

## **TECHNIQUES FOR LOCAL IMPLEMENTATION OF THE PROGRAM**

### **A. LOCAL LAWS AND REGULATIONS NECESSARY TO IMPLEMENT THE LWRP**

#### **1. Existing Town Laws and Regulations**

The Town of Red Hook wishes to preserve its significant natural resources; its historic buildings, stone walls and other historic features; and the views from its roadways and other public areas by channeling intensive new development away from those areas and onto lands that do not have as much natural, scenic and historic significance.

##### **a. Zoning Ordinance**

- (1)** The Zoning Ordinance regulates how land is to be used, at what density and intensity and under what conditions. The Town of Red Hook's zoning has been designed to protect the rural and open space qualities and environmental features of the coastal area and to continue the historic pattern of development. The more dense development is guided to the hamlets and to other areas where a central water system exists. Uses which contribute to the scenic character of the landscape, such as forestry, farming, passive outdoor recreation and conservation uses are encouraged and reinforced. Water dependent uses are allowed where environmental impacts can be minimized.

Agriculture, forestry management and conservation uses such as wildlife preserves are permitted in all the zoning districts. Other outdoor recreation facilities for skiing, skating, picnicking and camping are allowed by special permit in all the districts. Riding stables and facilities for skiing, skating and camping are also allowed in some districts. Commercial uses are generally prohibited, except for marinas, conference centers, nursery schools, kennels and farm stands.

Marinas, boat clubs, docks and boat ramps are allowed by special permit where environmental impacts can be minimized, and site plan review is required for these uses. Regulations give preference to alternative ways to provide services such as dry-stack storage and open water facilities, marina design for maximum tidal flushing and circulation, and minimal dredging. Pump-out facilities are required.

Special regulations address historic structures and encourage compatible new development, the preservation of views and vistas and landscape elements which contribute to the scenic character of the area, and conservation of the extensive ecologically important resources found in the coastal area.

### Zoning Districts

**The Waterfront Conservation (WC) District** lies along the Hudson River waterfront from the Village of Tivoli south to the Town's southern boundary. It encompasses lands within one thousand (1000) feet of the river and within one hundred (100) feet of Stony Creek, the Saw Kill, White Clay Creek and the Mudder Kill. The district is intended to protect scenic quality and preserve the sensitive natural resources of the Hudson, its coves and tributaries and their developmentally restrictive shorelands. Of particular concern are Tivoli North and South Bay and Cruger Island. All uses proposed to be located within 1000 feet of mean high tide are subject to special permit.

**The Limited Development (LD) District** incorporates estate and noninstitutional open space lands. Techniques such as cluster development and conservation easements will be used to mitigate impacts from development on the rural, scenic and historic character of the landscape.

**The Rural Development 5 (RD5) District** covers the land along NY Route 9G south of the Village of Tivoli with the exception of Bard College property. The district seeks to continue established land use patterns by providing for a mix of agricultural and compatible low-density residential development along with conservation, recreation and open space uses.

**The Residential 1.5 (R1.5) District** allows low-density suburban residential use in areas served by a town-approved central water supply system. The district encompasses the housing north of Bard College and adjacent to Annandale Road.

**The Hamlet (H) District** is intended to reinforce the traditional mix of residential uses and community facilities in the hamlets of Annandale-on-Hudson and Barrytown. Architectural design review is provided to protect and continue the vernacular character, scale and unique settings of structures within these hamlet areas.

**The Institutional (I) District** accommodates the comprehensively planned, extensive facilities associated with educational, health-related and other

nor-for-profit institutions as well as compatible residential, agricultural, conservation and open space uses.

### Overlay Districts

**The Flood-Fringe Overlay (FF-O) District** encompasses the 100-year floodplain area as designated by the Federal Emergency Management Agency. Regulations meet the requirements of the Federal Emergency Management Agency.

**The Historic Landmarks Overlay (HL-O) District** covers the portion of the Hudson River National Historic Landmark District located in Red Hook. The area is comprised of large historic estates and other areas of historic and environmental significance. The district is intended to continue the estate and conservation uses, and adaptive reuse and provide for environmentally sensitive new development. Any residential development in this district must be undertaken as a residential cluster development. Community standards addressing exterior architectural design, landscaping, other historic elements, community character and unique natural resources must be applied during special permit and site plan reviews.

**The Environmental Protection Overlay (EP-O) District** recognizes the scenic byways designated under the New York State Scenic Byways Law and other scenic corridors of local significance. View protection regulations protect the rural character of the roadway corridors, scenic vistas and the settings of historic properties. To the maximum extent practicable, undeveloped lands will be maintained as perpetual open space and as appropriate setting or context for historic buildings. No construction, filling, excavation, clearing of mature trees, grading or other alteration of the natural landscape is allowed within the regulated stream corridor nor is the application of fertilizers, pesticides and herbicides beyond the level of generally-accepted agricultural practices.

The Town has identified locally significant historic and scenic resources and mapped them on the Historic and Natural Resources Survey Map. Areas subject to regulation under the EP-O District are lands within five hundred feet of any identified historic resource which are visible from that resource and all lands within a scenic viewshed that are within two hundred feet of a ridgeline or visible during winter conditions and located within one thousand two hundred feet of public viewing areas identified on the EP-O District Map.

Within these areas, site plan review is required for new structures, including single-family dwellings, and for proposed substantial alterations of the exterior of existing structures. Structures proposed for land that includes a mapped scenic viewshed shall be sited and clustered in a manner that avoids occupying or obstructing views of lands in the delineated historic and scenic areas. The structures are subject to review for compatibility with the existing landscape and surrounding architectural styles and must not detract from the scenic character of the area. The Planning board may recommend the execution of a conservation easement to assure protection of the viewshed.

The Scenic Corridor Overlay (SC-O) District encompasses those lands immediately adjacent to the Town's designated scenic roadways, a predominantly rural landscape. The district regulations supplement the area and bulk regulations applicable in the underlying zoning districts. The minimum front yard setback for structures and parking areas is doubled, and the open space created must be managed in a manner that preserves significant existing vegetation, plant specimens, landforms and water features, incorporates tree planting and other natural landscaping efforts, preserves stone walls and similar features and ensures both the protection of visual buffers and the prominence of key scenic vistas.

Clustering is the preferred design for residential development, and techniques such as common driveways and shared utility services will be used to *minimize* intrusions into the open space landscape. Where doubling of the front yard setback is not possible, natural screening techniques such as berms and vegetation will be used to buffer objectionable elements, providing that their use does not diminish the scenic quality of key scenic vistas. The Planning Board may recommend a conservation easement be used to ensure that the screening will be properly maintained and managed.

#### Additional Regulations

§143-30, Development near bodies of water, provides that all development or other land alteration proposed within one hundred feet of the normal streambank of any DEC classified stream, within one hundred feet of the DEC-mapped boundary of a freshwater wetland, and within one thousand feet of the high water mark of the Hudson River are subject to special permit.

§143-33, Residential cluster development contains guidelines for siting and designing cluster development, to preserve active agricultural lands, preserve structures recognized as historic and their environs, eliminate or

minimize visual intrusion on the viewshed of scenic areas and scenic roads, and protect wetlands, watercourses and other recognized environmentally critical areas. DEC-designated wetlands and FEMA-delineated one-hundred-year floodplain cannot be used in the calculation of maximum permissible dwelling units.

§143-107, Marines, boat clubs, docks and boat ramps contains standards governing the design and siting of such uses to accommodate them with minimal adverse environmental impacts. The use of alternative facilities is encouraged such as dry-stack storage to minimize wet slips. A marina must be designed for maximum tidal flushing and located in areas where minimal physical requirements of marinas already exist and where maintenance dredging will be minimal. Sewage pumpout facilities are required. Pervious land surface must be maximized and site runoff must be treated to prevent pollutants from reaching adjacent waters and wetlands.

Sign regulations and industrial performance standards are included within the Zoning Ordinance. While there are currently no properties in the coastal area zoned for industrial use, these standards can prevent or limit negative effects from industrial uses outside the area.

Site plan review requirements as well as special permit review requirements are incorporated within the Zoning Ordinance. Site plan review is used to assure that the proposed development of a site is acceptable and consistent with all of the regulations. Since much of the land in the coastal area includes large estates that are to some extent subject to development pressures, thorough site plan review is necessary to preserve the desirable resources of the Town. Currently site plans are required within the Waterfront Conservation (WC) district for single family dwellings; in the Limited Development (LD) district for multi-family dwellings and senior citizen housing complexes, airstrips, golf, hunting and other recreational clubs, and community service facilities; in the Residential (RD5) district for multi-family dwellings, airstrips, golf and other recreational clubs, parks and trails and camps; and in the Hamlet (H) district for cultural facilities and commercial enterprises such as day care centers. Applications for special permits and site plan are approved by the Planning Board.

- (2) The ordinance implements Policy 2 of the LWRP by providing for water dependent uses in areas where natural conditions are favorable and vehicular access across the railroad tracks is available. Moreover, the large lot, Very Low Density Residential zoning and the Historic Landmarks Overlay District, particularly when coupled with clustering

can : a) protect historic properties along the riverfront, so that this ordinance also can serve to implement Policies 23 and 23A; b) provide sufficient area for buffer and setback areas to preserve scenic vistas and scenic roads implementing Policies 24, 24A, 24B, and Policies 25, 25A and 25B; c) provide a means to preserve natural habitat and environmentally sensitive areas to enforce Policies 7, 7A and 44; and d) continue agricultural activity in the Town, furthering Policy 26A. The Waterfront Conservation District regulations particularly address Policy 7A on the protection of the natural resources of Tivoli North and South Bays and on protection of streams, Policies 11 and 17 on flooding hazards and Policy 44 on protection of wetlands.

Sign regulations primarily implement the Policies 24A, 25A and 25B, on scenic quality. The industrial performance standards can be used to indirectly implement policies of the LWRP since there are no industrially zoned areas within the coastal area, but the standards can avoid or minimize impacts that nearby industrial uses could have on the coastal area. The policies that could be affected include: protection of the natural environment, particularly Policies 7A and 44; protection of ground and surface waters, Policies 30 and 38; and maintenance of air quality standards Policy 41.

In addition, since a site plan shows existing and proposed uses, structures and features for a particular parcel of land and includes an inventory of open space, major natural and manmade landscape features, utility and drainage plans and access and circulation patterns, the reviewing board can examine each component part of the plan, the inter-relationship of the parts and how the proposed plan relates to the surrounding area. In this way, the following policies of the LWRP can be implemented: Policies 2 and 5 on development of waterfront areas; Policies 23, 23A on protection of historic sites and areas; Policies 24A, 24B, and 25 on protecting and enhancing scenic resources, e.g., by increasing front yard setbacks and requiring suitable buffer areas to maintain the open space appearance of scenic roads; Policies 7A and 44, by requiring suitable setbacks to protect environmentally sensitive areas or fish and wildlife habitat areas, e.g., wetlands; Policies 11, 12 and 17 on suitable siting of buildings and other structures and undertaking activity to minimize flooding and erosion hazards; Policies 18 and 27 on possible siting of major facilities in the coastal area; and Policies 33, 38 and 39 on protecting coastal waters.

**b. Subdivision Regulations**

- (1) Subdivision regulations specify how vacant land in the coastal area can be divided into building lots. The regulations include procedures for submitting plans; how lots and roads are to be laid out; how sanitary wastes must be treated; how the water supply and distribution system is to be handled; how road and drainage improvements must be implemented.**
- (2) Subdivision regulations are important in implementing several policies of the LWRP including: Policy 2 on appropriate utilization or redevelopment of underutilized waterfront parcels; Policy 5, for suitable location of development with regard to public services and facilities; and Policy 17 on use of non-structural means of erosion control whenever possible. Moreover, by utilization of "open space subdivision" or clustering arrangements, these regulations can be used to: protect historic sites and areas, Policies 23 and 23A; to protect and enhance scenic resources, Policies 24A, 24B, 25A and 25B; protect environmentally significant areas, Policies 7A and 44; maintain agricultural areas, Policy 26A; and require appropriate siting of buildings and structures and undertaking of activities to avoid flooding and erosion hazards, Policies 11 and 12.**

**c. Environmental Quality Review Regulations**

- (1) The Town regulations implement the State Environmental Quality Review Act. These regulations establish thresholds and procedures to assure full review of environmental impacts of proposed actions, improvements and developments within Red Hook.**
- (2) These regulations implement many policies described in the LWRP, but they are especially relevant to: Policies 2 and 5 on redevelopment of waterfront areas; Policies 7A and 44 on protection of natural areas and fish and wildlife habitats; Policy 8 on protection of fish and wildlife from the introduction of hazardous wastes; Policies 11-17 relating to flood and erosion hazards; Policy 18 regarding proposed major actions; Policy 21 involving water-dependent and water-enhanced recreation; Policies 23 and 23A involving protection of historic sites; Policies 24A, 24B, 25A and 25B, regarding scenic quality; Policy 26A, involving the protection of agricultural lands; Policy 27, about siting energy facilities in the coastal area; Policy 28 on ice management practices; Policy 29 relating to any development of**

energy resources; and Policies 30-43 pertaining to water and air resources.

**d. Flood Damage Prevention Local Law**

- (1) This law regulates development within the flood hazard areas of Red Hook as defined on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency.
- (2) This law can be used to minimize danger to life and damage to property, thus implementing the following flood hazard prevention policies of the LWRP: 11, on siting structures to minimize damage; 12, on protection of natural protective features including bluffs; 14, preventing increase in flooding; and 17, on use of non-structural measures to minimize damage from flooding.

They can also be used to implement development policy 2; and Policies 7A and 44 on protection of natural areas and wildlife habitat areas.

**e. Ordinance Regulating Disposal of Refuse**

- (1) This ordinance regulates the disposal of refuse including garbage and rubbish in the Town and limits location and number of refuse disposal areas, the sources of waste materials that are permitted to be deposited in Town landfills and specifies standards and techniques for safe and sanitary maintenance of landfill areas.
- (2) This ordinance implements Policy 38 of the LWRP by protecting the quality of groundwater and surface water supplies.

**f. Unsafe Buildings and Collapsed Structures Law**

- (1) This law requires the Town Building Inspector to report to the Town Board any building he deems to be unsafe or dangerous to the public. The Town Board then determines whether or not the building is unsafe and dangerous and requires repair or removal.
- (2) Since unsafe and collapsed structures could cause a blight on the scenic landscape of the Town, this law serves to implement Policies 24A, 25A and 25B



2. **New Local Laws and Regulations**

a. **Amendment to Environmental Quality Review**

- (1) **This amendment assures consistency of proposed actions with the policies and purposes of the LWRP. The local law is adopted pursuant to the State Environmental Quality Review Act (SEQR). The SEQR lead agency in Red Hook is responsible for making consistency determinations.**
- (2) **This amendment serves to implement all of the policies and purposes of the LWRP and to expedite permitting procedures.**

b. **Comprehensive Plan and Zoning Ordinance**

**The Town Board adopted the new Comprehensive Plan and Zoning Ordinance in 1993.**

c. **Site Plan Regulations**

(1) **Site Plan Regulations include the following:**

- (a) **The requirement that applicants for any commercial or industrial use must indicate whether or not the proposed use will result in the generation, storage, treatment, disposal or transportation of hazardous or toxic wastes or other solid wastes of potentially hazardous origin or content. The reviewing board will determine whether such a use is suitable for location in or adjacent to the coastal area, and if it is suitable, whether sufficient precautionary or mitigating measures have been included in the proposal;**
- (b) **The requirement that scenic and historic features of the site and of adjacent areas be considered during site plan review including preservation and enhancement of scenic roads, scenic vistas, historic structures (such as buildings, gateways and stone walls) and landscaped grounds; and**
- (c) **Require that development be designed so as to provide for surface water management that preserves existing drainage patterns, includes on-site detention, and avoids an increase in peak volume or velocity of stormwater after development.**

(2) Site Plan regulations implement Policies 23 and 23A on historic resources, Policies 24A, 25A and 25B on scenic resources and Policy 37 on the minimization of non-point sources of nutrients, organics and eroded soils.

**B. OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP**

**1. Local Government Actions Necessary to Implement the LWRP**

**a. Preparation and Use of a Cultural Resources Map**

- (1) Red Hook has prepared a cultural resources map including descriptions and locations of scenic and historic importance, recreational sites and community points of interest within the Town as well as a description and map of Mid-Hudson Historic Shorelands Scenic District/Waterfront Revitalization Area.
- (2) This map is used by residents and tourists to increase their knowledge of and interest in natural and man-made resources of the Town. As such, it primarily implements Policy 1A on encouraging growth of the tourism sector of the Town's economy. In addition, by increasing community awareness of Red Hook's valuable historic, scenic and recreational resources, in the long run the map may serve to promote an increase in efforts to preserve those resources.

**b. Use of the Scenic District Handbook**

- (1) The handbook includes development and design guidelines so that natural features can be protected and the proposed built environment can be designed to be consistent with the character or quality of the existing natural and built environment. Developers can utilize the guidelines in planning projects or developments that will preserve and enhance scenic, historic and natural features of the Town and that will be compatible with existing development. The handbook will be used by municipal boards when reviewing proposed development projects, primarily in site plan and subdivision review.
- (2) The guidelines in the handbook can be used to implement several policies of the LWRP including Policy 2 on siting of water dependent uses adjacent to Coastal waters; Policy 7A on protecting

significant fish and wildlife habitats; Policy 11 on siting of structures in the coastal area relative to flooding and erosion hazard areas; Policies 23, 23A, 24A and 24B and 25A and B on protection and enhancement of historic and scenic structures, features and areas; Policy 26A on protection of agricultural lands and Policy 44 on protection of wetlands.

c. **Use of the Scenic Roads Handbook and Efforts to Improve and/or Maintain Roadside Conditions**

- (1) Local boards will use guidelines in the Scenic Roads Handbook as they work with local utility companies and highway, transportation and/or public works departments to accomplish the underground placement of utility wires, appropriate trimming of trees, and appropriate road maintenance and improvement procedures to increase safety and protect stone walls and existing trees. Decisions on road realignments, resurfacing, speed postings, drainage work, snow removal, de-icing and any other roadway procedures should be made with regard to protection of scenic concerns.
- (2) Use of this handbook and coordination of efforts to improve roadside conditions and to maintain and enhance scenic and historic areas and features will serve primarily to implement Policies 23, 23A, 24A and 24B, and 25A and B.

d. **Efforts to Secure Agreements and/or Funding for Required Maintenance and/or any Necessary Repair of Bridges across the Railroad Tracks**

- (1) (See Projects section on repair of Barrytown, Rokeby and Mandara bridges.) Over the past several years, Conrail has not made structural repairs or undertaken maintenance action on several bridges across the railroad tracks near the Hudson River.

Local officials need to continue discussions with County, State and Federal officials and Conrail representatives to secure funding and/or agreements for required maintenance of and any necessary repairs to the bridge(s) across the railroad tracks in the Town of Red Hook.

- (2) Efforts to secure agreements and funds for maintenance and/or repair of the bridge(s) across the railroad tracks in Red Hook serve to implement: Policy 19A on providing public access for water-

related recreation and Policy 20A on provision of reasonable vehicular and pedestrian access to the publicly-owned foreshore.

e. **Establishment of Special Scenic Zone including the Mandara and Rokeby Estates**

- (1) The Mandara and Rokeby estates are areas of inherent beauty with park-like grounds which form a unique and beautiful vista as viewed from the Hudson River or the Kingston-Rhinecliff Bridge. The designation of these estates as a special scenic zone or district would place limitations on development. For example, the regulations could require that any new development on the property be setback at least 100 feet from the bluff. The draft of this district is being developed locally.
- (2) Creation of a special scenic district will help to preserve the scenic and historic qualities of these estates (which are located in the Federal Register-designated Sixteen Mile Historic District and State-designated Mid-Hudson Historic Shorelands Scenic District) for the enjoyment of residents, commuters and visitors implementing primarily Policies 23, 24A and B and 25A and B.

f. **Communication with Dutchess County Department of Public Works Concerning LWRP.**

- (1) Portions of River Road/Annandale Road, a State DEC designated Scenic Road, are noted County Highway 103. It is important to the preservation of the road's scenic character that Dutchess County employ maintenance and management techniques that will enhance and not destroy the scenic elements of the highway corridor.
- (2) Use of appropriate maintenance and management techniques would serve to implement Policies 24A and 24B on preservation and enhancement scenic resources.

2. **Private or Not-for-Profit or Joint Public/Not-for-Profit Efforts Necessary to Implement the LWRP**

a. **Use of Scenic or Conservation Easements**

- (1) Scenic or conservation easements may be held by the Town or by not-for-profit organizations as a means of preventing or significantly restricting development in areas of historic, scenic,

environmental or agricultural value. The Town will actively work with various organizations so that easements can be acquired along the margins of River Road and Annandale Road, on estate grounds and/or in farm areas in order to spend public and/or tax deductible private funds to restore and maintain scenic and historic features such as stone walls, specimen trees and landscaped grounds, or environmentally sensitive features and agricultural areas.

- (2) Use of scenic or conservation easements could serve to preserve scenic, historic and environmentally sensitive areas such as the special scenic zone cited above and thus can implement Policies 7 and 44 on preservation of natural features and habitats as well as Policies 23, 23A, 24A, and B and 25A and B on scenic and historic resources and Policy 26A on agricultural resources.

b. Use of Facade Easements

- (1) Facade easements held by the Town or not-for-profit organizations can be used to prevent the alteration of and facilitate the renovation of historically significant buildings.
- (2) The use of facade easements can serve to implement Policies 23 and 23A on preservation and enhancement of historic structures.

c. Montgomery Place

- (1) Development of a visitors' entrance and parking area off NY Route 9G and provision of a shuttle bus and linking road to the historic site is necessary to limit traffic on River Road/Annandale Road and protect its scenic character.
- (2) These provisions would serve to protect scenic resources specified in Policies 24A, 24B, 25A and 25B.

**C. MANAGEMENT STRUCTURE NECESSARY TO IMPLEMENT THE LWRP**

1. Local Actions

The Supervisor of the Town of Red Hook and the Town Board will be responsible for overall management and coordination of the LWRP. Each Town lead agency under the State Environmental Quality Review Act and the Town Environmental Quality Review Law is responsible for determining whether its actions are consistent with the LWRP.

Whenever a proposed action is located within the Coastal Boundary, the local agency under whose jurisdiction that action falls shall, prior to approving, funding or undertaking the action, make a determination that the action is consistent to the maximum extent practicable with the LWRP.

If the agency determines that the action would cause a substantial hindrance to the achievement of 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 will not substantially hinder the achievement of 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; and
- c. The action will result in an overriding Town, regional or state-wide public benefit.

Such a finding shall constitute a determination that the action is consistent to the maximum extent practicable.

Each agency shall maintain a file for each action made the subject of a consistency determination. Such files shall be made available for public inspection upon request.

## **2. State Actions**

### **a. Purposes of Guidelines**

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

The Act also requires that State agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines described 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 procedures for resolving such conflicts.

b. **Definitions**

Action means:

A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQR);

Occurring within the boundaries of an approved LWRP; and

Being taken pursuant to a State agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.

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

- (1) For which not reasonable alternatives exist that would avoid or overcome any substantial hindrance;
- (2) That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
- (3) That will result in an overriding regional or statewide public benefit.

Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to the Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

c. Notification procedure

When a State agency is considering a "Type I" or "Unlisted" action occurring within the boundaries of Red Hook's LWRP, the State agency shall notify the Town.

Notification of a proposed action by a State agency:

- (1) Shall fully describe the nature and location of the action;
- (2) Shall be accomplished by use of either the State Clearinghouse, other existing State agency notification procedures, or through any alternative procedure agreed upon by the State agency and the Town.
- (3) Should be provided to the Town Supervisor as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the Supervisor should be considered adequate notification of a proposed action.)

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

d. Local Government Review Procedure

- (1) Upon receipt of notification from a State agency, the Town will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP.
- (2) Upon request of the Town Supervisor, the State agency should promptly provide the Town with whatever additional information is available which will assist the Town to evaluate the proposed action.
- (3) If the Town cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the State agency in writing of its finding. Upon receipt of the Town's finding, the State agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.



- (4) If the Town does not notify the State agency in writing of its finding within the established review period, the State agency may then presume that the proposed action does not conflict with the policies and purposes of the Town's approved LWRP.
- (5) If the Town notifies the State agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the State agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in Part e. below shall apply. The Town will forward a copy of the identified conflicts to the Secretary of State at the time when the State agency is notified. In notifying the State agency, the Town Board shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

e. Resolution of Conflicts

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

- (1) Upon receipt of notification from the Town that a proposed action conflicts with its approved LWRP, the State agency should contact the Town Supervisor to discuss the content of the identified conflicts and the means for resolving them. A meeting of State agency and Town 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 Town.
- (2) If the discussion between the Town and the State agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the Town shall notify the State agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The State agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- (3) If the consultation between the Town 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 Town and the State agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.

- (4) Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the State agency and Town.
- (5) If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her finding and recommendations.
- (6) The State agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

3. Procedures for Department of State and Town of Red Hook 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 that time forward a copy of the submitted documentation to the Town Supervisor and will identify the Department's principal reviewer for the proposed action.
- (2) Within thirty (30) days of receiving such information, the Town Supervisor 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 propose action with local LWRP policies.
- (3) When DOS and the Town Supervisor agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the Town Supervisor upon receipt.
- (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 Town Supervisor

will notify DOS of the reasons why a proposed action may be inconsistent or consistent with Town LWRP policies.

- (5) After that notification, the Town Supervisor will submit the Town'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 Town has "no opinion" on the consistency of the proposed action with Town LWRP policies.
- (6) If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Town on a proposed permit action, DOS will contact the Town Supervisor to discuss any differences of opinion prior to issuing its letter of "concurrence" or "objection" to the applicant.
- (7) A copy of DOS' "concurrence" or "objection" letter to the applicant will be forwarded to the Town Supervisor.

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 Town Supervisor 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 DOS principal reviewer for the proposed action.
- (3) The review period will be about twenty-five (25) days. If comments and recommendations are not received by the end of the established review period, DOS will presume that the Town has "no opinion" on the consistency of the proposed direct Federal agency action with Town LWRP policies.
- (4) If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Town, DOS will contact the Town to discuss any differences of opinion or questions prior to agreeing or disagreeing with the Federal agency's consistency determination on the proposed direct action.

- (5) A copy of DOS' "agreement" or "disagreement" letter to the Federal agency will be forwarded to the Town Supervisor.

c. Financial Assistance

- (1) Upon receiving notification of a proposed Federal financial assistance action, DOS will request information on a proposed financial assistance 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 Town Supervisor. A copy of this letter will be forwarded to the Town Supervisor and will serve as notification that the proposed action may be subject to review.
- (2) DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the Town Supervisor. DOS may, at this time, request the applicant to submit additional information for review purposes.
- (3) The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.
- (4) The Town Supervisor must submit the municipality's comments and recommendations on the proposed action to DOS within twenty (20) days (or other time agreed to by DOS and the Town Supervisor) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with the LWRP policies.
- (5) If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the Town Supervisor to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
- (6) A copy of DOS' consistency decision letter to the applicant will be forwarded to the Town Supervisor.

**D. FINANCIAL RESOURCES NECESSARY TO IMPLEMENT THE LWRP**

Estimates exist for several of the proposed projects. Further feasibility studies are necessary to develop estimates for other projects. (See page IV-9.)

**E. SUMMARY CHART OF ACTIONS IMPLEMENTING LOCAL POLICIES**

<u>Policy</u>	<u>Implemented or Enforced by:</u>
Policy 1	-- Not applicable.
Policy 1A	-- Preparation and Use of Cultural Resources Map. -- Feasibility Study - Establishment of Town Dock in Barrytown.
Policy 2	-- Environmental Quality Review Regulations. -- Zoning Ordinance including Section on Site Plan Review. -- Flood Damage Prevention Local Law. -- Subdivision Regulations. -- Feasibility Study - Establishment of Town Dock at Barrytown. -- Repair and Maintenance of Barrytown Bridge Structure. -- Repair of Railroad Bridges at Rokeby and Mandara. -- Private and/or Public Efforts to Establish Water-Related Recreation Facilities at Coastal Access Points. -- Proposed Consistency Law.
Policy 3	-- Not applicable.
Policy 4	-- Not applicable.
Policy 5	-- Environmental Quality Review Regulations. -- Zoning Ordinance including Site Plan Review Section. -- Subdivision Regulations. -- Repair and Maintenance of Barrytown Bridge Structure. -- Repair of Railroad Bridges at Rokeby and Mandara.
Policy 6	-- Keeping all agencies aware of LWRP and consistency review procedures as basis of expediting review. -- Consistency Law.
Policy 7	-- Not applicable.
Policy 7A	-- Environmental Quality Review Regulations.

- Zoning Ordinance, including Sections on Waterfront Conservation District and Site Plan Review.
- Flood Damage Prevention Local Law.
- Subdivision Regulations.
  
- Re-Establishment of the Sawkill Surveillance Program.
- Use of Scenic District Handbook.
- Use of Scenic or Conservation Easements.
  
- Policy 8
  - Environmental Quality Review Regulations.
  - Review of proposals through land use permitting procedures included in the Zoning Ordinance.
  - Re-establishment of the Sawkill Surveillance Program.
  - Industrial Performance Standards Section of the Zoning Ordinance.
  
- Policy 9
  - Creation of Scenic Lookout/Parking Areas.
  - Feasibility Study - Establishment of Town Dock and Mini-Park at Barrytown.
  
- Policy 10
  - Feasibility Study - Establishment of Town Dock at Barrytown.
  
- Policy 11
  - Flood Damage Prevention Local Law.
  - Environmental Quality Review Regulations.
  - Zoning Ordinance, including Sections on Waterfront Conservation District and Site Plan Review.
  - Subdivision Regulations.
  - Revisions to Land Conservation District.
  - Use of Scenic District Handbook.
  
- Policy 12
  - Flood Damage Prevention Local Law.
  - Environmental Quality Review Regulations.
  - Waterfront Conservation District and Site Plan Review Sections of the Zoning Ordinance.
  - Subdivision Regulations.
  
- Policy 13
  - Environmental Quality Review Regulations.
  
- Policy 14
  - Flood Damage Prevention Local Law.
  - Environmental Quality Review Regulations.
  - Zoning Ordinance including section on Site Plan Review.
  - Subdivision Regulations.
  
- Policy 15
  - Environmental Quality Review Regulations.

- Policy 16       -- Environmental Quality Review Regulations.
- Policy 17       -- Flood Damage Prevention Local Law.  
                  -- Environmental Quality Review Regulations.  
                  -- Zoning Ordinance including Site Plan Review Section.  
                  -- Subdivision Regulations.
- Policy 18       -- Environmental Quality Review Regulations.  
                  -- Zoning Ordinance including Site Plan Review Section.
- Policy 19       -- DEC efforts to maintain public access locations to Tivoli North Bay  
                  -- Possible Improvement of Cruger Island Road.  
                  -- Efforts to Secure Agreements and/or Funding for Maintenance and/or Repair of Bridges over the Railroad Tracks.  
                  -- Possible Improvements to Cruger Island Road.
- Policies 20 and 20A       -- Feasibility Study - Establishment of Town Dock and Mini-Park in Barrytown.  
                              -- Repair and/or Maintenance of the Railroad Bridges.
- Policies 21 and 21A       -- Environmental Quality Review Regulations.  
                              -- Feasibility Study - Establishment of Town Dock and Mini-Park in Barrytown.  
                              -- Private and/or Public Efforts to Establish Water-Related Recreation Facilities at Coastal Access Points.  
                              -- Private Improvements to the Red Hook Boat Club.
- Policy 22       -- Zoning Ordinance.  
                  -- Revisions to Zoning Ordinance.
- Policies 23 and 23A       -- Environmental Quality Review Regulations.  
                              -- Zoning Ordinance including Historic Landmarks Overlay District and Site Plan Review.  
                              -- Subdivision Regulations.  
                              -- Use of Scenic District and Scenic Roads Handbooks.  
                              -- Efforts to Maintain and Improve Roadside Conditions.  
                              -- Stabilization and Rehabilitation of Masonry Barns at Tivoli Bays Preserve/Sanctuary.  
                              -- Historic Preservation Programs.

- Use of Scenic or Conservation Easements.
- Use of Facade Easements.
- Scenic Corridor Overlay District
- 
- Revisions to Site Plan Review.

**Policy 24, 24A and 24B**

- Not applicable.

**Policies 24A and 24B**

- Environmental Quality Review Regulations.
- Zoning Ordinance including the Scenic Corridor Overlay District, Environmental Protection Overlay District, and the Historic Landmark Overlay District, Site Plan Review and Sign Regulations.
- Subdivision Regulations.
- Unsafe Buildings and Collapsed Structures Law.
- Use of Scenic District and Scenic Roads Handbooks.
- Revisions to Landscaping Provisions.
- 
- Efforts to Maintain and Improve Roadside Conditions.
- Stabilization and Rehabilitation of Masonry Barns at Tivoli Bays Preserve/Sanctuary.
- Historic Preservation Programs.
- Establishment of Scenic Lookout/Parking Areas.
- Use of Scenic or Conservation Easements.
- Establishment of Special Scenic District.
- Development of a Visitor's Entrance and Parking Area and Provision of a Shuttle Bus at Montgomery Place.
- Communication with Dutchess County Department of Public Works.

**Policy 25**

- Environmental Quality Review Regulations.
- Zoning Ordinance including the Scenic Corridor Overlay District, the Environmental Protection Overlay District, and the Site Plan Review Section.
- Subdivision Regulations.
- Use of Scenic District and Scenic Roads Handbooks.
- Efforts to Maintain and Improve Roadside Conditions.
- Historic Preservation Programs.
- Establishment of Scenic Lookout/Pull-off and Parking Areas.
- Use of Scenic or Conservation Easements.



- Policy 26 -- Not applicable.
- Policy 26A -- Environmental Quality Review Regulations.  
 -- Subdivision Regulations including Use of Clustering.  
 -- Zoning Ordinance including the Rural Development 5 District, the Site Plan Review Section and Clustering Provisions.  
 -- Town Support of Agricultural Districting Program.  
 -- Use of Scenic or Conservation Easements.
- Policy 27 -- Environmental Quality Review Regulations.  
 -- Zoning Ordinance including Site Plan Review Section and Industrial Performance Standards Section.  
 -- Subdivision Regulations.
- Policy 28 -- Environmental Quality Review Regulations.
- Policy 29 -- Not applicable.
- Policy 30 -- Environmental Quality Review Regulations.  
 -- Site Plan Review.  
 -- Regulations on Disposal of Refuse.  
 -- Industrial Performance Standards Section of the Zoning Ordinance.  
 -- Re-establishment of Saw Kill Surveillance Program.
- Policy 31 -- Environmental Quality Review Regulations.  
 -- Re-establishment of Saw Kill Surveillance Program.
- Policy 32 -- Environmental Quality Review Regulations.  
 -- Site Plan Review Section of the Zoning Ordinance.
- Policy 33 -- Environmental Quality Review Regulations.  
 -- Site Plan Review Section of Zoning Ordinance.
- Policy 34 -- Environmental Quality Review Regulations.
- Policy 35 -- Environmental Quality Review Regulations.
- Policy 36 -- Environmental Quality Review Regulations.  
 -- Zoning Ordinance
- Policy 37 -- Environmental Quality Review Regulations.
- Policies 38 and 38A -- Environmental Quality Review Regulations.

- Regulations Concerning Disposal of Refuse.
  - Zoning Ordinance including Sections on Industrial Performance Standards and Site Plan Review.
  - Re-establishment of a Saw Kill Surveillance Program.
- Policy 39
- Environmental Quality Review Regulations.
  - Zoning Ordinance including Site Plan Review Section.
  - Regulations for Disposal of Refuse.
  - Revision to Site Plan Regulations.
- Policy 40
- Environmental Quality Review Regulations.
  - Zoning Ordinance including Site Plan Review Section.
- Policy 41
- Environmental Quality Review Regulations.
  - Zoning Ordinance including Industrial Performance Standards Section.
- Policy 42
- Environmental Quality Review Regulations.
- Policy 43
- Environmental Quality Review Regulations.
- Policy 44
- Environmental Quality Review Regulations.
  - Zoning Ordinance including Sections on Waterfront Conservation District and Site Plan Review.
  - Subdivision Regulations.
  - Flood Damage Prevention Local Law.
  - Use of Scenic District Handbook.
  - Use of Scenic or Conservation Easements.

Major initiatives undertaken in Red Hook in protecting and enhancing sites, uses, environmental features, and quality of life within the Town, particularly in the areas designated as the Local Waterfront Revitalization area/Mid-Hudson Historic Shorelands Scenic District.

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|-------|--|
| 1968  | <u>Red Hook Comprehensive Plan, Town and Village</u> , completed by Sargent-Webster-Crenshaw & Folley, Planners and Consultants to the Town.   |
| 1969  | Publication of <u>Landmarks of Dutchess County-Architecture Worth Saving</u> by the Dutchess County Planning Board with funds from the New York State Arts Council.  |
| 1970  | Establishment of Ecology Field Station at Bard College.  |
| 1970  | Red Hook Town Zoning Law adopted with Subdivision Regulations.   |
| 1971  | Red Hook Visual Environment Committee created to maintain and improve visual integrity in the towns and village. Encouraged storefront restoration, tree planting and appropriate signage.   |
| 1974  | Commission for the Conservation of the Environment appointed by the Town Board.  |
| 1974  | Hudson River Heritage, Inc., a non-profit preservation organization concerned with river properties, was founded.  |
| 1974  | Red Hook Town Revised Zoning Law Adopted with Revised Subdivision Regulations.   |
| *1976 | Hudson River Nature Trail planning begun, sponsored by Hudson River Heritage, Inc. and Dutchess County Cooperative Extension Service.  |
| *1976 | Agricultural Districts formed to provide tax relief for farmers.   |
| *1976 | Hudson River Shorelands Task Force created by the towns in the Historic District. This not-for-profit organization was set up to monitor land use activities within the district and to make recommendations on scenic and historic preservation activities. |
| 1977  | Establishment of the Egbert Benson Historical Society of Red Hook.   |
| *1978 | <u>Hudson River East Bank Natural Areas, Clermont to Norrie</u> , study by Erik Kiviat, sponsored by The Nature Conservancy.   |

- \*1979                      Sixteen Mile Historic District which incorporates large estates in Hyde Park, Rhinebeck, Red Hook, Tivoli and Clermont designated on the National Register of Historic Places.
  
- \*1979                      The Hudson River Valley: A Heritage for All Time, a study by Raymond, Parish, Pine & Weiner, Inc. for the New York State Department of Environmental Conservation, published as a result of the Hudson River Study Bill.
  
- \*1980                      Inventory and Evaluation of Landscape Architecture in the Sixteen Mile Historic District, a study by Robert Toole commissioned by the Hudson River Shorelands Task Force.
  
- \*1980                      "State Regulated Wetlands," a Wetlands Survey undertaken by the Commission for the Conservation of the Environment.
  
- \*1981                      New York State's first Scenic Area, "Mid-Hudson Historic Shorelands Scenic Area," designated pursuant to Article 49 of the Environmental Conservation Law. The Town began work with the Hudson River Shorelands Task Force to develop a Scenic District Management Plan with attention to proposed Scenic Roads and land use controls with monies for the plan coming from the Heritage Task Force for the Hudson River Valley, Inc.
  
- \*1981                      Hudson River Stone Walls, a study by the Preservation Partnership, consultants for Hudson River Heritage, Inc..
  
- \*1981                      Heritage Task Force for the Hudson River Valley, Inc. formed by Department of Environmental Conservation.
  
- 1981                      Acquisition in two stages of the Tivoli Bays State  
 1985                      Nature and Historical Preserve.
  
- 1982                      Environmental Impact Statement for the Hudson River Estuarine Sanctuary, a study prepared by the U.S. Department of Commerce (NOAA) and the New York State Department of Environmental Conservation about the designation of four Hudson River sites, including the Tivoli Bays, as the Hudson River National Estuarine Sanctuary and designation of the Tivoli Bays area as a National Estuarine Sanctuary.
  
- 1982                      Snyder Swamp and the Mudder Kill Environmental Study, researched and prepared by Erik Kwiat, commissioned by Hudson River Heritage, Inc.

- \*1983                    Management Plan for the Mid-Hudson Historic Shoreland Scenic District prepared by the Hudson River Shorelands Task Force and Robert M. Toole for the Heritage Task Force.
- \*1984                    Local Waterfront Revitalization Program planning undertaken by Town with assistance 1986 from RPPW Inc.
- \*1985                    Dutchess County Department of Planning draft report, Directions: The Plan for Dutchess County.
- 1985                    Scenic Roads in the Town designated by th New York State Department of Environmental Conservation.
- 1985                    Dutchess Land Conservancy formed.
- 1985                    Dutchess County Natural Resource Inventory published by the Dutchess County Environmental Management Council and Dutchess County Planning Department after nine years preparation.
- 1986                    Purchase of Montgomery Place by Sleepy Hollow Restorations Preservation, for public visitation and museum purposes.

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

**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 (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

**2. DEFINITIONS**

- A. Action means:
1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
  2. Occurring within the boundaries of an approved LWRP; and
  3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.
- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and

purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
3. That will result in an overriding regional or statewide public benefit.

C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

### 3. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
1. Shall fully describe the nature and location of the action;
  2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
  3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)

- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

**4. LOCAL GOVERNMENT REVIEW PROCEDURE**

- A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.



**5. RESOLUTION OF CONFLICTS**

- A.** The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
- 1.** Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.
  - 2.** If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
  - 3.** If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
  - 4.** Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.
  - 5.** If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.

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

**G. PROCEDURAL GUIDELINES FOR COORDINATING NYS DEPARTMENT OF STATE (DOS) & LWRP CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS**

**DIRECT ACTIONS**

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

**PERMIT AND LICENSE ACTIONS**

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator and will identify the Department's principal reviewer for the proposed action.
2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional

information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.

3. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.
4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.
5. After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.
6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant. .
7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

#### **FINANCIAL ASSISTANCE ACTIONS**

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.
2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
3. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.

4. The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty days (or other time agreed to by DOS and the program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.
5. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.