

SECTION V
TECHNIQUES FOR LOCAL IMPLEMENTATION

5.1 Local Laws and Regulations Necessary to Implement LWRP

The following is a summary of the existing local laws and portions of Village Code which relate to implementation of the LWRP. The relationship of this legislation to the LWRP policies is shown on the chart on page V-7.

A. Port Chester Zoning Code (Section 98)

1. Design Waterfront District (DW Zone)

The expanded DW district which encompasses all of Subarea III classifies all uses as special exceptions. As a result, these uses are required to meet the special exception use standards and the environmental performance standards established for the DW district. This allows stronger controls to ensure compatibility of uses and environmental protection of coastal resources in Subarea III.

2. Design Waterfront Overlay District (DW(a))

The DW (a) district provides a waterfront district comprised of water-dependent uses or water-enhanced uses with water-dependent accessory uses which comply with environmental performance standards.

3. Map Change in Brooksville Area from C4 to RA/C

The RA/C overlay district provides for neighborhood residential, commercial and public open space land uses on sites capable of supporting these uses.

4. Urban Renewed Plans

Zoning will be changed, as part of the proposed revisions to the Harbor, Marina and Village Center Urban Renewal Plans.

B. Port Chester Urban Renewal Plans

Port Chester has positioned itself to employ its powers of eminent domain to address the problems occurring on underutilized land resources. Through this power, the Village can assemble feasible development sites which will attract private financing. The resulting benefit to the community will take the form of extensive waterfront public recreational and public access opportunities and facilities which would not be created in the absence of the urban renewal incentives.

1. Harbor Area Redevelopment Plan

The Harbor Area Urban Renewal Redevelopment Plan allows for medium density residential development, with water-dependent and water-enhanced accessory uses, including a private boat facility and commercial uses. Required public waterfront amenities include a publicly accessible waterfront walkway, public open space, a community boating facility and parking. Development design standards are also set forth. The Harbor Area Redevelopment Plan implements the LWRP by replacing a number of underutilized and non-water-dependent uses with development that brings water-dependent and water-enhanced uses to the waterfront and creates extensive public recreation and public access opportunities which do not presently exist.

2. Marina Redevelopment Plan

The Urban Renewal Plan shall require waterfront public amenities in conjunction with any private redevelopment effort. The required public amenities shall include, but not be limited to, maintenance and expansion of the existing public marina, replacement of bulkhead, construction of walkway, public open space, and shared parking.

These improvements are necessary to embellish Port Chester's waterfront location and use it as an asset for downtown development. Land use controls shall encourage water-enhanced uses, general retail, professional office, and high density residential development. There will be considerable flexibility in yard requirements with the waterfront setback as the only regulatory control.

3. Village Center Redevelopment Plan

The Village Center Plan covers extensive areas which have no relationship to the waterfront. No changes are proposed for these areas. However, the area between Westchester Avenue and Purdy Avenue from the high water mark to Townsend Street will include both sides of Westchester Avenue as part of the Marina Redevelopment Area Plan for a retail/residential center. Further, the remaining area extending to Purdy Avenue includes land use controls consistent with the DW zone.

C. Flood Plain Regulation

Floodplain regulations are incorporated as Chapter 39 of the Village Code. This section regulates development within Flood Hazard Areas as defined on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency.

**LAND USE REGULATIONS
AND LOCAL LAWS
FOR LWRP SUBAREAS**

Code of the Village of Port Chester <u>Local Laws and Regulations</u>					<u>Subareas</u>
<u>A.Zoning & Land Use:</u>					
	I	II	III	IV	V
R-7 Zone	X				
DW Zone			X		
DW (a) Zone					X
RA/C Zone		X			
Harbor URP		X			
Marina URP				X	
Floodplain Reg's	X	X	X	X	X
Site Plan Reg's	X	X	X	X	X
Sewer Law	X	X	X	X	X
<u>B. Administrative</u>					
Boating Law	X	X	X	X	X
Waterfront Comm.	X	X	X	X	X
Consistency	X	X	X	X	X

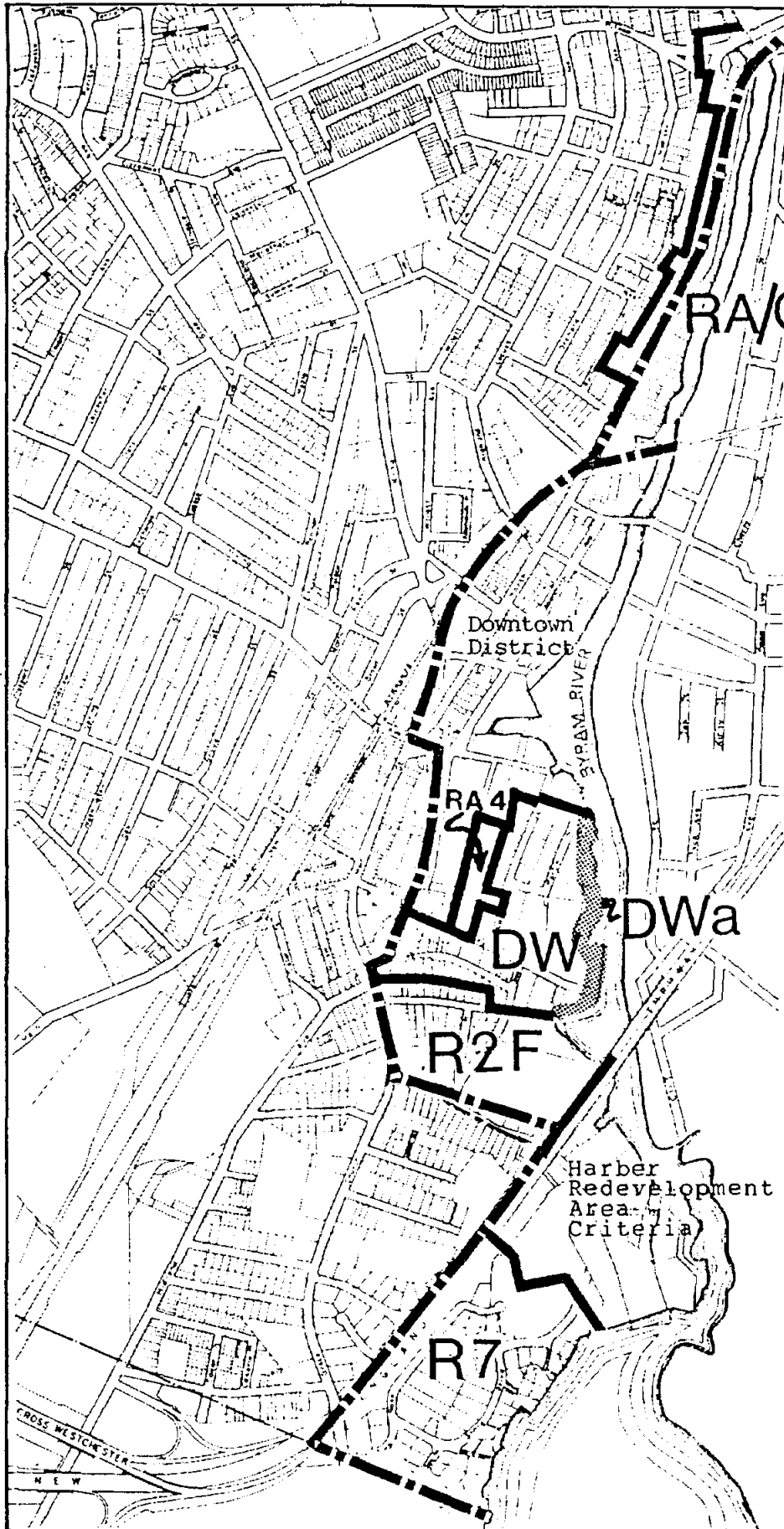


FIGURE 23
PROPOSED ZONING

LWRP
Village of
Port Chester,
New York

R7 One Family
Residence


R2F Two Family
Residence

RA4 Multi-
Family
Residence.

RA/C Multi-Family
Residence/
Neighborhood
Commercial

DW Design
Waterfront

DWa Design
Waterfront
Overlay

0 1000' 
Buckhurst Fish Hutton Katz

These regulations implement those policies of the LWRP that address protection of the flood plain. The ordinance also implements and enforces the LWRP by outlining methods to utilize in assuring that "Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding..." (Policy 11) and recommending that non-structural means to minimize damage to property from flooding include "the setback of buildings and structures... and the floodproofing of buildings of their elevation above base flood level" (Policy 17).

D. Boating Ordinance

Chapter 17 of the Village's Code incorporates a series of regulations that address use of offshore waters, and coastal lands. This ordinance provides for the Port Chester Parks Department and Department of Public Works to regulate the Port Chester Marina and its operations. It is enforced by the Port Chester Police Department.

This ordinance addresses the following:

- prohibition of dumping waste;
- required use of pump-out facility;
- removal of improperly moored boats;
- safe operation of boats;
- speed limits;
- prohibition of water skiing;
- approval of the location, type, and adequacy of moorings to be placed within the harbor areas.

The local law assigns enforcement powers to the Harbor Master and harbor inspectors, establishes a system of mooring permits and inspection through the Village Clerk's office, establishes monetary fines for violation of all regulations, and provides for prohibition of boats within channel lines whether moored or affixed to docks.

E. Site Plan Review Procedure and Development Standards

The development plan review procedures are spelled out in Section 98-23 of the Village Code. Standards reflect best management practices in flooding, erosion, water resources, and scenic resources including vegetation. Site plan requirements have been developed by the Village that will also change current procedures to provide more control over future development. Major points include:

- A three phase submission requirement;
- Review criteria;

- Submission Standards;
- Site Development Standards;
- Miscellaneous Provisions

F. Sewer Ordinance

Chapter 73 of the Village Code provides standards and conditions for connecting to the Village's sanitary sewer system. This ordinance is particularly important in implementing Policies 30-44 (water and air resources).

G. Waterfront Commission

The Waterfront Commission is a reviewing and coordinating agency for actions occurring in the coastal area. The Waterfront Commission does not replace or duplicate the functions of the Trustees, the Planning Board or the Zoning Board of Appeals. The Commission's functions will include the following:

- The Waterfront Commission will make recommendations to Village agencies regarding the consistency of proposed actions in the Waterfront Revitalization Area;
- The Commission will regulate structures on or in the water within the municipal boundaries of the Village. Guidelines for pier and wharf construction located in Chapter 17 of the Village Code, may be supplied by the commission to property owners or developers with a building permit application for waterfront property. The Commission will make recommendations to the appropriate Village agency as to the consistency of a proposed permit action with the provisions of the LWRP.
- The Commission will act in an advisory capacity to the Board of Trustees in overall waterfront policies.

H. Waterfront Consistency Review Law

The Waterfront Consistency Review Law sets forth the procedures for implementing the Village's Local Waterfront Revitalization Program including the responsibilities of the Waterfront Commission. The law establishes the following:

- Waterfront Commission's responsibilities;
- Coastal action review procedures;
- Policy standards and conditions;
- Exceptions and negative actions

5.2 Other Public and Private Actions Necessary to Implement The LWRP

A. Local Government Actions Necessary To Implement LWRP

Local government actions include the work of Village Agencies and the Village's implementation of proposed projects within the coastal area.

1. Harbor Redevelopment Project - The Village Board must proceed with the Harbor Urban Renewal Project in order to have a public marina constructed with private capital. If the Village does not proceed with the redevelopment of the site, it may create a public facility either through the condemnation of a lease with the Port Chester Yacht Club or by waiting out the expiration of the lease. Any subsequent leases which did not provide for boating and full access by the general public would be contrary to the policies of the LWRP.
2. Expansion of Columbus Park and the Columbus Park Marina - Providing access from Columbus Park to the waterfront at the proposed marina site as indicated in Figures 23 and 24 (Columbus Park Marina Plan). Funding for the marina and park expansion project is provided by an Environmental Quality Bond Act Grant, and municipal bonds.
3. William James Memorial Park - providing for a neighborhood waterfront park as indicated in Figure 24 will be pursued subsequent to completion of the LWRP.
4. Streetscape Improvements - will be coordinated with private development to follow the general plan for improvements in regard to trees and signage by the Planning Commission.
5. Internal Coordination - For the Waterfront Commission to serve as the coordinator of the implementation of the LWRP, a procedure to refer all coastal matters to the Commissions will be established (see Management Section 5.3).

B. Private Actions Necessary To Implement LWRP

1. Development of the Harbor Redevelopment site with provisions for public use of and access to the waterfront.
2. Development of the Marina Redevelopment area with provisions for a water's edge promenade and open space/plaza areas.

5.3 Management Structure Necessary To Implement the LWRP

A. Agencies

The Board of Trustees shall be the lead agency responsible for implementation of the Local Waterfront Revitalization Program. Implementation of the Program is to be accomplished through the previously identified projects and local laws, together with the review procedure whereby local permitting authorities (primarily the Board of Trustees, the Board of Appeals and the Planning Commission) will take into consideration and make determinations regarding the consistency of proposed actions with the policies of the Program. Prior to such determinations being made by permitting authorities, proposed actions in the coastal zone will be referred to the Waterfront Commission for its review and comment and this comment will be considered by the permitting authorities when making determinations of consistency.

All agencies of the Village will maintain their present responsibilities for programs, projects, and regulation. The Waterfront Commission will act in an advisory capacity to review and make recommendations to the Board of Trustees on any application in the LWRP zone, including dredging or construction of any structure in the water under the Village's jurisdiction, or any proposal to alter the shoreline.

The Waterfront Commission and the Harbor Master, in addition to federal and State authorities, shall regulate boating in Village waters. The Planning Board will retain its function to review and approve any land use plans or proposals within the coastal area, including the review of uses affecting tidal wetlands. The Board of Trustees has the authority to approve and fund (or secure funding for) specific improvements necessary to implement the LWRP.

B. Waterfront Commission

The agency for the management of the LWRP will be the Waterfront Commission. The local official responsible for overall management and coordination of the LWRP will be the Chairperson of the Waterfront Commission.

The Waterfront Commission will assume the role of reviewing all public and private proposals for development or regulations in the Waterfront Revitalization Area and, where appropriate, make recommendations to responsible agencies to assure consistency with the LWRP.

The Commission will also be responsible for making its own proposals to various agencies for projects or programs that it believes to be important to the implementation of the LWRP.

C. Procedures To Assure Local Actions Comply With LWRP

Any proposed action within the LWRP boundary will be referred by the administering agency to the Waterfront Commission for its recommendations on consistency with the LWRP. The Commission shall render its written recommendations within 15 days of receipt of referral to the Secretary of the Waterfront Commission, unless extended by mutual agreement of the Commission and the applicant, or in the case of a direct action, the agency. The Commission shall refer to the Board of Trustees any actions which upon their review may be inconsistent with the approved Local Waterfront Revitalization Program for final determination. All other actions shall be referred directly to the local board, commission, or department having authority over the action. The recommendation shall indicate whether, in the opinion of the Commission, the proposed action is consistent or inconsistent with one or more of the LWRP policy standards or conditions.

Upon receipt of a proposed action from a Village agency, the Waterfront Commission will be responsible for evaluating the proposed action against the policies and purposes of the LWRP.

If the Commission cannot identify any inconsistencies between the proposed action and the applicable policies and purposes of the LWRP, it shall inform the agency, in writing, of its finding of consistency. Upon receipt of the Commission's finding of consistency, and the agency's own finding of consistency, the agency may proceed with the implementation of the action.

If the Commission notifies the agency, in writing, that the proposed action is consistent with the policies and/or purposes of the LWRP, the agency will prepare its own written finding based on the Commission's recommendation, the Coastal Assessment Form, and other pertinent information. If the agency determines that the action is inconsistent, it shall not proceed with the action unless the following four (4) conditions are met:

1. 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;
2. 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;

3. The action will advance one or more of the other coastal policies; and
4. The action will result in an overriding Village, regional or State-wide public benefit.

If the agency determines that the action is consistent, it can proceed with the action once it makes a detailed written account, as part of its finding, describing why its determination disagrees with the Commission's recommendations.

D. Procedures To Review Federal Actions For Consistency With LWRP

1. Direct Actions

- a. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, the NYS Department of State (DOS) will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator* and other interested parties.
- b. 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.
- c. 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 to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
- d. If DOS does not fully concur with and/or has any question on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss the differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
- e. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

* Program coordinator shall refer to the Director of the Office of Planning & Development or his designee.

2. Permit and License Actions

- a. 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.
- b. 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.
- c. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of the information will be provided to the program coordinator upon receipt.
- d. 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.
- e. After that 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.
- f. 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 will be forwarded to the program coordinator.
- g. A copy of DOS' "concurrence" or "objection" letter to the applicant will be forwarded to the program coordinator.

3. Financial Assistance Actions

- a. 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.
- b. 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.
- c. 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 received within this 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.
- d. 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.
- e. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.

E. Procedures To Review State Actions For Consistency With LWRP

1. 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 (19NYCRR 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 required 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.

2. Procedures

State agencies will complete a State Coastal Assessment Form (CAF) for any particular action directly undertaken, funded, permitted, or otherwise approved within the Village's LWRP area. The State CAF shall be submitted to the Waterfront Commission. The Waterfront Commission will comment as necessary, first to local agencies and then to the State agency regarding consistency with the Village LWRP.

Where there are problems with consistency, the Village will advise the State agency involved and the Department of State. Village agencies will make themselves available to pursue resolution of differences, as appropriate.

The following procedure applies whenever the Village has notified the State agency and Secretary of State that a proposed action conflicts with the policies and purposes of the LWRP.

- a. Upon receipt of notification from the Village that a proposed action conflicts with its LWRP, the State agency should contact the program coordinator to discuss the content of the identified conflicts and the means for resolving them. A meeting of the State agency and Village representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within thirty (30) days of the receipt of a conflict notification from the Village.
- b. If the discussion between the Village 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 Village 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 Village 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 fifteen (15) days following the discussion between the Village 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 thirty (30) days following 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 Village.
- e. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within fifteen (15) days, notify both parties of his/her finding and recommendations.
- f. The State agency shall not proceed with the proposed action until either the Secretary's findings and recommendations have been received or ninety (90) days from the date a notification of a conflict was received from the Village.

5.4 Summary Chart of Actions Implementing Local Policies

Policies 1, 1A-1E

Regulatory Changes

- Urban Renewal Plans
- Zoning Code
- Flood Plain Ordinance
- Site Plan Review Procedures and Standards

Other Public Actions

- Privately funded urban renewal redevelopment projects in LWRP area
- Use of Harbor Site land disposition funds for Columbus Park Public Marina
- Possible Acquisition and Relocation by Village within Urban Renewal Areas

Private Actions

- Private development within urban renewal areas

Policy 2

Regulatory Changes

- Urban Renewal Plans

- Zoning Code

Policy 4 See Policy 1A-E

Policy 5

- Sewer Ordinance Enforcement

Policy 6

- Responsibility for coordinating and reviewing coastal area development
Waterfront Commission
- Local Consistency Review procedures

Policy 8

- Review of proposals through land use permitting procedures included in Zoning Ordinance

Policy 9

- Urban Renewal Plans
- Review of proposals through land use permitting procedures included in Zoning Ordinance
- Development of Columbus Park Marina and expansion of Downtown Marina

Policy 10

Policy 11 through 14

- Flood Plain Management Ordinance Revisions
- Site Plan Review Procedures and Standards

Policy 15

- Site Plan Review Procedures and Standards

Policy 16 & 17

- Flood Plain Management Code
- Site Plan Review Procedures and Standards

Policy 18

- Waterfront Commission
- Environmental Review

Policy 19 through 22

Regulatory Actions

- Urban Renewal Plans
- Zoning Code
- Waterfront Commission

Public action

- Redevelopment projects within urban renewal areas
- Develop Columbus Park public marina
- Possible acquisition and relocation activities

Private Actions

- Development approved urban renewal projects
- Creation of public use and access area as required by the plan

Policy 23 & 25

- Architectural Review Board
- Site plan review procedures & standards

Policy 27 Not Applicable

Policy 29

- Zoning Code

Policy 30

- Zoning Code
- Sewer Code Enforcement

- Site Plan Review Procedures and Standards

Policy 31

- Zoning Code

Policy 33

- Sewer Ordinance
- Site Plan Review Procedures & Standards

Policy 34

- Boating Code
- Waterfront Commission
- Development of Columbus Park Public Marina

Policy 36

- Zoning ordinance
- Implementation of Harbor Redevelopment Urban Renewal

Policy 37

- Zoning Code
- Sewer Code

Policy 39 through 40

- Sewer Code
- Zoning Code

Policy 41

- Zoning Code

Policy 42 Not Applicable

Policy 44 Not Applicable

LOCAL LAW AND REGULATIONS RELATED TO LWRP POLICIES

Policy No.	Policy Concern	N/A Policies	Zoning	Harbor Urban Renewal Plan	Marina Urban Renewal Plan	Village Center Urban/Re Plan	Flood Plain Ordinance	Site Plan Review Law	Sewer Ordinance	Boating Law	Waterfront Commission	LWRP Consistency
1	Development Policies		X	X	X	X						X
1A	"			X			X	X	X			X
1B	"			X			X	X	X			X
1C	"		X			X	X	X	X			X
1D	"		X		X	X	X	X	X			X
1E	"		X				X	X				X
2	"		X	X	X	X	X	X				X
3	"	N/A										X
4	"		X	X	X	X	X	X				X
5	"								X			X
6	"											X
7	Fish & Wildlife	N/A										X
8	"									X	X	X
9	"			X	X			X	X	X	X	X
10	"	N/A										X
11	Flooding and Erosion Hazards						X X	X X				X
12	"						X					X
13	"						X					X
14	"							X				X
15	"											X
16	"							X				X
17	"							X				X
18	General Policy											X
19	Public Access		X	X	X	X						X
20	"		X	X	X	X						X
21	"			X	X	X						X

LOCAL LAW AND REGULATIONS RELATED TO LWRP POLICIES

Policy No.	Policy Concern	N/A Policies	Zoning	Harbor Urban Renewal Plan	Marina Urban Renewal Plan	Village Center Urban/Re Plan	Flood Plain Ordinance	Site Plan Review Law	Sewer Ordinance	Boating Law	Waterfront Commission	LWRP Consistency
22	"			X	X	X		X				X
23	Historic and Scenic Resources							X				X
24	"											X
25	"											X
26	"	N/A										X
27	Energy & Ice Management	N/A										X
28	"	N/A										X
29	"		X					X				X
30	Water & Air Resources		X					X	X			X
31	"		X									X
32	"	N/A										X
33	"							X	X			X
34	"			X							X	X
35	"											X
36	"			X				X				X
37	"							X				X
38	"	N/A										X
39	"		X	X		X						X
40	"		X									X
41	"		X									X
42	"		X									X
43	"	N/A										X
44	"											X