

## **APPENDIX B**

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**CHAPTER 52A WATERFRONT CONSISTENCY REVIEW**

[HISTORY: Adopted by the Board of Trustees of the Village of Sag Harbor 12-1-1998 by L.L. No. 9-1998. Amendments noted where applicable.]

**GENERAL REFERENCES**

Environmental Quality Review — See Ch. 15.

Land and beach use — See Ch. 27.

Subdivision of land — See Ch. 46.

Zoning — See Ch. 55.

**§ 52A-1 Title.**

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

**§ 52A-2 Authority and purpose.**A.

This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).

B.

The purpose of this local law is to provide a framework for agencies of the Village of Sag Harbor to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the coastal area and to assure that such actions and direct actions are consistent with the said policies and purposes.

C.

It is the intention of the Village of Sag Harbor that the preservation, enhancement and utilization of the natural and manmade resources of the unique coastal area of the village take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss of estuarine resources and wildlife; diminution of open space areas or public accesses to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

D.

The substantive provisions of this local law shall apply only while there is in existence a village Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

**§ 52A-3 Definitions.**

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

ACTIONSA.

Either Type I or unlisted actions as defined in SEQRA regulations (6 NYCRR 617.2) which are undertaken by an agency and which include:

(1)

Projects or physical activities, as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:

(a)

Are directly undertaken by an agency; or

(b)

Involve funding by an agency; or

(c)

Require one or more new or modified approvals from an agency or agencies.

(2)

Agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions.

(3)

Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment.

(4)

Any combinations of the above.

B.

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

(1)

Maintenance or repair involving no substantial changes in an existing structure or facility.

(2)

Agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming.

(3)

Repaving of existing highways not involving the addition of new travel lanes.

(4)

Street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities.

(5)

Maintenance of existing landscaping or natural growth.

(6)

Routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area and school closings, but not changes in use related to such closings.

(7)

Extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list.

(8)

Granting of individual setback and lot line variances.

(9)

Granting of an area variance(s) for a single-family, two-family or three-family residence.

(10)

Public or private best forest management (silvicultural) practices on less than 10 acres of land, but not including waste disposal, land clearing not directly related to forest management, clear-cutting or the application of herbicides or pesticides.

(11)

Mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns.

(12)

Information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or unlisted action.

(13)

Official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s).

(14)

Routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment.

(15)

Conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided that those activities do not commit the agency to commence, engage in or approve such action.

(16)

Collective bargaining activities.

(17)

Investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt.

(18)

Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession.

(19)

Purchase or sale of furnishings, equipment or supplies, including surplus government property, other than land, radioactive material, pesticides, herbicides or other hazardous materials.

(20)

Adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list.

(21)

Engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of 6 NYCRR Part 617.5 have been fulfilled.

(22)

Civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion.

(23)

Adoption of a moratorium on land development or construction.

(24)

Interpreting an existing code, rule or regulation.

(25)

Designation of local landmarks or their inclusion within the historic district.

(26)

Emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of 6 NYCRR Part 617.5.

AGENCY

Any board, agency, department, office, other body or officer of the Village of Sag Harbor.

COASTAL AREA

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

COASTAL ASSESSMENT FORM (CAF)

The form contained in Appendix A,

Editor's Note: Appendix A is located at the end of this chapter.

used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.

CONSISTENT

That the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.

DIRECT ACTIONS

Actions planned and proposed for implementation by an agency, such as, but not limited to, a capital project, rule-making, procedure-making and policy-making.

HARBOR COMMITTEE OR COMMITTEE

The Harbor Committee of the Village of Sag Harbor, as established by Chapter 21 of the village Code.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)

The Local Waterfront Revitalization Program of the Village of Sag Harbor, approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), a copy of which is on file in the office of the Clerk of the Village of Sag Harbor.

**§ 52A-4**            Harbor Committee.

The Committee is authorized to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the Village of Sag Harbor Local Waterfront Revitalization Program policy standards and conditions.

**§ 52A-5**            Review of actions.

A.

Whenever a proposed action is located in the village's coastal area, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards and conditions set forth in Subsection G herein.

B.

Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the coastal area, the applicant, or in the case of a direct action, the agency, shall prepare a coastal assessment form (CAF) to assist with the consistency review of the proposed action.

C.

The agency shall refer a copy of the completed CAF to the Committee within 10 days of its submission and prior to making its determination shall consider the recommendation of the Committee with reference to the consistency of the proposed action.

D.

After referral from an agency, the Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Subsection G herein. The committee shall require the applicant to submit all completed applications, CAF's and any other information deemed to be necessary to its consistency recommendation.

E.

The Committee shall render its written recommendation to the agency within 30 days following referral of the CAF from the agency, unless extended by mutual agreement of the Committee and the applicant or, in the case of direct action, the agency. The recommendation shall indicate whether, in the opinion of the Committee, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and shall elaborate in writing the basis for its opinion.

(1)

The Committee shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them.

(2)

In the event that the Committee's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Committee's recommendation.

F.

The agency shall make the determination of consistency based on the CAF, the Committee's recommendation and such other information as is deemed to be necessary in its determination. The agency shall issue its determination within 30 days following receipt of the Committee's recommendation and submission by the applicant of any additional required information. The agency shall have the authority, in the finding of consistency, to impose practicable and reasonable conditions on any action to ensure that it is carried out in accordance with this local law.

G.

Actions to be undertaken within the Sag Harbor coastal area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Village of Sag Harbor LWRP, a copy of which is on file in the Village Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with:

(1)

Policy 1: foster a pattern of development in the Village of Sag Harbor that makes beneficial use of its coastal location, enhances community character, preserves open space, makes efficient use of existing infrastructure and minimizes adverse effects of development.

(a)

Policy 1.1: sustain the pattern of existing land use which defines Sag Harbor as an historic port.

(b)

Policy 1.2: protect and enhance residential areas.

(c)

Policy 1.3: maintain and enhance natural areas, open space and recreational lands.

(d)

Policy 1.4: ensure that development and uses make beneficial use of Sag Harbor's coastal location.

(e)

Policy 1.5: minimize adverse impacts of new development and redevelopment.

(2)

Policy 2: sustain the Village of Sag Harbor as a center of maritime activity and suitable location for water-dependent uses.

(a)

Policy 2.1: protect existing water-dependent uses.

(b)

Policy 2.2: allow for new commercial and recreational water-dependent uses in the waterfront functional area, consistent with local zoning.

(c)

Policy 2.3: minimize adverse impacts of water-dependent uses and provide for their safe operation.

(d)

Policy 2.4: provide sufficient infrastructure for water-dependent uses.

(e)

Policy 2.5: promote efficient harbor operation.

(f)

Policy 2.6: participate in regional intermodal transportation activities that enhance maritime character and provide an alternative transportation method.

(3)

Policy 3: promote sustainable use of living marine resources in Sag Harbor.

(a)

Policy 3.1: ensure the long-term maintenance and health of living marine resources.

(b)

Policy 3.2: provide for commercial and recreational use of finfish, shellfish, crustaceans and marine plants.

(c)

Policy 3.3: promote recreational use of marine resources.

(4)

Policy 4: minimize loss of life, structures and natural resources from flooding and erosion.

(a)

Policy 4.1: minimize losses of human life and structures from flooding hazards and erosion.

(b)

Policy 4.2: preserve and restore natural protective features.

(c)

Policy 4.3: protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects.

(d)

Policy 4.4: manage navigation infrastructure to limit adverse impacts on coastal processes.

(e)

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

(f)

Policy 4.6: consider a sea level rise in the siting and design of projects involving substantial public expenditure.

(5)

Policy 5: protect and improve water quality and supply in waters of the village of Sag Harbor.

(a)

Policy 5.1: prohibit direct or indirect discharges which would cause or contribute to contravention of water quality standards.

(b)

Policy 5.2: minimize nonpoint pollution of coastal waters and manage activities causing nonpoint pollution.

(c)

Policy 5.3: protect and enhance water quality of coastal waters.

(d)

Policy 5.4: protect and conserve the quality and quantity of potable water.

(6)

Policy 6: protect and restore the quality and function of the Village of Sag Harbor ecosystem.

(a)

Policy 6.1: protect and restore ecological quality throughout Sag Harbor.

(b)

Policy 6.2: development within or near the Sag Harbor and Northwest Harbor Significant Coastal Fish and Wildlife Habitat shall be sited so as not to impair the viability of the habitat.

(c)

Policy 6.3: protect and restore tidal wetlands.

(7)

Policy 7: provide for public access to and recreation opportunities on waters, public lands and public resources of the Village of Sag Harbor local waterfront revitalization area.

(a)

Policy 7.1: promote appropriate and adequate physical public access and recreation throughout the Village of Sag Harbor coastal area.

(b)

Policy 7.2: provide physical linkages between public parks, open spaces, public trust lands and nearshore surface waters.

(c)

Policy 7.3: provide public visual access to coastal lands and waters or open space at all sites where physically practical.

(d)

Policy 7.4: preserve the public interest in and use of lands and waters held in public trust by New York State, Suffolk County and the Towns of East Hampton and Southampton.

(e)

Policy 7.5: assure public access to public trust lands and navigable waters.

(f)

Policy 7.6: provide access and recreation which are compatible with natural resource values.

(8)

Policy 8: preserve historic resources of the Village of Sag Harbor.

(a)

Policy 8.1: maximize preservation and retention of historic resources.

(b)

Policy 8.2: protect and preserve archaeological resources.

(c)

Policy 8.3: protect and enhance resources that are significant to the coastal culture of Sag Harbor and the Peconic Bay area.

(9)

Policy 9: enhance visual quality and protect scenic resources in the Village of Sag Harbor.



(a)

Policy 9.1: protect and improve visual quality in the Village of Sag Harbor.

(10)

Policy 10: protect and improve the air quality of Long Island.

(a)

Policy 10.1: control or abate existing and prevent new air pollution.

(b)

Policy 10.2: limit discharges of atmospheric radioactive material to a level that is as low as practicable.

(c)

Policy 10.3: limit sources of atmospheric deposition of pollutants to the Long Island South and Peconic Bays, particularly from nitrogen sources.

(11)

Policy 11: minimize environmental degradation in the Long Island coastal area from solid waste and hazardous substances and wastes.

(a)

Policy 11.1: manage solid waste to protect public health and control pollution.

(b)

Policy 11.2: manage hazardous wastes to protect public health and control pollution.

(c)

Policy 11.3: protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.

(d)

Policy 11.4: prevent and remediate discharge of petroleum products.

(e)

Policy 11.5: transport solid waste and hazardous substances and waste in a manner which protects the safety, well-being and general welfare of the public; the environmental resources of the state and the continued use of transportation facilities.

(f)

Policy 11.6: site solid and hazardous waste facilities to avoid potential degradation of coastal resources.

H.

Actions not consistent with LWRP policy standards and conditions.

(1)

If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency makes a written finding with respect to the proposed action that:

(a)

No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions.

(b)

The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions.

(c)

The action will advance one or more of the other LWRP policy standards and conditions.

(d)

The action will result in overriding village, regional or statewide public benefit.

(2)

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

I.

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

**§ 52A-6                    Enforcement.**

The Village Building Inspector shall be responsible for enforcing this local law. No work or activity on a project on the coastal area which is subject to review under this local law shall be commenced or undertaken until the Village Building Inspector has been presented with a written determination from an agency that the action is consistent with the village's LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with this local law or any conditions imposed thereunder, the Village Building Inspector shall issue a stop-work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop-work order is in effect.

**§ 52A-7                    Violations.**

A.

A person who violates any of the provisions of or who fails to comply with any conditions imposed by this local law shall be guilty of a violation, punishable by a fine not exceeding \$500 for a conviction of a first offense and punishable by a fine not exceeding \$1,000 for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.

B.

The Village Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty. The village may also enforce this local law by injunction or other civil proceeding.

**§ 52A-8                    Severability.**

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part of provision hereof other than the provision so found to be invalid.

52Aa Appendix A

**CHAPTER 15    ENVIRONMENTAL QUALITY REVIEW**

[HISTORY: Adopted by the Board of Trustees of the Village of Sag Harbor 5-27-2005 by L.L. No. 12-2005 .  
Editor's Note: This local law also repealed former Ch. 15, Environmental Quality Review, adopted 12-1-1998.  
Amendments noted where applicable.]

**GENERAL REFERENCES**

Bulkheading, dredging and canals — See Ch. 12.

Land and beach use — See Ch. 27.

Subdivision of land — See Ch. 46.

Waterfront consistency review — See Ch. 52A.

Wetlands — See Ch. 53A.

Zoning — See Ch. 55.

**§ 15-1            ARTICLE I - General Provisions****§ 15-1.1            Title.**

This chapter shall be known as the "Village of Sag Harbor Environmental Quality Review Law."

**§ 15-1.2            Purpose.**

The purpose of this chapter is to implement, for the Village of Sag Harbor, the provisions of the State Environmental Quality Review Act and the State Environmental Quality Review Regulations, thereby incorporating environmental factors into local planning and decisionmaking processes.

**§ 15-1.3            Statutory authority.**

This chapter is adopted under the authority of the Municipal Home Rule Law, the State Environmental Quality Review Act (Environmental Conservation Law, Article 8) and its implementing regulations.

**§ 15-1.4            Definitions and word usage.****A.**

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

**DEIS**

A draft environmental impact statement.

**EAF**

Environmental assessment form.

**EIS**

Environmental impact statement.

**LOCAL AGENCY**

All agencies, departments, boards, bodies, offices and officers of the Village of Sag Harbor.

**PART 617**

The regulations adopted by the New York State Department of Environmental Conservation pursuant to the State Environmental Quality Review Act.

**SEQRA**

The State Environmental Quality Review Act (referred to as "SEQRA").

**B.**

All other terms for which definitions are given in SEQRA or Part 617 shall have the same meanings for the

purposes of this chapter. All references to sections of state law or regulations, or to sections of the Village Code shall be deemed to include any new section number which may be subsequently assigned to said section or sections.

**§ 15-1.5            Applicability.**

All local agencies must comply with SEQRA, Part 617 and this law to the extent the same are applicable, prior to approving, funding or carrying out any action, other than an action which is exempt, excluded or a Type II action.

**§ 15-2            ARTICLE II - Environmental Review Procedures**

**§ 15-2.1            Lead agency.**

A.

The lead agency shall be that local agency principally responsible for carrying out, funding or approving an action. The lead agency is responsible for determining whether an EIS is required for an action, and for preparation and filing of the EIS if it is required.

B.

Where more than one agency is involved, the lead agency shall be determined and designated as provided in Section 6 of Part 617.

C.

The Planning Board will be the Village clearinghouse for lead agency designations. It will assist agencies and applicants in identifying other federal, state and local agencies that will be involved in approving, funding or carrying out a Type I or unlisted action. The clearinghouse will make recommendations on the designation of lead agencies for particular actions.

**§ 15-2.2            Environmental assessment and determination of significance.**

A.

When any local agency of the Village of Sag Harbor contemplates directly carrying out, funding or approving a Type I action, a full EAF must be prepared on its behalf. When an unlisted action is contemplated, either a full or short form EAF, as appropriate, must be prepared. The EAF forms given in Appendices A, B and C of Part 617 will be used as models by the Village, but these forms may be modified, to meet the needs of a particular case. In each instance, however, the final scope of such modified EAF must be at least as comprehensive as the scope of the model forms.

B.

When any person submits an application for funding or a permit or other approval of a Type I or unlisted action to any local agency, an EAF Part 1 must accompany the application. For Type I actions, a full EAF must be prepared; for unlisted actions, either a full EAF or a short-form EAF may be used, as appropriate. An applicant may choose to prepare a DEIS in lieu of an EAF.

C.

The lead agency must make a determination of the environmental significance of the action. This determination must be based upon the EAF or, with respect to unlisted actions, its own procedures, as the case may be, as well as on any other relevant information it may require. The criteria stated in Part 617 must also be considered by the lead agency in making the required determination of significance. The determination must be made within the time period required in Part 617.

D.

For Type I actions, the lead agency must give public notice and file any determination of nonsignificance as provided in Part 617. For unlisted actions, the lead agency must send any determination of nonsignificance to the applicant, if any, and maintain its own records thereof in accordance with the provisions of Part 617.

E.

If the lead agency makes a determination of nonsignificance, the direct action, approval or funding involved in the action, as well as the decisions involved with the same, may be processed without further regard to SEQRA, Part 617 or this chapter.

F.

For the purposes of determining compliance with any law or regulation governing the maximum allowable period of review permitted for any local agency, the time of filing an application for approval or funding of an action shall be deemed to have been the date on which the determination of environmental nonsignificance is made. If a finding of significance is made and an EIS is required, or if the applicant has prepared a DEIS in lieu of any EAF, the time of filing shall be the date the lead agency formally accepts the DEIS as adequate in scope and content and commences the public comment period thereon.

**§ 15-2.3**            **EIS preparation.**A.

If, based upon review of the EAF and other information, the lead agency determines that the proposed action may be environmentally significant, then an EIS must be prepared.

B.

If an EIS is required, the lead agency must proceed as provided in Part 617. The draft EIS will normally be prepared by the applicant. If the applicant fails to prepare a DEIS or prepares a DEIS which is unacceptable to the lead agency, the lead agency may either prepare a DEIS itself, discontinue further processing until the applicant can provide an acceptable DEIS or deem the application abandoned and discontinue review.

C.

If a public hearing is held on the DEIS, it must, whenever possible, be concurrent with any other hearing on the application.

**§ 15-3**            **ARTICLE III - Designation of Critical Areas, Type I and Type II Actions****§ 15-3.1**            **Critical areas.**A.

Critical areas of environmental concern will be designated from time to time by resolution of the Village Board in accordance with provisions of Part 617.

**§ 15-3.2**            **Type I actions.**A.

For purposes of this chapter, Type I actions include all those listed in Part 617. The Board of Trustees may from time to time designate additional Type I actions, in accordance with Part 617.

B.

In addition to the above, the following actions shall also be Type I actions in the Village of Sag Harbor:

(1)

Any site plan for projects in the Historic District where the project includes a change of use or a structure with a gross floor area of 3,000 square feet or more.

(2)

Any subdivision or site plan which directly or indirectly may degrade, despoil or eliminate one or more of the natural or cultural features listed herein: water bodies, drainage courses, fresh and salt marshes, dunes, bluffs, beaches, escarpments, site types identified in the Village of Sag Harbor LWRP or Harbor Management Plan, unique plant and wildlife habitat, overlook areas, paleontological and archaeological remains, trails, and historic buildings if development is not in accordance with Chapter 55 of the Code.

(3)

Any project which directly fills or dewateres wetlands or water bodies.

(4)

Any project which disturbs a previously undisturbed primary dune.

(5)

Any project which threatens or destroys rare or endangered species as defined in the lists established by the federal government, the New York State Department of Environmental Conservation, the New York State

Museum or the Nature Conservancy Heritage Program.

(6)

Motel, hotel or cooperative or condominium complexes of 20 units or greater.

(7)

Parking facilities or other facilities with an associated parking area for 20 or more cars.

(8)

Any deletion from the Type I list.

**§ 15-3.3            Type II actions.**

For the purposes of this chapter, Type II actions shall include those actions listed in Part 617. The Board of Trustees may from time to time designate additional Type II actions, in accordance with Part 617.

**CHAPTER 53A WETLANDS**

[HISTORY: Adopted by the Board of Trustees of the Village of Sag Harbor 10-14-2008 by L.L. No. 5-2008 .

Editor's Note: This local law also repealed former Ch. 53A, Wetlands, adopted 6-11-2002 by L.L. No. 4-2002, as amended.

Amendments noted where applicable.]

**GENERAL REFERENCES**

Bulkheading, dredging and canals — See Ch. 12.

Harbor Committee — See Ch. 21.

Subdivision of land — See Ch. 46.

Waterfront consistency review — See Ch. 52A.

Waterways — See Ch. 53.

Zoning — See Ch. 55.

**§ 53A-1 Legislative intent.**A.

The Board of Trustees of the Village of Sag Harbor finds that growth of population and attendant development have placed increasing demands upon natural resources, which have the potential to encroach upon, despoil, pollute or eliminate many of the wetlands of the Village.

B.

Brackish, freshwater and tidal wetlands are indispensable and fragile natural resources which are vital to the environmental and economic health of the Village of Sag Harbor. If preserved, these wetlands constitute vital physical, economic, social, historic, archeological, aesthetic, recreational and ecological assets to present and future residents of the Village. They provide many beneficial functions, including natural flood and stormwater control, groundwater recharge, natural pollution treatment, erosion and sediment control, wildlife habitat creation, open space and aesthetic appreciation, educational opportunities, as well as means to protect subsurface water resources.

C.

The Board of Trustees finds all wetlands to be of importance, and it is hereby determined by the Board of Trustees that the regulation of the use and management of the wetlands in the Village of Sag Harbor is essential to the health, safety, economic and general welfare of the citizens of the Village. The Board of Trustees of the Village declares it to be the policy of the Village of Sag Harbor to:

(1)

Protect and preserve these wetlands with the valuable attributes and functions they possess;

(2)

Prevent the despoliation and destruction of these wetlands whenever practicable;

(3)

Protect the surface and groundwater resources against misuse; and

(4)

Regulate the use and development of these wetlands, thereby securing their natural benefits for the present and future residents of the Village of Sag Harbor.

D.

This chapter shall apply to all lands defined as wetlands, to any activity in an adjacent area (as defined herein) of a wetland, or to any activity that has the potential to adversely impact wetlands.

**§ 53A-2 Title.**

This chapter shall be known as and may be cited as the "Wetlands Law of the Village of Sag Harbor."

**§ 53A-3**            **Definitions.**

The following terms, phrases or words and their derivations shall have the meanings given herein:

**ADJACENT AREA**

The area which extends 150 feet landward of the wetlands boundary and which is bounded by a boundary which is parallel to the wetlands boundary and shall be subject to the regulations for wetlands.

**APPLICANT**

Any individual(s), vendee, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof, filing an application for a wetlands permit or approval pursuant to this chapter.

**ARTIFICIALLY LINED POND**

Any man-made pond that is created by using an artificial seal to prevent water from seeping into the ground.

**BLUFF**

Any bank or cliff with a precipitous or steeply sloped face adjoining a beach or body of water.

**BOARD OF TRUSTEES**

The Board of Trustees of the Village of Sag Harbor.

**BOUNDARY OF A WETLAND or WETLANDS BOUNDARY**

The landward limit of wetlands as specified in the definitions of "brackish wetlands," "freshwater wetlands" and "tidal wetlands" below.

**BRACKISH WETLANDS****A.**

The lands and waters in the Village of Sag Harbor [including, but not limited to, wetlands as shown on the wetlands map, prepared by K. Blumer (May 1994) for the Village of Sag Harbor] which are flooded by tides for varying periods depending on elevation and tidal amplitude, and which contain a mixture of fresh and saline water, and lands and submerged lands commonly called "brackish or intermediate marshes" which occur along coastal rivers, streams, creeks, bays, lagoons and coves where fresh and salt water mix, and which frequently form a transition zone or very narrow band between tidal and coastal fresh marshes. The vegetation of these marshes is highly varied due to the broad range of salinities characteristic of this coastal wetlands type and often forms a continuum characterized by a gradual intermixing of tidal and fresh marsh plants. These lands and waters can occur at some distance inland from tidal watercourses and tidally flooded salt marshes and are commonly dominated by aquatic or semiaquatic vegetation of the following types, which depend upon intermittent permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other species:

**(1)**

Emergent vegetation, including, among others, bulrush (*Scirpus robustus*), three square (*Scirpus americanus*), big cordgrass (*Spartina cynosuroides*), salt meadow grass (*Spartina patens*), spike grass (*Distichlis spicata*), purple loosestrife (*Lythrum salicaria*), soft-stemmed bulrush (*Scirpus validus*), spike rushes (*Eleocharis* spp.), water hemp (*Acnida cannabina*), Mock Bishop weed (*Ptilimnium capillaceum*), rose mallow (*Hibiscus moscheutos*), seashore mallow (*Kosteletzkya virginica*); and common reed (*Phragmites* spp.), provided that such common reed is underlain by bog, peat, hydric or saturated soils, or is inundated by brackish surface waters. Field indicators of wetland hydrology or inundation shall include, among others, visual observation of inundation, visual observation of soil saturation within 24 inches of the soil surface, watermarks (e.g., silt or pollen lines), drift lines (e.g., deposits of waterborne debris), sediment deposits (e.g., sediment that settled out of standing water on plant bases or objects on the ground), staining or matting of soils, leaves or vegetation, drainage patterns in wetlands (e.g., braided channels in wetlands, scouring of debris, evidence of sheet flow), and local soil survey data (e.g., typical water table depths, durations, and soil series mapped in the county). Field indicators of bog, peat, hydric or saturated soils shall include characteristic hydric soil profiles, horizons, composition, color, texture, odor, moisture, taxonomy,



and/or soil surveys.

(2)

Brackish meadow vegetation, including, among others, sensitive fern (*Onoclea sensibilis*), halberd-leaved tearthumb (*Polygonum arifolium*), impatiens (*Impatiens capensis*), American germander (*Teucrium canadense*), marsh fern (*Thelypteris palustris*), soft-stemmed bulrush (*Scirpus americanus*), purple loosestrife (*Lythrum salicaria*), bristly foxtail (*Setaria geniculata*), purple gerardia (*Agalinis purpurea*) and slender goldenrod (*Solidago tenuifolia*).

(3)

Scrub-shrub vegetation or woody vegetation typically less than six meters (20 feet) tall, including shrubs, young trees and trees or shrubs that are small or stunted because of environmental conditions, including, among others, groundsel-tree (*Baccharis halimifolia*), swamp rose (*Rosa palustris*), arrowwood (*Viburnum dentatum*), American elder (*Sambucus canadensis*) and black gum (*Nyssa sylvatica*).

B.

Lands and submerged lands commonly called "coastal interdunal marshes" which occur as low areas or swales in the dunes or barrier island, or occur as other coastal depressions landward of a rise that are not directly connected to open tidal water or tidal action, where fresh groundwater mixes with salt water and salt spray, and which are dominated by vegetation of the following types, which depend on irregular or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other vegetation, including, among others, aquatic spikerush (*Eleocharis parvula*), Canada rush (*Juncus americanus*), rose mallow (*Hibiscus moscheutos*), three-square (*Spircus americanus*), salt-meadow grass (*Spartina patens*), switchgrass (*Panicum virgatum*), annual salt-marsh fleabane (*Pluchea odorata*), groundsel-tree (*Baccharis halimifolia*), annual salt marsh aster (*Aster subulatus*), seaside goldenrod (*Solidago sempervirens*) and common reed (*Phragmites* spp.), provided that such common reed is underlain by bog, peat, hydric or saturated soils.

#### DEPOSIT

To fill, place, inject or dump any liquid, solid or gaseous material, or the act thereof, but not including stormwater.

#### DOCK, PIER, WHARF

Any permanent or seasonal structure, except a building, located or proposed to be located on lands abutting or comprised of freshwater or tidal wetlands or connected to a bulkhead or the upland and extending over the waters surface, designed to secure vessels and provide access from the shore to a body of water. For the purpose of this chapter, these terms shall also include the associated structures necessary to cross wetlands and adjacent natural areas. The term "dock" includes the terms "wharves," "piers," "fixed docks," "floating docks," or "floats."

#### DREDGING

The removal or excavation of any sand, gravel, aggregate, soil, mud, or sediment from the land lying beneath any waterway or contiguous to any waterway within the jurisdiction of the Village of Sag Harbor.

#### FLOATING HOME

Any vessel in fact used, designed or occupied as a dwelling unit, business office or source of any occupation or for any private or social club of whatever nature, including but not limited to a structure constructed upon a barge primarily immobile and out of navigation which functions substantially as a land structure while the same is moored or docked within the harbor management area of the Village of Sag Harbor, whether such vessel is self-propelled or not.

#### FRESHWATER WETLANDS

The lands and waters in the Village of Sag Harbor (including, but not limited to, wetlands as shown on the Freshwater Wetlands Map, prepared by or for the State of New York pursuant to Subdivision 24-0301 of the New York State Freshwater Wetlands Act and filed with the Suffolk County Clerk), which contain any or all of the following:

A.

Lands and submerged lands, commonly called "marshes," "swamps," "sloughs," "bogs," "flats,"

"streambanks," "riverine systems," and the like, supporting aquatic life or semiaquatic vegetation of the following vegetative types:

(1)

Wetland trees, which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other trees, including, among others, red maple (*Acer rubrum*), willows (*Salix* spp.), black spruce (*Picea mariana*), swamp white oak (*Quercus bicolor*), red ash (*Fraxinus pennsylvanica*), black ash (*Fraxinus nigra*), silver maple (*Acer saccharinum*), American elm (*Ulmus americana*), and larch (*Larix laricina*);

(2)

Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other shrubs, including, among others, alder (*Alnus* spp.), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*), dogwoods (*Cornus* spp.), and leatherleaf (*Chamaedaphne calyculata*);

(3)

Emergent vegetation, including, among others, cattails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrow arum (*Peltandra virginica*), arrowheads (*Sagittaria* spp.), reed (*Phragmites australis*), wild rice (*Zizania aquatica*), bur-reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*), and water plantain (*Alisma plantago-aquatica*);

(4)

Rooted, floating-leaved vegetation, including, among others, waterlily (*Nymphaea odorata*), water shield (*Brasenia schreberi*), and spatterdock (*Nuphar* spp.);

(5)

Free-floating vegetation, including, among others, duckweed (*Lemna* spp.), big duckweed (*Spirodela polyrhiza*), and watermeal (*Wolffia* spp.);

(6)

Wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently water-logged soils to give it a competitive advantage over other open land vegetation, including, among others, sedges (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*), and spikerush (*Eleocharis* spp.);

(7)

Bog mat vegetation, including, among others, sphagnum mosses (*Sphagnum* spp.), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*), and cranberries (*Vaccinium macrocarpon* and *V. oxycoccos*);

(8)

Submergent vegetation, including, among others, pondweeds (*Potamogeton* spp.), naiads (*Najas* spp.), bladderworts (*Utricularia* spp.), wild celery (*Vallisneria americana*), coontail (*Ceratophyllum demersum*), watermilfoils (*Myriophyllum* spp.), muskgrass (*Chara* spp.), stonewort (*Nitella* spp.), water weeds (*Elodea* spp.), and water smartweed (*Polygonum amphibium*).

B.

Lands and submerged lands containing remnants of any vegetation that is not aquatic or semiaquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six feet, and provided further that such conditions can be expected to persist indefinitely, barring human intervention.

C.

Lands and waters enclosed by aquatic or semiaquatic vegetation as set forth in Subsection A above and dead vegetation as set forth in Subsection B above, the regulation of which is necessary to protect and preserve the wetlands.

D.

Those geologic formations commonly known as "perched ponds" and "kettle holes."

E.

The waters overlying the areas set forth in Subsections A and B and the lands underlying Subsection D above.

HARBOR COMMITTEE

The Harbor Committee of the Village of Sag Harbor established by Chapter 21 of the Village Code.

LANDS UNDERWATER

Those lands lying beneath or subject to immersion by fresh, brackish or saline water within the jurisdiction of the Village of Sag Harbor.

MAJOR PROJECT

Any regulated activity not specifically classified as a minor project shall be deemed a major project. Major projects shall include, but are not limited to, subdivisions, land division, site plans, new residential or commercial buildings and activities associated with a commercial enterprise, construction of docks wholly or partially within the boundaries of the Village of Sag Harbor, new bulkheads, dredging in excess of 100 cubic yards, and structural erosion control measures.

MINOR PROJECT

Any regulated activity listed herein: in-kind and in-place replacement of bulkheads, bulkhead refacing, placement of residential mooring piles, nonstructural erosion control measures, dredging not to exceed 100 cubic yards, and construction of accessory structures to an existing residential building such as pools, decks, garages, tennis courts, sheds, and the like and any work done appurtenant to an existing residence such as clearing, filling, landscaping and regrading.

PERSON

See "applicant."

POLLUTION

The presence in the environment of human-induced conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant or animal life or to property.

REMOVE

To dig, dredge, suck, bulldoze, dragline, blast or otherwise excavate or regrade substrate materials.

RESIDENTIAL HOUSEBOAT

A vessel not designed primarily for residential dwelling units, designed primarily for pleasure craft, recreation and for independent navigation and not considered a floating home, in accordance with the definition set forth above, and which is being used for residential purposes.

TIDAL WETLANDS

The lands and waters in the Village of Sag Harbor (including but not limited to those lands and waters in the Village which are included in the inventory of tidal wetlands prepared by or for the State of New York and filed with the Suffolk County Clerk, entitled "Tidal Wetlands Maps") which include any or all of the following:

A.

Those areas which border on or lie beneath tidal waters, such as but not limited to banks, bogs, salt marshes, swamps, meadows, flats or other low lands subject to tidal action, including those areas now or formerly connected to tidal waters or which indicate tidal hydrology or inundation. Field indicators of wetland hydrology or inundation shall include, among others, visual observation of inundation, visual observation of soil saturation within 24 inches of the soil surface, watermarks (e.g., silt or pollen lines), drift lines (e.g., deposits of waterborne debris), sediment deposits (e.g., sediment that settled out of standing water on plant bases or objects on the ground), staining or matting of soils, leaves or vegetation, drainage patterns in wetlands

(e.g., braided channels in wetlands, scouring of debris, evidence of sheet flow), and local soil survey data (e.g., typical water table depths, durations, and soil series mapped in the county). Field indicators of bog, peat, hydric or saturated soils shall include characteristic hydric soil profiles, horizons, composition, color, texture, odor, moisture, taxonomy, and/or soil surveys.

B.

All banks, bogs, meadows, flats and tidal marshes subject to such tides and upon which grow or may grow some or any of the following: salt marsh hay (*Spartina patens*), spikegrass (*Distichlis spicata*), black grass (*Juncus gerardi*), saltwater cordgrass (*Spartina alterniflora*), saltwort (*Salsola kali*), glasswort (*Salicornia* spp.), sea lavender (*Limonium carolinianus*), salt marsh bulrush or chairmaker's rush (*Scirpus* spp.), sand spurry (*Spergularia marina*), groundsel bush (*Baccharis halimifolia*), high tide bush or marsh elder (*Iva frutescens*), spikerush (*Eleocharis* spp.), bent grass (*Agrotis* spp.), sea blite (*Suaeda* spp.), umbrella sedges (*Fimbristylis* spp.), rose-mallow (*Hibiscus moscheutos*), narrow-leaf cattail (*Typha angustifolia*), arrow-grass (*Triglochin maritimum*), pickerel weed (*Pontederia cordata*), blue flag (*Iris versicolor*), soft-stem bulrush (*Scirpus validus*), tussock sedge (*Carex stricta*) and common reed (*Phragmites* spp.), provided that such common reed is underlain by bog, peat, hydric or saturated soils or is inundated by tidal waters.

WATERWAY

All waters within the municipal limits of the Village of Sag Harbor or otherwise subject to its jurisdiction.

WETLANDS

Those areas defined in this chapter as brackish, freshwater or tidal wetlands and their corresponding adjacent area.

WETLANDS PERMIT

That form of written Village approval required to conduct a regulated activity as specified under this chapter, hereafter referred to as a "permit."

**§ 53A-4            Regulated activities; exceptions.**

A.

Permit required. No person or party shall conduct or cause to be conducted any regulated activity within a brackish, freshwater or tidal wetland, or adjacent area as set forth in Subsections B and C of this section, without first obtaining a permit issued by the Harbor Committee of the Village of Sag Harbor.

B.

Regulated activities. Activities subject to regulation shall include any major or minor project, including, but not limited to:

(1)

Any form of drainage, dredging, excavation or removal of soil, mud, sand, shells, gravel, or other aggregate from any brackish, freshwater, or tidal wetlands or land underwater within the boundaries of the Village of Sag Harbor;

(2)

Any direct or indirect dumping, filling or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind;

(3)

Constructing any structures, roads or bridges, clearing and regrading, or placing of bulkheads, retaining walls, pilings, catwalks or other physical improvements;

(4)

Any form of pollution or discharge, including, but not limited to, installing a sanitary sewage system, running a sewer outfall, discharging sewage treatment effluent, stormwater runoff or other liquid wastes, into or so as to drain into a brackish, freshwater or tidal wetlands or adjacent area;

(5)

Any grading activities, including, but not limited to, clearing of vegetation, the alteration of existing land elevations and/or the alteration of natural drainage patterns;

(6)

Construction of any pier or dock, or the mooring of a residential houseboat or floating home;

(7)

Any mariculture or aquaculture activity;

(8)

Any digging of canals, boat basins or ramps in any lands within Village limits which will connect with bodies of saltwater; and

(9)

Any other activity which substantially impairs any of the several functions served by lands under water and/or brackish, freshwater or tidal wetlands, or the benefits derived therefrom, which are set forth in § 53A-1 of this chapter, if they occur upon the wetlands, waterway, adjacent area, or the lands underwater, or if they impinge upon or otherwise substantially affect the wetlands.

C.

All activities occurring on a project site are subject to review by the Harbor Committee if any portion of the activity on a project property is subject to regulation.

D.

Activities excluded from requirements for a wetlands permit.

(1)

Subdivisions, site plans, land divisions. Any parcel of land which contains wetlands and is the subject of a subdivision application or site plan review requires a wetlands permit under this chapter.

(2)

Fishing, hunting and related activities. The deposit or removal of the natural products of lands under water, brackish, freshwater, or tidal wetlands by recreational or commercial fishing, shellfishing, hunting or trapping shall be excluded from the regulated activities requiring a permit herein, where otherwise legally permitted and regulated.

(3)

Suffolk County Department of Health Services. Public health activities of the Suffolk County Department of Health Services, other than mosquito control activities, shall be excluded from the regulated activities requiring a permit herein. All mosquito control projects shall be subject to review to determine whether they are having any adverse impacts on wetlands. The Village Clerk shall be notified by the Department of Health Services, in writing, two weeks prior to the commencement of any such activity. Such notification must include a complete description of the project, including but not limited to the method of spraying and substance to be used as well as available alternatives and expected effects on the wetlands and copies of any engineering plans.

(4)

Highway departments. Repair and maintenance activities of the Village of Sag Harbor Highway Department, Suffolk County Department of Public Works and the New York State Department of Transportation shall be excluded from the regulated activities requiring a permit herein.

(5)

Interior improvements to existing structures. Construction of improvements to existing structures where:

(a)

The existing structure has a valid and existing certificate of occupancy or certificate of preexisting construction and use issued by the Village of Sag Harbor; and

(b)

The proposed improvement is wholly within the perimeter of the walls of the existing structure.

(6)

Exterior improvements to existing improvements. Construction of improvements to existing structures where:

(a)

The existing structure has a valid and existing certificate of occupancy or certificate of preexisting construction and use issued by the Village of Sag Harbor;

(b)

The site of the improvements is on the landward side of the existing structure; and

(c)

The New York State Department of Environmental Conservation has either issued a permit for the proposed construction or has made a written finding that no permit is required.

**§ 53A-5            Work releases.**

A.

Emergency work which is deemed to be immediately necessary in order to protect public health and safety or to prevent significant damage to real property may be undertaken only upon issuance of an emergency work release by the Village Building Inspector. Said emergency work release shall be valid for no more than 30 calendar days and shall be undertaken pursuant to any conditions imposed by the Building Inspector.

B.

Maintenance or repair of existing structures or improved areas, including but not limited to bridges, roads, highways, railroads bed, bulkheads, docks, piers, pilings or paved areas, which does not involve expansion or substantial restoration, reconstruction, rehabilitation or modification, and will not result in any adverse impact upon a wetlands, may be excluded from the regulated activities requiring a permit and may be undertaken upon the issuance of a maintenance or repair work release. Any person or party wishing to conduct such maintenance or repair shall notify the Building Inspector of the planned activity, in writing, at least two weeks prior to the onset of such activity. Should it be deemed by the Building Inspector that the activity is not ordinary maintenance or repair or if the activity is deemed to have any adverse impacts on the wetlands, a permit may be required.

**§ 53A-6            Application for wetlands permit.**

Any person proposing to conduct or cause to be conducted a regulated activity upon any wetlands shall file a wetlands permit application for the activity with the Building Inspector, on prescribed application forms which shall be established by the Harbor Committee of the Village of Sag Harbor. Such application shall include:

A.

Updated certificate of occupancy or deed in owners name;

B.

Notarized statement of authority from the owner for any agent making application;

C.

Description of proposed work and purpose thereof;

D.

Names of property owners within 200 feet of the property, as shown on the current Village of Sag Harbor assessment roll;

E.

Completed application form;

F.

Guaranteed survey, dated within the last six months, showing current and proposed improvements, wetland boundary, setbacks from wetlands;

G.

Completed full or short environmental assessment form as required pursuant to State Environmental Quality Review Act regulations at 6 NYCRR Part 617; and

H.

Copies of all applicable county, state, or federal permits or permit applications that are required for such work

**§ 53A-7            (Reserved)**

**§ 53A-8            Granting, denying or limiting of major projects.**

A.

The Building Inspector shall notify the applicant, in writing, when the application is deemed complete.

B.

At this time, the Building Inspector shall also refer a copy of the completed application to the Harbor Committee for its approval.

C.

No sooner than 30 days and not later than 60 days after the application is deemed complete, the Harbor Committee shall authorize a public hearing on such application. The Harbor Committee shall cause notice of such hearing to be published at least once in the official newspaper not less than 14 days nor more than 28 days prior to the date set for the hearing.

D.

At least 10 days prior to the public hearing, the applicant shall conspicuously place along each road frontage of the property at least one poster, supplied by the Building Inspector. Said poster must remain, in a readable condition, in place until the public hearing has been completed and must be removed no later than seven days thereafter.

E.

The applicant shall notify all adjacent property owners as shown on the current Village of Sag Harbor Assessor's roll of lands within 200 feet of the property by certified mail, not less than 10 days prior to the date set for the hearing.

F.

In granting, denying or limiting any permit application, the Harbor Committee shall consider the functions of the wetlands and their role in the hydrologic and ecological system, the objectives set forth in § 53A-1 of this chapter, any public comments timely received and whether the proposed activity will:

(1)

Adversely affect water quality or marine life in wetland or natural vegetation areas.

(2)

Preserve natural vegetation within 75 feet of mean high water, within 75 feet of the driftline, or within 75 feet of the upland edge of brackish, freshwater or tidal wetlands or to the maximum extent practicable, but in no event less than 25 feet; maintain natural undisturbed adjacent areas and, where necessary, provide supplemental planting of indigenous vegetation.

(3)

Materially cause saltwater intrusion into the freshwater table serving the Village of Sag Harbor.

(4)

In addition to those setbacks required by Chapter 55 (Zoning) of the Sag Harbor Village Code, provide adequate setbacks for development, and set individual sewage disposal systems back at least 100 feet away from wetlands to protect water quality and enhance natural systems.

(5)

Materially contribute to erosion, turbidity or siltation. No activity or structure should weaken or undermine the shoreline or lateral support of other properties in the vicinity.

(6)

Maximize setbacks for new construction in proximity to erosion-prone and erosion-sensitive areas. The activity must employ minimum structural measures to control shoreline erosion. Bulkheads or retaining walls should be located at or above mean high water.

(7)

Minimize the visual impact of site development and provide sufficient visual buffering.

(8)

Conform to the natural topography of the site during development in order to minimize the loss of natural vegetation, disturbance of soil and habitats, and associated environmental impacts.

(9)

Minimize areas of fertilizer-dependent vegetation in order to reduce nitrogen and chemical loading to wetlands, and type of vegetation should be shown on survey with application with deep watering of new vegetation to be limited to one to two times a week to promote root growth and limit runoff of nitrates and phosphates.

(10)

Limit herbicides and pesticides.

(11)

Prevent impacts associated with stormwater runoff during or after site development, including any direct discharge of stormwater from the site onto wetlands or onto adjacent properties, and to employ structural and nonstructural measures to contain stormwater on site, and limit hard structures which promote runoff and impervious structures.

(12)

Minimize adverse impacts associated with dredging and dredge spoil disposal and changes in bottom topography.

(13)

Give preference to water-dependent activities that must have a shoreline, wetland, or waterway location in order to function.

G.

In granting or limiting a permit, the Harbor Committee of the Village may impose conditions or limitations designed to carry out the intent of this chapter, which shall be incorporated into the permit.

H.

Any decision by the Harbor Committee to grant, deny, or place conditions upon a wetlands permit or to revoke or suspend any permit previously issued pursuant to this chapter shall be supported by written findings giving the reason for such decisions.

I.

In the event that a court of competent jurisdiction finds the action reviewed constitutes a taking without just compensation, and the land so regulated merits protection under this chapter, the court may, at the election of the Village Board of Trustees, either:

(1)

Set aside the order; or

(2)

Require the Village Board to proceed under the condemnation law to acquire the wetlands or such less than fee rights therein as have been taken.

### **§ 53A-9**

#### **Granting, denying or limiting of minor projects.**

A.

The Building Inspector shall notify the applicant, in writing, when the application is deemed complete.

B.

Not later than 60 days after the notice of complete application, the applicant shall notify property owners within 200 feet of the property as shown on the current Village of Sag Harbor assessment roll by registered or certified mail that written comments will be accepted by the Building Inspector for a period of not less than five days and not later than 21 days. Notice of such application shall be posted in a public location at Village Hall, advising that written comments will be accepted during the public comment period.

C.

Within 30 days after the expiration of the public comment period, the Building Inspector shall either grant the permit, deny the permit or grant the permit with conditions.

D.

In granting or limiting a permit, the Building Inspector may impose reasonable conditions or limitations designed to carry out the intent of this chapter.



**§ 53A-10**            **Permit requirements for major and minor projects.****A.**

All permits shall be clearly posted on the project site during all work activities, and all applicants, their agents, or construction crews proceeding with approved operations shall carry on their persons or have readily available the approved permit condition and shall show same to any authorized inspector of the Village of Sag Harbor whenever requested.

**B.**

The Harbor Committee may revoke or suspend any permit where any conditions of the permit have not been complied with.

**C.**

All activities undertaken pursuant to a wetlands permit shall be completed within a period of two years, except dredging permits, which shall, at the discretion of the Harbor Committee of the Village, be in effect for a period of five years. Notwithstanding the foregoing, in the event that the applicant has obtained a building permit for the work authorized by the wetlands and waterways permit, the time for completing a permitted activity shall expire simultaneously with the expiration of the building permit or any renewal thereof. In the event a wetlands permit expires by operation of this section, the Harbor Committee of the Village may issue a renewal by resolution. In the event that the permit expires and work has not commenced, the Harbor Committee may require a new application to be filed.

**§ 53A-11**            **Building permit; certificate of occupancy.****A.**

All buildings and structures shall, upon the issuance of a wetlands permit by the Harbor Committee, also be required to receive a building permit from the Building Inspector.

**B.**

No structure or building erected or altered and regulated under this chapter of the Sag Harbor Village Code shall be used until a certificate of occupancy has been issued by the Building Inspector.

**§ 53A-12**            **Fee.****A.**

The Board of Trustees of the Village shall require an application fee for all permit applications as well as a permit or license fee for any operations or uses permitted pursuant to this chapter. Such fees shall be set by resolution of the Board of Trustees of the Village and may be amended on an as-needed basis by further resolution.

**B.**

The applicant shall also pay the reasonable engineering review and environmental consultant fees of the Village Engineer and environmental consultant for services rendered to the Village in reviewing the applicants submissions and rendering advice with respect to the proposed subdivision.

**C.**

The fee schedule set by the Board of Trustees and the fees of the Village Engineer, planning and/or environmental consultant shall be kept in the office of the Village Clerk and the Building Inspector.

**D.**

No permit shall be issued until all fees have been paid pursuant to this section.

**§ 53A-13**            **Jurisdiction of other agencies.**

A permit approved by the Village of Sag Harbor does not relieve the applicant of the necessity to obtain authorization or other permits from other agencies which have jurisdiction over the proposed project.

**§ 53A-14**            **Penalties for offenses; corrective action.****A.**

Administrative sanctions.

(1)

Any person found violating any provision of this chapter or the conditions imposed by the Harbor Committee of the Village and/or the Building Inspector upon an approved permit may be served with a written notice by the Building Inspector requiring the activity be stopped and the appearance of such person at a hearing before the Board of Trustees of the Village. Such written notice shall be served at least 10 days prior to the hearing date by personal service or by registered or certified mail. The notice shall contain a specification of charges. No work shall resume until the Board of Trustees of the Village has determined that a violation does not exist.

(2)

Following such hearing, the Board of Trustees of the Village, upon the recommendation of the Building Inspector, shall have the power to assess a civil penalty not to exceed \$3,000 for every such violation. In addition, the Board of Trustees of the Village shall have the power to direct the violator to satisfactorily restore the affected wetland to its condition prior to the violation, insofar as that is possible within a reasonable time and under the supervision of the Building Inspector.

(3)

Any civil penalty or order issued by the Village shall be reviewable pursuant to the Civil Practice Law and Rules.

B.

Criminal sanctions.

(1)

Any person who violates any provision of this chapter or the conditions imposed by the Harbor Committee of the Village, upon an approved permit, shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not more than \$500 and for a second and each subsequent offense be guilty of a misdemeanor punishable by a fine of not more than \$1,000 or a term of imprisonment of not more than six months, or both.

(2)

In lieu of or in addition to these punishments, any offender may be ordered by the court to restore the affected wetland to its condition prior to the offense. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Director.

(3)

Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

C.

Equitable relief. The Village of Sag Harbor shall have the right to seek equitable relief to restrain any violation or threatened violation of any of the provisions of this chapter.