (1) This foundation supports the Hudson River Improvement Fund which sponsors physical improvement projects to enhance public use of the Hudson River. Applications can be made by non-profit (tax exempt) groups or governmental bodies three times a year for funding for waterfront projects. The Beacon Sloop Club has an ongoing relationship with the City in efforts to find funding assistance for riverfront facilities and an improved harbor.
- (2) Utilization of Hudson River Improvement funding has wide policy implications but most specifically relates to Policies 1, 2, and 5 at they relate to the development of the waterfront to encourage public use for educational recreational purposes.

## **4. Other Public Actions.**

### State Freshwater Wetland Regulations

New York State has a comprehensive wetland regulatory program administered through the Department of Environmental Conservation (6 NYCRR Part 663-664), which will serve to protect significant wetlands from encroachment by development and other actions which could degrade these resources.

### **C. Management Structure to Implement the LWRP**

1. Responsibility for Overall Management and Coordination of LWRP and Specific Responsibilities for Implementation.

Implementation of the LWRP will require the cooperation of various city officials and agencies.

- (a) The City Council is the City's legislative and policymaking body. As such, the Council shall be the primary agency responsible for overall management and coordination of the LWRP. The Beacon City Council has the authority to approve and fund, or secure funding for, specific improvements necessary to implement the LWRP.
- (b) The Mayor shall be the chief contact person to receive notification on behalf of the city from State and Federal agencies planning actions in the Waterfront Area.
- (c) The Planning Board shall continue to be the agency chiefly responsible for site plan and subdivision reviews within the City, including the Waterfront Area, and also shall make recommendations to the City Council, upon referral, regarding proposed zoning amendments within the City including the Waterfront Area.
- (d) The Waterfront Conservation and Development Commission, created in 1981 as a body accountable to the City Council, shall at all times advise the City Council, the Planning Board and other City agencies regarding the implementation and day to day management and coordination of the LWRP. The Commission shall also accept referrals from City agencies regarding the consistency of proposed actions with the LWRP. The Commission may also solicit new funding sources, propose development projects and work with other City agencies to accomplish the goals of the LWRP.
- (e) The Community Development Agency will carry out and coordinate urban revitalization responsibilities for funding or assisting in funding of a variety of projects or programs with the Urban Renewal Project No. 1 area.

All agencies of the City will maintain their present responsibilities for programs, projects and regulations.

2. Procedures for Reviewing Local Actions for Consistency with LWRP.

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Local actions proposed for the Waterfront Area will be reviewed in accordance with SEQRA procedures and existing land use controls and with the policies and purposes stated in the Local Waterfront Revitalization Program.

Each City agency will be responsible for determining whether its actions are consistent with the LWRP.

If the agency determines that the action does not conform with the LWRP policy standards and conditions, such action shall not be undertaken unless the agency determines with respect to the proposed action that:

- a. No reasonable alternatives exist which would permit the action to be undertaken in a manner which conforms to such LWRP policy standards and conditions.
- b. The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions to the maximum extent practicable.
- c. The action will advance one or more of the other coastal policies.
- d. The action will result in an overriding City, regional or State-wide public benefit.

Such a finding shall constitute a determination that the action is consistent.

Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Commission. Such files shall be made available for public inspection upon request.

The consistency review shall take place in the context of the SEQR review process. Where two or more City agencies are involved in an action, the consistency determination will be made by the lead agency.

Local agencies shall also assert their best efforts to assure that coastal resources are properly considered during the SEQRA review process.

Any agency, private group or individual proposing a "Type 1" or "unlisted" action as defined by the State Environmental Quality Review Act within the boundaries of the approved LWRP will be required to complete a Coastal Assessment Form (CAF) in addition to an Environmental Assessment Form. This process will assist the Waterfront Commission and the lead agency to determine whether or not proposed actions are consistent with the City's coastal policies as presented in the LWRP.

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

### 3. Procedures for Reviewing State Actions for Consistency with LWRP.

The Waterfront Revitalization of Coastal Resources 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. These guidelines are intended to assist State agencies in meeting that statutory consistency obligation.

The Act also requires that State agencies provide timely notice to the City whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.

The Secretary of State is required by the Act to confer with State agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

**a. Notification Procedure.**

- (1) When a State agency is considering an action, the State agency shall notify the Mayor.
- (2) Notification of a proposed action by a State agency.
  - (a) Shall fully describe the nature and location of the action.
  - (b) Shall be accomplished by use of either the State Clearinghouse, other existing State agency notification procedures, or through any alternative procedure agreed upon by the State agency and local government.
  - (c) Should be provided to the Mayor 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.
- (3) If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the Mayor can serve as the State agency's notification to the local government.

**b. Local Government Review Procedure.**

- (1) Upon receipt of notification from a State agency, the Mayor shall be responsible for evaluating a proposed action against the policies and purposes of the approved LWRP. In doing so, the Mayor may consult with the Waterfront Commission for recommendations.
- (2) If the City cannot identify any conflict between the proposed action and the applicable policies and purposes of the approved LWRP, the Mayor should inform the State agency in writing of the City's finding. Upon

receipt of such finding, the State agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

- (3) If the Mayor does not notify the State agency in writing of the Commission's 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 approved LWRP.
- (4) If the Mayor notifies the State agency in writing that the proposed action does conflict with the policies and/or purposes of the approved LWRP, the State agency shall not proceed with the action for a period of 90 days or until the identified conflicts have been resolved, whichever is earlier. The Mayor 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 City shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

**c. *Resolution of Conflicts.***

- (1) In accordance with the procedural guidelines issued by the Department of State the following procedure shall apply whenever the City has notified the Secretary of State and the State agency that a proposed action conflicts with the policies and purposes of its approved LWRP.
  - (a) Upon receipt of notification from the City that a proposed action conflicts with its approved LWRP, the State agency should contact the City to discuss the content of the identified conflicts and the means for resolving them. A meeting of State agency and City 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 City.
  - (b) If the discussion between the City and the State agency results in the resolution of the identified conflicts, the State agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600. The City 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.
  - (c) If the consultation between the City 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 City and the State agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.

- (d) Within 30 days following the receipt of a request for assistance, the Secretary, or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the State agency and the City.
- (e) If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
- (f) The State agency shall not proceed with the proposed action until both the Secretary's findings and recommendations have been received, or 90 days from the date a notification of a conflict was received from the Mayor, whichever is earlier

4. Procedures for Department of State and City Review of Federal Actions for Consistency with the LWRP.

**a. *Permits and Licenses.***

- (1) The Department of State (DOS) will acknowledge the receipt of an applicant's consistency certification and application materials, and at the time, forward a copy of the submitted documentation to the Mayor.
- (2) Within thirty (30) days of receiving such information the Mayor or his/her designated representative will contact the assigned DOS reviewer to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.
- (3) When the DOS and City agree that additional information is necessary, the DOS will request the applicant to provide the information. A copy of this information will be provided to the Mayor upon request.
- (4) Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the DOS reviewer, whichever is later, the Mayor will notify DOS of the reasons why a proposed action may be inconsistent or consistent with the City coastal policies.
- (5) After that notification, the Mayor will submit his/her written comments and recommendations on a proposed permit action to the DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end

of the public comment period, DOS will presume that the City has no opinion on the consistency of the proposed action with City coastal policies.

- (6) If the DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Mayor on a proposed permit action, DOS will contact the Mayor or his/her designed to discuss any differences of opinion prior to issuing its letter of "concurrence" or "objection" to the applicant.
- (7) A copy of the DOS "concurrence" or "objection" letter to the applicant will be forwarded to the Mayor.

**b. Direct Actions**

- (1) After acknowledging the receipt of a consistency determination and supporting documentation from a Federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the Mayor and other interested parties.
- (2) This notification will state the date by which all comments and recommendations must be submitted to DOS and will identify the assigned DOS reviewer.
- (3) The review period will be about twenty-five (25) days. If comments and recommendations are not received by the end of the established review period, DOS will presume that the City has "no opinion" on the consistency of the proposed direct Federal agency action with City coastal policies.
- (4) If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Mayor, DOS will contact the Mayor to discuss any differences of opinion or questions prior to agreeing or disagreeing with the Federal agency's consistency determination on the proposed direct action.
- (5) A copy of the DOS "agreement" or "disagreement" letter to the Federal agency will be forwarded to the Mayor.

**c. Financial Assistance**

- (1) DOS will request information on a proposed financial assistance action from the applicant (State or City agency) for consistency review purposes. A copy of this letter will be forwarded to the Mayor and will serve as notification that the proposed action may be subject to review.
- (2) If the applicant is a City agency, the Mayor will contact the agency and request copies of any application documentation for consistency review

purposes. If the proposed action has already been reviewed by the Commission for consistency with the LWRP, the Mayor will notify DOS of the outcome of that review.

- (3) The Mayor will acknowledge receipt of the requested information and send a copy to the DOS.
- (4) If the applicant is a State agency, DOS will request the agency to provide a copy of the application documentation to the Mayor.
- (5) The DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the Mayor.
- (6) The review period will conclude thirty (30) days after the date of the Mayor's or DOS' letter of acknowledgement.
- (7) The Mayor must submit his/her comments and recommendations on the proposed action to DOS within twenty (20) days from the start of the review period. If comments and recommendations are not received within that twenty-day period, DOS will presume that the City has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.
- (8) If the DOS does not fully concur with or has any questions on the comments and recommendations submitted by the Mayor, the DOS will contact the Mayor to discuss any differences of opinion prior to agreeing or objecting to the Federal agency's consistency determination on the proposed financial assistance or action.
- (9) A copy of DOS' "no objection" or "objection" letter to the applicant will be forwarded to the Mayor.

### **D. Financial Resources Necessary to Implement the LWRP.**

Financing the implementation of the LWRP falls into two broad categories: (1) day- day-to-day management of the program; and (2) development of long-term projects and program refinement.

The City has traditionally operated on the basis of residents volunteering to serve on boards to implement local laws, such as zoning and planning, or to promote important activities. The LWRP was prepared by such a volunteer citizen group.

The operating costs of these local boards are provided by the City government. The operating expenses of the Waterfront Commission will be absorbed into regular budgets of the City. Operating expenses will be offset by coordinating as much as possible, the activities of the Commission with existing boards.

The long-term projects and program refinement activities proposed in Part IV will qualify for funding support from State, Federal and private sources. The City, with the guidance of the Commission, will pursue support from these other sources. The Commission and the municipal government will work

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closely with the DOS Division of Coastal Resources and Waterfront Revitalization to secure these outside funds.