

Village of Sag Harbor Local Waterfront Revitalization Program

LWRP

Adopted:

Village of Sag Harbor Board of Trustees, May 6, 1986

Approved:

NYS Secretary of State, Gail S. Shaffer, June 11, 1986

Concurred:

U.S. Office of Ocean and Coastal Resource Management, August 15, 1986

HMP

Adopted:

Village of Sag Harbor Board of Trustees, December 1, 1998

Approved:

NYS Secretary of State, Alexander F. Treadwell, April 2, 1999

Concurred:

U.S. Office of Ocean and Coastal Resource Management, June 23, 1999

LWRP/HMP Amendment

Adopted:

Village of Sag Harbor Board of Trustees, February 14, 2006

Approved:

NYS Secretary of State, Christopher L. Jacobs May 31, 2006

Concurred:

U.S. Office of Ocean and Coastal Resource Management, June 15, 2006

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STATE OF NEW YORK
DEPARTMENT OF STATE
ALBANY, N.Y. 12231

GAIL S. SHAFFER
SECRETARY OF STATE

August 5, 1986

Mr. James Burgess
Acting Director
Coastal Programs Office
National Oceanic and Atmospheric
Administration
2001 Wisconsin Avenue, N.W.
Washington, DC 20235

RE: Village of Sag Harbor New York, Local Waterfront
Revitalization Program.

Dear Mr. Burgess:

The Secretary of State approved the Sag Harbor Local Waterfront Revitalization Program (LWRP) on June 11, 1986. Enclosed please find a copy of the findings for the LWRP, made by the Secretary of State, pursuant to the New York State Executive Law, Article 42 (Waterfront Revitalization and Coastal Resources Act). Also enclosed is a copy of the final version of the Sag Harbor LWRP document, and the resolution of the Village Trustees adopting the LWRP and requesting the Secretary of State's approval of the LWRP.

With the submission of the final LWRP, Village resolution, and Secretary's findings for this LWRP, we have provided you with all the materials and information necessary for your concurrence that the incorporation of this LWRP into the New York State Coastal Management Program is a Routine Program Implementation.

If there are any questions please call Charles McCaffrey at 518-474-3643.

Sincerely,

George R. Stafford
Coastal Programs Administrator

GRS:rdc



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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Washington, D.C. 20235

AUG 15 1986

RECEIVED

SEP 21 1987

Department of State

Mr. George Stafford
Coastal Program Manager
Department of State
162 Washington Street
Albany, New York 12231

Dear Mr. Stafford

The Office of Ocean and Coastal Resource Management has completed its review of your request to incorporate the Village of Sag Harbor Local Waterfront Revitalization Program (LWRP) into the New York State Coastal Management Program. We have received the program as adopted by the Village and approved by the New York Secretary of State. We received comments from six agencies, none of which objected to adopting the LWRP as a routine program implementation change.

You and my staff have discussed the problem of clearly identify in the LWRP which of the 44 coastal policies listed in the NYS CMP apply to the LWRP area. The current use of "not included" is very confusing to the users of these programs. Because there is evidence in the documents, however obscure, that policies labeled "not included" do apply, we concur with your request that the Sag Harbor LWRP be considered as a routine program implementation. However, we expect the State to remedy the problem of clearly identifying which policies apply by eliminating the term "not included" as soon as possible.

In accordance with the Coastal Management Regulations, 15 CFR 923.84, Federal Consistency will apply to the Village of Sag Harbor LWRP after you publish notice of our approval.

Sincerely,

Peter L. Tweedt
Director



**Resolution of the
Village of Sag Harbor Board of Trustees**

**Adoption of the Amended
Sag Harbor Local Waterfront
Revitalization Program
and
Harbor Management Plan**

WHEREAS, the Village of Sag Harbor completed a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of the Executive Law, which was adopted by the Village Board of Trustees on May 6, 1986 and approved by the New York State Secretary of State on June 11, 1986; and

WHEREAS, the Village desired to update and amend the Local Waterfront Revitalization Program (LWRP), including a Harbor Management Plan (HMP); and

WHEREAS, a draft amended Local Waterfront Revitalization Program was accepted by the New York Department of State and circulated for review to state, regional, and local agencies; and

WHEREAS, the Village, as lead agency, filed a Negative Declaration pursuant to Article 8 of the Environmental Conservation Law for amendment of the Local Waterfront Revitalization Program; and

WHEREAS, the Village has enacted all local laws necessary to implement the amended Local Waterfront Revitalization Program on December 1, 1988;

BE IT RESOLVED, that the Village's amended Local Waterfront Revitalization Program/Harbor Management Plan is hereby adopted; and

BE IT FURTHER RESOLVED, that the Village Board of Trustees hereby directs the Mayor of the Village to submit the amended LWRP/HMP, and all related local implementing laws, to the New York State Secretary of State for approval pursuant to Article 42 of the NYS Executive Law-the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

ALEXANDER F. TREADWELL
SECRETARY OF STATE

April 12, 1999

Honorable Pierce W. Hance
Mayor
Village of Sag Harbor
P.O. Box 660
Main Street
Sag Harbor, NY 11963

Dear Mayor Hance:

It is with great pleasure that I inform you that the Department of State has approved the amendment of the Village of Sag Harbor Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this amendment is to be commended for advancing a comprehensive management program that promotes the balanced preservation, enhancement and utilization of the valuable resources of the coastal area.

I am notifying state agencies that the Department has approved the amendment of your Local Waterfront Revitalization Program and am advising them that their activities must be undertaken in a manner consistent with the Sag Harbor program to the maximum extent practicable.

I look forward to continuing to work with you as you revitalize and protect your waterfront.

Sincerely,

A handwritten signature in cursive script that reads "Alexander F. Treadwell".

Alexander F. Treadwell

AFT:gdh



1045
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

JUN 23 1999

DEPARTMENT OF STATE
COASTAL PROGRAMS

JUN 28 1999

RECEIVED

Mr. George R. Stafford
Director, Division of Coastal Resources
and Waterfront Revitalization
New York Department of State
41 State Street
Albany, New York 12231

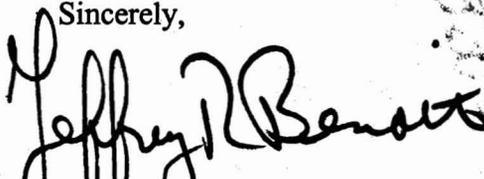
Dear Mr. Stafford:

The Office of Ocean and Coastal Resource Management (OCRM) concurs with your request to incorporate the amendments to the Village of Sag Harbor Local Waterfront Revitalization Program (LWRP) into the New York State Coastal Management Program as a Routine Program Change (RPC). We received comments from three Federal agencies, none of which objected to incorporating the LWRP as a RPC. This approval assumes you will make no further changes to the document in addition to the ones submitted.

Pursuant to your RPC submission, OCRM has identified the following new or revised enforceable policies: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11. Other changes to the state's enforceable policies based on the LWRP are essentially the same as those found in state law under 19 NYCRR, Part 600.5.

In accordance with the Federal Coastal Management Regulations, 15 CFR 923.84, Federal Consistency will apply to the enforceable policies contained in the revised Village of Sag Harbor LWRP after you publish notice of our approval.

Sincerely,


Jeffrey R. Benoit
Director



**RESOLUTION: Adoption of LWRP and Harbor Management Plan
Revisions Required by 2005 Amendments to Chapter 53 of the Village
Code (Waterways)**

WHEREAS, the Board of Trustees of the Village of Sag Harbor approved certain amendments to Chapter 53 of the Village Code (Waterways) in April, 2005 (Local Law No. 7 of 2005); and

WHEREAS, as a result of these amendments, revisions to the Village Local Waterfront Revitalization Program and Harbor Management Plan were necessary, and those revisions were prepared by Village consultants Cashin Associates, P.C.; and

WHEREAS, the necessary revisions have undergone consistency review at the local level and have thereafter been approved by the New York State Department of State, in accordance with Chapter 42 of the New York State Executive Law; now, therefore, be it

RESOLVED, the Board of Trustees hereby approves the following changes to the Local Waterfront Revitalization Program: revised Figures 2 and 9 and Map 2; and the following changes to the Harbor Management Plan: revised Figures 11 and 12 and revised text for Sections 5.5 and 6.1 (text attached hereto); and be it

FURTHER RESOLVED, the Village Clerk is directed to file the amendments as may be required by the Executive Law and other applicable law, and to maintain copies of the revisions in the Village Office.

February 14, 2006



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

George E. Pataki
Governor

Christopher L. Jacobs
Secretary of State

May 31, 2006

Honorable Edward Deyermond
Mayor
Village of Sag Harbor
55 Main St
PO Box 660
Sag Harbor, NY 11963

Dear Mayor Deyermond:

I am pleased to inform you that I have approved the amendment of the Village of Sag Harbor Local Waterfront Revitalization Program (LWRP), pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. I commend the Village for addressing current waterfront issues by refining its LWRP and Harbor Management Plan to further refine existing surface water activity and conditions. The revisions should be a tremendous help in clarifying and further specifying permitted areas for moorings, restriction of vessel speed, and certain enforcement procedures.

I am notifying State agencies that I have approved your LWRP amendment and am advising them that their activities must be undertaken in a manner consistent, to the maximum extent practicable, with the program.

I look forward to working with you as you continue to revitalize and protect your waterfront.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

Christopher L. Jacobs
Secretary of State

CLJ:lt\gn



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
 NATIONAL OCEAN SERVICE
 OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
 Silver Spring, Maryland 20910

JUN 15 2006

Mr. George R. Stafford
 Director, Division of Coastal Resources
 New York Department of State
 41 State Street
 Albany, New York 12231

Dear Mr. Stafford,

Thank you for the New York Division of Coastal Resources' June 1, 2006, request that changes to the Village of Sag Harbor Local Waterfront Revitalization Program (LWRP) be incorporated into the New York Coastal Management Program (CMP). You requested that changes to the Village of Sag Harbor LWRP described below be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and Office of Ocean and Coastal Resource Management (OCRM) Program Change Guidance (July 1996). OCRM received the request on June 2, 2006.

Based on our review of your submission, we concur that the changes to the Village of Sag Harbor LWRP are RPCs and we approve the incorporation of the changes as enforceable policies of the New York CMP. Federal Consistency will apply to the approved changes only after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b) (4). Please include in the public notice the list of changes to enforceable policies provided in this letter, and please send a copy of the notice to OCRM.

SECTIONS APPROVED

Name/Description of Local Law/Regulation/Policy Added to the CMP	Legal Citation	Date Adopted by Village; State	Date Effective in Village and State
<ul style="list-style-type: none"> o LWRP Figures 2 and 9 o Harbor Management Plan Figures 11 and 12, and Map 2 o Harbor Management Plan text - Sections 5.5 and 6.1 	Chapter 53 (Waterways) of the Village Code, amended through Local Law #7 of 2005	February 14, 2006; May 26, 2006	May 10, 2006

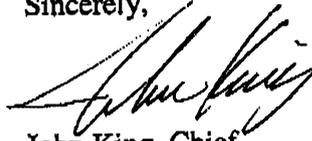
PUBLIC AND FEDERAL AGENCY COMMENTS

OCRM received no comments on this RPC submission.



Thank you for your cooperation in this review. Please contact Carleigh Trappe at (301) 713-3100, extension 165, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John King". The signature is fluid and cursive, with a large initial "J" and "K".

John King, Chief
Coastal Programs Division

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SECTION I

LOCAL WATERFRONT REVITALIZATION AREA BOUNDARY

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1.1 NEW YORK STATE COASTAL AREA BOUNDARY

The boundary of the Coastal Management Area, as designated by the New York State Department of State, originally entered the Village of Sag Harbor from the east on Hampton Street/East Hampton Turnpike. Proceeding in a northeasterly direction along this roadway to Union Street, it then turned westward along Union Street to the intersection with Main Street, where it turned southward to intersect with Oakland Avenue. At Oakland Avenue the boundary ran in a southeasterly direction to intersect with Jermain Avenue. At this intersection it then proceeded in a southwesterly direction along Jermain Avenue and then Brick Kiln Road to the Village boundary at Ligonee Brook.

1.2 THE VILLAGE OF SAG HARBOR'S EXISTING LOCAL WATERFRONT AREA BOUNDARY

During the course of preparing the original Local Waterfront Revitalization Program (LWRP), adopted in 1986, the Village of Sag Harbor determined that it would be particularly desirable to include the following three local historic sites within the State designated area: the John Jermain Library, the Whaler's Presbyterian Church, and the Old Burial Ground. To accomplish this, it was recommended that the local waterfront area boundary be moved southward at the Village-owned corner property opposite the Episcopal Church, at the intersection of Hampton Street/East Hampton Turnpike and Division Street, and then proceed westward along Latham and Jefferson Streets to Main Street.

Also, after consulting with those preparing the Town of Southampton's LWRP at the time, a second modification was considered and adopted as a recommendation to the New York State Department of State (NYS DOS). The Town of Southampton had included the Long Pond Greenbelt area in its proposed waterfront area, and, as a result, the Southampton Town local waterfront boundary intersected the Village of Sag Harbor's southern municipal boundary at Madison Street. The Village found that it would be desirable to include the upper reaches of the Ligonee Brook drainage area which extends into the Long Pond Greenbelt, then making it possible to incorporate Round Pond, Mashashimuet Park, more of Ligonee Brook and several small freshwater wetlands. Therefore, it was further recommended that the proposed local waterfront area boundary from the Town of Southampton enter the Village on its southern boundary at Madison Street, then proceed northward to Grand Street and turn southwestward along a line in extension of the Grand Street alignment which follows a lot line, then crosses Oakland Cemetery and along another lot line to Joel's Lane. The boundary would then turn northwestward on Joel's Lane to Jermain Avenue where it would turn southwestward to join the NYS DOS boundary at the Oakland Avenue intersection.

Therefore, the Village of Sag Harbor recommended that its local waterfront area boundary be revised in the two described situations. Both would serve to better satisfy the policies and goals and objectives of the local waterfront program (see [Figure 1](#)).

1.3 THE CORPORATE BOUNDARY FOR THE VILLAGE OF SAG HARBOR AND EXTRATERRITORIAL JURISDICTION OVER ADJACENT WATER BODIES

The Village of Sag Harbor's corporate boundary, as filed with the New York State Department of State, follows along the mean high water line on the foreshore. However, the Village had long recognized the importance of activities that take place on the waters surrounding it. As a result, a Waterways Local Law was adopted in 1983 which sought extraterritorial jurisdiction over all waters and waterways within 1,500 feet of its shore. It seemed indisputable that the goals of the Coastal Management Program focused on the integration of land and water uses along the coast so that the full potential of these resources would be realized. It was clear that the Village of Sag Harbor's LWRP would be crippled, and the Coastal Management Program goals would be frustrated, if the Village's seaward boundary of the local waterfront area stopped at the mean high water line. Therefore, it was recommended that the waterside boundary for the local waterfront area be considered to have the same extraterritorial jurisdiction as was granted to the Village for regulating waters under the New York State Navigational Law. The 1,500 feet distance has since become a standard under the 1992 amendment to Article 42 of the Executive Law; local governments are authorized to develop and implement comprehensive harbor management plans, and to regulate structures over the water and the use of surface waters and underwater lands to a distance of 1,500 feet from the shore.

1.4 1998 PROPOSED REVISION OF THE LOCAL WATERFRONT AREA BOUNDARY

During the process of reviewing and amending the Village's LWRP, it was recognized that both the topographic divide and the groundwater divide along the south fork of Long Island are oriented in roughly an east-west direction and, in the vicinity of Sag Harbor, both are located south of the southern boundary of the Village. Therefore, stormwater runoff, household liquid wastes and other materials that might be discharged on or into the ground migrate through or beneath the Village in a northerly direction, towards the bays and coves. Extending the local waterfront area covered by the LWRP to the Village's southern municipal boundary, so as to include the entire Village, would further enhance the policies and objectives of the LWRP.

Additionally, the boundaries of the local waterfront areas covered by each of the LWRPs currently being developed by the Towns of East Hampton and Southampton run from the waterfront along each respective common boundary with the Incorporated Village of Sag Harbor, to the common boundary of East Hampton and Southampton. Therefore, extending the Village of Sag Harbor's local waterfront area boundary, as noted above, would facilitate better coordination of the three local programs and thereby provide maximum practical protection for the surface waters and groundwater located therein.

Another advantage of extending the Village's local waterfront area boundary is that the expanded, Village-wide Sag Harbor National Historic District would be included in its entirety under the LWRP, making it easier to effectively implement the coastal policies which relate to historical,

architectural, archaeological and cultural resources, and also to stimulate the public's appreciation of those resources.

Finally, such an extension of Sag Harbor's coastal area boundary would permit uniform application of the LWRP policies, throughout the whole Village.

For all of the above reasons, the Village of Sag Harbor now recommends that its local waterfront boundary be further revised to include the entire Incorporated Village, as well as the extraterritorial jurisdiction noted in 1.3, above (see [Figure 1](#)).

1.5 VILLAGE OF SAG HARBOR LOCAL WATERFRONT AREA BOUNDARY

- *Inland Boundary*

The inland boundary for the Sag Harbor Village Local Waterfront Revitalization area, as shown on [Figure 1](#), begins at the mean high water mark at the head of Ligonee Brook and proceeds in a southeasterly direction, crossing over Brick Kiln Road and Main Street, following the Ligonee Brook stream corridor which also delineates the boundary line between the Village of Sag Harbor and the Town of Southampton. At a point located approximately 550 feet southwest of Round Pond, the boundary proceeds to the northeast, bisecting Round Pond and crossing over Madison Street and Division Street. The boundary continuing to the northeast for a distance of approximately 6,300 feet from Division Street until intersecting with Little Northwest Creek. At this point, the boundary proceeds to the northwest, through the center of the Little Northwest Creek stream corridor, which forms the boundary between the Village of Sag Harbor and the Town of East Hampton, to the mean high water line on the shoreline of Sag Harbor Bay.

- *Waterside Boundary*

The waterside boundary of the local waterfront area shall remain as initially established by the Waterways Law of 1983 (Chapter 53 of the Village Code), and further supported by the 1992 amendment to Article 42, as discussed in Section 1.3. This waterside study area, which constitutes the area that extends beyond the Village's corporate boundary (which runs along the mean high water line), is considered extraterritorial and is subject to Village jurisdiction under the State Navigation Law. The waterside boundary is described as follows:

The waterside boundary for the Village of Sag Harbor Cove/Bay Complex begins at the point of mean high water on the shoreline, where the boundaries for the Village of Sag Harbor and the Town of East Hampton converge, and then extends offshore in a northerly direction for a distance of 1,500 feet. The boundary then proceeds northwest, maintaining a constant 1,500-foot separation from the mean

high water line on the shore until reaching the municipal boundary line between the Village of Sag Harbor and the Village of North Haven. At this point, the waterside boundary proceeds to the south-southwest, and then generally to the west, following a line of equal-distance between the shorelines of the two incorporated villages through Outer Sag Harbor Cove; then continuing along a line of equal-distance between the shoreline of the Village of Sag Harbor and the Town of Southampton, through the western portion of Outer Sag Harbor Cove, the Big Narrows, Inner Sag Harbor Cove, and Ligonee Brook until reaching the mean high water mark at the head of Ligonee Brook, and the point of beginning for the upland boundary.

The line of equal distance was chosen as the waterside boundary throughout the harbor complex because much of this area is too narrow to permit each outlying municipality to extend its surface water (or extraterritorial) jurisdictional boundary a full 1,500 feet. In many places, the 1,500-foot jurisdictional boundaries overlap and/or extend upland.

SECTION II
INVENTORY AND ANALYSIS

back of Section II title page

2.1 OBJECTIVES AND GOALS

A. Overall Purpose of the Local Waterfront Revitalization Program

The intent of the New York State Legislature in enacting the Coastal Management Program, of which the Local Waterfront Revitalization Program is part, can best be summed up in one of the Legislative Findings and in one element of the Declaration of Policy set forth in New York Executive Law, Article 42. Both are listed first in the respective sections. They are as follows:

The legislature hereby finds that New York State's coastal area and inland waterways are unique with a variety of natural, recreational, industrial, commercial, ecological, cultural, aesthetic and energy resources of statewide and national significance.

It is hereby declared to be public policy of the State of New York within the coastal area and inland waterways:

To achieve a balance between economic development and preservation that will permit the beneficial use of coastal and inland waterway resources while preventing: the loss of living marine resources and wildlife; diminution of open space areas or public access to the waterfront; shoreline erosion; impairment of scenic beauty; and permanent adverse changes to ecological systems.

The Department of State has been directed to pursue this policy through local government initiatives in the form of Local Waterfront Revitalization Programs (LWRP), such as this one for the Village of Sag Harbor. The LWRP identifies problems and opportunities, establishes local policies responsive to the community's needs and compatible with the broad State policies, develops a generalized land and water use plan, and provides a program for management, regulation and project implementation of that plan.

The Village of Sag Harbor is proud of its long history and the many historic buildings that grace its streets. It has retained a small-scale country Village and seaport character that is unique. As the following initial objectives indicate it seeks to enhance this character rather than exploit it by maintaining a balance between economic development and the preservation of its environment. Those initial objectives were:

1. To provide high quality, safe recreational facilities to all local residents based upon their needs and capacities.
2. To provide recreational opportunities within easy walking and bicycling distance of all Sag Harbor residents, including the young and elderly.
3. To complement existing privately operated boating facilities and historic attractions in Sag Harbor.
4. To improve the local economy.

5. To preserve significant open space resources in a rapidly developing area for uses compatible with the characteristics of the land.
6. To strengthen the economic base of a small harbor area by encouraging the development and enhancement of traditional uses and activities.
7. To manage the waterfront area.
8. To preserve public recreational facilities along a shoreline that is severely restricted by existing development.

Although these objectives have been modified to some extent, they still represent the basic intent of the Village of Sag Harbor.

B. LWRP Amendment

The original Local Waterfront Revitalization Program (LWRP) was adopted in 1986. Since then, certain things have changed in the Village of Sag Harbor to warrant the updating of that LWRP. The LWRP has had a positive effect on the Village in the sense that it has helped to improve the waterfront area and provide additional public amenities. The local boating and tourist industry have benefitted from the changes that have occurred. The LWRP also established pertinent laws and regulations for the control of shore front and surface water activities. This amendment to the 1986 LWRP document is aimed at continuing these efforts and expanding upon some of the programs and controls that were initially established to more effectively improve and protect waterfront resources and facilities.

The objectives of this LWRP amendment are as follows:

- To expand the coastal area boundary to encompass the entire Village, in order to comprehensively plan for wise use and development;
- To safeguard the tranquil residential and historic atmosphere of Sag Harbor Village;
- To protect and restore the natural resources of Sag Harbor and ensure that neither commercial nor residential interests impact these resources;
- To provide recreational opportunities for residents and visitors appropriate to the historic atmosphere and natural ecology of the Village;
- To develop opportunities for residents and visitors to enjoy and learn about the history and natural environment of the Village;
- To survey the commercial, residential and ecological needs of the Village in order to develop a plan that will balance those needs; and
- To identify projects that will implement these objectives.

This document serves as an amendment to the Sag Harbor LWRP and examines a number of conditions that are considered to be important in light of the types of activities that occur in Sag Harbor today. It also includes a Harbor Management Plan component that exclusively examines nearshore and waterside conditions and issues more thoroughly. Of particular importance is the fact that jurisdiction over the lands and waters of Sag Harbor is divided among a number of political entities at various levels of government. These include the Town of Southampton, the Town of East Hampton, the Incorporated Village of North Haven, Suffolk County, the State of New York and certain federal agencies. This multiplicity of regulatory jurisdictions requires the cooperation of many of these involved entities in order to control or resolve certain problems or achieve certain management goals, i.e., the improvement of water quality. Most of the underwater lands beneath Village waters are owned by the Town of Southampton and the State of New York. The regulation of actions that occur on these lands is outside the authority of the Village.

Since the LWRP was first adopted, the need to strengthen existing laws and enact additional legislation has arisen. Although the original LWRP designated water use districts, no regulatory standards were adopted to manage uses and activities occurring in those districts. The importance of tidal and freshwater wetland resources has also become a significant issue, highlighting the need for either the amendment of existing Village law, or the adoption of a separate law, to strengthen the protection of those resources.

2.2 ORIENTATION

A. Location and History

Sag Harbor is an incorporated Village, located about 95 miles from midtown Manhattan on the north shore of the south fork of Long Island, adjacent to Sag Harbor Bay (see Figure I). It has the character of a country village and seaport. With roughly 3.3 miles of shoreline and a total area of approximately two square miles, Sag Harbor Village is bisected by the Southampton-East Hampton Town Boundary line. Like many seaports, Sag Harbor's road system radiates from the focal point at the Long Wharf. The principal access roads are the Easthampton-Sag Harbor Turnpike, New York State Route 114 (which continues north from Sag Harbor across a bridge to provide one of two access roads to the Village of North Haven), and the Bridgehampton-Sag Harbor Turnpike (County Route 79).

The Village has a long history preserved in its notably rich and varied architecture. High points include its service as a revolutionary port and garrison, its development as a prosperous whaling port in the first half of the 19th century and its subsequent decline and rebirth as a business and manufacturing center.

"There are no definite records of any permanent [European] settlement in Sag Harbor before 1730. Southampton was first settled in 1641 and East Hampton in 1649. All were settled by English colonists from Connecticut." Until 1664, Long Island's east end settlements

aligned themselves politically with Connecticut, thus strengthening English colonial influence. After 1664 they were politically joined to New York. Nevertheless, English customs continued to predominate over Dutch customs.¹

"The first impetus to the growth of the Village occurred in the mid-18th century when the Sagaponack and Mecox settlements in the eastern part of Southampton Town had grown to a degree where a more convenient outlet was needed for the export of a growing agricultural surplus and the importation of needed goods and raw materials. The well-protected and commodious 'harbor of Sag' was the natural site for such a port. Between 1760 and 1770, a trade had been opened up between Sag Harbor and the West Indies, and by the end of the century, the little port had a greater tonnage of square-rigged vessels than the port of New York. The first indication of an interest in whaling was in 1761 when the Town of Southampton authorized the construction of a wharf and tug-house at the Harbor."²

The major epochs in the history of Sag Harbor have been heralded by war and fire. The Fire of 1877 was the third major conflagration. However, it also marked the end of a 25-year period of decline from the whaling period. As the whaling industry declined in the 1850s, various other waterfront industries replaced this activity, including shipping; steam powered passenger travel; flour and grain milling; concrete block, brick and pottery works; and shipyards, among others. The Village's rebirth in the late 19th Century was as a business and manufacturing center. It also grew as a summer resort.

Although the shore front has changed since then, and the whaling industry has long been abandoned, many of the existing waterfront uses have established their foundation in this past. The protection offered by the harbor, which made it an attractive location for whaling, shipping and trade in the 19th century, supports extensive boating and other marine-related activities today. The Harbor District and the Outer Sag Harbor Cove areas both contain full service boat yards. The waterfront also supports an excursion service from Connecticut and charter boat services, as well as a moderate shellfishing industry.

Today this history and the waterfront make Sag Harbor an ideal summer resort and commercial center on Long Island's South Fork. As manufacturing activity has declined the summer resort industry and general business has become the main economic resources. Retail trade and construction are the second largest.

Many retired individuals were once drawn to the Village because of the availability of high quality homes at low cost. This condition is changing as Sag Harbor homes increase in cost. However, the aesthetic character of the Village continues to attract new residents. Today the three predominant

¹ SAG HARBOR: Past, Present, and Future. Prepared by Robert H. Pine, A.I.P., 1975. p.1 and 2

² Ibid, p.44.

residential groups are: (1) locally employed/professionals, (2) retired individuals, and (3) second home residents and transient visitors.

Sag Harbor's vitality is based on the quality of its historic environment as a setting for both principal and second homes, and for summer resort and tourism activities all supported by a fine harbor suitable for large recreational boats, an attractive business center and necessary public services.

B. Population Growth and Characteristics

From 1960 through 1990, the U.S. Census showed a very slow increase and then a decline in resident population as of April 1st in the Census years. This count includes only those persons who lived in Sag Harbor as regular year-round residents. Second home residents would not customarily be included. The data are as follows:

	East Hampton (T)*	Southampton (T)*	Sag Harbor (V)
CENSUS YEAR			
1960	874	1,472	2,346
1970	835	1,528	2,363
1980	895	1,686	2,581
1990	858	1,276	2,134

[* indicates portion]

Analysis of the U.S. Census of Population and Housing statistics for 1970 and 1990 reveal several additional Village characteristics of interest. As the Village matured over these twenty years the number of school children (age five through 14) declined dramatically from 424 to 250. This trend has reversed and the number of school children is now on the rise. Sag Harbor has continued to attract relatively young adult residents. The number in the 25 to 44 year old age group has increased for the greatest percentage gain of any of the Village's age groups. In 1990, this sector of the population represented 30 percent (619 persons) of the total Village population. The only other age group to come close to this is the 65 and over sector, which totaled 505 persons (or 23.5 percent) in 1990. The median age in 1990 was 43.7 years old.

Household characteristics indicate a change in family lifestyle that began during the 1970s and has continued through the 1990s, although the numbers have declined due to the overall population decrease from 1980 to 1990. Non-family households, those of single individuals or in some few cases households of unrelated individuals, represented 42.3 percent of the total number of 983 households. Single-headed family households made up only 8 percent of the total number of households, which is a decrease since 1980. Married households represented almost half of the total number of households (49.2 percent or 487 households) indicating that the trend toward non-

traditional households has not significantly changed (in 1980, this sector of the population represented only 50 percent of the total number of households).

The impact of these demographic changes is evident in the housing inventory data from the U.S. Census of Housing for 1970 and 1980. The number of occupied year-round housing units in all types of structures increased from 869 to 1,117 -- 29 percent as compared with the 9 percent population increase during this same time period. However, tenancy changed from 22 percent renter occupied in 1970 to 31 percent in 1980, and owner-occupied housing units decreased from 78 to 69 percent. Both types of tenancy had increases in their number of occupied housing units. Structures with two or more housing units in them accommodated 59 more housing units by 1980 - for a 27 percent increase.

In 1990, the population density - expressed as the number of persons per household - was considerably different in the East Hampton and Southampton sectors of the Village. They were 2.23 and 2.13 persons per household, respectively. Village-wide it was 2.18 persons per household.

2.3 INVENTORY OF EXISTING LAND USES, WATER USES AND ZONING

A. Existing Land and Water Uses and Zoning

(a) Land Use

The Village of Sag Harbor is a historic community and, as a result, a mature one with a well-defined pattern of land use. The Village also possesses extensive shoreline that fronts on a number of surface water bodies, including: Upper Sag Harbor Cove, Morris Cove, Ligonee Brook, Inner Sag Harbor Cove, Outer Sag Harbor Cove, Sag Harbor (the area between the breakwater that protects the navigation channels, marinas and anchorage area), and Sag Harbor Bay. Its boundaries on the east and west are defined by Little Northwest Creek and Ligonee Brook, respectively. With these environmental resources, the Village is rich in open spaces and recreational facilities on both land and water.

The recommended revised Local Waterfront Revitalization Program boundary encompasses the Village's entire land area. The extraterritorial jurisdiction on the adjacent water bodies includes all of Upper Sag Harbor Cove, Morris Cove and significant portions of the remaining water bodies based on the 1,500-foot dimension or, in the case of the smaller water bodies, one half the distance between the opposite shores.

As in most small country Villages with a seaport, business activity is focused on Main Street which extends inland from the water's edge at Long Wharf, the principal public dock. Much of the street system radiates from the Long Wharf. Although some scattered businesses are located outside the Village's Central Business District (CBD), the land area beyond the Village CBD is generally residential in character. The majority of the historic buildings and landmarks are clustered around the Village business center. With the exception of public

buildings and other commercial structures in the CBD, the architectural character of development in the Village has maintained a human scale, with buildings generally no more than 2½ stories high.

Existing land and surface water uses in the Village of Sag Harbor are shown on [Figure 2](#). Land use categories shown on this map are comparable to those shown graphically on the Existing Land Use - 1983 Map, and on the Existing Land Use Map - 1977 of the Long Island Element of the Coastal Management Program.

Overall, much residential land subdivision and development has occurred in the Village. Within the LWRP area most of this has been at a medium density (2-4 units per acre) with some high density (5+ units per acre) at scattered locations. The latter density includes older residences on small lots as well as the Villas at Sag Harbor on West Water Street and the Harbor Close at Long Island Avenue and Bridge Street. The proposed adaptive reuse of the Bulova Watchcase factory building is high-density residential condominium development. Although there are vacant residential lots within the LWRP area, in several instances these are left over pockets of wetlands not well suited for development. There are only two relatively large vacant sites and one former agricultural property that might offer significant subdivision opportunities. One vacant site lies along the projected alignment of Hillside Drive East near the east end of the Village. The other is immediately west of the Baron's Cove Inn, between West Water Street and Long Island Avenue. The agricultural property (locally known as the *Cilli Farm property*) is immediately west of the second site and extends out to a frontage on Glover Street.

For the purposes of this land use discussion, the LWRP Area can be divided into the following *functional areas* (see [Figure 3](#)):

1. Western Residential;
2. Central Residential;
3. Eastern Residential;
4. Waterfront;
5. Village Central Business District (CBD); and
6. Resort Motel.

1. Western Residential Functional Area

The *western residential functional area* encompasses the western portion of the Village, west of Main Street and Bayview Avenue, and front along the Sag Harbor Cove Complex. This area is developed primarily with low and medium density residential uses. At present, the north side of Redwood Avenue, at the Redwood Canal, is developed with the Ship Ashore marina and boatyard, which is designated as a *waterfront functional area*. The area on the south side of Redwood Avenue, just east of the marina, is used by a radio station, and is included in this functional area. The radio station is the only significant commercial use in

this functional area, aside from a gas station located on the corner of Main Street and Brickiln Road. This functional area also includes a large fire department property, located on the north side of Brickiln Road, that contains the fire station and other related facilities.

The entire *western residential functional area* is zoned R-20-One-Family Residence, with the exception of a large condominium complex located along the shoreline (see [Figure 3](#)). This area is zoned MF Multi-Family Residence. These zoning classifications are discussed in greater detail in Section 2.3A(c).

The *western residential functional area* contains two areas of wetlands that drain to Upper Sag Harbor Cove. One area surrounds the outlet creek from Otter Pond, the other area is surrounds a large pond on John Street.

This area contains a large condominium complex which is situated along the shore of Outer Sag Harbor Cove, just west of the Sag Harbor Cove West Marina. There is also a significant area of undeveloped open space and a large agricultural property that present potential opportunities for future development in this area. Both of these sites are zoned for residential use and any future development at these locations should be reviewed for compatibility with surrounding uses and to prevent impacts to natural resources. This entire area was once a dredge spoil disposal site and the plants growing on the agricultural land are indicative of brackish wetlands.

2. Central Residential Functional Area

The *central residential functional area* is located in the center of the Village, between Long Island Avenue/Bayview Avenue/Mains Street and Rysam Street/Division Street. This area extends south from the boundary of the CBD to the Village border. The central residential area primarily contains single-family residential development as well as Otter Pond and Mashashimuet Park, a large cemetery, and some limited areas of wetlands and undeveloped open space. This entire functional area is zoned R-20 Residence ([Figure 3](#)), which is discussed in greater detail in Section 2.3A(c).

Sag Harbor was a whaling community which flourished during the first half of the 19th century. The historically significant Sag Harbor *central residential functional area* contains a large number of 18th and 19th century structures remarkably uninterrupted by 20th century intrusions. Maritime and cultural links with New England associate this area of the Village visually with ports of that region rather than with other communities of New York. Formerly a U.S. Port of Entry and a center of maritime trade and commerce, the Village is extraordinary for the quantity of structures present from the 18th and first half of the 19th century, as well as for the quality of individual buildings.

The area between Division Street and Rysam Street still retains much of the environmental feeling of a small seaport village residential area, has particular charm. Perhaps because of

its age, it also has need of improvements, both public and private. Finally, this area along with the Bulova Watchcase Factory building and the rear yards of buildings fronting on Main Street, constitute another "front-yard-gateway" into the Village business center/waterfront.

The Harbor Close Condominiums on Garden Street, and the prospective adaptive reuse of the Bulova Watchcase Factory building for residential condominiums represent a new style of residential use that is a step away from the traditional one-family dwelling unit that typifies the majority of this area.

The Village of Sag Harbor and the Society for the Preservation of Long Island Antiquities (SPLIA) own contiguous properties in the *central residential functional area* that comprise most of a natural marsh area. This wetland is located between Garden and Spring Streets, at the rear of the Old Custom House property. This wetland has become overgrown with *Phragmites* which is affecting its drainage capabilities.

South of Jermain Avenue, the *central residential functional area* becomes more rural in nature, containing more open space and limited residential development. Much of this area is comprised of Mashashimuet Park (discussed below), and the Oakland Cemetery property. Only limited land area is available for additional residential development.

Mashashimuet Park is a large park encompassing approximately 84.6 acres. Mashashimuet Park is owned and managed by the Russell Sage Foundation and serves as a public park and playground. Mashashimuet Park includes two separate open space areas (six acres which surround Fore and Aft Pond and 2.6 acres that comprise the Maple Swamp wetlands that drain to Otter Pond). The park area also contains a wide variety of recreational amenities.

Otter Pond Park is an 11.3-acre property bounded by Main Street on the west and Jermain Avenue on the south. Otter Pond Park is also owned and managed by the Sage Foundation. A nature walk with benches partially encircles the park and provides users with access for passive recreation and fishing. Otter Pond is hydraulically connected to Upper Sag Harbor Cove via a culvert through the west bank of the Pond.

3. Eastern Residential Functional Area

The *eastern residential functional area* encompasses the eastern portion of the Village, generally east of Division Street. This area contains low to medium residential development, a large public park and beach, two public schools, a NYSDEC conservation area, a 12.5-acre Suffolk County Water Authority property, the Cor Maria Roman Catholic retreat, and intermittent areas of undeveloped open space.

The R-20-One-Family Residence zoning classification covers the entire *eastern residential functional area* (Figure 3). This zoning classification is discussed in further detail in Section 2.3A(c).

Haven's Beach, located just east of the business center and commercial waterfront, is an 18.8-acre facility offering swimming and picnicking opportunities. Haven's Beach is a Village-owned facility which has been designated as a municipal beach, pursuant to Article 1 of Chapter 27 (Land and Beach Use) of the Village Code. However, a good portion of this site is underutilized and the potential for improvement exists that would enable the Village to enhance user enjoyment. In addition, certain essential improvements are required to upgrade present use and enjoyment, in particular the provision of sanitary services. Daily tourist population is estimated at 300 persons during a peak summer weekend, with parking an auto capacity for 60 vehicles. Currently, bathers are discouraged from using the beach and instead utilize Long Beach in Southampton Town.

There is also evidence that the drainage ditch that bisects this park is contaminated with roadway runoff and septic leachate. This ditch carries stormwater runoff collected along Bay Street and Hempstead Street. It is also suspected that the runoff flowing through the Haven's Beach drainage ditch is contaminated with a number of nonpoint source pollutants. Remediation is required to address this problem and improve the quality of the stormwater runoff reaching Sag Harbor Bay.

The *eastern residential functional area* contains three small, homeowners' association beaches that are situated on Sag Harbor Bay (see Section 2.3A(f)2). Each beach facility is comprised mainly of a undeveloped vacant waterfront lot which provides waterfront access and limited parking. Each beach property is protected from future development through restrictions contained in each homeowner's deed. Although utilization of each beach is restricted to members of the associations, these facilities provide recreational access that would otherwise be blocked by private residential development. It should be noted that the seaward boundaries of the individual association properties are tied to the mean high water line.

Cor Maria, a 16.7-acre Roman Catholic Church retreat, lies between Haven's Beach and the *waterfront functional area*. It has more than 1,600 linear feet of shoreline on both the active harbor and Sag Harbor Bay. The breakwater structure that protects the harbor area extends from the shoreline of the Cor Maria property. Although no change is anticipated in the use of this property, if it should become available for reuse, it would have a significant impact on the entire Village and its character. This property is zoned for residential use and could accommodate an estimated 30+ dwelling units. Preservation of the shoreline for public access and the character and intensity of the new use would be principal concerns with reference to their impact on the natural environment and on the character and quality of the entire Village.

The area further east along the shore of Sag Harbor Bay, and inland to the Village boundary is substantially developed with low and medium density residential uses and much of the attractive native woodland vegetation remains. Residential owners should be encouraged to

preserve this character wherever possible. This area also contains a few large areas of undeveloped open space that are privately owned and zoned for residential development.

The NYSDEC owns approximately 190 acres of wetland and undeveloped open space along both sides of Little Northwest Creek. Approximately 50 acres of this conservation area, which contains both tidal and freshwater wetlands, are located within Village boundaries. The estuarine wetlands along Little Northwest Creek are one of the most significant natural habitats in this area. Aesthetically, it also serves another purpose - as an open space it provides a fine break in the pattern of development which defines the Village of Sag Harbor boundary.

Suffolk County Water Authority owns a 12.5-acre parcel located along the southeastern Village boundary. Although the property contains a water tank, a small building, and long roadway which provides access from Madison Street, it is primarily comprised of undeveloped open space. The property is zoned for residential use.

Problems in the *eastern residential functional area* include shoreline erosion, stormwater runoff into Sag Harbor Bay and Little Northwest Creek, the potential impact of future development upon the few remaining large properties, and the potential impact of recreational activities on the marine environment.

4. Waterfront Functional Area

The *waterfront functional area* extends from the Sag Harbor Cove West Marina, on West Water Street, to the western side of the Cor Maria property on Bay Street. The waterfront area also includes the Ship Ashore Marina located at the Redwood Canal. With the exception of the area located between Rysam Street and Dering Road, the *waterfront functional area* does not extend south of West Water Street and Bay Street. There is also one area where the retail uses from the Village business center (CBD) extend north across Bay Street and onto the Long Wharf, reducing the width of the waterfront area. Despite the fact that these uses are not water-dependent, they serve to provide an activity connection between the waterfront and the Village business center. The *waterfront functional area* located along West Water Street and Bay Street is zoned WF Waterfront. The *waterfront functional area* located on the Redwood peninsula is zoned MA Marine. These zoning classifications are discussed in Section 2.3A(c) of this document.

Land uses in the *waterfront functional area* include the following (from west to east):

- *Ship Ashore Marina*

Ship Ashore Marina is a private marina and boatyard located at the eastern end of the Redwood peninsula, in the western portion of the LWRP area. Ship Ashore Marina is located within the Redwood canal, which is also referred to as the Redwood boat basin, and

has direct access to Outer Sag Harbor Cove. Ship Ashore Marina provides a full range of boat repairs and services, and can accommodate any commercial vessel that can access this facility. This marina contains 101 slips with electric service, and can accommodate power boats up to 35 feet in length. A boat launch ramp, shore side dock, and on-site boat storage are also provided. The Ship Ashore facility is open year-round for boat repair services, and is served by a 30-ton lift. This marina does not offer a vessel waste pump-out facility. In addition, marine supplies are available at this site. Parking is provided on this site for approximately 100 vehicles. During the off-season, boats are stored in portions of the parking area.

- *Sag Harbor Cove West Marina*

Sag Harbor Cove West Marina is a private facility located on West Water Street, west of the North Haven/State Route 114 bridge, at the eastern end of Outer Sag Harbor Cove. This marina has 84 slips (30 of which are for transient vessels), and offers seasonal dockage for power boats up to 50 feet in length. Electric service and a fueling dock (gasoline only) are also provided. Parking is provided on-site for about fifteen cars. A public parking area adjoins this facility. Additionally, the Sag Harbor Cove West Marina facility offers associated motel and restaurant services, laundry, and showers on the south side of West Water Street (outside the waterfront district). A vessel waste pump-out facility, however, is not available at this marina.

- *Village A and B Docks*

The Village of Sag Harbor operates two docks in eastern Sag Harbor Cove known as the **A** and **B** docks. These docks are located on West Water Street, in the cove area between Sag Harbor Cove West Marina and Sag Harbor Cove East Marina (discussed below). The A dock, which is located adjacent to Sag Harbor Cove East Marina, is a fixed structure that provides 22 slips for vessels up to 30 feet in length. The B dock, which is located near the Sag Harbor Cove West Marina, is a floating structure that provides 50 slips for vessels up to 30 feet in length. Both docks offer electric and water services and provide seasonal dockage (from April 1 to October 31), with annual leasing fees that vary based on residency status. The B dock is generally utilized for in-water winter storage (seasonally from November 1 to March 31). In addition to the dockage available at the A and B dock facilities, the Village provides 48 seasonal cable slips along the shoreline between the two docks.

Off-street parking is provided in the vicinity of these docks. There are 14 parking spaces located along the north side of West Water Street, adjacent to the cable slips. There are also two small parking areas located adjacent to the A and B docks. The parking area near the A dock can hold nine cars; the area near the B dock can accommodate ten. In addition, there are 14 parking spaces available in a small lot located across from the A dock and 16 spaces situated along the south side of West Water Street, adjacent to the Sag Harbor Inn.

- *Sag Harbor Cove East Marina*

Sag Harbor Cove East Marina is a private facility located on West Water Street, east of Sag Harbor Cove West Marina and west of the North Haven/State Route 114 bridge. This marina provides 80 slips (25 of which are for transient vessels) on a seasonal basis with electric service, and offers dockage for power boats up to 85 feet in length. Ice and groceries, laundry, and showers are available. A restaurant and snack bar are also situated on-site. No boat repair services or fueling dock are available at this facility.

There is a small triangular-shaped Village-owned property located just south of Sag Harbor Cove East Marina. This area offers limited public parking and public greenspace.

- *Windmill Park*

Windmill Park is a Village-owned, 1.9-acre strip of shore front located along both sides of the North Haven/State Route 114 bridge abutment. The eastern portion of the park is situated at the terminus of Main Street and acts as a focal point for tourist activity. This side of the park contains a small beach area, a tourist information center (contained in an historic windmill structure), a few benches for public viewing and a single picnic table. This windmill facility is operated by the Sag Harbor Village Chamber of Commerce as an

information center during the summer season. The western side of the bridge is undeveloped public space.

- *The Long Wharf*

The Long Wharf structure is owned by Suffolk County, but all dockage activities are managed by the Village of Sag Harbor. Docking occurs along the entire face of the Wharf, with the exception of the area set aside for the finger docks and floating dock which comprise the Long Wharf Marina (discussed below). The number of vessels that can tie up at any single time depends on vessel lengths. Typically, only larger vessels (to a maximum length of greater than 100 feet) utilize the Long Wharf on a regular basis. Smaller boats wishing to dock in this area utilize the finger piers or the small Village mooring area (which located west of the Long Wharf).

New England Steamship Lines runs a seasonal (summer) passenger excursion ferry service from Haddam, Connecticut that docks at the northern end of the Long Wharf. The "Yankee Clipper" (which has a capacity of 500 persons) departs Haddam each morning, to dock at the Long Wharf by noon. This ship returns to its home port three hours later. This dockage arrangement is governed by a long-term lease with the Village, for which the ferry company pays an annual fee that increases from year to year.

Other large seasonally-operated vessels utilize the western side of the Long Wharf for docking (see discussion of Village docking facility below), including large sail boats that come from Mystic, Connecticut and stay overnight. The American Beauty provides an established charter service which is operated by Harbor Tours, Inc. This 45-foot vessel can accommodate a maximum of 38 passengers. This charter service offers sightseeing cruises and other private charters in the Peconic/Gardiners Bay system.

The Long Wharf is also utilized by pedestrians for passive recreational purposes. It contains a number of benches along the perimeter which provide visual access to adjacent waters. The Long Wharf also provides public parking area for approximately 100 vehicles. The wharf also adjoins a small privately-operated fish market and a complex of retail shops at the south end, near Main Street.

- *Village Finger Docks (Long Wharf Marina)*

The Village provides seasonal dockage on the west side of the Long Wharf, known as the Long Wharf Marina. This floating dock contains nine finger piers for small vessels on its western side; in addition, vessels (including charter boats) can tie up along the eastern side, between the main floating dock and the Long Wharf. Electric and water services are provided for the nine slips. These slips are utilized on both a seasonal and transient basis. During the winter season, the finger piers are stored adjacent to the A dock.

- *Waterfront Marina*

Waterfront Marina is a private facility located north of Bay Street, on the east side of the Long Wharf. Waterfront Marina provides seasonal dockage for 67 permanent and transient vessels; there is no vessel waste pump-out facility and no boat repair services available on this site. Both power and sail boats, up to a maximum length of 150 feet, can be accommodated at this facility. Services include dockside electricity, ice, and showers. A restaurant is also located on-site, upland from the marina. This site also includes a fish market which is leased for private operation.

- *Marine Park and Boat Basin*

Marine Park is a Village-owned and operated facility situated on Bay Street, to the immediate east of Waterfront Marina. Seasonal and transient dockage is provided at this facility. A total of 32 vessels (maximum length 40 feet) can be docked along the main bulkhead, 16 of the slips are for transient usage. An additional 15 vessels can be docked on a seasonal basis in the boat basin, 11 at boat slips and four on cable slips.

Dockside electricity and showers are available at the Marine Park site; fees for these services are charged on an annual and transient basis. In addition, the Village maintains a dinghy dock which supplies eighty slips that provide access to the Village mooring field (discussed below). The dinghy dock is located at the eastern end of Marine Park, and extends off the bulkhead which is situated in front of the Village sewage treatment plant. This dock is installed every year, at the beginning of April.

A boat launching ramp, which can accommodate one trailer at a time, is present in the boat basin. Use of this ramp is free to Village residents but nonresidents are charged a nominal fee. Seasonally (from June 1 through August 31) about 400 boats are launched at this ramp. There are two floating docks located directly west of the boat ramp. These are owned and operated by the Bayview Bait and Tackle Shop, which is located across the street from this site, on the corner of Bay and Rysam Streets. Seasonal and daily permits for ramp usage are issued through the dock master's office.

Parking for the Marine Park facility is provided on-site. In addition, approximately 25 off-street parking spaces are located along the north side of Bay Street, adjacent to Marine Park. Another 14 spaces are located along the south side of the boat basin. The Village provides additional parking in a municipal lot located directly south of the Sag Harbor Yacht Club docks (discussed below), on the east side of the boat basin. This lot can accommodate over 40 vehicles. The Village has extended this parking lot eastward onto the former Mobil Oil property. The Village acquired this land in October of 1994. There are also over 50 parking spaces located along the south side of Bay Street, across from the Marine Park and yacht club facilities.

- *Village Mooring Areas*

The Village of Sag Harbor operates a large mooring area which is located between the navigation channel and the breakwater. There is another, smaller, mooring area situated on the western side of the Long Wharf (discussed above). Combined, these areas can accommodate up to 150 vessels, although the number varies depending on vessel size. There are generally 130 usable moorings locations at all times. Shoaling in the vicinity of the breakwater and near the Long Wharf limits the use of these areas to shallow-draft vessels. The shallow conditions make these areas inaccessible to vessels that would otherwise lease the available mooring locations from the Village. Dredging in both the mooring areas would eliminate this problem.

The Village leases mooring locations on both a seasonal and transient basis. At present, the lessee must supply their own ground tackle at all but one location in the mooring field. The Village provides the ground tackle at this one location, which is utilized for transient moorings during the summer boating season. The boating season runs from April 1 through October 31; all vessels must be off the moorings by November 1. The ground tackle should have a winter stake installed or be removed from the water by December 1. The Village also requires that all ground tackle be inspected every two years by a private contractor hired at the owners expense. A copy of the inspection report must be submitted to the Harbormaster. The owners of ground tackle are responsible for maintaining their equipment. If notified by Harbormaster that their lines must be repaired or replaced, the owner must undertake such action within 24 hours of notification.

The Harbormaster established mooring regulations that were passed by resolution of the Village Board in January of 1995. These regulations set standards for mooring equipment and establish the biannual inspection of ground tackle as a Village policy.

Typically, the Village has a long waiting list for mooring leases. The Village allows each former lessee the opportunity to renew their lease prior to March 1. Thereafter, these locations become available for open leasing. During 1997, approximately 98 percent of the demand for mooring leases was satisfied. Forty people are on the waiting list for the 1998 boating season.

- *Sag Harbor Yacht Club*

Sag Harbor Yacht Club (SHYC) is a private facility located on Bay Street, to the immediate east of Marine Park. Dockage is provided for 75 vessels, both sail and power, up to a maximum length of 140 feet. This facility also has a vessel pump-out station. The SHYC has an easement agreement with the Village for the dock area that extends off the bulkhead located just west of the Village sewage treatment plant. (This is the same bulkhead that provides access to the Village dinghy dock). Under this easement agreement, the yacht club must maintain the triangular parcel of shore front property situated behind the bulkhead with

landscaping and a dumpster. The SHYC utilizes the eastern portion of the Marine Park boat basin. The yacht club maintains approximately 12 boat slips along the south and east sides of this basin. Services provided by the SHYC include showers, laundry, electric and a fueling dock.

- *Sag Harbor Sewage Treatment Plant*

The Sag Harbor Sewage Treatment Plant (STP) is located on Bay Street in the Village of Sag Harbor. The plant is situated at the water's edge and discharges treated wastewater directly into Sag Harbor via a single ten-inch diameter, cast-iron outfall pipe which extends through the bulkhead seawall. The STP outfall pipe may be above or below sea level, depending on the stage of the tide. This facility and its service area are discussed in Section 2.3B(e).

The Village of Sag Harbor collects vessel wastes at two pump-out facilities. Both facilities are available for use at Marine Park, free of charge, to any vessel operator. One pump-out station is a stationary facility that is attached to the Marine Park bulkhead; the other pump-out is a mobile facility. Use of these facilities must be arranged through the Harbormaster. All of the vessel wastes collected by these systems are stored in an underground tank. This tank is emptied by a private contractor and the wastes are hauled to the Suffolk County Scavenger Waste Facility at Bergen Point, in the Town of Babylon, for treatment and disposal. In addition, there are two Town of Southampton pump-out vessels. Vessel wastes are discussed in further detail in Section 2(e)3.

- *Sag Harbor Yacht Yard*

Sag Harbor Yacht Yard is a full-service boat repair and storage facility located on Bay Street, to the immediate east of the Sag Harbor Yacht Club (and the Village sewage treatment plant). This facility services both commercial and noncommercial craft. The yacht yard provides year-round dockage for 25 vessels, both sail and power, up to a maximum length of 50 feet. Services offered at this facility include a full range of boat repairs, a 35-ton lift, and showers. The Sag Harbor Yacht Yard has negotiated a lease agreement with the Village of Sag Harbor to utilize 31,265 square feet of land area in the southeastern portion of the Village-owned property (located to the immediate west of the Yacht Yard site) for boat storage purposes. The Yacht Yard had previously leased the smaller, waterfront area in the northeastern portion of this property.

The Village of Sag Harbor acquired the (former) Mobil Oil property in 1994, and utilizes the area behind the STP for an additional parking area. Because the Mobil Oil property previously contained aboveground fuel storage tanks, and has undergone extensive remediation, the development of offices, residences or schools on this site is prohibited. The Village is also leasing the eastern portion of this property to the Breakwater Yacht Club, who constructed a sailing school along the shore, and the Sag Harbor Yacht Yard boat storage.

The *waterfront functional area* contains the full extent of the water-dependent uses located in the Village. This area is coincident to the *Harbor Water Use District*, which contains the mooring areas and navigation channels, and is an area of considerable boating activity.

The substantial waterfront park and marina development in the waterfront area gives it an open rather than a built-up character. However, the visual quality and general organization of the development along West Water Street/Long Island Avenue and Bay Street, which provide access to properties in the Village business center as well as to those in the waterfront area, is inconsistent and deficient in many instances.

Activities in the *waterfront functional area* include recreational and charter boating, fishing, strolling, passive viewing and excursion boat passenger arrivals and departures. Fishing takes place at Long Wharf. Long Wharf is also the landing place for upwards of 300 excursion boat passengers per day on summer weekends. The Windmill Tourist Information Center is located at the foot of the wharf to serve these and other tourists. However, experience indicates that the number of excursion boat tourists at peak times exceeds the capacity of the windmill facility to expeditiously provide service.

The 1.1 mile shoreline in this area offers an outstanding opportunity for public access to what can be a very attractive waterfront development, including a shoreline promenade. Although most of this shoreline is in public ownership, a few private property owners do have sites that interrupt the continuity of shoreline access.

5. Village Central Business District Functional Area

Village Central Business District (CBD) activity, and most of the principal historic buildings, are concentrated near the waterfront, reflecting the Village's historic function as a seaport. This functional area extends along the east and west sides of Main Street, encompassing the core area of commerce activity. This area contains a mix of retail and commercial businesses as well as a number of public facilities. Tourists and other visitors to the area utilize the CBD and the waterfront areas, which both provide a mix of opportunities for recreation, shopping, dining, and other enjoyable passive activities. The entire area is zoned VB - Village Business ([Figure 3](#)), and represents the only VB zoning district in the Village (see Section 2.3A(c) for further detail).

There are approximately 50 acres in this overall area. Main Street, the central business artery, extends from Long Wharf, generally southward, subsequently becoming the Bridgehampton-Sag Harbor Turnpike (C.R.79). The business frontages in the CBD have shown notable improvement in conditions and character as the result of a Village rehabilitation program. However, there is still much to be done at the rear of many of these properties. Division Street delineates the boundary between the Towns of Southampton and East Hampton. It is located only a short block east of, and parallel to, Main Street in the business center. Generally both the street improvements and the properties facing on the first

two blocks of Division Street, south of Bay Street, need work to achieve their potential utilization and an attractive environment. The intersection, open space, and buildings at Division Street and Washington Street/Burke Street have a particularly attractive potential. East Hampton-Sag Harbor Turnpike (N.Y.S. Route 114) enters the Village from the east on the Hampton Road and Hempstead Street alignments, intersects Division Street at the edge of the business center, and then continues over the bridge to North Haven and the ferry to Shelter Island. Thus, Division Street has particular importance as an entrance to the Village business center and commercial waterfront.

The Village business center is only beginning to achieve some feeling of design continuity. In the past, projects have been considered individually with the resulting lack of overall visual cohesiveness. Since the *waterfront functional area* is both a major open space attractive to residents and visitors alike, and one of the Village's "front-yard gateways" into the Village CBD, its visual and functional quality have a substantial impact on the first impression of thousands of visitors to the Village. Therefore, its close integration with the Village business center is a particularly important feature. The Village's Board of Historic Preservation and Architectural Review has taken this into consideration and has established specific design criteria to ensure that current and future projects in this area are visually and aesthetically compatible with the historic character of the Village.

A second "front-yard gateway" to the Village center lies along Hampton Road/Division Street. In addition to the opportunity to preserve these buildings, one building deserves particular attention. It is the Bulova Watchcase Factory building which occupies an entire block opposite some of the Village's most attractive historic homes. In addition the Village parking area, at the corner of Washington and Division Streets, provides an open space which is in part landscaped so that the Bulova Watch Case Company can be viewed from some distance north along Division Street. As discussed in Section 2.3A(e), this site is proposed for redevelopment.

The Long Island Regional Planning Board recommends that communities which seek to improve and strengthen their CBDs should consider reviewing their ordinances. The character of each community will determine which uses are compatible or incompatible. Ordinances that prohibit incompatible uses and encourage maximum pedestrian access and amenities, such as landscaping, buffering, sign and architectural regulations, are the most effective in strengthening CBDs.

Finally, the Board states that a tourist oriented CBD, such as that in Sag Harbor, necessitates public accommodations. Hotel/motel facilities would be a supportive use. Other supportive activity centers in Sag Harbor include the surrounding resort area, and the immediate waterfront community with its extensive boating and fishing resources.

6. Resort Motel Functional Area

The *resort motel functional area* is located in the western portion of the Village, adjacent to the waterfront. This district is situated between West Water Street and Long Island Avenue, south of the Sag Harbor Cove West Marina and Village **A** and **B** docks. This area contains two medium-sized motel facilities that provide year-round accommodations. This area is zoned RM-Resort Motel District, and represents the only RM district in the Village (see Section 2.3A(c) for further discussion of this zoning classification).

During the summer season, resort motel accommodations are generally at capacity. Occupancy is very low during the off-season. There has been some indication that Sag Harbor might have interest for tour groups and mini conferences during the off-season.

Suffolk County town officials have been concerned about the conversion of motels/hotels into condo/coop ownership and its impact on the tourist industry. Their fear is that eventually there will be a shortage of public tourist accommodations. "For all the new construction that has occurred over the last few years there has been a corresponding loss in existing accommodations, especially in resort areas."³ Some motels, especially in eastern Suffolk County, have been converted to seasonal or year-round apartments or condominiums.

Sag Harbor has experienced an increasing number of weekend and long-term visitors. Their modes of travel include automobile, bus, excursion boat, private yacht and smaller recreational craft. With its attractive environment and unique concentration of historic buildings, winter tourism, conferences, and seminars might be a possibility provided that a package of quality accommodations could be made available.

(b) Surface Water Use

The waters of Sag Harbor are utilized extensively for recreational boating and shellfishing, and to a lesser degree for other marine recreational activities. Historically, the Sag Harbor area was an important port-of-call and supported a significant whaling industry. After the whaling activities declined, trade and over-water transshipment became commonplace. In the 1800s, the local roadway system on Long Island was underdeveloped and long distance highway travel was arduous, and nearly impossible in foul weather conditions when the roads became thick with mud. Therefore, sea travel for both passengers and material goods was the most convenient mode of transport.

Today, the Sag Harbor area contains a number of marinas and docking facilities and supports an extensive boating industry. The local waters are a popular destination for tourists and

³ Ibid p. 47.

summer boating enthusiasts, which helps to fuel the Sag Harbor economy. The bottom lands in the Sag Harbor Cove Complex and Sag Harbor Bay also are host to a variety of shellfish that support a local industry. Although shellfishing activities, in particular the scallop harvests, were impacted due to widespread outbreaks of the brown tide, this species has revived in the past few years. In addition, there are other shellfish varieties that are harvested in these waters, as discussed in Section 2.3A(d). Aside from recreational boating and shellfishing, charter boats and a passenger excursion boat frequent Sag Harbor waters. Swimming and water skiing are also popular sports, although these activities are restricted to Sag Harbor Bay waters and are regulated by the Village as well as the Towns of Southampton and East Hampton.

The Sag Harbor Village LWRP, when adopted in 1986, established three water use districts (i.e., the *Harbor District*, the *Low Intensity District*, and the *Conservation District*) for controlling the intensity of water uses within the Sag Harbor Cove/Bay Complex (see [Figure 3](#)). These districts, as they are presently defined, are described as follows.

- *Harbor District (HD)* - This area extends from the western side of the Marine District, east to the breakwater. This area is designated for intensive boating and commercial harbor uses, and encompasses four private marina facilities, the Village mooring area, the Long Wharf, the Sag Harbor Village sewage treatment plant, and two Village marine-recreational facilities. It is subject to a considerable amount of vessel traffic and other marine-related activities during the summer boating season.

The *Harbor District* was designed as a means of controlling marine commercial and recreational activities by limiting these activities to a specific area of the waterfront. (In-water uses, such as swimming, are not permitted in this area due to vessel congestion and water quality problems). Such action would help to strengthen the economic base of this area and protect important natural and historic resources located outside the district boundaries.

- *Low Intensity District (LID)* - One area within the Sag Harbor Cove/Bay Complex has been designated as a *Low Intensity District*. This area extends from the breakwater east to the eastern boundary of the Village. The *LID* was designed as general boating area, where intensive boating activities would not be permitted. Although swimming occurs in the vicinity of the private beach associations along the shoreline of Sag Harbor Bay, Haven's Beach is the only formally-designated swimming area in this general vicinity. The *LID* primarily contains residential uses along the shoreline and is subject to a limited amount of vessel traffic.
- *Conservation District (CD)* - There are three Conservation Districts within Village waters. One *CD* area is located at the western end of the Village and encompasses the waters within Upper Sag Harbor Cove, Morris Cove, Otter Pond, Maple Swamp

feeding Otter Pond, and those portions of Ligonee Brook and Inner Sag Harbor Cove that fall within the boundaries of the Village. Another *CD* area includes that portion of Round Pond that is located within the Village. The other *CD* area encompasses that portion of Little Northwest Creek that is located within Village boundaries, and Rattlesnake Creek. These areas were designated as a means of protecting the sensitive natural resources (e.g., marshes and tidal flats) found therein, and to preserve and protect water quality and resources located within areas subject to poor tidal flushing. The *CD* is subject to very limited recreational and boating activity in the Upper/Inner Sag Harbor Cove areas; Little Northwest Creek is part of a NYSDEC protected wetland preserve and access is restricted by permit. Construction of shoreline hardening structures (e.g., bulkheads and retaining walls) in the *CD* should be avoided.

(c) Zoning

Chapter 55 of the Village of Sag Harbor Code contains the Zoning Regulations. This Ordinance established seven zoning classifications that regulate land use in the Village (as shown on Figure 3). The relevant portions of these classifications, as they apply to the LWRP, are discussed as follows.

● *R-20 One-Family Residence District.* As shown on Figure 3, this zoning district is the principal residence district in the Village. According to the Zoning Code, private moorings, docks and similar marine structures, situated in tidal wetlands and waterways, are permitted as accessory uses in R-20 districts pursuant to Chapter 53 (Waterways Law) of the Village Code. It also requires the following:

- Preservation of a minimum of 50 percent of the site area as natural or landscaped open space but not less than all existing areas of the site that contain tidal or freshwater wetlands, and beach and dune habitats which are to be preserved in their natural state;
- Preservation of all natural vegetation located within 25 feet of the mean high water line or the upland edge of tidal or freshwater wetlands and beach and dune habitats;
- Lot coverage by principal and accessory buildings and structures not to exceed 20 percent of the lot area;
- No fertilized vegetation shall be planted or installed within 25 feet of the mean high water line or the upland edge of any tidal or freshwater wetland or beach and dune habitats; and
- Individual sewage disposal systems must be located a minimum of 100 feet from the mean highwater line or the upland edge of any tidal or freshwater wetland or beach and dune habitats.

● *MIR Moderate Income Residence District.* The MIR zoning classification has a minimum lot size requirement of 40,000 square feet and establishes minimum lot area standards per

dwelling unit for various styles of multi-family developments (e.g., 1,000 sf. of lot area per unit in a congregate care facility or 2,500 sf. per one-family dwelling unit). The zoning map shall only be amended to include MIR districts after the criteria set forth in the Zoning Code has been met. Private moorings, docks and similar marine structures, situated in tidal wetlands and waterways, are permitted (as a *last resort* measure) as accessory uses in MIR districts pursuant to Chapter 53 (Waterways Law) of the Village Code. Furthermore, MIR developments must be located on sites that are served by both public water and sewage systems. Other requirements include the following:

- Preservation of a minimum of 35 percent of the site area as natural or landscaped open space;
- Preservation of all natural vegetation on the site that is located within 25 feet of the mean high water line or the upland edge of tidal or freshwater wetlands or beach and dune habitats;
- No fertilized vegetation shall be planted or installed within 25 feet of the mean high water line or the upland edge of any tidal or freshwater wetland or beach and dune habitats;
- Individual sewage disposal systems must be located a minimum of 100 feet from the mean highwater line or the upland edge of any tidal or freshwater wetland or beach and dune habitats; and
- Lot coverage by principal and accessory buildings and structures shall not exceed 35 percent of the lot area, except not to exceed 40 percent for a nursing home, health related facility or adult proprietary home.

● *MF Multiple-Family Residence District.* Multiple-family districts were designed to provide for a limited number of small scale multiple-family residential developments in the Village. Recognizing the potential impact of the projected residential density in this district, it shall be located only on sites served by both public water and sewerage systems. Whether sold as private units or individually rented, provisions must be made for the management and maintenance of common areas and facilities. The MF zoning classification has a minimum lot area requirement of five acres, with a maximum density of six dwelling units per acre. Additional requirements include the following:

- Preservation of a minimum of 50 percent of the site area as natural or landscaped open space but not less than all existing areas of the site that contain tidal or freshwater wetlands, and beach and dune habitats which are to be preserved in their natural state;
- Preservation of all natural vegetation located within 25 feet of the mean high water line or the upland edge of tidal or freshwater wetlands and beach and dune habitats;
- No fertilized vegetation shall be planted or installed within 25 feet of the mean high water line or the upland edge of any tidal or freshwater wetland or beach and dune habitats; and

- Individual sewage disposal systems must be located a minimum of 100 feet from the mean highwater line or the upland edge of any tidal or freshwater wetland or beach and dune habitats.
- Lot coverage by principal and accessory buildings and structures shall not exceed 25 percent of the lot area.

The only MF Multiple-Family Residence zoning district in the Village comprises a single, contiguous parcel located on West Water Street, immediately east of the Redwood peninsula. This property is situated within the *Western Residential Functional Area*.

● *RM Resort Motel District.* The RM zoning classification was established to provide potential sites for resort motels to accommodate the needs of short term vacationers and transient travelers. The intent of this zoning district was to cluster resort motels in close proximity to each other and to the Village business center to encourage use of these facilities for business seminars and mini conferences in the off-season. The RM district is not intended to be converted into multiple dwellings for long-term residents. The RM zoning classification has a minimum lot area requirement of 55,000 square feet with a maximum density of 35 transient guest units per acre. Such developments shall be located only on sites easily accessible to supporting facilities and served by both public water and sewerage systems. Additional requirements include the following:

- Preservation of a minimum of 25 percent of the site area as natural or landscaped open space but not less than all existing areas of the site that contain tidal or freshwater wetlands, and beach and dune habitats which are to be preserved in their natural state; and
- Individual sewage disposal systems must be located a minimum of 100 feet from the mean highwater line or the upland edge of any tidal or freshwater wetland or beach and dune habitats.

● *VB Village Business District.* The VB Village Business zoning classification was designed to be promoted as the economic center, which supports significant recreational and tourism activities. Any administrative procedure or review process that influences the quality of land use and development in this zoning district must emphasize accessibility for pedestrians as well as vehicles, adequate off-street parking, and an attractive business environment which includes the provision of landscaped open space. Providing for both public and visual access to the shoreline and Harbor District through properties within the VB Village Business District is of particular concern. Development proposals within the VB Village Business District must provide for on-site stormwater drainage controls in an effort to protect both surface and groundwater quality, and for both public water supply and sewerage systems. The minimum lot area requirement in the VB Village Business District is 10,000 square feet; additional requirements include the following:

- Preservation of a minimum of 3 percent of the site area as natural or landscaped open space but not less than all existing areas of the site that contain tidal or freshwater wetlands, and beach and dune habitats which are to be preserved in their natural state; and
- Individual sewage disposal systems must be located a minimum of 100 feet from the mean highwater line or the upland edge of any tidal or freshwater wetland or beach and dune habitats.

● *WF Waterfront District.* The WF Waterfront District zoning classification was established to ensure that the maritime character of the Village's seaport area, and the economic benefits derived thereof, will be preserved and continued. This classification was designed to: maximize public access to the shoreline from both onshore and offshore points; protect views of the harbor and/or shore front from certain vantage points; and restrict land use and development along the shoreline to water-dependent and water-enhanced uses that would serve to enhance the maritime character and tradition of the Village. The WF Waterfront District classification has a minimum lot area requirement of 40,000 square feet; other requirements include the following:

- Lot coverage by principal and accessory buildings and structures shall not exceed 40 percent of lot area;
- Accessory uses permitted in the WF Waterfront District must be located on the same lot with the principal use;
- Accessory uses that are not water-dependent must be located as far away from the shoreline as possible;
- Preservation of a minimum of 30 percent of the site area as natural or landscaped open space but not less than all existing areas of the site that contain tidal or freshwater wetlands, and beach and dune habitats which are to be preserved in their natural state; and
- Individual sewage disposal systems must be located a minimum of 100 feet from the mean high-water line or the upland edge of any tidal or freshwater wetland or beach and dune habitats.

The area of the Village that is zoned WF Waterfront District extends east from the Sag Harbor Cove West Marina to the western side of the Cor Maria property. With the exception of a small area located between Rysam Street and Dering Road, this district does not extend south of West Water Street/Bay Street. This zoning district comprises the majority of the *waterfront functional area*.

● *MA Marine District.* The MA Marine District covers both sides of the Redwood Canal along the north side of Redwood Road, and encompasses the Ship Ashore Marina property (this area is designated as a *waterfront functional area*). The MA Marine District was created for this area because it has supported marine uses for many years and the general character of these uses are found to be appropriate for this location. The MA Marine District

designation was further intended as a means of preventing potential adverse impacts that could result from increased or more intensive marine uses in this area, and to assure their future compatibility with both the surrounding residential uses and the fragile ecological character of Upper Sag Harbor Cove. The MA Marine District classification has a minimum lot area requirement of 40,000 square feet, and permits the establishment of residential uses, residential community facilities, public utility uses, and marinas. Marinas are only permitted provided that:

- 1) no adverse impacts result to groundwater of the Village, and impacts to the ecology of adjacent tidal waters are minimized;
- 2) sanitary restrooms, pump-out facilities, holding tanks and sewage disposal systems are provided in accordance with the regulations of the Village, the Suffolk County Department of Health Services, and New York State;
- 3) provisions are made for the collection and disposal of boat-generated solid wastes;
- 4) outdoor lighting is not projected into or visible from neighboring upland properties, and is not more than ten feet above the ground or dock structure (excluding appropriate navigational aides deemed necessary by the Village); and
- 5) fuel storage facilities are adequately contained so as to prevent spillage, leakage or damage from storms and are set back at least 50 feet from the mean high water line. Fuel pumps may be located conveniently to service boats, provided that precautions are taken to prevent spillage into tidal waters. In no case can fuel storage or service pumps be located less than 100 feet from adjacent property lines or can any fuel storage tanks be constructed above ground. The recommendations of the Village Fire Chief, the Town Bureau of Fire Prevention and the National Board of Fire Underwriters must be considered with respect to the siting and construction of all fuel storage facilities.

Additional requirements include: the preservation of a minimum of 30 percent of the site area as natural or landscaped open space but not less than all existing areas of the site that contain tidal or freshwater wetlands, and beach and dune habitats which are to be preserved in their natural state; and that individual sewage disposal systems be located a minimum of 100 feet from the mean highwater line or the upland edge of any tidal or freshwater wetland or beach and dune habitats.

In addition to the regular districts, Chapter 55 - Zoning, has two special overlay districts - one is the Historic District. It provides for a review commission (the Board of Historic Preservation and Architectural Review) which is charged with maintaining the character of the Historic District in the process of approving building permits and with the designation of landmarks. The second special district is the Tidal Flood Hazard Overlay District. It

provides further standards for buildings and structures to be located within the flood hazard zones established by the Federal Emergency Management Agency.

In terms of the LWRP area, all the zoning districts except for the MIR Moderate Income Residence District are mapped. The most important districts, in terms of the extent of shoreline affected or the degree to which water-dependent uses are permitted and protected, are the R-20 One-Family Residence district, the WF Waterfront district, and MA Marine district.

The R-20 One-Family Residence designation is found along the Village shoreline. Most of this land area is already developed. Some individual vacant lots are located in the *eastern, western, and central residential functional areas*, but very few are located directly on the waterfront and their relative size would not result in significant waterfront development if these sites were developed. However, the Cor Maria Retreat and Haven's Beach properties are both located within an R-20 district, in the *eastern residential functional area*. These properties both exceed 15 acres in size and could potentially yield a large number of residential units if developed. This could result in significant impacts to waterfront resources.

The VB Village Business is focused on the village *central business district functional area*, located on Main Street from frontages on Long Island Avenue and Bay Street south to limited frontages on Spring and Sage Streets. It includes the Bulova Watchcase Factory site.

In general, the current location of multiple dwellings and other intensive land uses are limited to areas served by the Village sewage system. It is anticipated that this will continue to be true in the future.

(d) Water-Dependent and Water-Enhanced Uses and Commercial Fishing

Water-Dependent Uses

Water-dependent uses contribute significantly to the long-term economic vitality and public enjoyment of coastal areas. A water-dependent use is a use that requires a location on, in, or directly adjacent to the water in order to function or exist.

As discussed in Section 2.3A(a)4, the Sag Harbor Village *waterfront functional area* contains a number of water-dependent uses. These comprise both public and private facilities, and include the Sag Harbor Yacht Club, the Sag Harbor Yacht Yard, four private marinas, the Sag Harbor Village docks, Marine Park (a Village facility which includes the Sag Harbor boat basin), the sewage treatment plant, Haven's Beach and Park and a number of boat launching ramps. In addition, Village-owned waterfront is developed with a community sailing school, which is a water-dependent use.

Typical sites for water-dependent uses (i.e., swimming, access to sculls and other small boats) in the functional residential areas located east and west of the Harbor District, include private homeowners' association beach facilities along Sag Harbor Bay and private docks and boat basins in the Sag Harbor Cove Complex. The Sag Harbor Village Harbor Management Plan contains a more extensive discussion of many of the water-dependent uses located along the Sag Harbor Village waterfront.

Water-Enhanced Uses

A water-enhanced use does not require a location on or adjacent to the water in order to effectively operate, but derives certain benefits from a waterfront location, such as the increased enjoyment level of the users. Water-enhanced uses in the LWRP area include restaurants, resort motels, private residences, the Long Wharf promenade (and the individual uses contained therein), Windmill Park, and the Cor Maria Retreat.

Commercial Use of Fish and Wildlife

Estuary

- Sag Harbor

Sag Harbor is contiguous with Northwest Harbor in East Hampton, and is part of one of the most significant bay scallop fisheries in the region. These waters contribute significantly to the scallop fishery on the Long Island. Oysters (*Crassostrea virginica*) are also present in this area in limited numbers.

- Sag Harbor Cove Complex

The waters of the Sag Harbor Cove Complex offer the widest variety to commercial fisheries in the Village of Sag Harbor. The most significant species harvested in this area is the soft-shelled clam (*Mya arenaria*); this fishery provides income for eight to 10 part-time baymen throughout the year. Hard clams (*Mercenaria*) are less significant, but can be found. Oysters (*Crassostrea virginica*) were harvested here in great numbers in the past, but have not been seen in the Cove Complex in many years (Semmler, pers. comm.). It remains to be seen whether these animals will survive. Similarly, bay scallop production in recent years has been very poor, but demonstrated a remarkable recovery in the 1994 season. Unfortunately, an increasingly larger area of the cove (14 additional acres in 1994) has been either seasonally or permanently closed to shellfishing due to poor water quality (NYSDEC, 1994).

Freshwater Systems

There are no known commercial uses for the fish and wildlife resources from the freshwater systems in the Village. At one time trapping of fur bearing mammals was significant in the area (i.e., mink and fox), but this is no longer the case.

(e) Deteriorated, Abandoned or Underutilized Areas, Buildings, and Structures

Since the LWRP was adopted in 1986, the Village has addressed a number of the deteriorated and underutilized sites identified in the original document. There are a number of sites, however, that still require attention.

Properties Related to the Former Mobil Fuel Storage Property

The former Mobil property consists of two parcels with frontage on Bay Street. The largest of the two parcels is situated on the north side of Bay Street, along the waterfront. This property formerly contained aboveground petroleum storage tanks. These tanks were removed and the site contamination has been remediated. The Village of Sag Harbor purchased the waterfront portion of this parcel in 1975; the remainder of the parcel (north to Bay Street) was acquired by the Village in 1994. Due to restrictions in the deed, this site cannot be improved or developed with residences, office buildings or schools. The Village utilizes the western portion of this parcel for additional parking and waterfront public access. The eastern portion has been leased to the Sag Harbor Yacht Yard for boat storage, and the Breakwater Yacht Club for the establishment of a sailing school on the waterfront. The dock that extends off the shore front of this property is utilized by the Village.

Mobil's second parcel, which is located on the opposite side of Bay Street, has an area of approximately one-half acre. It is improved with a one-story industrial building. Although the Village owns the waterfront portion of the former Mobil property, this parcel is still privately owned. This property remains in a deteriorated and underutilized condition. Mobil currently leases storage space on this site, but the property is unsightly and the existing structures on the site are in need of upgrading.

Bulova Watchcase Factory Building

The Bulova Watchcase Factory building is a four-story, 73,000 square-foot, brick building. It is vacant but considered to be in satisfactory condition. It is a landmark building located within the Sag Harbor National Historic District and within the VB Village Business Zoning District. Considering its central location (approximately 14 miles from the Sunrise Highway and only six miles from the East Hampton Airport) as well as the economic needs of the Sag Harbor community, the Village originally thought that the best use for this building would be industrial or a hotel/conference center. However, based on marketability the Village has

approved a conversion to residential condominiums. The capacity of the sewage treatment plant has been expanded to accommodate these condominiums.

The Bulova Watchcase Factory property is presently undergoing remediation to mitigate soil and groundwater contamination problems resulting from the former use of the site. As discussed in Section 2.3B(d)2, this action was commenced in 1994 and will take possibly up to five years to complete. The conversion of this unutilized structure can proceed at the owner's option.

(f) Public Access and Recreation

1. Public Trust Doctrine

New York, upon attaining Statehood, succeeded the King of England in ownership to all lands within the State not already granted away, including all rights and title to the navigable waters and the soil under them (Public Lands Law, section 4; People v. Trinity Church, 22 N.Y. 44, 1860; Langdon v. Mayor, 93 N.Y. 129, 1883). Broadly speaking, the State holds title to the vast stretches of foreshore and submerged lands along the Atlantic Ocean and Long Island Sound, and all underwater lands not otherwise conveyed away by patents or grants. The State holds title to these tidelands and submerged lands in its sovereign capacity in trust for the use and enjoyment of the public, under the *public trust doctrine* (People v. Steeplechase Park Co., 218 N.Y. 459, 1916; Appleby v. City of New York, 271 U.S. 364, 1926; Coxe v. State, 144 N.Y. 396, 1895). This legal doctrine emerged from the ancient concept that the King had the right of way, an "incorporeal hereditament," to all navigable streams and waterways; the underlying theory being the protection of the public interest in fisheries and navigation.

The Public Trust Doctrine provides that underwater lands and foreshore lands (i.e., lands between the high and low tide lines or mean high and low water lines) be held by the State of New York in trust for the people, who have certain rights in these lands. When the foreshore is covered by the tides, the public may use the water covering the foreshore and underwater lands for boating, bathing, fishing, recreation and other lawful purposes. When the tide is out, the public may pass over the foreshore as a means of access to reach the water for these purposes, may travel along the foreshore, and may lounge and recline on foreshore lands, provided that such activity does not cause impairment of habitat areas.

State title to the public foreshore and submerged lands, and the power of disposition, is incident and part of its sovereignty which cannot be surrendered, alienated or delegated, except for some public purpose or some reasonable use for the public benefit, and without impairing public rights in the remaining lands and water. Inherent in the nature of public trust lands is that they support diversified and important ecosystems without which many public rights, including fishing, swimming and the like, would be impossible to enjoy. The

public interest demands the preservation and conservation of this vital natural resource against pollution, overuse, destruction and infringement by others, whether public or private.

It is in the public interest that State, Town and other governmental ownership of public trust lands be maintained and when possible recovered from private ownership. Where full public ownership no longer exists, the application of the Public Trust Doctrine requires that any remaining rights of the public to use such lands should be preserved and protected for present or future enjoyment.

Occupation of public trust lands by littoral and riparian owners for purposes of gaining access to navigable waters should be undertaken in a reasonable manner which does not unnecessarily interfere with the public's right of passage upon, and use of the waters overlying such lands, and other public trust purposes. Considerations of public safety, resource protection and the need for access at a given location may be utilized as factors in determining the level and types of access to be provided. Public use of publicly-owned foreshore and underwater lands, and lands immediately adjacent to the shore shall be discouraged only where such use would be inappropriate for reasons of public safety, military security, or the protection of coastal resources.

Physical access to trust lands is often hindered by natural features, development conditions, or land ownership patterns along the shoreline. The presence of high bluffs, for example, will effectively block land-side access to the adjacent beach. In some areas, the intertidal portion of trust lands have been entirely eliminated, as has occurred where bulkheads extend into the littoral zone. In some areas where intertidal lands remain, access to these lands by the general public is blocked by the presence of private property along the waterfront. Importantly, the Public Trust Doctrine does not grant the public the right to pass over private property in order to gain access to the trust lands beyond. In some cases where public lands are present on the shore front, perpendicular access to trust lands is limited by residency restrictions, such as are typically applied to municipally-owned parklands. In other areas, lateral access along the public foreshore is obstructed by docks, groins, and similar structures.

Underwater Land Ownership

The ownership of the underwater lands in the Sag Harbor Cove/Bay Complex is divided between the Town of Southampton and the State of New York. The boundary line for these lands was originally delineated by the original bridge that spanned the inlet between Sag Harbor Village and the Village of North Haven. Today, this dividing line is defined as running from the location of the old bridge abutment on the south shore of the North Haven peninsula to the residence owned by Rose Black, which is located along the shore front of Sag Harbor Village, west of the North Haven/State Route 114 Bridge (see Figure 4). The Town of Southampton owns the underwater lands located west of this line, within Sag Harbor Cove, and the State owns the bottom lands to the east.

● *New York State Underwater Land Ownership*

The colonial governors acting as agents of the Duke of York, whose own title originated from a direct grant of the King, made grants of land on Long Island (among other places) to settlers to establish towns. These grants conveyed to the towns or town trustees the Crown's title to uplands and underwater lands within the boundaries of the patent. They also constituted recognition of Long Island towns as corporate entities by English authority. The patent boundaries generally extended to the outer limits of the mouths of creeks, rivers, harbors and bays. The royal patents did not include the waters or underwater lands in Peconic Bay, Gardiners Bay, or Long Island Sound, and extended only to the high water mark along the shores of these water bodies.

Upon attaining Statehood, New York, in its first Constitution confirmed the colonial patents indirectly in declaring that "such parts of the common law of England... and the acts of the legislature of the colony of New York, as together did form the law of said colony" on April 19, 1775, and "shall be and continue the law of this state" (the New York Constitution of 1777, Article XXXV). The Constitution of 1777 also confirmed and ratified the proprietary and governmental powers in the town trustees. New York, upon attaining Statehood, also succeeded the King of England in ownership to all lands within the State not already granted away, including all rights and title to the navigable waters and the soil beneath them (Public Lands Law, Section 4; People v. Trinity Church, 22 N.Y. 44, 1860; Langdon v. Mayor, 93 N.Y. 129, 1883). The uplands and submerged land described in the colonial patents remained vested in the towns as confirmed by the first New York Constitution and subsequent State Constitutions.

As noted above, Peconic and Gardiners Bays did not pass by colonial patent to any of the towns on eastern Long Island and the lands under those waters are in the possession of the State (Town of Southold v. Parks, 41 Misc. Rep. 456, 84 NYS 1078 Sup. Ct. Suffolk Co., aff'd, 183 N.Y. 513, 1905; Laws of 1884, chapter 385, as amended by the Laws of 18965, chapter 916). The State granted Suffolk County the authority to lease lands under these bays for shellfish cultivation, beginning at a point 1000 feet from shore (Laws of 1969, chapter 990).

State-owned underwater lands are managed by the New York State Office of General Services (OGS). The OGS issues grants and easements for these underwater lands. They also investigate encroachments on riparian rights and make sure there is no interference with navigation channels. The OGS also reviews the NYSDEC and ACE comments for proposed projects that affect State-owned bottom lands to ensure that the benefits to the public will not be deprived and that the environment will not be adversely impacted. The OGS strives to achieve satisfaction on the part of all parties involved prior to the issuance of a permit.

The State Office of General Services is the agency responsible for issuing permits for docks and other marine-related structures that are placed on State-owned underwater lands. In the

case of Sag Harbor Village, the OGS would be the authorizing agency for docks proposed in the Sag Harbor Bay area. The construction of any commercial dock or any private, noncommercial that exceeds 4,000 square feet in area (including perimeter area) would require a permit from the OGS. Noncommercial structures less than 4,000 square feet in size do not need a permit.

- *Little Northwest Creek*

The underwater lands in Little Northwest Creek were originally granted to the Town of East Hampton under their colonial patents. In 1972, the NYSDEC purchased over 190 acres of wetlands, meadows and uplands situated on the eastern and western sides of Little Northwest Creek with monies authorized under the Environmental Quality Bond Act. This acquisition included the transfer of ownership for the underwater lands from the Town of East Hampton to the State. All of these lands have been established as a State Conservation Area. Access into this area is granted only by a permit issued by the NYSDEC.

- *Town of Southampton Underwater Land Ownership*

The Town of Southampton holds ownership to all the bottom lands situated within Outer Sag Harbor Cove, Inner Sag Harbor Cove and Upper Sag Harbor Cove, including Morris Cove, Ligonee Brook and Otter Pond. These underwater lands were granted to the Town through colonial patents. The Andross Patent was issued in 1676 and conveyed the original land title to all common lands and lands beneath the creeks, streams, harbors and bays to the settlers of the Town of Southampton. The Dongan Patent was issued in 1686 and confirmed this original land grant. The Dongan Patent created the Southampton Board of Trustees to hold and manage all the unappropriated lands for the use and benefit of the freeholders of the Town. These colonial charters extended the boundaries of the Town of Southampton, as well as the other towns on Long Island, only to the outer limits of the mouths of creeks, rivers, harbors and bays, and no further unless a larger abutting bay of water was specifically named as being included in the grant. Thus, the Town of Southampton's ownership of the underwater lands in the Sag Harbor Cove complex extends only to the mouth of Outer Sag Harbor Cove (as shown in Figure 4), and gives them the proprietary right to allow the use of these bottom lands.

Underwater Land Grants

The underwater lands owned by New York State are generally located east of the North Haven/State Route 114 Bridge. These lands are managed by the New York State Office of General Services (OGS), which oversees the issuance of land grants and leases for these underwater lands. Seven underwater land grants have been issued by the State to various owners of upland shore front property along the Sag Harbor waterfront over the years. These grants were issued for the express purpose of either *commerce and beneficial enjoyment*. Grants issued for commerce were given to shore front businesses for more restricted activities and were usually written with conditions. If the conditions were not followed, the underwater lands would revert back to State ownership. Beneficial enjoyment grants were given to shore front property owners without restriction and provided more complete title to the underwater lands. In either case, the grantee was given full ownership rights. Grants for commerce were issued in the early part of the 1800's, and then the issuance of grants for beneficial enjoyment became more commonplace. Around 1890, the State began to restrict the grants issued for beneficial enjoyment as well.

As listed below and shown on Map 1 in the Harbor Management Plan, the State OGS issued a total of seven underwater lands grants in the Village of Sag Harbor. Four of the State grants were issued for commerce; three of these grants were issued in the 1800's. Upon a review of the original letters patents, it appears that the commerce grants were written without restrictions and provided the grantee with full ownership interest in the underwater lands. The remaining three grants were issued for beneficial enjoyment purposes.

<u>Grantee</u>	<u>Date</u>	<u>Type</u>
● Wm. Cooper & Jonathan Havens	October 30, 1845	Commerce
● East Long Island Pottery Co.	December 19, 1882	Commerce
● The Long Island Railroad	October 26, 1888	Commerce
● Socony-Vacuum Oil Co.	June 23, 1933	Beneficial Enjoyment
● The Village of Sag Harbor	February 3, 1956	Beneficial Enjoyment
● Agawam Aircraft Products	July 17, 1958	Commerce
● Sag Harbor Yachts, Inc.	October 16, 1968	Beneficial Enjoyment

In most of these cases, the grant lands consist of upland properties or portions of the upland that were formerly underwater lands that have been filled in. In situations where the upland ownership has changed since the grants were first issued, unless the State reconveyed the title to the underwater lands to the new property owner, the original grant to the original upland owner remains in effect. It is unclear whether some of the upland property owners were aware of the fact that their filled lands originally belonged to the State and that they did not actually hold clear title to them. In certain situations, the original upland owners were granted underwater lands in the 1800's by the Trustees of the Freeholders and the Commonality of the Town of East Hampton, who believed they owned all the underwater lands in Sag Harbor Bay

by virtue of their colonial patents. These lands, however, have been in the possession of the State since the termination of sovereign power, as discussed above; thus, the East Hampton Town Trustees had no authority to give the underwater lands away.

The underwater land grant issued to Wm. Cooper and Jonathan Havens in 1845 was released and surrendered, and the subject area was reconveyed by the State as a part of a larger land grant made to Agawam Aircraft Products, Inc. in July of 1958. In this case, the grant was made for the upland area which was once land underwater.

The grant issued to the East Long Island Pottery Company in December of 1882 was never utilized because this company never opened for business. This grant, however, is still shown to exist. The majority of the underwater land area authorized under this grant was absorbed as a part of a larger grant issued to the Long Island Railroad (LIRR) in October of 1888. This grant gave the railroad full interest in the underwater lands. The LIRR transferred ownership to a portion (about 75 percent) of these lands to the New York State Department of Transportation for the reconstruction of the North Haven/State Route 114 bridge at its current location. The State, in turn, conveyed its interest in these lands to Suffolk County, who reconveyed ownership to the Village of Sag Harbor. The LIRR still owns two small outlying areas of the original land underwater land grant area issued in 1888. These areas are situated on the east and west sides of the Village-owned underwater lands.

In 1975, the Village of Sag Harbor purchased all of the waterfront portion of the Standard Oil property (formerly Socony-Vacuum Oil Company). The lands sold to the Village comprised the former underwater land area that was granted to Socony-Vacuum Oil Co. in June of 1933. The grant issued to Socony-Oil in 1933 gave them full ownership to this land. This ownership was transferred to the Village of Sag Harbor when they purchased these lands from Mobil Oil Company in 1975.

In April of 1956, the Village of Sag Harbor sold a parcel of waterfront property they acquired in 1922 to Agawam Aircraft Products, Inc. (AAP). AAP added this parcel to its adjoining properties to gain ownership of a large block of waterfront property. The upland property sold by the Village to AAP comprised the former underwater land area for which the Village received a grant from the State in February of 1956. Since the State grant gave the Village full ownership to the underwater lands, this ownership was subsequently transferred to AAP.

The entire parcel of upland owned by Agawam Aircraft Products, Inc. (which was all formerly underwater lands) was sold in 1964. AAP had received a grant from the State for these former underwater lands in July of 1958. This property, which included the former Village-owned parcel which was sold to AAP in 1956, was sold two more times thereafter. These lands are presently owned by Malloy Enterprises.

In 1968, the State issued a grant to the Sag Harbor Yacht Yard. This grant remains in effect today.

Based on the information outlined above, the seven grants for underwater lands were all issued with full interest given to the grantee. Unless the upland was sold to another party, the ownership of the underwater lands remains with the original grantee; otherwise, the lands belong to the current upland owner. In the case of the grant issued to the East Long Island Pottery Company in 1882, this grant was never utilized. Therefore, this grant should be released and surrendered by the State. The six other underwater land grants have been accounted for.

There are, however, three waterfront properties that have been developed that do not have grants from the State OGS. These include: the underwater lands that contains the Waterfront Marina, owned by Malloy Enterprises; the former underwater lands that comprise the Village Marine Park property, which is owned by the Village of Sag Harbor; and the underwater lands and small area of uplands that comprises the Sag Harbor Yacht Club property. Grants for these lands should be obtained through the appropriate application process. In addition, since the Village of Sag Harbor owns a large portion of the original grant issued to the Long Island Railroad, they should seek to gain ownership of the two adjoining parcels of underwater lands still owned by the railroad.

There are generally three ways of securing a grant for underwater lands from the State Office of General Services. Each of the three methods provides a certain degree of ownership security in the underwater lands. An arrangement could also be worked out with the State OGS to for a combination of the three.

The method that provides the strongest interest in the property would involve the issuance of an underwater land grant per Section 75-10 of the Public Lands Law. This grant would provide the grantee with full and complete interest in the lands with no conditions or restrictions but at the full cost of the land.

The second method provides for the conveyance of the lands for public parks, beaches, streets, etc. to a public entity who holds upland ownership under Section 75-7A of the Law. The grantee would own the land in perpetuity as long as they fulfill the conditions of the grant. Therefore, this method would not provide the grantee with full fee conveyance in the property. The fee established for the value of the lands in this case is discounted because a reverter clause would be contained in the grant that restricts the use of the lands. If the lands are ever utilized for any other purpose aside from that specified under the terms of the grant (i.e., a commercial marina), the grantee would have to buy out the reversion interest in the lands.

The third option involves the issuance of an easement for the lands from the State OGS. Although this is the simplest process, it does not grant full interest in the lands. The State OGS would still retain ownership.

The Village of Sag Harbor should consider exercising the third option to obtain an easement for the underwater lands in the Sag Harbor area. The area located south of the main navigation channel, between the Long Wharf and the breakwater is utilized for mooring and other marine-

related uses. Through the issuance of an easement, the Village would have greater control over what activities occur in this area and to what degree.

2. Recreational Uses

The local waterfront revitalization area contains a variety of recreational uses which provide excellent opportunities for public access to Sag Harbor, Sag Harbor Cove Complex, and Sag Harbor Bay (Figure 4). The Village of Sag Harbor owns a significant amount of parkland along the shoreline in and around Sag Harbor. The recent acquisition of the remaining portion of the (former) Mobil property increases the Village-owned waterfront holdings in the WF Waterfront District to over six acres. This includes the Long Wharf, for which the Village has operational authority. Both passive and active, and public and private, the recreational uses in the LWRP area (including beaches, parks, marinas and boat launching ramps), represent a primary resource in this area. These facilities are discussed below and detailed further in the Sag Harbor Village Harbor Management Plan.

Publicly-Owned Waterfront Areas

● *Haven's Beach*

The Village of Sag Harbor owns an 18.8-acre public bathing facility, Haven's Beach, which is located off Bay Street along Sag Harbor Bay. Haven's Beach has been designated as a municipal beach pursuant to Chapter 27 of the Village Code. The beach is open for use by the public, and is the only location designated as a formal swimming area in Village waters. The entire *Harbor Water Use District* is off limits to swimming, and very little swimming occurs within the Cove Complex.

Haven's Beach is open in the summer season, from the last weekend in June through Labor Day. Although this facility is large, only the waterfront portion of the park is effectively utilized. Much of the land area consists of open lawn and meadow area that receives only limited usage. A limited area of the beach in the northeast corner has been allocated for seasonal (summer) storage of small sailboats and catamarans. An annual fee is charged to keep boats in this area; the fee is adjusted based on residency status. The main parking area is accessible from the loop road on the western portion of the site. In addition, a small supplemental parking area is located in the northeastern portion of the site, adjacent to the beach. This smaller parking lot is accessible from the main parking field via a narrow road which crosses over a drainage ditch near the waterfront. Residents and non-residents must secure a beach parking permit to park at Haven's Beach.

Existing recreational and sanitary facilities at Haven's Beach include a few pieces of play equipment, which are located adjacent to the beach, and one small building which houses a comfort station and the office and equipment for the lifeguards who supervise the facility. These existing recreational facilities, however, are limited in their ability to satisfy the recreation

demands of the Village's large summer population, as well as year-round residents. Sag Harbor's lack of adequate swimming facilities is its most pressing recreational deficiency. Presently, many Village bathers who would use Haven's Beach are instead using Long Beach - in Southampton Town. Improving the Haven's Beach facilities, along with its excellent location, will undoubtedly increase usage of this prime recreational area.

Just to the east of the active recreation area of the site there is a former marsh area which has been substantially filled in with dredge soil. Wetlands are present on the eastern and southern portions of the Haven's Beach property. A drainage ditch bisects the property and carries stormwater runoff from the adjacent upland. This runoff contains pollutants from roadways and sewage leachate from faulty septic systems. The creation of a wet detention system to capture and settle out contaminants in the stormwater runoff could improve the quality of the drainage reaching the receiving waters of Sag Harbor Bay.

● *Marine Park and Boat Basin*

As discussed in Section 2.3A(a)(4), Marine Park is a 1.9-acre, Village-owned and operated facility located on Bay Street. It is situated east of the Long Wharf, immediately east of the privately-owned area known as Waterfront Marina. Marine Park contains a boat basin, docking facilities along the bulkhead and the Village Harbormaster's office.

A traditional Village green has been created in Marine Park, with a veterans' memorial and flagpole centrally located and bordered by the access driveway/parking loop. A picnic area, with tables and grills, and a boardwalk with benches affords tourists and marina patrons additional waterfront access, scenic viewing, and recreational opportunities. The boat basin, located in the eastern portion of the park, contains a boat launching ramp which provides docking and access to the bay for residents. The parking lot at the eastern end of Marine Park provides access to the Village-operated dinghy dock, which is utilized by boaters who anchor their vessels in the adjacent mooring field, as well as the Sag Harbor Yacht Club.

The Village of Sag Harbor acquired the Mobil Oil property, which is located to the immediate east of Marine Park, in 1994. The Village has redeveloped the western portion, which abuts Marine Park, for additional parking area and additional common waterfront access which will include utilization of the former Mobil dock. The Sag Harbor Yacht Yard (located to the immediate east of the former Mobil site) has negotiated a lease with the Village for approximately 31,000 square feet of the former Mobil property to expand its boat storage facilities. The yacht yard currently had been leasing an 8,150 square-foot waterfront area that is located directly seaward of the new location they will be utilizing. Subsequently, approximately 7,250 square feet of this 8,150 square-foot Village-owned waterfront property, previously used by Sag Harbor Yacht Yard, was reissued to the Breakwater Yacht Club. The Breakwater Yacht Club has constructed a sailing school on this site.

- *Long Wharf*

As discussed in Section 2.3A(a)(4), the Long Wharf is located directly north of the intersection of Main and Bay Streets. The perimeter of the Long Wharf is used for strolling, scenic viewing, and fishing. Large recreational and commercial vessels dock alongside this structure or at the Village-owned floating dock and finger piers that are located on the west side of the wharf. Several benches are situated at various locations along the edge of the wharf, and a wooden guardrail allow users to rest and view the bay and vessels anchored or operating in the adjacent waters. The guardrail provides a safety barrier between the parking area/roadway on the interior of the wharf and the pedestrian area on the outer edge of the wharf.

- *Windmill Park*

Adjacent to the western side of Long Wharf is a parkland property known as Windmill Park. Windmill Park encompasses approximately 1.9 acres of shore front area that extends along both sides of the North Haven/State Route 114 Bridge abutment. A tourist information center, operating in the summer by the Village Chamber of Commerce, is the only building on the property and is housed in a windmill-type structure in the southeast corner of the park. Several park benches and a single picnic table are situated on the site. A wooden bulkhead on the east side of the bridge, west of the beach area, prevents erosion and fortifies the bridge abutment. This bulkhead also protects the plants which are located between this structure and the roadway.

- *Cove End Park*

This property, designated by the Village as a public park in 1997, is located at the end of Cove Road along the shore of Outer Sag Harbor Cove. The park provides a passive space for viewing the water. A dedication stone has been placed in the park.

- *Little Northwest Creek Conservation Area*

In 1972, the NYSDEC purchased over 190 acres of wetlands, meadows and uplands situated on the eastern and western sides of Little Northwest Creek with monies authorized under the Environmental Quality Bond Act. This acquisition included the transfer of ownership for the underwater lands from the Town of East Hampton to the State. All of these lands have been established as a State conservation area. Public access into this area is granted only by a permit issued by the NYSDEC.

Public Water-Related Recreational Resources

● *Village Anchorage Areas*

The Village of Sag Harbor operates two mooring areas in the WF Waterfront Zoning District. There is a large mooring area located between the navigation channel and the breakwater, and another, smaller, mooring area situated on the western side of the Long Wharf. Combined, these areas can accommodate up to 150 vessels, although the number varies depending vessel size. There are generally 130 usable moorings locations at all times.

● *Village A and B Docks*

As discussed in Section 2.3A(a)(4), the Village of Sag Harbor operates two docks in Outer Sag Harbor Cove known as the A and B Docks. These docks are located on West Water Street, in the cove area between Sag Harbor Cove West Marina and Sag Harbor Cove East Marina. The A dock is a fixed structure that provides 22 slips; the B dock is a floating structure which provides 50 slips for docking. The Village also provides 48 seasonal cable slips along the shoreline between the two docks.

● *Village Finger Docks (Long Wharf Marina)*

The Village provides dockage on the west side of the Long Wharf, known as the Long Wharf Marina. This floating dock contains nine finger piers for small vessels on its western side; in addition, vessels (including charter boats) can tie up along the eastern side, between the main floating dock and the Long Wharf.

Public Access to Waterfront Areas

● *Boat Launching Ramps*

Boat launching within the Sag Harbor Cove/Bay Complex occurs at both formal and informal launch areas (see Figure 4). There is one boat launching ramp located in the Upper Sag Harbor Cove area, on the north side of John Street, at the southern end of the Cove. Although not paved, this ramp is a more formalized location for water entry, which receives a considerable amount of use by local fisherman and baymen. Another undeveloped launch location is situated at the western terminus of Amherst Road, on the Redwood peninsula. This site provides access to Inner Sag Harbor Cove. Unlike the John Street facility, this launching ramp does not appear to be heavily utilized, since it consists of an unpaved access way that is somewhat overgrown with weeds and field grasses.

Two active launch ramps are located alongside the *Harbor Water Use District*. Redwood Marina, at the eastern end of the Redwood peninsula, adjacent to Cove End Park, has two metal ramps that provide access to Outer Sag Harbor Cove. The upland portion of this ramp is an unpaved,

gravel roadway. The other formal launching ramp is located within the Marine Park boat basin, which consists of a paved entry ramp that extends directly from Bay Street. This launching ramp is in need of repair. Seasonal and daily fees are charged for use of the Marine Park ramp.

● *Street Ends*

There are a small number of street ends that provide public access to the waterfront, particularly in the area of the Sag Harbor Cove Complex (Figure 4). On the Redwood peninsula, there are four street ends that provide limited waterfront access. These include the ends of Yale Road, Notre Dame Road, Amherst Road and Dartmouth Road. A fifth street end is located on John Street and pitches northerly into Upper Sag Harbor Cove. The street end at Notre Dame Road also is located adjacent to a pathway that extends along the shore for some distance. The ends of Yale and Notre Dame Roads provide sufficient access for passive activities, however, the street end on Dartmouth Road has become overgrown with vegetation which restricts public use in this area. The Village recently improved the street ends/boat ramps at Amherst Road and John Street to minimize the water quality degradation of adjacent receiving waters. Catch basins have been installed in the intersections at the upper end of these two boat ramps. Further improvements are necessary.

Semi-Private and Private Water-Related Recreational Resources

● *Otter Pond and Mashashimuet Park*

The Otter Pond Park and the Mashashimuet Park are semi-private properties that have been deeded to the children of Sag Harbor, by the Russell Sage Foundation. Although they are private facilities, they are open for full use by the public. Both private and public support contribute to the maintenance and preservation needs of these parks. A Board of Directors, appointed by the provisions of the deed, administers the affairs of the parks.

Public use of Otter Pond is permissible, but proposals for activities of a more organized nature must first be presented to and approved by the Mashashimuet Park Board, the overseeing agent. The Southampton Town Trustees own the underwater lands. The Village has no jurisdiction in this area.

Otter Pond Park is an 11.3-acre property located in the southwest portion of the Village. This park is bounded by Main Street on the west, and Jermain Avenue on the south. A nature walk with five benches located at various intervals, partially encircles the park and provide users with access for passive recreation and fishing. Otter Pond is hydraulically connected to Upper Sag Harbor Cove via a culvert through the west bank of the Pond.

Mashashimuet Park encompasses over 50 acres of land area and includes two separate open spaces areas (six acres which surround Fore and Aft Pond and 2.6 acres that include the Maple Swamp wetlands that drain to Otter Pond). The park area contains a wide variety of recreational

amenities including: ten tennis courts; one hardball and four softball diamonds; one full-size and five minor soccer fields; one field hockey field; a large playground area; a marked cross-country trail; and an area for senior citizens that contains shuffle board courts, bocci ball courts and horseshoe courts. This park is widely utilized throughout the year by local area residents. Additionally, local citizen organizations such as the Lion's Club and the P.B.A., and family groups utilize the park for special events.

● *Private Beach Associations*

To the immediate east of Haven's Beach, there are three private beach associations, each of which maintains limited access and a small parking area for the exclusive use of property owners and their guests. As previously noted, these properties are protected from development through deed restrictions. A description of the individual association beaches follows.

- 1) *Azurest Property Owners Association*: Located to the immediate east of Haven's Beach is the community of "Azurest," which is bounded on the east by Walker Avenue and the south by Route 114 and Hempstead Street. A footpath at the terminus of Terry Street provides access to the beach, and a small parking area provides a limited number of spaces for homeowners' vehicles with a valid permit. Trash receptacles are located along a steel guardrail designed to prevent vehicle access to the beach. No lifeguards are on duty and signs are posted to alert beach goers that swimming is "at your own risk."
- 2) *Sag Harbor Hills Improvement Association*: Immediately east of Azurest is the community of "Sag Harbor Hills," bounded on the east by Hillside Drive and the south by Route 114. At the terminus of Hillside Drive East, the Sag Harbor Hills Improvement Association maintains an unpaved footpath which leads to the beach. Trash receptacles are located along a split rail wooden fence which borders the footpath and a sign is posted in the area to alert beach goers that no lifeguard is on duty and swimming is "at your own risk." The parking area is small and limited to a few spaces for the vehicles of residents with a valid permit.
- 3) *Ninevah Beach Association*: The third homeowner's association in the area east of Haven's Beach is Ninevah Beach Association - located immediately east of Sag Harbor Hills and bounded on the east by a salt marsh which drains into Little Northwest Creek. A partially paved footpath and small parking area at the terminus of Harding Terrace provides homeowners and their guests access to the beach. Signs at the origin of the footpath warn beach goers that no lifeguard is on duty and swimming is "at your own risk." Trash receptacles are located in the vicinity which is otherwise undeveloped and in a natural state.

● *Breakwater Yacht Club Sailing School*

The Breakwater Yacht Club has built a community sailing school on the Village-owned waterfront property which was previously being leased by the Sag Harbor Yacht Yard (as discussed above). The sailing school facility is housed in a two-story frame structure. There

is also a floating dock for boat storage, and a ramp which extends from the bulkhead. This facility allows the Breakwater Yacht Club to expand their present program, which is open to the schools and community youth organization in the Village of Sag Harbor area. Presently, 40 percent of the scholarships awarded for this program go to Sag Harbor youth.

- *Private Marinas*

The shoreline of the local waterfront revitalization area contains a number of marinas and other marine-related facilities that service the local boating industry. These facilities, which are discussed in greater detail in the Sag Harbor Village Harbor Management Plan, include: Ship Ashore Marina, Sag Harbor Cove West Marina and Sag Harbor Cove East Marina, which are located in Outer Sag Harbor Cove; and, Waterfront Marina, the Sag Harbor Yacht Club, and the Sag Harbor Yacht Yard - located in Sag Harbor inside the breakwater.

- *Docks, Bulkheads and Boat Basins*

There are numerous private docks, bulkheads, and boat basins that adjoin residential properties throughout the local waterfront revitalization area. Most of the bulkheading is found throughout the *Harbor Water Use District*, along the shoreline of the marinas and other marine-related facilities. The Sag Harbor Cove West Marina includes a boat basin that is fully bulkheaded. The Marine Park boat basin has hardened shorelines along three sides, the western portion of this facility is unprotected. There are also a considerable number of bulkheaded properties along the shoreline of the Redwood peninsula. The Redwood peninsula also contains a private boat basin that is entirely bulkheaded. The only hardened shoreline found on the east side of the breakwater consists of a low masonry wall along the front of the Cor Maria property, and rubble revetments and wooden bulkheads along the stretch of shoreline located to the immediate east of Haven's Beach. This area includes most of the properties along Terry Drive.

The private docking structures found throughout the area are mostly small in size and generally can accommodate only one or a few boats. Some residents also install floating docks that are removed in the winter season. There are four permanent private docks located along the eastern side of Ligonee Brook; six within Morris Cove; twelve along the shoreline of Upper Sag Harbor Cove; and 19 along the perimeter of the Redwood peninsula.

Recreational Use of Fish and Wildlife

● *Consumptive Activities*

Sportfishing is popular in many areas throughout the Village and adjacent waters. Weakfish (*Cynoscion regalis*), striped bass (*Morone saxatilis*), winter flounder (*Pseudopleuronectes americanus*) and porgy (*Stenotomus chrysops*) are taken in waters of the Sag Harbor and the Sag Harbor Cove Complex. Round Pond supports several freshwater species of game that are commonly caught by local fishermen (e.g., largemouth bass, pumpkinseed and bluegill). Local citizens often harvest small quantities of shellfish (e.g., hard clams, soft clams and scallops) for their own consumption from Sag Harbor Cove. Duck hunting does not take place within Village boundaries.

● *Non-Consumptive Activities*

All of the waters around Sag Harbor Village are used for recreational boating and sightseeing. Bird watching is popular along the expanses of beach where waterfowl can be observed in the winter and nesting coastal birds can be observed throughout other parts of the year. Public use of Otter Pond consists primarily of feeding the domesticated water fowl and relaxing on the pond shore.

(g) Vessel Usage and Waterways

Navigation

Sag Harbor is protected from the east by a two-section, 3,180-foot breakwater. This structure extends in a northeasterly direction from western shoreline of the Cor Maria property and protects well over 100 acres of surface water area (see Figure 2). The construction of the breakwater was completed by the U.S. Army Corps of Engineers (ACE) in 1908. The breakwater is the primary source of protection to the Harbor from storm damage. Navigation and navigational activities within the Harbor, including the development of a federal navigation channel in 1937, have been designed and coordinated around this structure since that time. The future of the Harbor as it exists today is dependent upon the continued maintenance and repair of the breakwater.

The breakwater was constructed at an elevation of 7.5 feet above mean low water. The original natural depth of the protected area varied from three to 17 feet at mean low water. The ACE conducted modest rehabilitation of the breakwater in 1963, which involved the placement of over 1,500 tons of stone to rebuild the structure to its original elevation. Since that time, the entire breakwater has settled and needs to be repaired. In some areas the foundation is failing. Waves created by storm events break over the top of this structure, resulting in damage to shoreline structures. Rehabilitation should include the replacement of stone to increase the elevation by five to six feet, as well as the refurbishing of the foundation to improve structural integrity. The

ACE has performed a field survey, and the Village is awaiting funding for engineering rehabilitation.

Since 1963, when the ACE completed repair work on the breakwater, the ACE has had no other direct involvement in navigation projects within the harbor management area. The federal channel and anchorage areas in Sag Harbor were de authorized by the passage of the Water Resources Development Act of 1992. The breakwater is still under federal jurisdiction and any necessary future maintenance will be conducted by the ACE.

The ACE will not have any direct future involvement in maintenance dredging activities for the channel or anchorage areas. Once the channel was de authorized, it fell under the authority of the U.S. Coast Guard (USCG) since it is still an active navigation channel. The USCG is responsible for providing and maintaining channel markers, as well as the placement of these devices. At present, the USCG authorizes the placement of channel markers by the Village.

There are a number of navigational aids found within the Sag Harbor Cove/Bay Complex. Navigational aids include buoys, fixed lights, range markers, day markers, and other such devices. In the Sag Harbor area, navigational aids delineate the channels and mark obstructions in local waters, as summarized below.

In Sag Harbor Bay, leading into the harbor, there are a number of buoys. The Sag Harbor sea buoy marks the middle of the entrance channel to Sag Harbor and can be passed on either side. Immediately east of the sea buoy is a green lighted buoy which marks the main navigation channel in Sag Harbor Bay. South of this green buoy is a white buoy which marks an area of rocks that are visible above the water surface at low tide.

At the harbor entrance there is a fixed green light located at the northwestern end of the breakwater. Just west of the breakwater is the navigation channel which is delineated by three buoys; one near the channel mouth, one near the northern end of the Long Wharf, and one located inside the harbor area along the western edge of the mooring area. This navigation channel, once under the authority of the ACE, is now the responsibility of the U.S. Coast Guard. The channel buoys are authorized by the U.S. Coast Guard and set and maintained by the Village Harbormaster. Exclusionary white and orange markers are used in the vicinity of Haven's Beach, in Sag Harbor Bay, to delineate the swimming area.

The North Haven/State Route 114 bridge is a fixed structure with a 19-foot vertical clearance and 37-foot horizontal clearance. The height of this bridge is a limiting factor, restricting the types of vessels that can access the Sag Harbor Cove Complex. This bridge is marked with red lights indicating the safest points of entry into Sag Harbor Cove. These lights provide a guide into Outer Sag Harbor Cove for boaters who are entering the harbor at the northwestern end of the breakwater. The navigation channel that runs from east to west through Outer Sag Harbor Cove is delineated by nine buoys. Three of the five red buoys that mark the northern side of this channel are lighted. All of these buoys are set and maintained by the Town of Southampton.

Water hazards and obstructions within navigable waters include rocks and submerged and visible wrecks. Abandoned vessels are also hazards to navigation and removal is constrained since they are generally not registered, which makes it difficult to trace the owner in order to assign the costs of removal to the responsible party. Floating debris (e.g., timbers, logs, pilings) is often generated as a result of storms and tides, or ice damage to structures. The Towns are generally responsible for removing navigation hazards within local waters, and usually perform this task in Village waters at the Village's request. Navigation hazards also include excessively long docks, as well as shoals and bars within or in close proximity to navigation channels, particularly within the coves.

Jurisdiction

Jurisdiction with respect to over-water vessel uses within the harbor complex is divided among the Village of Sag Harbor, the Village of North Haven, and the Towns of Southampton and East Hampton. Pursuant to Chapter 46A of the State Navigation Law, the Villages of Sag Harbor and North Haven have the exclusive authority to regulate the over-water use of vessels upon the waters that lie within 1,500 feet of their respective mean high water line. This gives the Villages the capacity to control mooring and anchoring, vessel speed, the use of personal water craft, and recreational activities such as water skiing and wind surfing.

In accordance with Section 130.17 of the New York State Town Law, the Towns of Southampton and East Hampton regulate over-water vessel use upon waters within their municipal boundaries, but not within the 1,500-foot area of water surface that extends from the mean high water line adjacent to incorporated Villages. Additionally, as discussed in Section 2.3A(f)(1), the State of New York and the Town of Southampton own the underwater lands in Sag Harbor, and the Outer, Inner and Upper Coves, respectively. Therefore, they have the proprietary right to allow the use of the bottom lands in these areas.

As noted above, the coastal waters in the Sag Harbor Cove/Bay Complex are heavily utilized by both recreational and commercial water craft. Sag Harbor and Sag Harbor Bay are part of the larger Peconic Bay system and are linked via the system of navigation channels that run through these waters. The high intensity of vessel usage in the Sag Harbor area has caused conflicts and problems with respect to waterway usage (including dockage, mooring and anchorage) and navigation.

The Waterways Law (Chapter 53 of the Village Code) regulates surface water uses in the Village and applies to all waters of the Village and waters adjacent to the Village to a distance of 1,500 feet from the mean high tide line. The area covered by the Law generally coincides with the waterside boundary of the study area for this Local Waterfront Revitalization Program. The main provisions of Chapter 53 include the following:

- The dumping of oil, refuse, garbage or waste, and the discharge of toilets is prohibited.

- A Village permit is required for each vessel mooring. Mooring locations are governed by a grid established and controlled by the Harbormaster and/or Village Police.
- No boat shall be anchored or moored in such a way that it, at any time, rests within the lines of any navigation channel.
- The mooring of floats requires a Village permit and is controlled by the Harbormaster and/or Village Police.
- All boats, other than those propelled by hand, are prohibited from operating within 100 feet of lifelines and bathing floats and 200 feet from any beach regularly used for bathing.
- Maximum vessel speed is 45 miles per hour (mph), unless otherwise posted. The speed limit within harbors and other areas congested with boats is 5 mph.
- Waterskiing, windsurfing, and similar activities are prohibited within 200 feet of the shoreline and within 50 feet of any bather, except when commencing or ending a ride.
- Water scooters (e.g., jet skis) are prohibited within harbor areas and designated public bathing beaches. Such vessels are prohibited outside harbor areas to a distance of 250 feet of the shoreline or within 50 feet of any bather, except when commencing or ending a ride at a speed no greater than 10 mph.
- Skin diving, scuba, swimming, and related activities are prohibited within any channel.

Dredging

Channel maintenance is essential to provide safe navigation for recreational boating traffic while conserving the natural coastal resources. Sag Harbor Cove and other portions of the Sag Harbor coastal waters have been dredged over the years to develop navigational channels and boat basins. The last such dredging was in the 1960s. It disturbed much of the marshy edge and, along with other activities, resulted in the filling of many areas of tidal wetlands. The dredging of public channels, public boat basins and mooring areas in the Sag Harbor Cove/Harbor Complex has been performed in the past by the Army Corps of Engineers (ACE) and the Suffolk County Department of Public Works (SCDPW).

Sag Harbor is protected from the east by a two-section, 3,180-foot breakwater. This structure extends in a northeasterly direction from western shoreline of the Cor Maria property and protects well over 100 acres of surface water area. The construction of the breakwater was completed by the ACE in 1908. Navigation and navigational activities have been designed and coordinated around this structure since that time. In 1937, the ACE completed the dredging of a navigational channel 10 feet deep, 100 feet wide and 0.4 miles long, extending into Sag Harbor from about 450 feet northwest of the breakwater. The channel terminated in a turning basin, a

channel extension towards Conklin Point, and two adjacent anchorage areas. The northeastern anchorage area was dredged to a depth of 8 feet, and the southern anchorage area was dredged to 6 feet deep. The federal navigation channels, mooring areas, and turning basin are depicted in [Figure 2](#).

The Village of Sag Harbor operates a large mooring area which is located between the navigation channel and the breakwater. There is another, smaller, mooring area situated on the western side of the Long Wharf. Combined, these areas can accommodate up to 150 vessels, although the number varies depending vessel size. There are generally 130 usable moorings locations at all times. According to the Village Harbormaster, several areas inside the breakwater have experienced shoaling and cannot accommodate boats with a draft deeper than four feet. Shoaling has occurred along the west side of the Long Wharf and the western side of the breakwater. These shallow conditions make these areas inaccessible to vessels that would otherwise lease the available mooring locations, thereby denying the Village of this potential source of income. Dredging in both areas would eliminate this problem.

Although federal dredging within the anchorage areas may alleviate some of the shoaling problems, the waters west of the Long Wharf lie outside the navigation channel and are not likely to be affected by any future ACE involvements. In order to have the federal channel and anchorage areas reauthorized, for dredging an official request must be filed with the New York District ACE Planning Division through the local Congressional Office. Once the request is received, the ACE must review the waterway uses and conduct an economic feasibility study. If the ACE deems the project to be favorable, the proposal will be appended to a major bill introduced before Congress. According to the ACE Navigation Branch, the process will take a minimum of two to three years before the action is approved (Lew, ACE Navigation Branch, February 17, 1995; Beverly, January 17, 1995; Congressional Record, October 5, 1992).

In 1960, the SCDPW constructed a navigational channel through Outer Sag Harbor Cove that measured 100 feet wide and approximately seven feet below mean low water (MLW), which extended from approximately 400 feet west of the North Haven/State Route 114 bridge (and approximately 100 feet west of an underwater telephone cable) westerly through the Big Narrows. Just past the Big Narrows, the channel was widened to 150 feet wide and approximately six feet below MLW, extending into (Staff) Paynes Creek. In 1965, the channel was extended south through Inner Sag Harbor Cove, the Little Narrows and Upper Sag Harbor Cove, and included the mouth of the Otter Pond tributary. The SCDPW has not conducted any maintenance dredging in the main channel and Upper Sag Harbor Cove areas since these channels were first dredged. In 1977, the SCDPW dredged the nearshore portion of Sag Harbor in the vicinity of the Village Marine Park facility. The area containing the A and B Docks in Outer Sag Harbor Cove was dredged in 1978. Private maintenance dredging was performed at Baron's Cove Marina in 1994. The SCDPW has not received any recent requests from the Village through the Towns of East Hampton and Southampton for further dredging, and hence, are not aware of any localized shoaling conditions or need for future dredging.

The SCDPW plans to construct a southerly spur off the main channel in Outer Sag Harbor Cove, to service the mouth of the Redwood boat basin, in the vicinity of the Ship Ashore Marina. SCDPW has filed permit applications with the NYSDEC and ACE in 1990, but has not yet received approval. One problem facing this proposed project is the identification of a suitable dredge spoil disposal area. The owner of the boat basin has shown preliminary interest in accepting the SCDPW dredged material for de watering on-site. However, the sediments may be of a type which would limit future use (small-grained, organic and/or contaminated) and no final decision has been made (Hunter, February 16, 1995; SCDPW File Search, 1994).

Dredge Spoil Disposal

The dredged channels and the areas where dredged material was historically placed by SCDPW are depicted on [Figure 11](#) in the Village Harbor Management Plan. Dredge material taken from the Sag Harbor Cove main channel was placed on the beachfront north of Long Beach Road and upland in the vicinity of the Ship Ashore Marina, where a condominium complex is now located. Dredge material from the westerly extension of the main channel and from Paynes Creek was placed on the south side of Long Beach Road as well as in upland areas of the Ship Ashore Marina and on adjacent parcels located further south. Dredge material from the Village docks, was also placed in upland disposal locations in the vicinity of Ship Ashore Marina. Dredged material taken from the Village Marine Park facility was spread on upland areas at Haven's Beach. With the exception of the Sag Harbor (Redwood Cove) spur, all of the permits for SCDPW projects have expired. In order to facilitate future SCDPW dredging actions the Towns of East Hampton and Southampton must apply for new permits. Approval of new dredging actions in this area will require: the identification of new dredge material disposal areas; grain size and chemical constituent analyses; and easements from property owners.

The administrative process for initiating County-sponsored dredging in local waters is a lengthy one, coupled with the usual time constraints involved with securing the necessary State and federal permit approvals. Once the SCDPW receives a request for dredging, the request must be reviewed to determine the public need and receive approval from the Dredge Screening Committee (consisting of the Commissioner of SCDPW, several legislators, the Suffolk County Council on Environmental Quality and the Suffolk County Executive). Once approved by the Dredge Screening Committee, site specific information must be gathered (including a site survey, estimation of quantities and particular dredging requirements) and permit applications filed. In the past, SCDPW dredging projects were funded through appropriations from the County Capital Program. However, the dredging funds were deleted from the 1995 Capital Budget, which implies that no new dredging will be funded by Suffolk County from 1995 through 1997 (Rogers, February 14, 1995).

In light of these facts, the Towns and Village of Sag Harbor must assess their dredging needs and devise a means of addressing this issue. The Village should prepare a dredging plan that identifies navigation channels that should be maintained for public use, with specific dimensional information included. Dredging actions should be associated with water-dependent

uses or marina uses in the WF Waterfront and MA Marine Zoning Districts and provide public access. Dredge spoil disposal options must also be identified, whether appropriate upland sites are utilized or spoil materials are carted away.

It is also important to note that the NYSDEC is presently taking a "hard look" approach at all "new" dredging projects. "New" dredging projects are defined as those areas that have not been dredged within the past 20 years, whether or not initial or maintenance dredging was conducted in the past. "New" projects are not likely to receive approval from the NYSDEC unless an overwhelming public need can be demonstrated, and the issues of contaminated sediments and the current lack of local disposal locations for such materials are adequately addressed (Hunter, February 16, 1995; Rogers, February 14, 1995).

B. WATER RESOURCES

(a) Surface Water Resources

The estuarine nature of Sag Harbor's coastal embayment waters is dependent upon the maintenance of sufficient tidal flow and freshwater inflow from upland watershed areas. Sag Harbor Cove and the coastal waters of Sag Harbor receive considerable freshwater input from two major watersheds: (1) the morainal and outwash areas between the Bridgehampton Racetrack and the Long Pond chain-of-ponds system in Southampton Town to the south and west, and (2) the area roughly coincident with what is called "Northwest" in East Hampton Town to the east.

The quality and volume of the waters emanating from these two great recharge systems is directly reflected in the quality and productivity of Sag Harbor Cove, Sag Harbor Bay and Northwest Harbor. As a result, these watershed areas should receive the utmost protection in terms of limiting zoning density and other safeguard measures (e.g., turf control and limitations on the volume and nature of wastewater effluent recharged). A cooperative effort with the Towns of Southampton and East Hampton would be beneficial.

● *Sag Harbor Bay*

Sag Harbor Bay is a shallow embayment with a tidal range of three feet. It is adjunct to Northwest Harbor and Shelter Island Sound. Sag Harbor Bay is open year-round to shellfish harvesting. The underwater lands in Sag Harbor Bay are owned by New York State. Sag Harbor Bay is bordered to the south by the Cor Maria facility, the Haven's Beach Village Park, and a long stretch of private beach. Sag Harbor Bay is included in the *Low Intensity Water Use District (LID)*.

- *Sag Harbor*

Sag Harbor is a semi-enclosed area situated at the entrance to the Sag Harbor Cove Complex. Sag Harbor is protected from the open bay by an elongated stone breakwater and is connected to Sag Harbor Cove by a tidal strait which is spanned by the North Haven/State Route 114 bridge. The area experiences incomplete tidal flushing twice daily by strong tidal currents. The average tidal range is three feet. Water quality is seasonally-affected by boat traffic and docking and marina facilities. The priority water quality impairment problem for this water body is shellfishing, caused by pathogens from storm sewers, municipal point sources, and boating pollution.

The shoreline of Sag Harbor Bay - between the Long Wharf and the breakwater - is largely hardened with bulkheading. The presence of four marinas (Waterfront Marina, Village Marine Park and Boat Basin, Sag Harbor Yacht Club, and Sag Harbor Yacht Yard) account for approximately 235 boat slips. There are also two mooring areas that contain approximately 150 mooring locations (20 of them are currently accessible to only shallow-draft vessels) within the Sag Harbor area. Sag Harbor is included within the *Harbor Water Use District (HD)*.

- *Sag Harbor Cove Complex*

The Sag Harbor Cove Complex is comprised of a series of four water bodies: Outer Sag Harbor Cove, Inner Sag Harbor Cove, Upper Sag Harbor Cove and Morris Cove. Each of the basins is connected by a narrow navigation channel; a strait from the northern end of Outer Sag Harbor Cove connects these waters to Sag Harbor. The overall surface area of the Sag Harbor Cove Complex, including Sag Harbor Coves and Upper Sag Harbor Cove, is 0.7 square miles; the average depth is 4.9 feet. The underwater lands in the cove complex are owned by the Town of Southampton.

Average tidal range in the Sag Harbor Cove Complex is approximately two feet; the average spring tide range is closer to three feet. A limited salinity study conducted in 1991 indicated that the entire cove complex was "nearly well-mixed" and is influenced strongly by coastal salinities. There was a slight longitudinal salinity gradient, with salinity decreasing mildly in an upstream direction (Najarian Associates and Cornell Cooperative Extension, 1992).

The watershed for the Sag Harbor Cove Complex covers approximately seven square miles and is dominated by residential land use and excessively-drained soils. The northern and southern portions of Outer Sag Harbor Cove are differentiated by which side of the Big Narrows the waters lie. A similar situation exists where the Little Narrows separates Inner Sag Harbor Cove from Upper Sag Harbor Cove. As with Sag Harbor, the priority water problem impairment for this water body is shellfishing, caused by pathogens from storm sewers, municipal point sources, and boating pollution.

Surface water quality in the Sag Harbor Cove Complex is dependent on adequate tidal flushing and stream flow. The principal means for flushing in Upper Sag Harbor Cove is the channel that runs between the Inner and Upper Coves and Outer Sag Harbor Cove, known as the Big Narrows. Within the cove complex, other channels provide daily flushing of the extended cove segments. These channels must be maintained in good condition for this function.

A hydraulics study was conducted in 1991 and showed that the Sag Harbor system is a "hydraulically efficient" embayment having a relatively large ratio of entrance conveyance area to basin surface area. That is, due to its small size and deep entrance, the Sag Harbor system already has interior tidal ranges which approximate the ranges at its entrance. Because the entrance channel already conveys sufficient flow to permit efficient filling and emptying of this embayment over a tidal period (12.42 hours), enlargement of the entrance to Sag Harbor Cove would not effectively increase Sag Harbor tides, and thus would not increase their overall flushing capacity. The average flushing time of Sag Harbor is approximately 7.7 days. There remains some question as to whether Sag Harbor Cove flushes efficiently, inside the Big Narrows.

The shoreline of Outer Sag Harbor Cove is largely hardened. The four marinas that are located on these waters (Sag Harbor Cove East Marina, Village **A** and **B** Docks, Sag Harbor Cove West Marina, and Ship Ashore Marina) have a combined total of approximately 385 boat slips. Outer Sag Harbor Cove is included in the *Harbor Water Use District (HD)*. Inner Sag Harbor Cove, Upper Sag Harbor Cove and Morris Cove are included in the *Conservation Water Use District (CD)*.

- *Ligonee Brook*

Ligonee Brook is a small freshwater brook running from east to west, draining into the southeastern end of Inner Sag Harbor Cove. The Sag Harbor Village boundary follows the center of Ligonee Brook, spanning the entire length of this water body. West of Brick Kiln Road, in the lower reach of the Brook, there is some salt water influence. East of the road, in the upper reaches, there is little salt influence except during extreme storm surges. The shoreline of Ligonee Brook is relatively free of structural hardening. Ligonee Brook is included in the *Conservation Water Use District (CD)*.

There are many freshwater elements in the LWRP area. The several ponds, drainage kettles, wetlands, that together with Ligonee Brook, form an interesting system of freshwater elements that are valuable in terms of wildlife habitat known to support a number of rare, threatened, and endangered species.

- *Otter Pond*

Otter Pond is a shallow intertidal pond of approximately four acres that is located within Mashashimuet Park, which is owned by the Sage Foundation.

Otter Pond receives saltwater from a tidal creek originating in Upper Sag Harbor Cove, which flows through a culvert under Main Street. Due to restrictions caused by stones and debris at the pond's connection to the creek, tidal fluctuation for the pond is approximately one foot while the tidal amplitude in Upper Sag Harbor Cove is approximately 1.7 feet. Freshwater enters the eastern end of the pond from a large red maple swamp located across Jermain Street, between Joel's Lane and Archibald Way.

The once healthy wetland pond has had most of its protective fringe replanted. The area to the east provides filtration and stabilization for the pond. The pond's flushing capacity is dependent upon maintaining the tidal creek connection to Upper Sag Harbor Cove, and upon the input of sufficient amounts of freshwater from upland underflow, stream flow and surface runoff. The shoreline of Otter Pond is free of structural fortification. For the purposes of identifying surface water uses, Otter Pond meets the defining characteristics of the *Conservation Water Use District (CD)*.

Otter Pond is used primarily for strolling and fishing. People also feed waterfowl along the pond's edge. Fishermen catch occasional striped bass and white perch, among other species. Each year it supports a wintering flock of waterfowl of about 100 birds, mostly mallards and canvasbacks. In addition, the pond supports a number of resident domestic geese and ducks. It has a potential for eutrophication, especially where its slopes are fertilized and its upstream freshwater sources from the Long Pond morainal watershed system are encroached upon.

- *Round Pond*

Round Pond is a freshwater pond, with some development having occurred around the perimeter. Only the northern portion of Round Pond is located within, and owned by, the Village at the southern end of Joel's Lane; (the southern portion is located in the Town of Southampton and owned by the Town). The shoreline of Round Pond is free of structural fortification. Round Pond is included in the *Conservation Water Use District (CD)*.

- *Little Northwest Creek*

Little Northwest Creek is a small tributary that feeds into Sag Harbor Bay and forms the eastern border of the Village. This tidally-influenced portion of the creek is surrounded by approximately 190 acres of State-owned tidal wetlands and buffering upland that is managed by the NYSDEC. The shoreline of Little Northwest Creek is free of structural fortification. Little Northwest Creek is included in the *Conservation Water Use District (CD)*.

Little Northwest Creek is an important component of the Peconic Bays ecosystem, contributing to the biological productivity of the area. The Sag Harbor and Northwest Harbor Significant Coastal Fish and Wildlife Habitat includes the tidal wetlands associated with Little Northwest Creek.

(b) Surface Water Quality Classifications

Pursuant to Title 6, Chapter 10 of the Codes, Rules and Regulations of New York State (NYCRR) discharge standards and water quality classifications have been assigned by the NYSDEC to the surface waters in the State according to their best usage. These classifications set discharge standards and are not necessarily indicative of existing water quality conditions. General water quality classifications are summarized in terms of their best usage, as presented in Table 1. The general water quality classifications assigned to each water body in Sag Harbor Village waters are shown on [Figure 5](#) and summarized in Table 2.

The quality of marine and estuarine waters can be assessed on the basis of a variety of variables, including color, odor, floating and suspended solids, oil, toxic compounds, and other deleterious substances. Water quality classifications in New York State are currently based primarily on three indices: total coliform level, fecal coliform level, and dissolved oxygen concentration. Existing water quality conditions are discussed below in subsection (c).

In order to be certified as a shellfish harvesting area, the median total coliform level for any series of samples must be 70 MPN/100 ml or less (where MPN/100 ml is the most probable number of organisms per 100 milliliters of sample). New York State (2 NYCRR Part 701.20) classifies these certified shellfishing waters as *SA*, which designates the highest level of water quality. A *SB* classification is assigned where the monthly median total coliform level is 70 to 2400 MPN/100 ml, where no more than 20 percent of the samples exceed 5000 MPN/100 ml, and where the monthly geometric mean value is 200 MPN/100 ml or less. The best intended use for *SB* waters is swimming.

Priority Water Problem (PWP) waters are surface waters which either cannot be fully used as a resource (i.e., are not achieving best usage), or have problems which can damage their environmental integrity. PWP waters are listed in the following four categories:

- **Use Precluded** -- A classified best usage of water is not possible, e.g., swimming is banned by health regulations.
- **Use Impaired** -- A classified best usage of water is limited, e.g., fishing is possible, but consumption is restricted.
- **Stressed** -- Water quality is reduced and a classified best usage of water is marginally restricted. A water quality problem is evident, but impairment is not clearly demonstrated.
- **Threatened** -- Conditions are such that a classified best usage of water may become limited. Changes in land use or pollutant sources may result in water quality problems.

The NYSDEC identified, in the Department's 1996 Priority Water Problems List, "Sag Harbor and Coves" by water quality classification and limitations or environmental problems. Carrying

a water quality classification of *SA* and affecting an area of two hundred-eight acres, Sag Harbor and Coves have a precluded use. Shellfishing is precluded due primarily to pathogens which come from storm sewers, municipal point sources, and boating pollution. Shellfishing areas in the waters of Sag Harbor Bay, to the west of the breakwater, are closed year round. Shellfishing areas in Sag Harbor Cove are closed on a seasonal basis (May 15 - Oct. 31). "Sag Harbor and Coves" was included as a priority in the NYSDEC Nonpoint Source Management Program (January 1990).

(c) Existing Water Quality Conditions

The primary objective of most ongoing water quality monitoring programs in New York State is to prevent human health impacts from exposure to pathogenic bacteria and viruses (e.g., the hepatitis and Norwalk viruses, and the Salmonella bacteria), which can result from either direct contact with contaminated water or the consumption of tainted shellfish. However, the detection of these pathogens is generally a time consuming and tedious undertaking. Consequently, water quality testing typically entails the use of coliform bacteria, which are relatively easy to measure; these bacteria cooccur with the pathogens of primary concern and serve as indicators of the possible presence of those pathogens.

Fecal coliform bacteria present in stormwater originate in the intestinal tracts of warm-blooded animals and can be derived from wildlife, domestic animals, or humans. Coliforms of human origin in stormwater are typically caused by malfunctioning on-site sewage disposal systems, although illegal wastewater connections to stormwater pipes can also be a problem in certain areas. Sewage treatment plant outfalls and discharges from boats also deliver human sanitary wastes or treated effluent, and associated coliform loads, to the waters of the Sag Harbor Cove/Bay Complex.

Wildlife can also be a major source of coliform bacteria to coastal waters, especially in settings such as Sag Harbor Bay and the Sag Harbor Cove Complex, which have a rich native fauna. Fecal wastes from wildlife present in upland areas can be carried to surface waters in stormwater flow. Upland habitat areas adjacent to the shoreline can be a significant source of coliforms, due to the short distance runoff has to travel before reaching the receiving waters. The direct discharge of fecal wastes from waterfowl within a water body can also be important.

Otter Pond supports large numbers of waterfowl throughout the year, especially during the winter months. During the 1994 winter waterfowl survey, nearly 200 ducks were observed on Otter Pond in one day. Waterfowl feeding is also a popular activity at Otter Pond. This concentration of waterfowl, whether a natural or man-induced occurrence, contributes significantly to the degradation of water quality.

Domestic animals also generate fecal wastes that can be delivered to coastal waters. The magnitude of the coliform input from this source is dependent upon the number of pets and livestock in a given watershed area, as well as the drainage characteristics of the watershed.

Although no quantitative analysis has been performed for the study area, the contribution of coliforms from wildlife is believed to significantly exceed the input from domestic animals, particularly when direct inputs from waterfowl are taken into consideration.

Although native wildlife communities would contribute coliforms to a coastal water body even if the watershed remain undeveloped, development invariably increases the bacterial loading versus the undeveloped condition. The presence of domestic animals makes some contribution to this increased pollution level; however, the most important factor is the alteration of stormwater drainage characteristics within the watershed. More specifically, development results in the replacement of permeable natural land surfaces (e.g., woodlands and meadows) with impervious surfaces (e.g., paved roadways, walkways, and building roofs). Even in areas cleared for development that are subsequently replaced with landscaping, the planted vegetation generally has a lower capacity for absorbing rainwater than the original vegetation; this is especially true with respect to turf areas. The overall consequence of these conditions is that development generally increases the amount of runoff generated on a given parcel of land. The augmented volume of runoff from developed properties results in an increase in the amount of coliform bacteria carried from the land surface to receiving waters.

Surface water quality data are collected and analyzed by the NYSDEC on a routine basis in shellfish growing areas, including the estuarine waters in and around the Village. A total of 17 sampling stations have been established by the NYSDEC throughout the Sag Harbor Cove/Bay Complex, including 16 stations west of the breakwater and one station to the immediate east of the breakwater. These waters have been designated by the NYSDEC as shellfish growing area No.19.

The water quality data collected by the NYSDEC, which consist of total and fecal coliform bacteria measurements, are used to determine the certification status of shellfish beds in accordance with the provisions of the National Shellfish Sanitation Program. Bacterial water quality at any given station is considered to be acceptable with respect to shellfish harvesting for direct human consumption if either of the following two conditions apply: (a) the median total coliform level is 70 MPN/100 ml or less and no more than percent of the samples exceed a total coliform level of 330 MPN/100 ml; **or** (b) the median fecal coliform level is 14 MPN/100 ml or less and no more than 10 percent of the samples exceed a fecal coliform level of 49 MPN/100 ml. The units MPN/100 ml are the most probable number of organisms per 100 milliliters of water sample, as determined by standard laboratory protocol.

Shellfish harvesting is restricted in portions of the Village waters, as depicted in [Figure 5](#), due to actual or potential water quality deterioration. Based on the NYSDEC's review of coliform data collected during the five-year period between 1986 and 1991, as summarized in a report prepared September 22, 1991, 155 acres of underwater lands situated between the North Haven/State Route 114 bridge and the breakwater are presently classified as uncertified year-round. These waters include the Village anchorage area and the buffer zone of closure around the sewage treatment plant outfall. The single sampling station located in close proximity to the

STP outfall has consistently failed to meet the shellfish harvesting standards for both total and fecal coliform levels, under dry weather conditions as well as during significant rainfall events during the 1986 through 1991 sampling period.

Seasonal closures covering two separate areas totaling 28 acres are presently in effect in the Village area. These seasonally certified areas include underwater lands to the immediate west of the North Haven/State Route 114 bridge (which contains the Village A and B docks, Sag Harbor Cove West Marina, and Sag Harbor Cove East Marina) and the cove on the north side of the Redwood peninsula (known as the Redwood boat basin) in which the Ship Ashore Marina is situated. Both of these areas of seasonal closure are in effect as a precautionary measure due to potential contamination derived from vessel waste discharges. Shellfish harvesting can only occur in these waters between November 1 and May 14, when vessel activity is minimal. The seasonal restrictions assigned to these areas by the NYSDEC were based primarily on historic records of reduced water quality during the warmer months of the year.

A station in the southeastern corner of Upper Sag Harbor Cove, between Bluff Point and the outlet of Otter Pond, consistently failed to meet the standards for total and fecal coliform bacteria under both dry weather and wet weather conditions during the NYSDEC's 1986 to 1991 analysis period. On the basis of those data, the NYSDEC subsequently classified the affected area as closed to shellfish harvesting on a year-round basis. The causes of deteriorated water quality in this area are not fully clear, according to the NYSDEC. However, it is suspected that the discharge from Otter Pond is a significant source of coliform bacteria. As noted above, Otter Pond is known to support a large waterfowl population, which is a significant contributor of fecal matter. In addition, this portion of the shoreline is closely surrounded by older residences, which may be adding to pollution conditions via inadequately treated septic wastes. Poor mixing at the eastern end of Upper Sag Harbor Cove also may be a factor in elevated coliform levels. It should be noted that all NYSDEC shellfish harvesting restrictions, as discussed above, are based on 1995 conditions and are subject to change on an annual basis.

During the NYSDEC's 1986 to 1991 analysis period, all of the sampling stations located in Upper Sag Harbor Cove failed to meet the fecal coliform standard during wet weather conditions. However, except for the aforementioned single station in the southeastern corner of the cove, all of these stations were in compliance with the total coliform standard during wet weather conditions. As noted previously, bacterial water quality is considered to be unacceptable for shellfish harvesting only when both the total and fecal coliform criteria are contravened. Consequently, only the southeastern corner of the cove has been incorporated into the area of year-round closure. The remaining portions of the cove are designated for continued certification, except during emergency conditions such as extraordinary rainfall events.

During the period between October 1991 and July 1994 (i.e., subsequent to the preparation of the September 22, 1991 water quality report), the NYSDEC measured coliform levels during 14 separate sampling events. Although these data have not yet been incorporated into a new water quality report by the NYSDEC, a preliminary analysis was undertaken by Cashin Associates for

the purposes of the LWRP. The findings of that preliminary analysis indicate that coliform levels at four stations have contravened shellfish harvesting standards during the supplemental sampling period. These include the two stations located within the current, year-round uncertified areas adjacent to the STP outfall and at the head of Paynes Creek. The station in the southeastern corner of Upper Sag Harbor Cove, which defines an area that was closed year-round to shellfish harvesting on the basis of the NYSDEC's 1991 report, continues to contravene the shellfish harvesting standard according to the 1991 through 1994 data.

The NYSDEC's supplemental data indicate that the station located immediately east of the breakwater also contravened the shellfish harvesting standard for the sampling period between October 1991 and July 1994. However, this station was in compliance with the fecal coliform standard (and, therefore, is in compliance with the overall shellfish harvesting criteria) for the entire monitoring period, which comprises 44 separate sampling events between June 1986 and July 1994. This situation warrants continued close monitoring in the coming years, and may indicate that water quality mitigation measures are needed to prevent possible further closure of currently certified shellfish beds located east of the breakwater in Sag Harbor Bay.

The NYSDEC also conducts periodic shoreline and pollution source surveys as part of its duties under the National Shellfish Sanitation Program. The most recent survey was conducted between April and July 1988. Since development conditions have not changed substantially during the intervening seven-year period, the findings and conclusions of that report are still generally applicable today.

The 1988 pollution source survey indicated that water quality in shellfish growing area No. 19 may be adversely affected by septic effluent from residential dwellings, particularly those houses that are situated in close proximity to the shoreline. However, no evidence of actual system malfunctions was observed. It should be noted that the NYSDEC's study area includes some neighborhoods that lie outside Village waters (e.g., along Paynes Creek and the south shore of Ligonee Brook, and the southern portion of the North Haven peninsula).

Other pollution sources noted in the NYSDEC's report include the STP outfall, stormwater drains, road ends and boat launching ramps, and freshwater inputs from Ligonee Brook, Otter Pond, and other small streams and ponds. The six marinas surveyed at that time were all found to be located within year-round or seasonally uncertified areas. Waterfowl were observed throughout the area, particularly in Otter Pond.

(d) Groundwater

All of the public water supply for Sag Harbor Village is drawn from the upper glacial aquifer. The Suffolk County Water Authority (SCWA) supplies the entire Village with potable water supplies. Water is currently drawn from three wells at the SCWA well field located on Division Street, opposite Middle Line Highway. According to SCWA engineers, one older well was recently retired due to turbidity problems. Due to this fact, the SCWA can only marginally meet

demands during peak use periods in the summer. However, water restrictions are not required to meet the demand. A new well field was constructed further inland, off Sag Harbor Turnpike. This new well field supplies the Division Street well field and was put in service during the summer of 1996.

Groundwater resources become contaminated when water percolating through the soil carries pollutants downward through the soil and to the water table. Eventually, groundwater resurfaces, producing springs or ultimately discharges to streams, wetlands, or other surface waters. This under flow of groundwater also moves upward through the bottom lands of the surface water bodies. Percolation of groundwater through the sediment bed of the underwater lands will force any contaminants resting therein toward the water's surface. Groundwater underflow can contain sanitary system effluent, fertilizer leachate, and other contaminants.

In the Village of Sag Harbor, there are a number of toxic spill sites that have the potential to contaminate local groundwater resources and marine waters. These spill sites are described as follows:

- ***Rowe Industries, Inc.***

The Suffolk County Department of Health Services found contaminated wells in a small residential area along the Village's southern boundary at Ligonee Brook. A significant groundwater plume of organic contamination is flowing northwest towards, and has reached, its discharge boundary at Sag Harbor Cove. The plume, which is approximately 600 feet wide, 3000 feet long, and about 80 feet deep at its maximum depth, is entering the Cove along the shoreline to the west of the mouth of Ligonee Brook. The source of the contaminant has been determined to be an industrial plant located on the east side of the Sag Harbor-Bridgehampton Turnpike, between Carroll Street and Lily Pond Drive. The plume originated with a former industrial tenant, Rowe Industries, Inc., an electric motor manufacturing firm that used solvents for de-greasing.

The immediate action taken to provide the affected residents with an adequate and safe water supply was to extend the Suffolk County Water Authority's distribution system, and to install individual hookups to the mains. This work was completed in 1985. The Rowe site was listed on the Environmental Protection Agency's (EPA) National Priorities List in July 1987. In addition, the NYSDEC has placed this site on the list of Inactive Hazardous Waste Disposal Sites in New York State, and has assigned the site code number 152106 to this parcel. In 1988, a Consent Order was signed between the EPA and the present and former site owners to conduct a Remedial Investigation/Feasibility Study to evaluate the exact nature and extent of the contaminants present and to assess the resulting impacts on public health and the environment. The study determined that quantities of volatile organic compounds (VOCs, specifically: 1,1,1-trichloroethane, 1,1,2-trichloroethylene, tetrachloroethylene, and 1,1-dichloroethylene) were present in soils and the groundwater in high enough quantities to justify performing a remedial action. A preferred alternative was

selected after public comment, and in September 1992 a *Record of Decision* was issued to begin the remedial design and implement the proposed remedial action at the site.

The Remedial Action for the Rowe Industries Superfund site will remove VOCs from the groundwater by pumping it through a series of extraction wells, both on-site and in the surrounding area, which tap into the contaminant plume. The contaminated groundwater will be conveyed from the extraction wells by underground piping to air-stripping equipment located on the site. The on-site air stripper facility will be operated in accordance with the operations and maintenance plan to avoid any spills or clean them up should they occur. The treated groundwater will be discharged to Sag Harbor Cove via a pipe fitted with a diffuser at the outlet end. The diffuser will extend into the cove and be placed on the sediment surface. Treated water shall meet all applicable State water quality standards.

Soil excavation will also take place on the site to remove soil high in VOCs. Soils excavated from the contaminated portions of the site will be temporarily kept on-site within a designated area known as the "hot" zone. Berms, hay bales, and plastic liners will be used in this zone, as necessary, to prevent runoff into adjacent areas. The contaminated soil will then be sealed into hazardous waste drums, and transported to an EPA-registered RCRA facility using a vehicle specifically designed for such purpose. The vehicle will use roads that allow the transport of hazardous substances, along the designated transportation route. Established RCRA and U.S. Department of Transportation requirements will be complied with during the transportation of the drums to the RCRA facility.

According to the NYSDEC and USEPA, the responsible party (Nabisco Brands, Inc.) is currently working on the Remedial Design Report, design details and specifications for the extraction wells and air stripper. The removal of contaminated soils from the site was expected to begin in 1995, along with a soil gas survey to detect any contaminated vapors in the basements of surrounding homes (Wood, EPA, February 28, 1995; Bologna, NYSDEC, February 28, 1995). However, the contaminated soils were not removed according to that projection; such removal may occur in 1998.

Throughout the duration of the remedial action, surface and groundwater conditions will be monitored to ensure that pumping and discharge activities do not cause significant adverse effects to nearby surface water bodies and wetlands. Baseline studies will be conducted prior to the commencement of the remedial action. During remediation, monitoring of the condition of surface water, groundwater and the ambient air will be conducted to ensure that the project is protective of human health and the environment. Once the clean up action levels are achieved, the air strippers, diffuser, and above ground features of the project will be removed and the ground surface and bay bottom will be returned to conditions similar to that which existed prior to the remedial action (NYSDEC, 1993).

- ***Bulova Watchcase Factory***

The former Bulova Watchcase Factory Building is located on Washington Street. This NYSDEC - designated hazardous waste site (site code #152139) covers an area of approximately 2.3 acres. It was originally a textile plant that was converted to a watch manufacturer at the turn of the century. Watch manufacturing operations at the site included: tooling, pressing, forming, machining, soldering, polishing, solvent cleaning, and plating. The chlorinated solvents, 1,1,1-trichloroethane (TCA) and trichloroethene (TCE) which were used in intermediate cleaning operations have been detected in down gradient wells and in the unsaturated soils in the facility's courtyard. A soil gas survey has indicated that the courtyard is one source of contamination.

An air sparging/soil vent system was installed in 1994 to remove the volatile contaminants (TCA and TCE) from soils and groundwater on site. It's expected to take as many as five years to complete the clean up on-site.

A plume of organic compounds consisting primarily of 1,1,1-TCA and TCE is flowing towards Sag Harbor Cove in a northwesterly direction. Eventual discharge to the cove is likely to occur based upon the direction that the contamination plume is traveling. The NYSDEC is currently negotiating with Bulova to undertake a Remedial Investigation/Feasibility Study (RIFS) to define the zone of contamination off-site. According to the NYSDEC, there may be homes located within or down gradient of a suspect plume of contaminated groundwater which are not connected to the municipal water supply or which still operate private wells. The NYSDEC will be coordinating all clean up activities for the off-site plume with the New York State Department of Health and SCDHS, and may commence a private well survey in 1995 (NYSDEC, 1993; Miller, February 28, 1995).

- ***Sag Harbor-Bridge Street***

The Sag Harbor-Bridge Street (SHBS) site encompasses approximately four acres and includes the Long Island Fisherman (LIF) property, a Long Island Lighting Company (LILCO) gas storage facility, the Harbor Close Condominium complex, the Suffolk Electric Motor property and six adjoining private residences. In 1987, Suffolk County Water Authority employees reported skin irritation while excavating soil for a pipeline on Bridge Street opposite the LIF property. However, the affected individuals did not file any formal documented complaints. The properties included within this study area were investigated by the Village of Sag Harbor, EPA, SCDHS and NYSDEC; only the LIF property was placed on the New York State Registry of Inactive Hazardous Waste Sites (NYSDEC site code #152126).

The LIF property was formerly used for industrial and commercial purposes, including flexible magnet manufacturing and newspaper publishing during 1967 through 1988. A coal

gasification plant was operated on the LILCO property between 1859 and 1929. The plant included two gas storage tanks, two purifying houses, a crude oil tank, and several other production buildings. LILCO subsequently converted the property to a gas storage and distribution facility. No other properties within the SHBS site have been associated with industrial uses.

The environmental investigations conducted since the site was listed by the NYSDEC include the installation of six groundwater monitoring wells (three wells just east of Bridge Street and three wells surrounding an oil tank on the LIF property) and over 90 soil samples. Included among the soil contaminants found were volatile organic compounds, petroleum hydrocarbons, DDT, DDE and several metals. Contaminants found in the groundwater include: volatiles, basel neutrals, acid extractables, petroleum hydrocarbons and lead.

Through exhaustive sampling and monitoring, the NYSDEC's Division of Hazardous Site Control has concluded that the site contains contaminants. However, the level of soil contamination is low and reflective of background concentrations which are typical for highly urbanized areas. It remains questionable whether the volatiles detected in the monitoring wells are suspected to have originated at the Bulova Watchcase Factory, or from prior on-site activities.

It was initially found that the contamination found on the Sag Harbor-Bridge Street site met the NYSDEC criteria for hazardous waste. Then, after the results of a 60-day public notification period, during which time no significant controversy was voiced by the public, the NYSDEC delisted this site (Whitfield, NYSDEC, September 6, 1995). The site has, however, recently been placed back on the list.

- ***Mobil Oil Corporation Property***

The Mobil Oil Corporation property consists of two parcels which front on Bay Street. The parcel located on the north side of Bay Street was acquired by the Village in 1994. The property located on the south side of Bay Street is privately owned.

Three fuel oil storage tanks and three gas tanks originally occupied the northernmost 1.3 acre parcel located north of Bay Street at the intersection with Burke Street. The tanks were removed in the late 1980's. Subsequent to the tank removals, a petroleum spill (NYSDEC Spill No. 86-7632) was discovered by LILCO on March 16, 1987 during cable excavation work conducted along the southern property boundary. Groundwater monitoring wells were installed on-site and along Bay Street in 1987 and 1988. Petroleum hydrocarbons were identified in the groundwater monitoring wells on the southeastern portion of the property and a smaller area of contaminated soil was identified near the northern property boundary in 1989. Mobil Oil Corporation installed a groundwater remediation system which processed extracted groundwater through a carbon absorption method and discharged treated water into Sag Harbor Bay. In addition, Mobil Oil Corporation excavated approximately 4,000 tons

of contaminated soils to a depth of approximately 6 feet and utilized a soil burner to thermally treat the contaminated soils on-site. The treated soils were replaced back on the Mobil Oil site.

At the conclusion of the site remediation activities in November of 1992, the NYSDEC closed the file and placed this site on the "Inactive Spills" list. Although two wells on-site still contained very low levels of contamination, further remediation was not deemed feasible or necessary by the NYSDEC. The groundwater monitoring wells have been abandoned. The NYSDEC no longer conducts any monitoring of this site and has not placed any deed restrictions on the property (NYSDEC File Search, March 1, 1995; Gomez, March 6, 1995).

(e) Point and Nonpoint Pollution Sources

Point Sources

The term *point source*, as defined by the federal Clean Water Act, means "any discernable, confined and discrete conveyances, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged." Point sources also include effluent discharges from sewage treatment plants and industrial waste treatment facilities.

Although diffuse runoff is generally treated as nonpoint source pollution, runoff that enters and is discharged from any conveyance described above (i.e., stormwater outfall pipes) is treated as a point source. Stormwater outfalls are a significant source of pollution affecting surface water quality of Sag Harbor Village waters.

Most point sources are subject to permit requirements of the Clean Water Act. In New York, the NYSDEC administers Clean Water Act permits under the State Pollution Discharge Elimination System (SPDES) permit system.

The principle point sources occurring in the Village of Sag Harbor include the sewage treatment plant, stormwater outfalls, and vessels and marinas. These are described below:

1. Sewage Treatment Plant

The Sag Harbor Village Sewage Treatment Plant (STP) is located on Bay Street. It is situated at the water's edge and discharges treated wastewater directly into Sag Harbor via a single ten-inch diameter, cast-iron outfall pipe which extends through the bulkhead seawall. Discharge goes to a sheltered cove located near the entrance of Sag Harbor. The STP outfall pipe may be above or below sea level, depending on the stage of the tide.

The service area for the Village STP covers approximately 50 acres of the more intensively developed VB Village Business District, and includes a large portion of the WF Waterfront District (see Figures 3 and 5). The entire sewage flow to the plant is either from domestic or commercial sources. A laundromat is the major generator. There are no industrial waste contributors. The Village is committed to providing service in this area and the more intensive land uses located, and to be located, therein. At present, no further extensions are envisioned.

The Sag Harbor STP performs secondary treatment on sewage and "extended aeration" on the effluent up to the point of discharge. The plant monitoring and reporting requirements are set forth in the State Pollution Discharge and Elimination System (SPDES) permit issued by the NYSDEC for the STP. Under the present conditions of the permit, the plant operator is required to continuously monitor the flow rate and record the pH level, settle able solids, dissolved oxygen (DO), residual chlorine and temperature of the effluent on a daily basis. Monthly monitoring of BOD5 (5-day biochemical oxygen demand), suspended solids, fecal coliform and total coliform must also be recorded. The current permitted design capacity of the Sag Harbor STP is 0.15 million gallons per day (MGD), and according to the plant operator, the facility has not experienced any recent problems meeting the actual flow rates or effluent constituent requirements set by the SPDES permit. Discharge Monitoring Reports (DMRs) which summarize the influent and effluent quantities and constituent concentrations, are sent monthly to the NYSDEC headquarters in Albany, the Region I NYSDEC office in Stony Brook, and the SCDHS in Farmingville, New York. The present SPDES permit expires on April 1, 1999 and is expected to be renewed with no additional conditions (Banarge, February 17, 1995; Ryder, March 3, 1995).

Initial construction of the Village sewage system took place between 1976 and 1977, and the STP was placed into service in December of 1977. Treatment of sewage influent is accomplished through a forced air system designed to deliver the necessary volume of oxygen required for aerobic bacteria to break down potentially harmful pathogens through blowers and diffusers in the aeration tanks.

Modifications to the plant's original capacity of 100,000 gallons per day have been made several times since it became operational in 1977. Between 1984 and 1985, a 50,000-gallon aeration tank was added to complement the facility's two existing 50,000-gallon aeration tanks, thus increasing the operating capacity of the STP to 150,000 gallons per day. During the same time, a 12,000-gallon settling tank was built. These modifications were necessitated by the construction of two condominium complexes that were brought into the district in that year.

After the 1984-85 modifications were completed, the STP's capacity was adequate to handle the normal demands of the district, including a 20,000-gallon per day allocation for the potential renovation of the Bulova Watchcase Factory building. This site has been proposed for redevelopment as a residential condominium complex. However, at several peak times

during the summer tourist season, the STP was unable to meet the sudden increase in demand and a moratorium was enacted prohibiting any additional hookups. A private consultant was contracted by the Village to perform a capacity analysis on the STP. Based on the findings of this analysis, the addition of a 25,000-gallon equalization tank and a 16,000-gallon aerated sludge holding tank were recommended and designed to augment the capacity of the STP during peak periods. These modifications were completed in September of 1994, just before the moratorium expired, and are utilized to ensure that the system will be available and functional to meet the demand during peak periods of use (Wagner & Ryder, February 16, 1995).

Federal and State water quality standards have required all publicly-owned treatments works (POTW) discharging into navigable waters of the United States, or its possessions, to be provided with "best practicable waste treatment technology," which has come to mean secondary treatment. As discussed above, Sag Harbor's sewage treatment plant provides secondary treatment with extended aeration to improve the treatment process. This means that effluent is aerated before it goes into the harbor. The plant runs at about a 95 percent removal rate for BOD, suspended solids, and total and fecal coliforms.

Outside the Village sewerage district, property owners are required to provide on-site sewage disposal systems (OSDSs) for developed parcels. These systems are subject to regulation under the Suffolk County Sanitary Code standards and procedures as administered by the Suffolk County Department of Health Services.

Boat pump-out facilities are located at the Sag Harbor Yacht Club and Marine Park. A mobile pump-out is also available for use. In addition, there are two Town of Southampton pump-out vessels.

Pollutant loadings from the sewage treatment plant include oxygen-demanding substances, viruses, bacteria, nutrients, suspended oils, heavy metals and organic chemicals.

2. Stormwater Outfalls

Stormwater outfalls are another significant point source of pollution affecting surface water quality in the Village. Stormwater discharges from upland areas in the Village can contribute pathogens, sediment loads, nutrients, road salts, metals, hydrocarbons and organic materials into adjacent surface waters. While not subject to federal or State permit requirements, stormwater outfalls are considered point sources. Federal and state stormwater regulations apply to municipal discharges of stormwater in cities with a population greater than 100,000. Areas with populations under 100,000, including the Village of Sag Harbor, will be subject to regulation in the next few years. Storm drains located in the Village are shown on [Figure 5](#).

This category of point source pollution also includes the localized impact resulting from runoff that is directed to surface waters via culverts, streams or tidal inlets. A culvert located under John Street directs runoff to the tidal creek and salt marsh that connects to Upper Sag Harbor Cove. A culvert that passes under Jermain Avenue carries runoff into Otter Pond and its associated fringing wetlands. Another culvert is located at Bay Street and Rysam Street which directs stormwater runoff directly into the Marine Park boat basin, and ultimately Sag Harbor. Culverts are also located at Haven's Beach and under Redwood Road and Main Street. Tidal inlets are located at Little Northwest Creek, Haven's Beach, Otter Pond, and Ligonee Brook. These are shown on [Figure 5](#).

3. Vessels and Marinas

Vessels contribute to nonpoint source pollution and affect surface waters within the Village. Federal regulations for vessels are generally standards for Marine Sanitation Devices (MSD's). Counts have been taken that have shown more than 800 boats entering Sag Harbor and Sag Harbor Cove on a daily basis. There is capacity for approximately 815 vessels (docks, slips and moorings) in those water bodies. Recreational boating as a nonpoint source of pollution to surface waters is discussed below.

Marinas are considered another source of pollution within the Village of Sag Harbor, and are subject to federal and State stormwater regulations under permits for industrial activities. The primary source is the general intensity of harbor use accompanied by debris, greases, and cleaners. Marinas can contribute significantly to the concentration of pollutants in the water column, bottom sediments, and tissues of benthic organisms living within the limits of the marina. The presence of a marina, however, is not necessarily an indicator of poor water quality. In fact, many marinas have good water quality. Despite this, they may still have an impact on the natural resources found at the site.

The following marinas are located in the Village of Sag Harbor ([see Figure 4](#)):

Ship Ashore Marina, Redwood Road	Outer Sag Harbor Cove
Sag Harbor Cove West Marina, West Water Street	Outer Sag Harbor Cove
Village A and B Docks, West Water Street	Outer Sag Harbor Cove
Sag Harbor Cove East Marina, West Water Street	Outer Sag Harbor Cove
Village Marina/Long Wharf, Bay Street	Sag Harbor
Waterfront Marina, Bay Street	Sag Harbor
Village Marina Park and Boat Basin, Bay Street	Sag Harbor
Sag Harbor Yacht Club, Bay Street	Sag Harbor
Sag Harbor Yacht Yard, Bay Street	Sag Harbor

Nonpoint Sources

Nonpoint source pollution is the pollution of waters caused by runoff as it moves, picks up and carries away natural pollutants and pollutants resulting from human activities and development, and finally depositing them into lakes, rivers, streams, wetlands, coastal waters and groundwater. By contrast to point sources, nonpoint sources include stormwater sheet flow runoff (i.e., unchanneled flow from paved surfaces, buildings and construction sites), and infiltrated groundwater flows from cesspools and septic tanks. Fertilizers and pesticides also contribute nitrogen and organic compounds to ground and surface waters. Technically, the term "nonpoint source" is defined to mean "any source of water pollution that does not meet the legal definition of *point source* under the Clean Water Act. In contrast to point sources, nonpoint sources are not subject to federal and State permit requirements.

Many categories and subcategories of nonpoint sources affect coastal waters. The U.S. Environmental Protection Agency, pursuant to 1991 amendments to the Coastal Zone Management Act, has developed guidance to focus on five major categories of nonpoint sources that impair or threaten coastal waters nationally: (1) agricultural runoff; (2) urban runoff (including developed and developing areas); (3) silviculture (forestry) runoff; (4) marinas and recreational boating; and (5) hydromodification and wetlands (channelization and channel modification, dams and stream bank and shoreline erosion, wetlands and riparian areas). Full description of EPA guidance for coastal nonpoint sources can be found in EPA's publication entitled Guidance Specifying Management Measures for Sources of Non-Point Pollution in Coastal Waters (U.S. EPA January 1993).

Nonpoint sources of pollution affecting coastal waters and tributaries within the Village fall within the following three EPA categories: urban runoff; marinas and recreational boating; and, hydromodification and wetlands. Overlapping areas between point sources and nonpoint sources occur with respect to urban runoff, marinas and recreational boating. While stormwater discharges and marinas are subject to point source regulation under the State and federal stormwater regulations, the factors contributing to the sources are largely nonpoint in nature. For example, while a stormwater outfall into Sag Harbor is a discernable and direct point source, the contributing areas and sources are extremely diffuse and are considered to be nonpoint.

Accordingly, water pollution from urban runoff, marinas and recreational boating activities needs to be addressed in both the point and nonpoint source management programs.

1. Urban Runoff

Urban runoff is generally the single most significant nonpoint source of pollution, especially bacterial pollution, affecting the fresh surface waters and the near shore marine environment. The elevated coliform counts associated with urban runoff have led to a ban on the harvesting of shellfish in approximately one-fourth of the most productive portions of all Long Island bays.

The following list describes the principal types of pollutants found in urban runoff, and their potential adverse effects.

- *Sediment* -- Suspended sediments generally constitute the largest mass of pollutants delivered to surface waters. Sediment has both short and long-term impacts on surface waters including increased turbidity, reduced light penetration, decreased abundance of submerged aquatic vegetation, impairment of recreational fishing resources, shoaling of waterways and navigation channels, and degradation of aesthetic quality.
- *Nutrients* -- Excessive nutrient loadings can result in eutrophication and depressed dissolved oxygen, which can adversely affect a variety of aquatic organisms.
- *Oxygen demanding substances* -- Decomposition of organic matter (e.g., leaves in stormwater runoff) by microorganisms can severely depress dissolved oxygen levels.
- *Pathogens* -- Urban runoff typically contains elevated levels of pathogenic organisms. The presence of pathogens may result in water body impairments such as shellfish bed closures, closed beaches, and contaminated drinking water (in freshwater bodies).
- *Road Salts* -- Snow runoff produces high salt and chlorine concentrations at the bottom of ponds, streams and other freshwater bodies. Not only can this condition prove directly toxic to benthic organisms, but it also reduces crucial vertical mixing necessary for dissolved oxygen replenishment and pollutant dispersal.
- *Hydrocarbons* -- Petroleum hydrocarbons are derived from oil products. The source of most such pollutants found in urban runoff is vehicles, such as engine drippings, and the disposal of used oil in storm drains. High concentrations of hydrocarbons are toxic to aquatic organisms and can accumulate in bottom sediments.
- *Heavy metals* -- Heavy metals such as copper, lead, and zinc are generally the most prevalent nonpoint chemical pollutants found in urban runoff. High metal concentrations

may bio accumulate in fish and shellfish and impact beneficial uses of affected water bodies.

The sources of urban nonpoint pollution affecting surface waters in the Village's local waterfront revitalization program area include the following:

- *Runoff from developed areas* -- Sag Harbor is a largely developed community, with few opportunities for additional development. Approximately 95 percent of the Village is developed. Developed areas can contribute fertilizers and pesticides from lawn management activities as well as fecal matter from pet wastes, among other pollutants.
- *Runoff from construction sites* -- Sediment derived from the erosion of soils that are stripped of vegetation during construction activities can be carried to surface waters. On a per unit area basis, construction sites are by far the greatest source of sediment delivered to receiving waters.
- *On-site disposal systems* -- Surface water quality impacts are caused by failed or inadequately maintained on-site septic systems, and by systems that are improperly sited (e.g., in areas of shallow groundwater, or too close to surface water bodies). Currently, only a limited portion of the LWRP area is serviced by sanitary sewers and the Village STP including a small portion of Bay Street, Long Island Avenue and West Water Street, discussed further in Section 2.3C(b).
- *Roads, highways and bridges* -- Stormwater runoff collected from these hardened surfaces discharges into coastal waters and tributaries. The following road endings (or unnamed extensions from another street) located in the Village contribute direct runoff into the surface waters of Otter Pond, Upper Sag Harbor Cove, Little Northwest Creek, and Sag Harbor Cove: White Street, John Street (unnamed extension), Wilson Place, Harding Terrace, Cove Road - North, Dartmouth Road - North, Amherst Road, Notre Dame Road, Yale Road - South (see Figure 5). Although these road ends may impart localized impacts to surface water quality, these same structures serve to benefit the residents of Sag Harbor as public access areas. Stormwater, in the form of sheet runoff, also flows directly into Outer Sag Harbor Cove from West Water Street, in the vicinity of Sag Harbor Cove West Marina and the Village Docks. Additionally, the Long Wharf and the North Haven/State Route 114 Bridge contribute roadway runoff directly to the surface waters of the local waterfront revitalization area.

Heavy rains often result in flooding in the area of Rysam, Burke and Bay Streets. Stormwater is currently being handled through a drain on Rysam Street, where it then flows through a pipe under Bay Street and into the bay. Stormwater also enters a curb drain on Bay Street and then runs through the (same) pipe beneath Bay Street. The existing system is often inadequate in handling larger volumes of water and lacks

primary siltation devices which could trap/filter pollutants before the water empties into the bay.

- *Miscellaneous sources* -- Contaminants are introduced into surface waters via various activities in households, commercial facilities, and landscaping services, including, but not limited to: improper storage, use and disposal of hazardous chemicals; littering; excessive application of fertilizers, herbicides and pesticides; improper disposal of leaves and yard trimmings; and pet excrement.

2. *Marinas and Recreational Boating*

As discussed above, pollutants from marinas and recreational boating may enter the water through discharges from boats, spills, maintenance areas, stormwater runoff and vessel operation. The types of pollutants and associated impacts from marinas and recreational boating include the following:

- *Organic materials* -- The organic materials discharged from recreational boats require dissolved oxygen to decompose. The accumulation of these substances in sediments will result in a sediment oxygen demand that can reduce the level of dissolved oxygen in the overlying water column.
- *Toxics* -- Activities associated with boatyards and marinas often contribute heavy metals to the water column and bottom sediments. Metal-laden compounds are widely used in boat maintenance and repair operations. Lead is used in fuel additives; ballast and bilge discharges cause its release. Arsenic is used in paint pigments. Copper and tin are used in antifoulant paints. Other metals (i.e., iron and chromium) are used in the construction of marinas and boats. Heavy metals adhere to fine-grained sediment particles. Contaminated sediments become resuspended into the water column during dredging operations.
- *Petroleum hydrocarbons* -- Concentrations of hydrocarbons in marina waters are often attributed to untidy refueling activities and bilge or fuel discharges from boats. Many hydrocarbon compounds are toxic to aquatic organisms and can accumulate in bottom sediments.
- *Pathogens* -- Boats can be a significant source of fecal coliform bacteria in areas with high vessel density and poor tidal flushing. Fecal coliform levels in marinas and mooring areas can become elevated during periods of high boat occupancy and usage. Consequently, areas that have high concentrations of vessels are often closed to shellfish harvesting during the summer boating season as a precautionary measure.
- *Disruption of sediment and habitat* -- Boat operation and dredging can destroy marine habitat, resuspend bottom sediments and nutrients, increase turbidity, and reduce the

oxygen content of the water. In addition, boat wakes can destroy wetlands, increase shoreline erosion, and impact biological communities and habitats.

As discussed above, vessels docked, moored, anchored or otherwise operating on the waters of Sag Harbor are potential contributors of pollution and can adversely affect water quality, fish and wildlife habitats, and human health. During peak periods of the boating season, more than 800 vessels have been recorded entering Sag Harbor and Sag Harbor Cove daily, and accommodations for approximately 750 vessels are available for overnight stays throughout the harbor.

The current methods for measuring coliform levels in surface waters are geared toward detecting the presence of bacteria derived from relatively homogeneous and steady contamination sources, such as stormwater runoff. These methods are not adequate to detect the presence of unsafe coliform levels derived from intermittent and concentrated sources, particularly vessel waste discharges. Consequently, the U.S. Food and Drug Administration's (FDA) present shellfish sanitation protocol does not include the direct measurement of coliform levels in areas of concentrated boating activity (e.g., anchorages, mooring areas, and marinas). Instead, the FDA requires that the State shellfish control agency (i.e., NYSDEC) perform a dilution analysis which considers the following factors and assumptions:

- (a) the number of boats in a mooring or anchorage area;
- (b) the percentage of these boats that will discharge untreated wastes to surrounding waters;
- (c) an assumed occupancy rate of two persons per boat;
- (d) an assumed discharge rate of 2×10^9 fecal coliforms per person per day;
- (e) an assumption that wastes are completely mixed within the water available in and around the mooring or anchorage area; and
- (f) under the specifications of this FDA guideline, closure of a shellfish bed that is used for boat mooring/anchoring would be required if the theoretical calculated fecal coliform concentration exceeds 14 MPN/100 ml (where MPN/100 ml is the most probable number of organisms per 100 milliliters of sample).

It is important to note that this methodology is not designed to compute actual coliform concentrations but, rather, is intended to assess the maximum potential level of contamination that could be contributed by the boats in a given area. Thus, in general, the degree of actual water quality deterioration will not be as severe as is indicated by the coliform level calculated by means of the dilution analysis. Furthermore, in cases where the dilution analysis indicates a marginal exceedance of the 14 MPN/100 ml criterion (which would compel the NYSDEC to close the area to shellfish harvesting), the actual coliform level may be in conformance with this criterion.

The NYSDEC has identified two specific areas in the harbor complex that are of concern with regard to the potential contamination of shellfish beds due to seasonal water quality degradation and/or vessel waste discharges: the easterly portion of Outer Sag Harbor Cove, and the waters in the Redwood boat basin. Both of these areas are used on a seasonal basis for high density, overnight anchoring, especially during summer holiday weekends. The NYSDEC has indicated that concentrated sewage discharges from vessels in these areas have the potential for the localized contamination of the underlying shellfish beds. The NYSDEC believes that the potential exists for tainted shellfish to reach market if these areas are harvested during or immediately after a busy period of vessel activity during which boats discharge untreated wastewater into the bay.

The Village of Sag Harbor may wish to pursue a vessel waste *no-discharge zone* designation within the Sag Harbor Cove Complex, west of the breakwater, and will coordinate with the NYSDEC and Towns of East Hampton and Southampton. The advantage of this designation would be to prohibit the discharge of vessel sewage within the bounds of the harbor zone and give jurisdiction to local officials for the enforcement of laws governing discharges and vessel inspections. Although federal law prohibits the discharge of untreated sewage within three miles of shore, treated sewage may be discharged inside this boundary and the United States Coast Guard has the sole responsibility for enforcement. Lloyd Harbor and Huntington Harbor are State-designated vessel waste *no-discharge zones*. The Environmental Protection Agency (EPA) determined, based on the State and Town petition, that there are sufficient facilities to support designation as *no-discharge zones*. Pursuant to the State Navigation Law, once EPA makes that determination based upon the State's petition, the water-body is automatically, by State Statute, a State-designated no-discharge zone. The Village would enact a local law, should it be designated.

The Village presently maintains two pump-out facilities (one stationary and one mobile) which are available free of charge to any vessel operator. The Harbormaster must be contacted for use of the mobile facility. The maximum wait to use the pump-out is approximately 30 minutes; however, an appointment can be set up in advance to use the facility. The stationary pump-out is located on the bulkhead at the Marine Park facility. Use of this device requires that the vessel be docked in the adjacent slip in order to gain access. Collection at this location is constrained due to the hose length and by the availability of dockage. The Village's mobile pump-out device is located on a truck, therefore, it has a broader scope of usage. This device is utilized at all Village facilities and at the private marinas throughout the *Waterfront Functional Area*. The Town of Southampton has purchased five 22-foot, 300-gallon capacity, pump-out boats. These boats will pump out any boat located in Town waters that hails them on the designated marine radio channel (i.e., channel 73). One of those Town pump-out boats docks at the Village A Dock. Vessel waste collection has increased since this unit has become available in Village waters. Hose length is no longer a constraining factor in waste collection.

All of the vessel sewage collected by the two Village pump-out facilities are presently stored in an underground tank. These wastes are now removed by a licensed private carter and trucked to the Suffolk County Scavenger Waste Facility at Bergen Point, in the Town of Babylon, for treatment and disposal.

3. *Hydromodification and Wetlands*

Hydromodification activities affect streams and water bodies. They can result in the loss of wetlands and riparian areas adjacent to waterways and may also exacerbate nonpoint source pollution problems. The following are the major categories of effects and examples of associated problems:

- *Changed sediment supply* -- One of the most significant changes in water bodies associated with hydromodification and loss of wetlands and riparian areas is increased sedimentation. Stream side development, loss of wetland and natural areas adjacent to water bodies, and increased stream bank erosion due to augmented by stream flows will increase sediment loads delivered to coastal waters. These changes in sediment supply can cause problems such as increased shoaling of near shore areas and channels, impacts on benthic organisms, increased water column turbidity, and further loss of wetlands.
- *Accelerated delivery of pollutants* -- Alterations to streams, increased runoff and loss of riparian buffers leads to increased pollutant loads and an accelerated rate of delivery of pollutants to downstream sites.
- *Changes to ecosystems* -- Hydromodification and loss of riparian areas can lead to the loss of in stream and wetland habitats, and the loss of ecosystem benefits such as wildlife corridors, migration routes and suitable areas for reproduction and growth.
- *Loss of natural pollution filters* -- Wetlands and riparian areas provide various benefits, including water quality improvement, aquatic habitat, stream shading, flood attenuation, shoreline stabilization, and groundwater exchange. Loss of wetlands and riparian systems allows for a more direct contribution of nonpoint pollution sources to receiving waters, decreased interception and filtering of surface runoff, and the loss of natural processing and filtering of nutrients and other pollutants.

In the Village of Sag Harbor, the following conditions related to hydromodification have been noted:

- the low-lying area in the vicinity of Spring Street and to the west of Long Island Avenue was occupied by a tidal wetland at one time, but is now developed and prone to flooding;
- Otter Pond has had most of its protective fringe removed. The area to the east of the pond still provides filtration and stabilization for the pond;

- the wetland fringe along Sag Harbor Bay is mostly gone; and
- the addition of dredge spoil fill at Haven's Beach and vicinity has resulted in the loss of wetlands.

C. INFRASTRUCTURE

(a) **Public Water Supply**

All of the public water supply for the Village is drawn from the upper glacial aquifer. The Suffolk County Water Authority (SCWA) supplies the entire Village with potable water supplies. Water is currently drawn from three wells at the SCWA well field located on Division Street, opposite Middle Line Highway. According to SCWA engineers, one older well was recently retired due to turbidity problems. Due to this fact, the SCWA can only marginally meet demands during peak use periods in the summer. However, water restrictions are not required to meet the demand. A new well field was constructed further inland, off Sag Harbor Turnpike. This new well field supplies the Division Street well field, and was put in service during the summer of 1996.

Groundwater and water quality are discussed further in Section 2.3B(d).

(b) **Sewage Disposal**

Sanitary wastes generated in the Village of Sag Harbor are disposed of in one of two ways: at the Village of Sag Harbor Sewage Treatment Plant, or through on-site sewage disposal systems. The Village Sewage Treatment Plant (STP) is located on Bay Street in the Village of Sag Harbor. The plant is situated at the water's edge and discharges secondary-treated wastewater directly into Sag Harbor via a single outfall pipe which extends through the bulkhead seawall. Discharge goes into Sag Harbor, which is sheltered by the breakwater.

The service area for the Village STP covers approximately 50 acres of the more intensively developed VB - Village Business District, and includes a large portion of the WF - Waterfront District (see Figures 3 and 5). The entire sewage flow to the plant is either from domestic or commercial sources. A laundromat is the major generator. There are no industrial waste contributors. The Village is committed to providing service in this limited area and the more intensive land uses located, and to be located, therein. At present, no further extensions in this area are envisioned.

Outside the Village sewerage district, property owners are required to provide on-site sewage disposal systems (OSDSs) for developed parcels. These systems are subject to regulation under the Suffolk County Sanitary Code standards and procedures as administered by the Suffolk County Department of Health Services. Sewage treatment and disposal is discussed in greater detail in Section 2.3B(e).

(c) Traffic Circulation, Parking and Mass Transportation Services

The Village of Sag Harbor, like many small seaport communities that were established before the automobile, suffers from a roadway system that was not designed for the efficient combination of through traffic, local traffic, and safe pedestrian traffic. The center of Sag Harbor's street system is "Long Wharf," with principal roadways radiating outward. The Village's early founding is also evident in the narrow local streets in the vicinity of the business center.

There are two major routes into the Village of Sag Harbor. Both roadways are minor arterial highways. Bridgehampton - Sag Harbor Turnpike (Suffolk County Route 79), known as Main Street within the Village, runs north from Montauk Highway (NYS Route 27) in Bridgehampton, to the south end of Long Wharf, where it terminates. East Hampton-Sag Harbor Turnpike (NYS Route 114), also known as Hampton Street in the Village, runs in a northwesterly direction from Montauk Highway in East Hampton to intersect with Main Street. NYS Route 114 continues north along Main Street for a short distance, crossing over the North Haven bridge through the Village of North Haven to Shelter Island. A secondary route into the Village is Noyack Road (Suffolk County Road 38), which is considered a major collector roadway. CR 38 originates at Montauk Highway in Southampton, where it is known as North Sea Road, and generally runs in a northeasterly direction to Sag Harbor, where it intersects Brickiln Road. Sag Road/Madison Street and Division Street are collector roadways that run north to Sag Harbor Village from Montauk Highway in the eastern portion of the Town of Southampton. The remainder of the streets in the Village are best described as local streets providing access to abutting properties and accommodating local traffic circulation.

As Sag Harbor has become a more popular place for living and for recreation, vehicular traffic has been on the increase. This problem is further complicated by the fact that traffic uses Noyack Road and NYS Route 114 as a bypass for heavy traffic congestion along Montauk Highway during the summer season. Year-round and summer residents in the Village, as well as tourists, other than those arriving by ferry, are vehicle-dependent. The Village center is small and only a limited amount of land area is available for parking. In addition, because of the historic layout of the streets, many are narrow and unsuited for heavy traffic volumes or parking. Heavy traffic also impacts architectural elements of historic structures (e.g., foundations of structures loosen). Since development in Sag Harbor Village occurred before the automobile, the storage of these vehicles was not provided for in the business center. Some diagonal on-street parking exists along Main Street, with a two-hour limit. Additional municipal parking on Long Wharf is limited to three hours. However, there is a greater demand during peak periods than these areas can provide for. As a result, the Village has provided additional off-street parking areas in recent years. There are currently, approximately, 480 off-street parking spaces in the Village of Sag Harbor.

The 1986- LWRP contained a number of recommendations for the improvement of parking and pedestrian circulation. The additional parking lots provided by the Village were in

response to the need expressed in the LWRP. Other recommendations that were acknowledged include the installation of a continuous sidewalk on the north side of Bay Street, connecting Marine Park with the Long Wharf and Main Street. The recommended improvements for the sidewalk on the south side of Bay Street, or for the sidewalk between Division Street and Main Street, were not implemented. As a part of the construction of a parking lot for the Post Office, a pedestrian walkway was installed that extended from Long Island Avenue, in the vicinity of the Post Office, to Meadow Street to provide access to the off-street parking lot located in this area. Recommended sidewalk improvements along other portions of Long Island Avenue in the vicinity of the waterfront, were not undertaken.

A Parking and Circulation Study, prepared for the Village of Sag Harbor in March of 1993, included a variety of recommendations for alleviating some of the traffic problems occurring in the Village. These included improved signage indicating the location of municipal off-street parking to drivers unfamiliar with the area, flow control via strategically located one-way streets, and revised zoning regulations. Additionally, in 1999, the New York State Department of Transportation (NYSDOT) will replace the North Haven/Route 114 Bridge. The bridge carries NYS Route 114 over Sag Harbor Cove. The bridge is not considered historically significant, but is located next to the Sag Harbor Historic District. Different design alternatives are under consideration. Some involve the rehabilitation of the existing structure, while others involve the construction of an entirely new facility. Provisions to be included in any design include two-way bike lanes, extensive landscaping, pedestrian sidewalks with handicapped access ramps, and a positive stormwater drainage system. The NYSDOT representatives have stated that an extension of the bridge reconstruction project, to mitigate the congestion problems at the Main Street/Route 114/Long Wharf intersection, or to institute other traffic or pedestrian circulation improvements in this area, would be considered if the Village submitted a proposal. A *bridge committee* has been formed by the Village, in conjunction with the Village of North Haven, to discuss design elements of the bridge.

Within the small area that encompasses the VB - Village Business and WF - Waterfront Zoning Districts, planning efforts should emphasize careful integration of motorist and pedestrian needs for safety, convenience and comfort, yet strive to enable traffic to move through this area with as little difficulty as possible in an attempt to relieve congestion problems, especially during the peak summer tourist season. Traffic congestion, which in the past had been a problem only during the summer season, is now a problem year-round. Specific areas requiring attention include a deficiency of both on- and off-street parking; vehicular backups caused by both high volumes of vehicles entering the Village, and vehicles using the Village as an alternate route to points further east; and traffic delays caused by vehicle using the often over-taxed Main Street/Route 114/Long Wharf intersection. Resident complaints include increased air and noise pollution; building damage caused by vibrations from heavy vehicles, and safety concerns for pedestrians, bicyclists, and children.

In 1995, at the request of the Village Harbor Committee, a report was prepared by a local resident (M. Grosjean, February 1995) which examines traffic problems in Sag Harbor

Village. This report was based on subjective information gathered from local residents and citizen groups and other sources to document certain problems and conditions in the Village, and to provide solutions to these problems. The report recommends, among other things, the implementation of "traffic calming" techniques at three intersections and along three major roadways in the Village to slow traffic flow, reduce congestion, and improve pedestrian circulation. These techniques include: the installation of landscaped islands, planted medians, bicycle lanes, and raised crosswalks; the narrowing of traffic lanes to provide more on-street parking and slow traffic; and, extending sidewalks at intersections.

The Grosjean report offers insight into certain concerns that should be examined by the Village, and the perspective provided by the local residents involved in its preparation deserves consideration (the report is available for review from the Village Harbor Committee). However, since this report is not a technical study, the recommendations it contains should not be implemented without further investigation as to how these traffic calming methods and other recommended mitigation measures would impact the overall flow of traffic in the Village. A professional analysis of how such techniques could be utilized and what impacts may result from their implementation is required.

Public Transportation

Public Transportation within the Village of Sag Harbor is accommodated by two bus routes, run by Suffolk County Transit. One, Suffolk Transit Route S-92, runs from East Hampton to Orient Point via Riverhead. It reaches north to Sag Harbor on the Bridgehampton - Sag Harbor Turnpike, CR 79. There are nine trips daily each way, westbound and eastbound. The second bus route, 10A, runs from South Ferry in North Haven through North Sea to Southampton Village and terminates at Southampton College. At Sag Harbor there are five trips in each direction, six days a week (there is no service on Saturdays). Additionally, a private jitney service operates year-round providing daily round-trip bus service from Manhattan to Sag Harbor, with stops in Manorville, Westhampton, Quogue, East Quogue, Hampton Bays and Sag Harbor. Service includes connections to both New York City airports, as well as MacArthur Airport in Islip. The jitney stop is located in front of Village Hall on Main Street.

The Montauk Branch of the Long Island Railroad (LIRR) serves the Sag Harbor area with stations in nearby Southampton, Bridgehampton, and East Hampton. Direct connection to the Village of Sag Harbor via the above bus lines is available from the Southampton railroad station. Railroad service terminates at Pennsylvania Station in New York City to the west, and at the Montauk railroad station in the east.

During the summer months the New England Steamship Lines runs a passenger ferry from Haddam, Connecticut that docks at the northern end of the Long Wharf in Sag Harbor. Every day at approximately noon, the "Yankee Clipper" (with a capacity of 500 persons) docks at the wharf; passengers have three hours before their return home.

D. FISH AND WILDLIFE

(a) Existing Conditions

The Village originally consisted of a broad low-lying expanse of meadow and marshland, extending in some areas a considerable distance south from the shoreline, surrounded by a series of low hills further back from the water. Today... "much of the lower, or northerly portion of the Village, consists of filled in marshland with some vestigial wetland remaining, particularly along the easterly extremity of the waterfront between the business district and Little Northwest Creek." The southern portion of the Village is higher ground than the northern portion, creating a natural drainage basin which drains towards the low-lying area adjacent to the waterfront.

Wetlands within the Village of Sag Harbor have been classified by the NYSDEC as either tidal or freshwater, based on the vegetation they support. The type of vegetation is largely determined by the salinity of the surface water and the degree of inundation. The depth of water and the predominance of certain vegetative species serve as indicators to help distinguish between different types of wetlands.

Tidal Wetlands

The tidal wetlands found within the Village of Sag Harbor, as shown on [Figure 6](#), consist of the following four, major types: intertidal marsh (IM); high marsh (HM); coastal shoals, bars and mudflats (SM); and littoral zone (LZ). These wetland types are described as follows.

- Intertidal Marsh - An **IM** classification is assigned to those wetland areas located between average high and low tide levels, and within which smooth cordgrass (*Spartina alterniflora*) is the predominant vegetative species. IM areas are the most biologically productive of all wetlands categories, and have high values for flood and sediment control. Even small patches of IM wetland are considered by the NYSDEC to be of critical importance.
- High Marsh - **HM** areas are normally the uppermost tidal wetland zone, and are typically dominated by salt meadow cordgrass (*Spartina patens*) and salt grass (*Distichlis spicata*). The upper limit of this zone is often occupied by marsh elder (*Iva frutescens*) and groundsel bush (*Baccharis halimifolia*). The common reed (*Phragmites australis*) may also be present, especially in areas that have been disturbed by human activities.
- Coastal shoals, bars and mudflats - **SM** wetlands are those areas lacking smooth cordgrass that are covered by water at high tide and are exposed or covered by less than one foot of water at low tide. Sediment texture can vary significantly in SM areas, from mud flats in many protected embayments to sandy shoals in areas subject to wave and current action.

- Littoral zone - **LZ** wetlands occur in tidal waters of average depth less than six feet that do not meet the requirements for classification under any of the other wetland categories. SM and LZ areas exhibit extreme variability in their contribution to biological productivity and other tidal wetland values, but are generally less valuable than IM or HM areas in this regard.

Tidal wetlands perform a variety of useful functions, including the following:

- Marine Food Production - tidal wetlands are among the most productive ecosystems in the world, having a high concentration of nutrients.
- Wildlife Habitat - tidal wetlands are important as breeding, nesting, and feeding grounds for a variety of invertebrates, fishes, birds, and mammals.
- Flood and Storm Control - tidal wetlands serve as a natural buffer, protecting beaches and developed upland from storm tides and absorbing wave damage.
- Recreation - tidal wetlands provide many opportunities for hunting, fishing, bird watching, and study of natural history and ecology.
- Pollution Control - tidal wetlands are capable of assimilating pollutants and chemically and biologically converting them into useful nutrients.
- Sedimentation - tidal wetlands absorb silt and organic matter, which otherwise would obstruct channels and harbors.

Eelgrass (*Zostera marina*) is an important type of marine vegetation that is found in some portions of the waters adjacent to the Village. Due to the attenuation of solar radiation by the water column, the distribution of this species in turbid estuarine waters is typically limited to depths of ten feet or less. Since this extends beyond the six-foot depth limit of the littoral zone according to the NYSDEC's regulatory definition, eelgrass beds can be found in areas that are not officially designated by the State as tidal wetlands. Eelgrass does not grow well in areas of shoals and flats that become uncovered during low tides, due to the plant's susceptibility to desiccation and heat stress under conditions of air exposure and elevated temperatures.

The primary ecological functions served by eelgrass include the following:

- provides a large portion of the primary production that forms the base of the estuarine food chain;
- provides nursery areas, and shelter and protection for various species of finfish and invertebrates, many of which are of recreational or commercial importance;

- provides surfaces for the attachment of various epiphytes and epifauna, which increases species diversity and abundance compared to areas that lack vegetation;
- provides an important habitat for the bay scallop (*Argopecten irradians*), which historically has been an important commercial resource in the Peconic Estuary;
- is involved in nutrient cycling, since these plants absorb nutrients (e.g., nitrogen and phosphorus) from the surrounding environment, and re release those nutrients through organic decay;
- stabilizes bottom sediments, even through the enormous stresses of hurricanes and northeast storms; and
- slows currents and waves in the near-bottom zone and, thereby, promotes sedimentation of particles from the water column, inhibits re-suspension of previously settled particles, and moderates water column turbidity.

Macro algae, which are commonly referred to as "seaweeds," also serve most of the ecological functions listed above. However, there are important distinctions. Although many species of macro algae become attached to hard bottoms (e.g., rocks, shells), these plants lack true roots or rhizome systems and, therefore, provide no stabilization to the substrate. In addition, the special association of bay scallops with marine vegetation is specific to eelgrass meadows, and does not generally apply to macro algae beds.

In the late summer and early fall of 1994, an initial survey of submerged aquatic vegetation (SAV) throughout the Peconic Estuary system was conducted as part of the ongoing research for the Peconic Estuary Program (Cashin Associates, P.C., draft report to the Suffolk County Department of Health Services, February 1995). Direct field observations were made at a total of 214 stations, with supplemental information derived from the interpretation of aerial photographs that were shot in the spring and early fall of 1994. In field data were recorded regarding SAV species present, and SAV density and abundance measurements were made. Various physical parameters (i.e., water temperature, salinity, visibility, depth, and bottom sediment type) were also recorded.

Of the six field stations for the SAV Study, two in Sag Harbor Bay, three within Outer Sag Harbor Cove, and one within Inner Sag Harbor Cove --- all of which were visited in early October 1994 --- the two stations in Sag Harbor Bay contained moderately dense eelgrass meadows that extended in a relatively unbroken band from the east side of the breakwater to the mouth of Northwest Creek. The presence of eelgrass beds in this area was noted in the 1983 Natural Resources Inventory Update for the Sag Harbor Local Waterfront Revitalization Program (LWRP). Additional expanses of eelgrass beds occurred in adjacent waters, stretching along the eastern shore of Northwest Harbor, the northern shore of the Cedar Point

County Park property to Sammys Beach, the eastern side of the North Haven peninsula, and the easterly and southerly-facing shores of the Mashomack Preserve on Shelter Island.

The two field stations in the northern portion of Outer Sag Harbor Cove were devoid of SAV. The two remaining stations within the local waterfront revitalization area (i.e., in the southerly end of the Outer Cove and in the Inner Cove) were found to contain only scattered specimens of the red macro algae species *Cystoclonium purpureum* (brushy redweed). These data are consistent with information provided in the "1983 Natural Resources Inventory Update" for the 1986- LWRP.

Interestingly, it was reported that the Sag Harbor Cove Complex had supported eelgrass beds in the recent past. In fact, the 1983 Natural Resources Inventory Update for the LWRP indicates that eelgrass beds covered much of the bottom in Upper Sag Harbor Cove and Morris Cove at that time. However, no living eelgrass was found during the October 1994 field surveys conducted in these areas as part of the SAV Study. This information correlates with evidence from aerial photographs taken in March 1994 and October 1994, which indicate that a decline in eelgrass distribution and abundance occurred along the eastern shoreline of the North Haven peninsula and in the Sag Harbor area during that seven-month period. Thus, the sampling performed as part of the SAV Study may have recorded a distribution of eelgrass at a time when it is experiencing a significant decline.

Numerous factors are known or suspected to have an influence on the distribution and abundance of eelgrass in the Peconic Estuary system. These include: seasonal variables, disease, nutrient enrichment, and brown tide episodes, which are discussed individually below.

Eelgrass beds undergo normal growth variation in response to seasonal changes in water temperature and incident solar energy. This seasonal variation generally includes vegetative growth in the spring, reproductive growth and seed production during the summer, possibly with a marked dieback in the hottest part of the summer, additional vegetative growth in the fall, and winter dieback. Periods of prolonged high or low water temperatures can cause a decline in the eelgrass beds that are not fully compensated by the growing season during the following spring or fall.

Between 1931 and 1932, an epidemic of the so-called "wasting disease" led to the destruction of an estimated 90 percent of the eelgrass along the Atlantic coast. Plant symptoms included a rapidly progressing blackening of the leaves, followed by the death of the entire plant. The responsible organism was a slime, mold-like protozoan, *Labyrinthula zosterae*, that is worldwide in distribution and has infected eelgrass plants where no actual population declines have yet been observed. The combined effect of environmental factors conducive to the growth of *Labyrinthula* and which induce stress in eelgrass appears to be responsible for episodes of the disease. Based on initial anecdotal accounts of an ongoing dieback occurring in eelgrass beds in and around the Sag Harbor Cove area, it has been speculated that another incidence of wasting disease may be at work.

There are three scenarios of an eelgrass community's response to nutrient enrichment of coastal waters, described as follows: (a) nutrient loading to surface waters derived primarily from stormwater runoff and sewage effluent can spur excessive **phytoplankton growth** (i.e., "blooms"), which decrease water column transparency and can, thereby, decrease the degree of sunlight penetration to the point that eelgrass beds no longer receive sufficient solar energy to survive; (b) elevated nutrient levels can enhance **epiphyte growth**, which can diminish the amount of light absorption by the eelgrass plants; and (c) elevated nutrient levels can accelerate the growth of **green or red macro algae**, which absorb nutrients more rapidly than eelgrass, and can crowd out the eelgrass beds. All three of these effects (i.e., phytoplankton domination, excessive epiphyte growth, and macro algae domination) promote a reduction in eelgrass density that can ultimately lead to the elimination of an eelgrass population altogether.

Brown tides are extensive blooms of a single species of the rapidly reproducing phytoplankton *Aureococcus anophagefferens*, first identified in 1985. The causes for the onset of a brown tide bloom are presently unknown, although various theories are under investigation. However, it does not appear that enrichment of coastal bays with the more traditional inorganic nutrients is a major factor in brown tide development; field surveys undertaken as part of the Brown Tide Comprehensive Assessment and Management Program (Suffolk County Department of Health Services, November 1992) revealed that the concentrations of nitrate, nitrite, and phosphate were not elevated prior to and during recent brown tide episodes in the Peconic Estuary.

During a brown tide bloom, the normal depth of sunlight penetration is greatly reduced due to high concentrations of *Aureococcus* suspended in the water column. This shading effect has been cited as being at least partially responsible for the reported loss of eelgrass in the Peconic system, and the coincident dramatic decline in the Estuary's shellfishery. However, whereas catch data for scallops and oysters (*Crassostrea virginica*) show a dramatic crash in the harvest of these two species that corresponds directly with the occurrence of brown tide episodes, the effect of recent brown tides on eelgrass distribution and abundance is less readily apparent. An analysis of historical aerial photographs conducted as part of the SAV Study (Cashin Associates, P.C., draft report to the Suffolk County Department of Health Services, February 1995) did not indicate a consistent trend of decline in the distribution and abundance of eelgrass beds in the Peconic Estuary during brown tide years. Thus, other factors, besides the presumed loss of eelgrass habitat, have apparently played influential roles in the observed decline in scallop and oyster populations.

Estuary Systems

The estuarine environment within the Village of Sag Harbor consists of a large open embayment, a semi-enclosed man-made mooring area, a series of interconnected tidal basins, a tidal pond and a small tributary draining into Sag Harbor Bay. The most seaward of these water bodies is Sag Harbor Bay, followed by a man-made mooring area called Sag Harbor. The interior water bodies consist of a series of at least three inland tidal embayments known

collectively as Sag Harbor Cove, actually consisting of Outer Sag Harbor Cove, Inner Sag Harbor Cove, Upper Sag Harbor Cove and Morris Cove. Ligonee Brook is a small freshwater brook that drains into the southwestern end of Inner Sag Harbor Cove. Otter Pond is a tidal pond just north of Mashashimuet Park. John Street Pond is an isolated intertidal pond that is connected to Upper Sag Harbor Cove. Little Northwest Creek is the small tributary draining into greater Sag Harbor on the eastern Village boundary. The qualitative water quality classification system utilized in the following narrative is based on the ranking system discussed in Section 2.3B(b).

The surface water bodies and tidal wetlands which occupy the Village of Sag Harbor LWRP area are described briefly as follows (see Figure 6):

- Sag Harbor Bay

Sag Harbor Bay is a shallow sub tidal embayment adjunct to Northwest Harbor and Shelter Island Sound. There is very little intertidal vegetation within the bay area, except a small patch of smooth cordgrass (*Spartina alterniflora*) occurring just east of the breakwater. The shallower sub-tidal portions of the bay, however, support extensive beds of eelgrass (*Zostera marina*). The surface water quality classification for Sag Harbor Bay is SA.

- Sag Harbor

Sag Harbor is a semi-enclosed, man-made mooring area at the entrance to Outer Sag Harbor Cove. This area is protected from the open sea by an elongated stone breakwater and is connected to Outer Sag Harbor Cove by a tidal strait spanned by the North Haven/State Route 114 Bridge. This area experiences incomplete tidal flushing twice daily by strong tidal currents. Water quality is strongly affected by boat traffic and dock/marina facilities. As discussed in Section 2.3B(b), the surface water quality classifications for these water bodies is SA.

- Sag Harbor Cove Complex

The Sag Harbor Cove Complex is a series of basins (Outer Sag Harbor Cove, Inner Sag Harbor Cove, Upper Sag Harbor Cove and Morris Cove) that are interconnected by narrow navigation channels; a strait from the northern end of the Cove connects these waters to Sag Harbor. The overall surface area of the Sag Harbor Cove system is approximately 0.7 square miles; average depth within this area is approx. 4.9 feet. The entire cove complex is nearly well-mixed and is strongly influenced by coastal salinities. The surface water quality classification for the cove complex is SA.

The series of embayments that comprise the Sag Harbor Cove Complex consists of some of the most productive waters within the Village of Sag Harbor. The intertidal fringe of the Cove is surrounded by typical estuarine marsh species (*Spartina alterniflora* & *patens*) where structural fortification and dock facilities are absent. The width of the fringe is determined by the slope of the intertidal shoreline and the presence of upland disturbances and barriers. In the shallow intertidal waters starting at the marsh fringe there are extensive areas of highly productive mudflats and sand bars colonized by numerous species of algae including: bladder wrack (*Fucus vesiculosus*), knotted wrack (*Ascophyllum nodosum*) and Irish moss (*Chondorus crispus*). Sea lettuce (*Ulva lactuca*) common throughout the cove is indicative of high nutrient conditions. Deeper waters within the cove support dense beds of eelgrass (*Zostera marina*) which provides shelter for young bay scallops and greatly increases primary productivity.

- Little Northwest Creek

Little Northwest Creek is a small tributary feeding into the eastern portion of Sag Harbor Bay. This creek is divided into tidal and freshwater segments. The tidally-influenced segment is surrounded by approximately 190 acres of State-owned wetland and vegetated upland that is managed by the NYSDEC. The intertidal portions of the marsh consist of undisturbed high marsh with salt meadow cordgrass (*Spartina patens*), spike grass (*Distichlis spicata*), black grass (*Juncus gerardii*), perennial glasswort (*Salicornia virginica*), sea lavender (*Limonium carolinianum*), perennial salt marsh aster (*Aster tenuifolius*) and seaside gerardia (*Agalinis maritima*), with a low marsh fringe with smooth cordgrass (*Spartina alterniflora*). The upland fringe is dominated by a narrow to wide stand of common reed (*Phragmites australis*). Reeds are more extensive in the upper reaches of the tidally influenced portion of the creek. The surface water quality classification for the tidal segment of Little Northwest Creek is SC. The freshwater segment of this creek, which is discussed below, is classified B.

- Otter Pond

Otter Pond is a shallow intertidal pond of approximately 4 acres located within Mashashimuet Park. Otter Pond receives saltwater from a tidal creek originating in Upper Sag Harbor Cove which flows under Main Street (CR 79). Tidal fluctuation for the pond is approximately 1 foot, while the tidal amplitude in Upper Sag Harbor Cove is approximately 1.7 feet.

Freshwater enters the eastern end of the pond from a large Maple swamp across Jermain Street between Joel's Lane and Archibald Way.

The quality of Otter Pond is generally poor (SC classification) with a silty organic bottom and near eutrophic conditions. Extensive growth of sea lettuce (*Ulva lactuca*) are indicative of a high nutrient flux. Widgeon grass (*Ruppia maritima*) is also found in the pond. The creek running under Main street has a water quality classification of SD.

At one time, Otter Pond was bordered by a healthy fringe of estuarine wetland. Today the majority of the pond perimeter is vegetated by turf grasses and only a fringe of smooth cordgrass (*Spartina alterniflora*) remains on the northern shorelines. Public use of Otter Pond consists primarily of feeding the many domesticated water fowl and relaxing on the pond shores. Waterfowl concentrations in this area have contributed significantly to the degradation of the water quality in Otter Pond.

- Ligonee Brook

Ligonee Brook is a small freshwater brook running from east to west, draining into the southeastern end of Inner Sag Harbor Cove. The Sag Harbor Village boundary is centrally located along the entire length of the brook. For surface water classification purposes, this creek is conveniently divided into two reaches: from the mouth to Brick Kiln Road, and from Brick Kiln Road to the source. Water quality in the estuarine portion of the brook is classified SC; from Brick Kiln Road to the source it is classified C. West of Brick Kiln Road in the lower reach of the Brook there is some salt water influence; east of the road in the upper reaches there is little if any salt influence except during extreme storm surges.

The entire length of the lower intertidal portion of Ligonee Brook is bordered by typical estuarine marsh vegetation (i.e., cordgrass and salt hay grass) with pockets of Common Reed (*Phragmites australis*) where upland disturbance has taken place. Just west of Brick Kiln Road, there is occasional tidal influence, but the species composition is more representative of a freshwater-dominated wetland with a small pocket of maple swamp north of the creek adjacent to Brick Kiln Road. This extremely small maple swamp is unique to this portion of the Village. The upper, freshwater portion of Ligonee Brook is discussed below.

- John Street Pond

The John Street Pond is an isolated intertidal pond and associated wetland fringe that is connected to Upper Sag Harbor Cove via a culvert running under John Street. Freshwater enters the southwestern portion of the area through storm drains and flows towards the culvert at the northeastern corner of the pond. The pond is very shallow with a sandy bottom overlain by pockets of organic matter. Tidal fluctuation is minimal due to restrictions caused by the diameter and elevation of the culvert under John Street. Vegetation surrounding the pond is typical of disturbed estuarine marsh; common reed (*Phragmites australis*) forms a dense stand

at the upland edge of otherwise native intertidal species such as cordgrass (*Spartina alterniflora*) and salt hay grass (*Spartina patens*). Poison ivy and switchgrass (*Panicum virgatum*) are also well represented at the site.

Freshwater Systems

An updated wetland inventory has been compiled for the Village (Blumer, 1994). This map includes NYSDEC regulated wetlands with some additions as well as some previously unrecognized and therefore unregulated wet areas in the Village. These wetlands and additional areas are shown in [Figure 6](#). The following freshwater systems can be found on this figure, and are the most significant of the freshwater wetland systems within Sag Harbor:

- Ligonee Brook

The headwaters of Ligonee Brook originate outside of the Village boundary within the Long Pond Green Belt Complex. The upper reaches of the Brook that lie within the Village run from Middle Line Highway to Brick Kiln Road. Most years water flows intermittently in this portion of Ligonee Brook; on wet years this reach may run continuously. There is some disturbance to native vegetation surrounding the Brook, but for the most part there is a dense cover of native species within the corridor surrounding the stream-bed. The upper portion of the Brook has a surface water quality rating of C.

- Round Pond

Round Pond is an approximately 7-acre freshwater pond lying within the northern end of the Long Pond Green Belt system designated by the Nature Conservancy. Only the northern portion of the pond lies within Sag Harbor Village, at the southern end of Joel's Lane. This green belt, which runs from Mashashimuet Park in the north to Sagaponack Lake and the Atlantic Ocean in the south, is a wildlife and open space corridor which has received special attention from the Nature Conservancy and Southampton Town. This entire area is a relatively undisturbed system of ponds, wetlands and surrounding woodlands.

There is some development around the perimeter of Round Pond, with little structural fortification. Seven houses have been built in close proximity to the pond, three of which have lawns extending down to the shoreline. Several more houses are set back further from the shoreline. The west shoreline of the pond is natural and undisturbed.

This pond, and the associated native species surrounding its shoreline, are unique within the Village of Sag Harbor and deserve special protection. Surface water quality for this water body is rated as C. The quality of the coastal plain pond shore habitat at the site has been rated as "B" by the Natural Heritage Program standards. This rating system is based on several factors including: relative quality, condition, viability and defensibility of the site. An "A" is the highest habitat assessment rating.

- Fore and Aft Pond

Fore and Aft Pond is a one-acre wetland pond, directly west of Round Pond. This wetland pond is hydrologically connected (through groundwater) to Round Pond. This area is well buffered by native vegetation and has a coastal plain pond shore habitat with one State rare species identified by the New York State Natural Heritage Program. Water quality for this pond has not been classified, but the coastal plain pond shore habitat on the site was given a rating of "BC" from the Natural Heritage Program. Several years ago this pond was severely impacted by the activities of a developer who attempted to drain the pond by excavating a large hole (Held, pers. com.). The system seems to have survived, but the effects of this major disturbance may not be known for years. Fore and Aft Pond is included in the *Conservation Water Use District (CD)*.

- Rattlesnake Creek

Rattlesnake Creek is a small freshwater sub-tributary of the Little Northwest Creek system lying on the eastern boundary of the Village. Most of the area is composed of flooded maple swamp with associated native understory vegetation. The northern boundary of the swamp abuts the large New York State wetland which surrounds Little Northwest Creek. For the most part, this maple swamp is intact and undisturbed. Dominant species include: red maple (*Acer rubrum*), sweet pepperbush (*Clethra alnifolia*), cinnamon fern (*Osmunda cinnamomea*) and swamp azalea (*Rhododendron viscosum*). Common reed (*Phragmites australis*) has not entered the Rattlesnake Creek area. Surface water quality for the head waters of Little Northwest Creek and Rattlesnake Creek is rated as B. Rattlesnake Creek is included in the *Conservation Water Use District (CD)*.

- Maple Swamp feeding Otter Pond

This large wooded wetland lies between Joel's Lane and Archibald Way, southeast of Otter Pond. The perimeter of the area rises steeply on three sides where it meets the surrounding roads. The entire area has been heavily impacted by past trenching activity (Suffolk County Vector Control activity) which has significantly altered natural drainage patterns. Parallel and interconnecting ditches channelize all flow from south to north and generally preclude the natural water purification potential of this wooded wetland. Construction and maintenance (vegetation was cleared from the ditches as recently as the of summer 1994) of these ditches has enabled common reed (*Phragmites australis*) to become well established. Fortunately, this species is concentrated in the center of the wetland where ditching has had the greatest impact. The dominant tree species is red maple (*Acer rubrum*). The understory consists of sweet pepperbush (*Clethra alnifolia*), shadbush (*Amelanchier canadensis*), chokeberry (*Aronia arbutifolia*), highbush blueberry (*Vaccinium corymbosum*), and swamp azalea (*Rhododendron viscosum*). The herbaceous layer consists of soft rush (*Juncus effusus*), cinnamon fern (*Osmunda cinnamomea*), royal fern (*Osmunda regalis*) and skunk cabbage (*Symplocarpus foetidus*) - among others.

Water quality across the swamp is variable, with road runoff contributing to surface flow from both Joel's Lane and Archibald Way and groundwater base flow in the south. The system of channels can be roughly divided into east and west sections with little if any transfer between them. The west side of the system (Archibald Way) appears far more impacted by nutrient inputs than the east side (Joel's Lane). Trenches on this side are covered with dense algal growth while those of the east side have no indication of algal growth despite the fact that there are two stormwater discharges from Joel's Lane. Where the two sides of the system meet in the north there is some duckweed (*Lemna sp.*) growth. Maple Swamp is included in the *Conservation Water Use District (CD)*.

(b) Fish and Wildlife Studies

General

The following information describes the various fish and wildlife habitats present within Village boundaries, focusing on wetlands and coastal areas. Upland habitats are not specifically addressed. However, since "uplands" within the Village are not far-removed from the coast and wildlife that use wetlands also uses upland habitats, the following introductory paragraphs will briefly describes wildlife that may be found throughout the Village.

Sag Harbor Village contains most, if not all, of the commonly found large and small mammal species (Table 3). A significant population of little brown bats (*Myotis lucifugus*) has also been located in the eastern end of the Village (Penny, pers. com.). There have also been sightings of a "black" gray squirrel in the Village. Mink (*Mustela vison*) were found in the area 20-30 years ago, but have not been seen recently.

Reptiles that can be found within Village boundaries include those that occupy strictly upland habitats as well as wet areas and the estuarine coastline (Table 4). The eastern hognose snake (*Heterodon platyrhinos*) may be present in the Sag Harbor, but to date there is no record of it being found. There is however, a significant population of the uncommon little brown snake (*Storeria dekayi*) residing in the Village (Penny, pers. com.).

As with all of the other wildlife described above, many of the more common species of amphibians can be found throughout the Village of Sag Harbor (Table 5). Significant populations are usually concentrated in or near wetlands, but these animals can be found wherever there is sufficient moisture.

Nesting coastal birds and winter waterbirds common to the area are listed in Appendix C and Appendix D, respectively.

Estuary Environment

● Sag Harbor

The large water body, Sag Harbor, is contiguous with Northwest Harbor. These two water bodies combined comprise a significant fin and shellfish habitat. Least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), and osprey (*Pandion haliaetus*) feed throughout this system. However, there have not been any recent osprey nests in the area. Diamondback terrapin (*Malaclemys t. terrapin*) breed along the bay coastline and feed in tidal creeks such as Little Northwest Creek. From November through March, Sag and Northwest Harbors support wintering waterfowl concentrations of county-level significance. Midwinter aerial surveys of waterfowl abundance have indicated from 400-1000 birds in Sag Harbor. From November through March, the following wintering waterfowl can be observed from Long Wharf: scaup (*Aythya sp.*), black duck (*Anas rubripes*), common goldeneye (*Bucephala clangula*), bufflehead (*Bucephala albeola*), red-breasted merganser (*Mergus serrator*), canvasback (*Aythya valisineria*), common loon (*Gavia immer*), mallard (*Anas platyrhynchos*) and Canada goose (*Branta canadensis*).

Sag Harbor and adjacent Northwest Harbor support expanses of eelgrass (*Zostera marina*) beds and for this reason are extremely productive habitats for marine fin and shellfish. This area is one of the most important bay scallop (*Aequipectin irradians*) producing areas on Long Island, supporting a commercial shellfishery significant in the northeastern United States. The 1994 harvest was the best in recent years. Oysters (*Crassostrea virginica*) are present in lesser numbers, providing limited recreational and commercial shellfishing opportunities. The bay also serves as a nursery and feeding area (April-November, generally) for many estuarine finfish of regional significance, such as weakfish (*Cynoscion regalis*), winter flounder (*Pseudopleuronectes americanus*) and porgy (*Stenotomus chrysops*). Fishing pressure in the area extends from spring through fall. Table 6 lists fish species of the Sag Harbor area.

The presence of the large stone breakwater protecting the mooring area in the Harbor attracts a large number of harbor seals (*Phoca vitulina*) a species of regional significance (Okeanos, 1994). Other species of seal such as harp seal (*Phoca groenlandica*) and grey seal (*Halichoerus grypus*) have been seen in this area on occasion (Sadove, 1994). During December through early May the exposed rocks near the Sag Harbor Cove jetty provide an important "haulout" area, which seals use for resting and sunning. This location is one of about five major haulouts around Long Island, serving as a focal point for seals feeding in the Sag Harbor area.

● Sag Harbor Cove Complex

The series of basins comprising the Sag Harbor Cove Complex, including Outer Sag Harbor Cove, Inner Sag Harbor Cove, Upper Sag Harbor Cove and Morris Cove, consist of some of the most productive waters within the Village of Sag Harbor. The intertidal fringe of the Cove

is surrounded by typical estuarine marsh species (*Spartina alterniflora* & *patens*) where structural fortification and dock facilities are absent. The width of the fringe is determined by the slope of the intertidal shoreline and the presence of upland disturbances and barriers. In the shallow intertidal waters starting at the marsh fringe there are extensive areas of highly productive mudflats and sand bars colonized by numerous species algae including: bladder rack (*Fucus vesiculosus*), knotted wrack (*Ascophyllum nodosum*) and Irish moss (*Chondorus crispus*). Sea lettuce (*Ulva lactuca*) common throughout the cove is indicative of high nutrient conditions. Deeper waters within the cove support very dense beds of eelgrass (*Zostera marina*) which greatly increases primary productivity. Bay scallops (*Aequipecten irradians*), which are often abundant in the Cove Complex, utilize this habitat. Hard clams (*Mercenaria*) can be found on both intertidal and sub tidal bottom.

In a 1992 study conducted by the Okeanos Ocean Research Foundation, significant numbers of diamondback terrapins (*Malaclemys terrapin*) were observed throughout the Cove Complex (Morreale, 1992). This area had a smaller apparent population than other locations studied, but was regionally significant.

Weakfish (*Cynoscion regalis*), striped bass (*Morone saxatilis*), winter flounder (*Pseudopleuronectes americanus*) and porgy (*Stenotomus chrysops*) have all been caught in the Cove. Late summer (1994) shallow water seining in the area indicated the presence of large numbers of locally-significant fish species including: bay anchovy (*Anchoa mitchilli*), menhaden (*Brevoortia tyrannus*), Atlantic silverside (*Menidia*), snapper bluefish (*Pomatomus saltatrix*) and winter flounder (*Pseudopleuronectes americanus*). Other species caught during this seining include: sheepshead minnow (*Cyprinodon variegatus*), mummichog (*Fundulus heteroclitus*), killifish (*Fundulus majalis*), three-spined stickleback (*Gasterosteus aculeatus*), naked goby (*Gobiosoma boscii*), Atlantic needle fish (*Strongylura marina*) and bay pipefish (*Syngnathus leptophynchus*).

- Little Northwest Creek

The tidal portion of Little Northwest Creek is typical of small estuarine creeks found in this area. Surrounding the creek is a 190-acre State-owned wetland and buffering upland managed by the NYSDEC. The intertidal portions of the marsh consist of undisturbed high marsh with salt hay grass (*Spartina patens*), spike grass (*Distichlis spicata*), black grass (*Juncus gerardii*), perennial glasswort (*Salicornia virginica*), sea lavender (*Limonium carolinianum*), perennial salt marsh aster (*Aster tenuifolius*) and seaside gerardia (*Agalinis maritima*) and a low marsh fringe with cordgrass (*Spartina alterniflora*). Both of these habitats are colonized by typical estuarine species of molluscs and arthropods (Table 7). The upland fringe is dominated by a narrow to wide stand of common reed (*Phragmites australis*). Reeds are more extensive in the upper reaches of the tidally influenced portion of the creek. Diamondback terrapins (*Malaclemys terrapin*) have been observed moving up the creek, and are known to utilize this area for feeding.

- Otter Pond

This very shallow habitat is characterized by high nutrient loads and near eutrophic conditions. At one time the pond was bordered by a healthy fringe of estuarine wetland. Today, the majority of the pond perimeter is vegetated by turf grasses. Extensive growth of sea lettuce (*Ulva lactuca*) is indicative of high-nutrient conditions. Much of the bottom of this water body is covered by a thick layer of organic sediment which contributes to nutrient availability and is indicative of high primary production and low decomposition rates. The Pond supports large numbers of waterfowl throughout the year. Domesticated Peking duck, mallard (*Anas platyrhynchos*), mute swan (*Cygnus olor*) and Canada goose (*Branta canadensis*) can be found here at any time of year. This area also supports significant wintering waterfowl concentrations. The most recent (1994) New York State winter waterfowl counts for Otter Pond include Canada goose (*Branta canadensis*), American black duck (*Anas rubripes*), canvasback (*Aythya valisineria*), and almost 200 mallard (*Anas platyrhynchos*) on the day of the count. Fin and shellfish species present are those typical of local estuarine water bodies. Late summer (1994) seining in Otter Pond yielded sheepshead minnow (*Cyprinodon variegatus*), mummichog (*Fundulus heteroclitus*), killifish (*Fundulus majalis*), three-spined stickleback (*Gasterosteus aculeatus*) and naked goby (*Gobiosoma boscii*). In the past striped bass (*Morone saxatilis*) have been caught in the Pond. Diamondback terrapins (*Malaclemys terrapin*) have utilized this area for feeding in the past.

- Ligonee Brook

The entire length of the lower intertidal portion of Ligonee Brook is bordered by typical estuarine marsh vegetation with pockets of common reed (*Phragmites australis*) where upland disturbance has taken place (e.g., near houses). Just west of Brick Kiln Road, there is occasional tidal influence, but the species composition is more representative of a freshwater-dominated wetland with a small pocket of Maple swamp north of the Creek adjacent to Brick Kiln Road, unique to this area of the Village. The vegetative buffer along the lower reaches of the brook, although narrow in places, affords considerable cover for amphibians, small mammals and migratory songbirds. The mouth of the brook supports common estuarine species of fish, molluscs and arthropods (Tables 6 & 7). In the estuarine portion of the Brook, amphibians are restricted to the upper reach near Brick Kiln Road. Late summer (1994) sampling in the Brook indicated only one fish species, killifish (*Fundulus majalis*). Alewives (*Alosa pseudoharengus*) were found in the area in the past, but have not been observed recently (Penny, pers. com.).

- John Street Pond

The John Street Pond is an isolated intertidal pond and associated wetland fringe that is connected to Sag Harbor Cove by a culvert running under John Street. Freshwater drains from the southwestern portion of the area towards the culvert at the northeastern corner of the pond. The pond is very shallow with a sandy bottom overlain by pockets of organic sediment. Tidal

fluctuation is minimal due to restrictions caused by the diameter and elevation of the culvert. Freshwater enters this system through two storm drains on Jesse Halsey Lane, just south of the corner with John Street. From here the water runs through a narrow ditch surrounded by an extremely dense stand of reed.

Vegetation surrounding the pond is typical of a disturbed estuarine marsh; common reed (*Phragmites australis*) dominates the upland edge of otherwise native intertidal species such as cordgrass (*Spartina alterniflora*) and salt hay grass (*Spartina patens*). The presence of the reeds forms an effective barrier around the entire pond system which is located in the middle of a residential neighborhood. As a result, this area acts as "oasis" in the center of this otherwise heavily populated area. Numerous species of nesting coastal birds have been observed at this site. The extremely shallow water is ideal for wading birds to feed. Fish species using this pond include: sheepshead minnow (*Cyprinodon variegatus*), mummichog (*Fundulus heteroclitus*) and killifish (*Fundulus majalis*). Numerous shellfish species including: oyster (*Crassostrea virginica*), ribbed mussel (*Modiolus demissus*), soft-shelled clam (*Mya arenaria*) and mud snail (*Nassarius obsoletus*) are evident in the pond.

Freshwater Systems

- Ligonee Brook

The freshwater portion of Ligonee Brook, east of Brick Kiln Road, comprises a significant wildlife corridor along the southern boundary of the Village. Dense plant cover throughout most of the area provides shelter for common species of migratory birds, small and large mammals, common reptiles and amphibians. Mammals, reptiles and amphibians are those commonly found throughout the Village (Tables 3, 4 & 5). At one time alewife (*Alosa pseudoharengus*) moved up the Brook as far as Brick Kiln Road, but they have not been seen for many years.

- Round Pond

Only the northern tip of this pond falls within Village boundaries. This water body and the associated smaller system to its west fall within the Long Pond Green Belt designated by the Nature Conservancy and Southampton Town. As such, this area is recognized as being significant to the maintenance and protection of open space and wildlife habitat in the area. The Natural Heritage Program rates Round Pond as a "B" in their qualitative assessment of the coastal plain pond shore habitat. An "A" is the highest rating possible. This pond/wetland complex and the Fore and Aft Pond system adjacent to it supports the most significant mole salamander population within the Village. Spotted salamander (*Ambystoma maculatum*), marbled salamander (*Ambystoma opacum*) and the tiger salamander (*Ambystoma tigrinum*) have all been found here (Penny, pers. com.). This may be the only location in the Village that supports these species. Commonly found amphibians include: fowlers toad (*Bufo fowleri*), eastern newt (*Demicttylus viridescens*), spring peeper (*Hyla crucifer*), gray treefrog

(*Hyla versicolor*), green frog (*Rana clamitans melanota*) and bullfrog (*Rana catesbeiana*). Painted turtles are found in this system and there may be spotted turtles (*Clemmys guttata*). During the early 90's a pair of otters was observed in the pond, but they have not been seen recently. Fish species observed in past surveys include: largemouth bass (*Micropterus salmoides*), pumpkinseed (*Lepomis gibbosus*), bluegill (*Lepomis macrochirus*) and common pickerel (*Esox sp.*) (Guthrie, pers. com.). Mammals and reptiles are those typical for the Village (Tables 3 & 4). Large populations of ducks and swans frequent this pond and are thought to reduce water quality through the input of organic waste.

The following significant upland and coastal plain pond shore species have been identified as being in this area by the New York Heritage Program: pine barren gerardia (*Agalinis vigata*), white milkweed (*Asclepias variegata*), silver aster (*Aster concolor*), rose coreopsis (*Coreopsis rosea*), knotted spikerush (*Eleocharis equisetoides*), creeping St. John's wort (*Hypericum adpressum*), carolina redroot (*Lachnanthes caroliana*), velvety lespedeza (*Lespedeza stuevei*), ludwigia (*Lugwigia sphaerocarpa*), crested fringed orchis (*Platanthera cirstata*) and wafer-ash (*Ptelea trifoliata*).

- Fore and Aft Pond

Fore and Aft Pond is a one acre wetland pond directly west of Round Pond. The Natural Heritage Program rates the quality of the coastal plain pond shore at this site as "BC." This system is hydrologically connected to Round Pond. For this reason, the entire system (both ponds) is the most significant mole salamander habitat in the Village - as noted above in the description for Round Pond. Fore and Aft Pond is fairly well buffered by native vegetation and supports the Heritage Program recognized, long-beaked bald-rush (*Psilocarya scirpoides*). As mentioned previously, this site suffered considerable damage as a result of the excavation by a developer. The effects of this disturbance have not been completely elucidated. Only time will tell whether this fragile system will survive.

- Upper Little Northwest Creek/Rattlesnake Creek

The headwaters of Little Northwest Creek and Rattlesnake Creek are surrounded by an expansive Maple swamp. These wetlands are classic habitat for spotted turtles (*Clemmys guttata*); mud turtles (*Kinosternum subrubrum*) would be expected in this area, but they have not been found. Commonly found amphibians include: fowlers toad (*Bufo fowleri*), eastern newt (*Demictylus viridescens*), spring peeper (*Hyla crucifer*), gray treefrog (*Hyla versicolor*), green frog (*Rana clamitans melanota*) and bullfrog (*Rana catesbeiana*). Mole salamanders may be present in this area, but have not been documented. Diamondback terrapins commonly feed within Little Northwest Creek and may move up as far as Rattlesnake Creek. Mammals, reptiles and amphibians are those commonly found in Sag Harbor Village (Tables 3, 4 & 5).

- Two Kettles between Suffolk and Madison Street

These two hydrologically connected wetlands are unique in the Village. Both support numerous species of wetland sedges uncommon to the area (*Sparganium americanum* and two *Carex spp.*). Due to the fact that these wetlands are groundwater fed, water level fluctuations can be drastic within and between years. Therefore, observations made on any one year may not be applicable to latter years. The most important characteristic of this site is that it may support a population for the eastern spadefoot toad (*Scaphiopus holbrooki*) (Penny, pers. com.). However, there has not been a significant enough rainfall event in recent years to trigger emergence of this species (Ash, pers. com.).

- Maple Swamp feeding Otter Pond

What was once a healthy deciduous swamp has been heavily impacted by past trenching activity (vector control activities) which has significantly altered natural drainage patterns. Parallel and interconnecting ditches channelize all flow from south to north and generally preclude the natural water purification potential of this wooded wetland. Standing water is present in the trenches at various times of the year depending on season and weather patterns.

Construction and maintenance (recent clearing around some of the ditches was apparent during field work in summer 1994) of these ditches has unfortunately allowed common reed (*Phragmites australis*) to become well established. Fortunately, this species is concentrated in the center of the wetland where ditching has had the greatest impact. The dominant tree species is red maple (*Acer rubrum*). The understory consists of sweet pepperbush (*Clethra alnifolia*), shadbush (*Amelanchier canadensis*), chokeberry (*Aronia arbutifolia*), highbush blueberry (*Vaccinium corymbosum*) and swamp azalea (*Rhododendron viscosum*). The herbaceous layer consists of soft rush (*Juncus effusus*), cinnamon fern (*Osmunda cinnamomea*), royal fern (*Osmunda regalis*) and skunk cabbage (*Symplocarpus foetidus*) - among others.

The dense vegetation of this area provides substantial habitat for wildlife. Migratory birds frequent the area and can feed within the tree canopy and understory. Common larger mammals present include: white-tailed deer (*Odocoileus virginianus*), muskrat (*Ondatra zibethicus*), raccoon (*Procyon lotor*), grey squirrel (*Sciurus carolinensis*), eastern cottontail (*Sylvagus floridanus*) and red fox (*Vulpes fulva*). A very high concentration of raccoon tracks indicate the suitability of this variably wet site to this species. Amphibians such as fowlers toad (*Bufo fowleri*), spring peeper (*Hyla crucifer*), gray tree frog (*Hyla versicolor*), green frog (*Rana clamitans melanota*) and bullfrog (*Rana catesbeiana*) utilize the system of trenches for breeding and habitat on a seasonal basis. Mole salamanders have not been observed at this site, but portions of the area may be suitable for these important species. Despite the presence of standing water, fish were not observed on the site in late summer (1994).

(c) Significant Coastal Fish and Wildlife Habitats

- Sag Harbor/Northwest Harbor

Location and Description

Sag Harbor and Northwest Harbor are adjoining bays on the north shore of the south fork of Long Island. The bays are located between North Haven and Cedar Point, in the Towns of East Hampton, Southampton, and Shelter Island, Suffolk County (7.5 Quadrangles: Greenport, NY, and Gardiners Island West, NY.). This area is approximately 3000 acres in size, consisting primarily of open water. However, the fish and wildlife habitat also includes the tidal wetlands associated with Little Northwest Creek, and exposed rocks located near the Sag Harbor Cove jetty. Water depths in most of Sag and Northwest Harbors range from six to 20 feet below mean low water. The bays are bordered by much undeveloped land, including Suffolk County park lands, and The Nature Conservancy's Mashomack Preserve. The NYSDEC owns approximately 190 acres of land surrounding Little Northwest Creek. The only major developments along the entire shoreline of these bays are the boating facilities in Sag Harbor Cove.

Fish and Wildlife Values

Sag Harbor and Northwest Harbor are generally representative of the Peconic Bays ecosystem, with broad expanses of moderately shallow water. This habitat type is unlike the very shallow bays on the south shore of Long Island or the relatively narrow bays on the north shore. Little Northwest Creek is an important component of this ecosystem, contributing to the biological productivity of the area.

Sag Harbor and Northwest Harbor are important to fish and wildlife throughout the year. Least tern (E), piping plover (T), and osprey (T) feed in the harbor area. Diamondback terrapin are scattered along the harbor coastline and tidal creeks, but the importance of the area to this species is not well documented. From November through March, Sag and Northwest Harbors support wintering waterfowl concentrations of county-level significance. Midwinter aerial surveys of waterfowl abundance for the ten-year period 1975-1984 indicate average concentrations of over 440 birds in the bays each year (1082 in peak year), including scaup, black duck, common goldeneye, bufflehead, red-breasted merganser, canvasback, mallard and Canada goose. During much of the same time period (December-early May), concentrations of harbor seals also occur in Sag Harbor and Northwest Harbor. Exposed rocks near the Sag Harbor Cove jetty provide an important "haulout" area, which seals use for resting and sunning. This location is one of about five major haulouts around Long Island, serving as a focal point for seals feeding in the Sag Harbor area. Northwest Harbor may also be an important feeding and resting habitat for juvenile Kemp's Ridley sea turtles (E) especially during the late summer and fall. More documentation is needed on the use of the area by this species as well as other sea turtle species.

Sag Harbor and Northwest Harbor are productive habitats for marine finfish and shellfish. This area is one of the most important bay scallop producing areas on Long Island, supporting a commercial shellfishery significant in the northeastern United States. Oysters are present in lesser numbers, providing limited recreational and commercial shellfishing opportunities. The bays serve as nursery and feeding areas (April-November, generally) for many estuarine species, such as weakfish, winter flounder and scup. Northwest Harbor sustains a commercial and recreational winter flounder fishery of county-wide significance. Fishing pressure in the area extends from spring through fall.

Impact Assessment

Any activity that would substantially degrade the water quality in Sag Harbor or Northwest Harbor would affect the biological productivity of this area. All species of fish and wildlife would be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. It is essential that high water quality be maintained in the area to protect the shellfishery. Efforts should be made to control discharges of sewage from recreational boats and upland sources. Thermal discharges, depending on the time of year, may have variable effects on the use of the area by marine species and wintering waterfowl. Installation and operation of water intakes would have significant impacts on juvenile (and adult, in some cases) fish concentrations, through impingement or entrainment. Construction of shoreline structures, such as docks, piers, bulkheads, or revetments, in areas not previously disturbed by development (i.e., natural beach or salt marsh), may result in the loss of productive areas which support the fish and wildlife resources of Sag and Northwest Harbors. Undeveloped woodlands bordering Sag Harbor and Northwest Harbor are particularly important for maintaining the water quality and habitat value of the harbors, and should be preserved as a buffer zone. Any permanent alteration or human disturbance of the harbor seal haulout area, or obstruction of seal migrations, would adversely affect this species. Significant underwater noise, from dredging or other activities, could also preclude harbor seals from using this area.

(d) Additional Significant Coastal Fish and Wildlife Habitats

The following State-recognized significant coastal fish and wildlife habitats do not directly include the waters within the Sag Harbor local waterfront revitalization area. However, it is important to point out these areas, due to their proximity to Sag Harbor and the fact that wildlife do not recognize bureaucratic boundaries. In addition, both the New York State Department of State and the citizens of Sag Harbor Village feel that it is important to include these narratives in this section, due to their proximity to the Village.

- Northwest Creek

Location and Description

Northwest Creek is located south of Northwest Harbor, on the south fork of Long Island, in the Town of East Hampton, Suffolk County (7.5' Quadrangles: Greenport, NY, Gardiners Island West, NY, and Sag Harbor, NY). The fish and wildlife habitat consists of approximately 440 acres of tidal wetlands, of which about one-third is a shallow bay (less than four feet deep at mean low water) which connects to Northwest Harbor through a narrow inlet. This area displays a classic zonation of natural estuarine habitats, including intertidal creek banks, cordgrass marshes, salt marsh shrub communities, and transition areas into the surrounding oak-pine forests. The habitat area also includes approximately 25 acres of immediately adjacent upland forest areas. Northwest Creek is located within an undeveloped park land owned by Suffolk County. The only human development within the area is a residential area at Northwest Landing at the northeast end of the bay. A small amount of shoreline in this area has been bulkheaded for boat docking facilities.

Fish and Wildlife Values

Northwest Creek is one of only a few examples of relatively large, undisturbed, estuarine ecosystems on Long Island, outside of the major coastal bays on the south shore. The diversity and well-defined zonation of plant communities is especially rare in the region, as is its location within a watershed which is almost entirely undeveloped. Northwest Creek is utilized by a variety of fish and wildlife species, including several which are of special ecological and economic significance. At least two pairs of osprey (T) nested successfully in the area in 1984. The creek serves as an important feeding area for these and other osprey nesting in the vicinity, along with various species of herons, egrets, waterfowl and other wildlife. Diamondback terrapin (SC) nest on the beach bordering the creek. The tidal creek and salt marshes provide feeding areas and cover for the terrapins during their nesting period (April-July). Other probable or confirmed nesting bird species at Northwest Creek include green-backed heron, Canada goose, mallard, black duck, belted kingfisher, horned lark, red-winged blackbird, and sharp-tailed sparrow. The sand peninsula which separates Northwest Creek from the harbor may be suitable nesting habitat for least terns (E), common terns (T), or piping plovers. Least terns nested here in 1977. Northwest Creek is a highly productive area for marine finfish and shellfish. This area serves as a nursery and feeding area (from April-November, generally) for many estuarine fish species, including scup and winter flounder. Ribbed muscles and fiddler crabs are abundant in the tidal creek banks surrounding the bay. The Northwest Creek estuary and nearby portions of Northwest Harbor may be an important feeding and resting habitat for juvenile Kemp's Ridley sea turtles (E) especially during the late summer and fall. More documentation is needed on the use of the area by this species as well as other sea turtle species. Northwest Creek contributes significantly to the productive commercial and recreational fisheries in Northwest Harbor, and receives some local fishing pressure within the area as well. The area is locally important for waterfowl hunting, especially black duck and also for scaup and canvasback.

Impact Assessment

Any activity that would substantially degrade the water quality in Northwest Creek would adversely affect the biological productivity of this area. All species of fish and wildlife would be affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity, and waste disposal. Alteration of tidal patterns in Northwest Creek (e.g., by modifying the inlet) could have major impacts on the fish and wildlife species present. Elimination of salt marsh and intertidal areas, through dredging, excavation, or filling, would result in a direct loss of valuable habitat area. Unregulated dredge spoil disposal in this area would be detrimental, but such activities may be designed to maintain or improve the habitat for certain species of wildlife. Diamondback terrapins inhabiting the beach are vulnerable to disturbance by humans from mid April through July. Significant pedestrian traffic or recreational vehicle use of the beach could easily eliminate the use of Northwest Creek as a breeding area and should be minimized during this period. Fencing and/or posting of the area could help protect this species. Establishment of a nesting tern population on the Northwest Creek barrier peninsula may be possible through habitat management activities. Nesting osprey inhabiting the area may be vulnerable to disturbance by humans from March through mid-August. Recreational activities (e.g., boat landing and picnicking) in areas near osprey nest sites should be minimized during this period. Construction of shoreline structures, such as docks, piers, bulkheads, or revetments, in areas not previously disturbed by development, may result in the loss of productive areas which support the fish and wildlife resources of Northwest Creek. Undeveloped forest bordering the wetlands, including Barcelona Neck are particularly important for maintaining the water quality and habitat value of Northwest Creek and should be preserved as a buffer zone.

● Shelter Island - Harbor Bays Complex

This habitat narrative is part of the U.S. Fish and Wildlife Services Northeast Coastal Study Area Report. There is no official State designation for this area.

Location and Description

This habitat complex of lands and waters is located between the two eastern forks of Long Island, and includes portions of Shelter Island, Shelter Island Sound, Sag Harbor Bay, Northwest Harbor and Gardiner's Bay and a narrow section of coastline along the bay shoreline of the South Fork in the vicinity of Sag Harbor (7.5 Quadrangles: Sag Harbor, NY, Gardiners Island West, NY and Greenport, NY).

There are three principal habitat units within this complex: (1) Shelter Island (2) Open Bay Waters and, (3) South Fork Wetlands and Beaches. The general outline of this complex includes the entire southeastern peninsula of Shelter Island and the long narrow peninsula immediately north of it (Ram Island and Little Ram Island) as well as the intervening waters of Coecles Inlet. South of Shelter Island, the boundary encloses the waters of eastern Shelter

Island Sound and Sag Harbor Bay and an area of land to the east known as Barcelona Neck and the adjacent marshes of Northwest Creek. From there the boundary extends northwards along the eastern shoreline of Northwest Harbor, enclosing the areas of Alewife and Scoy Ponds, Cedar Pond and Cedar Point, and then cuts northwestwards across a section of Gardiners Bay before connecting with Reel Point on Shelter Island. The approximate linear dimensions of this complex are 8 miles (13 km) long in a northwest-southeast direction and 3 miles (5 km) wide in a southeast-northeast direction. Ownership over this complex is a mixed pattern of public waters and lands (mostly County). The Nature Conservancy preserve lands, and private lands.

Fish and Wildlife Values

This area, particularly the eastern section of Shelter Island, contains one of the highest nesting densities (mostly on natural snags) and numbers of osprey (*Pandion haliaetus*) in the region, second only to Gardiners Island; it is likely that this population will continue to expand under the present environmental conditions. The sand beaches of Mashomack Preserve, Cedar Point and others along the South Fork shoreline are regionally important, though seasonally variable, nesting beaches for piping plover (*Charadrius melodus*), a U.S. Threatened species and least tern (*Sterna antillarum*). Sea-beach knotweed (*Polygonum glaucum*), a regionally rare plant, also occurs on beaches in this general area. The tidal marshes and freshwater wetlands are used extensively as feeding areas for colonial wading birds and wintering waterfowl, and American black ducks (*Anas rubripes*) nest here. The open bay waters and tidal marshes along the shoreline support large numbers of wintering waterfowl of regional significance, including common loon (*Gavia immer*), American black duck, mallard (*Anas platyrhynchos*), Canada goose (*Branta canadensis*), greater and lesser scaup (*Aythya marila* and *A. affinis*, respectively), common goldeneye (*Bucephala clangula*), red-breasted merganser (*Mergus serrator*), bufflehead (*Bucephala albeola*), oldsquaw (*Clangula hyemalis*) and canvasback (*Aythya valisineria*).

Northern diamondback terrapins (*Malaclemys t. terrapin*) feed and nest in the tidal marshes and sandy creek banks throughout the area, particularly around Coecles Harbor. Recent evidence indicates that the waters and bay bottoms of the Peconic Bays, Gardiners Bay and other bodies of water in this area may serve as a significant summer feeding and nursery habitat for juvenile Kemp's Ridley (*Lepidochelys kempii*), a U.S. Endangered species and one of the rarest sea turtle species. Harbor seals (*Phoca vitulina*) use several rock areas in Sag Harbor Bay and Northwest Harbor as haulouts during winter and early spring, often in fairly large concentrations. The harbor areas and bays are also productive habitats for finfish and shellfish, and support a regionally significant commercial shellfishery for bay scallop (*Aequipecten irradians*) and, to a lesser extent, American oyster (*Crassostrea virginica*). These waters serve as important nursery and feeding areas for weakfish (*Cynoscion regalis*), winter flounder (*Pseudopleuronectes americanus*) and scup (*Stenotomus chrysops*). Scoy and Alewife Ponds and their associated steam systems are one of the few alewife (*Alosa pseudoharengus*) spawning areas on Long Island.

Impact Assessment

Residential development along the South Fork shoreline in this area poses a potential threat to water quality and elimination of shoreline habitat of regionally important fish, wildlife and plant species. The impressive and growing population of ospreys in the area attests to the present quality of their nesting and feeding habitat, which could, however, be reversed by large scale poorly planned or unregulated development or shoreline construction. Human disturbances to nesting beaches of piping plovers and terns, in the form of destruction of nests or eggs through trampling, off-road vehicles, boat landings, vandalism or pets, is a common problem of these sites. Vegetation succession at these sites can also lead to these sites no longer being suitable for nesting. Osprey are also affected by human disturbances during the nesting and fledgling periods.

Protection of water quality and significant aquatic habitats should be given the highest priority to ensure the continued high value of this area to wintering and migrating waterfowl, shellfish, spawning and juvenile fish, marine and estuarine turtles, nesting waterbirds and ospreys. Protective measures should include the full array of available mechanisms, including regulatory overview and enforcement of existing environmental laws and regulations, development and implementation of ecologically sound zoning and planning policies and practices, seeking opportunities to develop cooperative conservation and management agreements, conservation easements, land exchanges and acquisition. There are a number of opportunities and challenges here for various governmental agencies, conservation organizations, citizen groups and private landowners to work cooperatively in conserving and protecting the living resources of this area. Disturbances to nesting beach birds, wintering waterfowl and nesting ospreys should be minimized or eliminated by a variety of means, including protective fencing, area closures, posting, warden patrols and public education. Where predation by pets or feral animals, particularly on nesting beaches of terns and piping plovers, is determined to be a problem, predator removal practices should be implemented. Efforts should be made to identify and implement objectives and tasks outlined in the piping plover recovery plan. Conservation and management plans, including fire management, for certain rare plants, for example, sea-beach knotweed, and unique plant communities on Mashomack Preserve and Suffolk County park lands should be developed cooperatively to enhance, restore and protect such regionally important populations and natural communities on these lands.

(e) Locally-Important Estuarine and Freshwater Fish and Wildlife Habitats

• Sag Harbor Cove Complex

Location and Description

Sag Harbor Cove is actually a series of four water bodies, including Outer Sag Harbor Cove, Inner Sag Harbor Cove, Morris Cove and Upper Sag Harbor Cove, that are referred to as the Cove Complex. Each of the four basins is connected by narrow navigation channels; a strait from the northern end of the Cove connects these waters to Sag Harbor. The overall surface area of the Sag Harbor Cove Complex is approximately 0.7 square miles. The average depth within this area is approximately 4.9 feet. Average tidal amplitude is at least 1.7 feet and the average spring tide is closer to 3.0 feet. As noted in Section 2.3B(a), a limited salinity study was conducted in 1991 which indicated that the entire Cove Complex was nearly well-mixed and influenced strongly by coastal salinities. There was a slight longitudinal salinity gradient, with salinity decreasing mildly in an upstream direction (Najarian Associates and Cornell Cooperative Extension, 1992). Portions of the Cove Complex support extensive eelgrass (*Zostera marina*) beds which contribute significantly to productivity in surrounding waters and provide shelter for young bay scallops. Surface water quality for the entire Cove Complex is rated SA.

Fish and Wildlife Values

The series of basins comprising the Sag Harbor Cove Complex consists of some of the most productive waters within and adjacent to the Village of Sag Harbor. The intertidal fringe of the Cove Complex is surrounded by typical estuarine marsh species (*Spartina alterniflora* and *Spartina patens*) where structural fortification and dock facilities are absent. The width of the fringe is determined by the slope of the intertidal shoreline and the presence of upland disturbances and barriers. In the shallow intertidal waters starting at the marsh fringe there are extensive areas of highly productive mudflats and sand bars. These areas are colonized by numerous species of algae including: bladder rack (*Fucus vesiculosus*), knotted wrack (*Ascophyllum nodosum*), and Irish moss (*Chondorus crispus*). Sea Lettuce (*Ulva lactuca*), which is common throughout the Cove Complex, is indicative of high nutrient conditions. Deeper waters within the Cove Complex support very dense beds of eelgrass which greatly increases primary productivity. Bay scallops (*Aequipecten irradians*), which are often abundant in the Cove Complex, utilize this habitat. Hard clams (*Mercenaria mercenaria*) can be found on both intertidal and sub tidal bottom lands. A set of oysters (*Crassostrea virginica*) has recently appeared in this system (J. Semlear, 1994). It is not clear whether these animals will survive to achieve harvestable size.

In a 1992 study conducted by the Okeanos Ocean Research Foundation, large numbers of diamondback terrapins (*Malaclemys terrapin terrapin*) were observed throughout the Cove

Complex (Morreale, 1992). This area had a smaller apparent population than other locations studied, but was still regionally significant.

Weakfish (*Cynoscion regalis*), striped bass (*Morone saxatilis*), winter flounder (*Pseudopleuronectes americanus*), and porgy (*Stenotomus chrysops*) have all been caught in these waters. Late summer shallow seining in the area in 1994 indicated the presence of large numbers of locally-significant finfish species including: bay anchovy (*Anchoa mitchilli*), menhaden (*Brevoortia tyrannus*), Atlantic silverside (*Menidia menidia*), snapper bluefish (*Pomatomus saltatrix*), and winter flounder. Other species caught during this seining include: sheepshead minnow (*Cyprinodon variegatus*), mummichog (*Fundulus heteroclitus*), killifish (*Fundulus majalis*), three-spined stickleback (*Gasterosteus aculeatus*), naked goby (*Gobiosoma boscii*), Atlantic needle fish (*Strongylura marina*), and bay pipefish (*Syngnathus leptophynchus*).

Impact Assessment

Due to the prominent position of this system and the fact this area supports a significant shellfishery, water quality in the Sag Harbor Cove Complex should be of utmost concern to citizens of Sag Harbor Village. In addition to the commercial fishing activity, there is also considerable recreational boating and sightseeing occurring in this area. Any activities that degrade the environmental quality or aesthetics of the shoreline should be avoided.

One major cause of degraded water quality in the Sag Harbor Cove Complex is input of untreated roadway runoff. For example, significant quantities of stormwater runoff enter the Outer Cove from the northern end of County Route 60 (Noyack Long Beach Road). At this location, there are at least four points where runoff is channeled directly into the waters of the Cove. These direct runoff points should be addressed by the Suffolk County Department of Public Works. In addition, there is a major source of road runoff entering Paynes Creek from the residential area located west of Noyack Road (County Route 38). This source of contamination is being addressed by Southampton Town.

The southeastern portion of Upper Sag Harbor Cove is another problem area. This area has been closed year-round to shellfishing by NYSDEC due to consistent failure to meet the standards for total and fecal coliform bacteria. The causes of the deteriorated water quality in this area are not fully clear, but the discharge from Otter Pond, road runoff, cesspools and marinas are highly suspect and considered the primary factors. Otter Pond is tidally-connected to Upper Sag Harbor Cove by a small outlet stream. Otter Pond is known to support a large population of waterfowl, which is a significant contributor of fecal matter to surface waters. The pond has also lost a significant extent of its fringing wetlands and directly intercepts a large amount of stormwater runoff. The shoreline at the southeastern end of the Upper Cove is also closely surrounded by older homes which may be adding to the water quality problem in this area due to inadequately treated septic wastes. Poor mixing at the eastern end of the Cove Complex may also be a factor in elevated coliform levels.

Every effort should be made to improve the water quality of Otter Pond and restore the pond to a preimpacted state. Restoring the fringing wetlands and discouraging the feeding of waterfowl in this area would be helpful in mitigating water quality problems here. The tidal outlet leading from the pond to the Upper Cove should also be fully restored to improve flushing in this area.

Another reason for degraded water quality in the Sag Harbor Cove Complex has been the loss of most of the original wetland fringe from the perimeter of this area. Construction of shoreline stabilization structures and docks, and the deposition of dredge spoils, has incrementally reduced the total salt marsh area in this system and prevented the inland retreat of wetland habitats as sea level rises. One way of addressing this deficit would be to restore the tidal wetlands along Noyack Long Beach Road. Most of the wetlands have been lost here as a result of dredge spoil disposal. Working with Southampton Town, much of this area could be restored to yield a net gain in wetland area in the Cove Complex. This increase would help to improve water quality and provide habitat for young finfish and shellfish species.

The number of new residential docks on the cove should be kept to a minimum considering the amount of shoreline that has already been impacted by human activities. Residents should be encouraged to consider less harmful alternatives to traditional docking structures. The use of linear mooring systems, for example, or similar alternatives should be encouraged over permanent structures. In addition, bulkheading and other types of shoreline hardening should be discouraged.

- John Street Wetland

Location and Description

The John Street Pond is an isolated intertidal pond and associated wetland fringe that is connected to Upper Sag Harbor Cove by a culvert running under John Street. Freshwater drains from the southwestern portion of the area towards the culvert at the northeastern corner of the pond. The pond is very shallow, with a sandy bottom overlain by pockets of organic matter. Tidal fluctuation is minimal due to restrictions caused by the diameter and elevation of the culvert. Vegetation surrounding the pond is typical of disturbed estuarine marsh; common reed (*Phragmites australis*) forms a dense stand at the upland edge of otherwise native intertidal species. The presence of the reeds forms an effective barrier around the entire pond system which is located in the middle of a residential neighborhood. This area acts as "oasis" in the center of this otherwise heavily populated area.

Fish and Wildlife Values

Numerous species of nesting coastal birds have been observed at this site. The extremely shallow water is ideal for wading birds to feed. Fish species using this pond include:

sheepshead minnow (*Cyprinodon variegatus*), mummichog (*Fundulus heteroclitus*) and killifish (*Fundulus majalis*). There is also evidence of numerous shellfish species including: oyster (*Crassostrea virginica*), ribbed mussel (*Modiolus demissus*), soft-shelled clam (*Mya arenaria*) and mud snail (*Nassarius absoletus*). Songbirds are likely to feed and nest within the dense plant cover surrounding the pond.

Impact Assessment

Clearing of vegetation, especially trees adjacent to and within this area, could drastically reduce the quality of wildlife habitat. At this time, the tree canopy and understory plants effectively isolate this area from outside disturbance and make it suitable as wildlife habitat. Input of additional road runoff should be controlled. That which is already entering the area has drastically altered plant species composition and reduced wildlife values. Maintenance of the culvert under John Street is essential to the health of this system. Without this connection to Upper Sag Harbor Cove, this area would stagnate and cease to be productive.

- Otter Pond and Maple Swamp

Location and Description

Otter Pond is a shallow intertidal pond of approximately four acres located within Mashashimuet Park. The Park consists of a total of 11.8 acres and is owned by the Sage Foundation. Otter Pond receives saltwater from a tidal creek originating in Sag Harbor Cove which flows under Main Street (CR 79). Due to restrictions caused by stones and debris at the pond's connection to the creek, tidal fluctuation for the Pond is only about one foot, while the tidal amplitude in Upper Sag Harbor Cove is approximately 1.7 feet. Underwater lands within the Pond are owned by Southampton Town; the Village has no jurisdiction. Freshwater enters the eastern end of the pond through a culvert under Jermain Street that drains a large Maple swamp west of Joel's Lane.

The swamp, which was once a healthy deciduous swamp, has been heavily impacted by past trenching activity (vector control activities) which has significantly altered natural drainage patterns. Parallel and interconnecting ditches channelize all flow from south to north and generally preclude the natural water purification potential of this wooded wetland. Standing water is present in the trenches at various times of the year depending on season and weather patterns.

Fish and Wildlife Values

Otter Pond is a very shallow water body characterized by high nutrient loads and near eutrophic conditions. At one time the pond was bordered by a healthy fringe of estuarine wetland. Today the majority of the pond perimeter is vegetated by turf grasses. Extensive growth of sea lettuce (*Ulva lactuca*) is indicative of high-nutrient conditions. Much of the

bottom of this water body is covered by a thick layer of organic sediment which contributes to nutrient availability and is indicative of high primary production and low decomposition rates. The Pond supports large numbers of waterfowl throughout the year. Peking ducks, mallards and Canada goose can be found here at any time of year. This area also supports significant wintering waterfowl concentrations. The most recent (1994) New York State waterfowl counts for Otter Pond include Canada goose (*Branta canadensis*), American black duck (*Anas rubripes*), canvasback (*Aythya valisineria*) and almost 200 mallard (*Anas platyrhynchos*). Fin and shellfish species present are those typical of local estuarine water bodies. Late summer (1994) seining in Otter Pond yielded sheepshead minnow (*Cyprinodon variegatus*), mummichog (*Fundulus heteroclitus*), killifish (*Fundulus majalis*), three-spined stickleback (*Gasterosteus aculeatus*) and naked goby (*Gobiosoma boscii*). In the past, striped bass (*Morone saxatilis*) have been caught in the Pond. Diamondback terrapins (*Malaclemys terrapin*) have utilized this area for feeding.

The Maple Swamp has a dense stand of vegetation which provides substantial cover for large and small mammals. Migratory birds frequent the area and can feed within the tree canopy and understory. Common larger mammals such as white-tailed deer (*Odocoileus virginianus*), muskrat (*Ondatra zibethicus*), raccoon (*Procyon lotor*), grey squirrel (*Sciurus carolinensis*), eastern cottontail (*Sylvagus floridanus*) and red fox (*Vulpes fulva*) utilize this area. A very high concentration of raccoon tracks indicate the suitability of this site to this species. The occasional standing water in the trenches most certainly provides an ideal habitat. Common amphibians utilize the system of trenches for breeding and feeding habitat (Table 5). To date, mole salamanders have not been observed at this site but portions of the area may be suitable. Fish were not observed on the site in late summer (1994).

Construction and maintenance (recent clearing around some of the ditches was apparent during field work in summer 1994) of these ditches has unfortunately allowed common reed (*Phragmites australis*) to become well established. Fortunately this species is concentrated in the center of the wetland where ditching has had the greatest impact. The dominant tree species is red maple (*Acer rubrum*). The understory consists of sweet pepperbush (*Clethra alnifolia*), shadbush (*Amelanchier canadensis*), chokeberry (*Aronia arbutifolia*), highbush blueberry (*Vaccinium corymbosum*) and swamp azalea (*Rhododendron viscosum*). The herbaceous layer consists of soft rush (*Juncus effusus*), cinnamon fern (*Osmunda cinnamomea*), royal fern (*Osmunda regalis*) and skunk cabbage (*Symplocarpus foetidus*) among others.

Impact Assessment

There is little that can be done to Otter Pond that has not been done already. Reducing organic and nutrient inputs could help to revitalize this near-eutrophic water body and return it to something resembling its former state. However, any serious effort to restore this site would have to address the issue of public access (involving recreation and feeding of waterfowl).

The Maple Swamp has already been significantly impacted by trenching. As a result, surficial drainage patterns have been drastically altered. In addition, an upstream input of nutrients and that from road runoff has already favored the invasion of a portion of the area by the common reed. Every attempt should be made to prevent stormwater from entering this system. Existing trenches should be blocked and "natural" hydrology restored. The dumping of debris and yard waste along Joel's Lane should be discouraged.

- Little Northwest Creek

Location and Description

Little Northwest Creek is a small tributary feeding into Sag Harbor Bay. This tidal creek is the dividing line between Sag Harbor Village (Southampton Town) and East Hampton Town. The western bank of this water body forms the eastern boundary of the Village. The tidally-influenced portion of the creek is surrounded by approximately 190 acres of State-owned wetlands and buffering uplands managed by the NYSDEC. The intertidal portions of the marsh consist of undisturbed high marsh with salt hay grass (*Spartina patens*), spike grass (*Distichlis spicata*), black grass (*Juncus gerardii*), perennial glasswort (*Salicornia virginica*), sea lavender (*Limonium carolinianum*), perennial salt marsh aster (*Aster tenuifolius*) and seaside gerardia (*Agalinis maritima*) and a low marsh fringe with cordgrass (*Spartina alterniflora*). Both of these habitats are colonized by typical estuarine species of molluscs and arthropods (Table 7). The upland fringe is dominated by a narrow to wide stand of common reed (*Phragmites australis*). Reeds are more extensive in the upper reaches of the tidally influenced portion of the creek. Surface water quality for the tidal portion of the Little Northwest Creek is rated as SC. The upper reaches of Little Northwest Creek are connected to Rattlesnake Creek. This entire area comprises an expansive maple swamp of a size and quality unique to the Village. Surface water quality for this system is rated as B.

Fish and Wildlife Values

Tidal portions of the creek support most of the commonly occurring species of estuarine fish, molluscs and arthropods found in the region (Tables 6 & 7). The headwaters of Little Northwest Creek and Rattlesnake Creek are surrounded by an expansive Maple Swamp. These wetlands support the largest population of spotted turtles (*Clemmys guttata*) in the Village (Penny, pers. com.). Mud turtles (*Kinosternum subrubrum*) would be expected in this area, but they have not been observed to date. Commonly found amphibians include: fowlers toad (*Bufo fowleri*), eastern newt (*Demictylus viridescens*), spring peeper (*Hyla crucifer*), gray treefrog (*Hyla versicolor*), green frog (*Rana clamitans melanota*), and bullfrog (*Rana catesbeiana*). Mole salamanders may be present in this area, but have not been documented. Northern diamondback terrapin (*Malaclemys terrapin terrapin*) feed within Little Northwest Creek and may be found in Rattlesnake Creek. Mammals and reptiles occurring in this area are those commonly found in Sag Harbor Village (Tables 3 and 4).

Impact Assessment

Any activities that would alter hydrology (surficial and groundwater) in this area would drastically alter the nature of this wetland/creek system. Actions that restrict tidal flushing would degrade the lower reaches of the creek. In the headwater region, clearing or alteration of vegetation or change of grade would disrupt current water movement to the creek. Input of road derived stormwater flow could negatively affect water as well as nutrient budgets for this habitat possibly making the area unsuitable for existing wildlife and encouraging the spread of nonnative and invasive plant species. Considerable input of yard waste (organic matter) from surrounding private properties should be prevented to reduce the chance of significantly altering the carbon cycle for this wetland system. Property owners along the western edge of the system commonly discard leaves, tree limbs and other organic materials onto this property.

- Round Pond and Fore and Aft Pond

Location and Description

Round Pond is an approximately seven-acre freshwater pond lying within the northern end of the Long Pond Green Belt system designated by the Nature Conservancy. Only the northern portion of the pond lies within Sag Harbor Village, at the southern end of Joel's Lane. The green belt, which runs from Mashashimuet Park in the north to Sagaponack Lake and the Atlantic Ocean in the south, is a wildlife and open space corridor which has received special attention from the Nature Conservancy and Southampton Town. This entire area is a relatively undisturbed system of ponds, wetlands, open space and surrounding woodlands.

There is some development around the perimeter of Round Pond, with little structural fortification except for that at the end of Middle Line Highway. Seven houses have been built in close proximity to the pond, three of which have lawns extending down to the shoreline. Several more houses are set back further from the shoreline. The west shoreline of the pond is natural and undisturbed. This pond and the associated coastal plain pond shore species surrounding its shoreline are unique within the Village of Sag Harbor and deserve special protection. Surface water quality for this water body is rated as C. The quality of the coastal plain pond shore habitat at the site has been rated as "B" by the Natural Heritage Program. An "A" is the highest rating.

Fore and Aft Pond is a one acre wetland pond directly west of Round Pond. This wetland pond is hydrologically (via groundwater) connected to Round Pond. This area is fairly well buffered by native vegetation and has a coastal plain pond shore habitat and one State rare species identified by the New York State Natural Heritage Program. Water quality for this pond has not been classified, but the coastal plain pond shore habitat present on the site was given a rating of "BC" from the Natural Heritage Program. An "A" is the highest qualitative rating that can be received.

Fish and Wildlife Values

This pond/wetland complex and the Fore and Aft Pond system adjacent to it supports the most significant mole salamander population within the Village. Spotted salamander (*Ambystoma maculatum*), marbled salamander (*Ambystoma opacum*) and the tiger salamander (*Ambystoma tigrinum*) have all been found here (Penny, pers. com.). This may be the only location in the Village that supports these species. Commonly found amphibians include: fowlers toad (*Bufo fowleri*), eastern newt (*Demictylus viridescens*), spring peeper (*Hyla crucifer*), gray treefrog (*Hyla versicolor*), green frog (*Rana clamitans melanota*), and bullfrog (*Rana catesbeiana*). Painted turtles are found in this system and there may also be spotted turtles (*Clemmys guttata*). During the early 1990's, a pair of otters was observed in the pond, but they have not been seen recently. Fish species observed in past surveys include: largemouth bass (*Micropterus salmoides*), pumpkinseed (*Lepomis gibbosus*), bluegill (*Lepomis macrochirus*) and common pickerel (*Esox sp.*) (Guthrie, pers. com.). Mammals and reptiles are those typical for the Village (Tables 3 and 4). Large populations of ducks and swans often inhabit this pond and are thought to reduce water quality through the input of organic waste.

The following significant upland and coastal plain pond shore species have been identified as being at Round Pond by the New York Heritage Program: pine barren gerardia (*Agalinis vigata*), white milkweed (*Asclepias variegata*), silver aster (*Aster concolor*), rose coreopsis (*Coreopsis rosea*), knotted spikerush (*Eleocharis equisetoides*), creeping St. John's wort (*Hypericum adpressum*), carolina redroot (*Lachnanthes caroliana*), velvety lespedeza (*Lespedeza stuevei*), ludwigia (*Ludwigia sphaerocarpa*), crested fringed orchis (*Platanthera cirstata*) and wafer-ash (*Ptelea trifoliata*). Fore and Aft Pond is fairly well buffered by native vegetation and supports the Heritage Program recognized, long-beaked bald-rush (*Psilocarya scirpoides*).

Impact Assessment

The habitat in and around Round Pond and Fore and Aft Pond is some of the most significant to wildlife in Sag Harbor Village. Disturbance of vegetation, grade or hydrology in any way could drastically affect this fragile system. Fore and Aft Pond is especially susceptible to future land use decisions. An increase or decrease in water input would negatively impact the existing coastal plain pond shore habitat. Input of nutrients derived from surface water runoff or groundwater movement could drastically affect species composition and favor invasive species such as the common reed (*Phragmites australis*) over native species.

● Ligonee Brook

Location and Description

Ligonee Brook is a small freshwater brook running from east to west draining into the southeastern end of Sag Harbor Cove. The Sag Harbor Village boundary is along the entire

length of the Brook. For classification purposes, this creek is conveniently divided into two reaches: from the mouth to Brick Kiln Road, and from Brick Kiln Road to the source. West of Brick Kiln Road in the lower reach of the Brook there is some salt water influence; east of the road in the upper reaches there is little if any salt influence. The lower or estuarine portion of Ligonee Brook is that considered in this section.

The entire length of the lower intertidal portion of Ligonee Brook is bordered by typical estuarine marsh vegetation with pockets of common reed where upland disturbance has taken place. Just west of Brick Kiln Road, there is occasional tidal influence, but the species composition is more representative of a freshwater-dominated wetland with a small pocket of maple swamp north of the Creek adjacent to Brick Kiln Road. Water quality in the estuarine portions of the Creek is rated as SC.

Fish and Wildlife Values

The entire length of the lower intertidal portion of Ligonee Brook is bordered by typical estuarine marsh vegetation with pockets of common reed where upland disturbance has taken place. Just west of Brick Kiln Road, there is occasional tidal influence, but the species composition is more representative of a freshwater-dominated wetland with a small pocket of maple swamp north of the Creek adjacent to Brick Kiln Road, unique to this area of the Village. The mouth of the Brook supports common estuarine species of fish and shellfish found in Tables 6 and 7. In the estuarine portion of the Brook, amphibians are restricted to the upper reach near Brick Kiln Road. Late summer (1994) sampling in the Brook indicated only one fish species, killifish (*Fundulus majalis*). Alewives (*Alosa pseudoharengus*) were found in the area in the past, but have not been observed recently.

The freshwater portion of Ligonee Brook, east of Brick Kiln Road, comprises a significant wildlife corridor along the southern boundary of the Village. Dense plant cover throughout most of the area provides shelter for common species of migratory birds, small and large mammals, common reptiles and amphibians. Mammals, reptiles and amphibians are those commonly found throughout the Village (Tables 3, 4 and 5). At one time, alewife (*Alosa pseudoharengus*) moved up the Brook as far as Brick Kiln Road, but they have not been seen for many years.

Impact Assessment

Ligonee Brook is fairly well vegetated and screened from surrounding development. However, clearing of any type would significantly reduce the value of this important wildlife corridor. Increase in the quantity of stormwater runoff input to the brook would greatly reduce wildlife habitat. At this time, there are at least two major points of stormwater influx: Brick Kiln Road and Main Street. Both of these sources should be mitigated in some way to increase water quality along the brook. Berming the edge of the road and allowing the water to pass over the Brook, before it leaves the road surface, would preclude the discharge of raw

stormwater to Ligonee Brook. At that point, the water can either be allowed to flow overland away from the road or be diverted to a dry well or small infiltration basin. Either option would be helpful in this situation.

TABLE I

**NEW YORK STATE WATER QUALITY CLASSIFICATIONS
DEFINED ACCORDING TO BEST USAGE**

Freshwater Classification	Best Usage
AA	Source of water supply for drinking, culinary or food processing purposes and any other usages.
A	Source of water supply for drinking, culinary or food processing purposes and any other usages.
B	Primary contact recreation and any other use except as a source of water supply, for drinking, culinary or food processing purposes.
C	The waters are suitable for fishing and fish propagation. The water quality shall be suitable for primary and secondary contact recreation even though other factors may limit the use for that purpose.
D	The waters are suitable for fishing. The water quality shall be suitable for secondary contact recreation even though other factors may limit the use for that purpose. Due to such natural conditions as intermittent flow, water conditions not conducive to propagation of game fishery, or stream bed conditions, the waters will not support fish propagation.
Saline Classifications	Best Usage
SA	The waters shall be suitable for shellfishing for market purposes and primary and secondary contact recreation.
SB	The waters shall be suitable for primary and secondary contact recreation and any other use except for the taking of shellfish for market purposes.
SC	The waters are suitable for fishing and fish propagation. The waters shall be suitable for primary and secondary contact recreation even though other factors may limit the use for that purpose.
SD	All waters not primarily for recreational purposes, shellfish culture or the development of fish life, and because of natural or man-made conditions cannot meet the requirements of these uses.
Special Classification	Best Usage
I	The waters shall be suitable for secondary contact recreation and any other usage except for primary contact recreation and shellfishing for market purposes.

Definitions:

- ° **Best usage of waters** as specified for each class shall be those used as determined by the commissioner and the administrator in accordance with the considerations prescribed by the Environmental Conservation Law and the Federal Water Pollution Control Act of 1972.
- ° **Primary contact recreation** shall mean recreational activities where the human body may come in direct contact with raw water to the point of complete submergence. Such uses include swimming, diving, water skiing, skin diving and surfing.
- ° **Secondary contact recreation** shall mean recreational activities where contact with the water is minimal and where ingestion of the water is not probable. Such uses include, but are not limited to, fishing and boating.

TABLE 2
CLASSIFICATIONS ASSIGNED TO SAG HARBOR WATER BODIES

<u>WATER BODY</u>	<u>CLASSIFICATION</u>
Sag Harbor Bay	SA
Sag Harbor Cove Complex (All of cove southwest of North Haven/State Route 114 Bridge)	SA
Upper Sag Harbor Cove	SA
Morris Cove	SA
Ligonee Brook -- Mouth to Brick Kiln Road	SC
From Brick Kiln Road to source	C
Otter Pond -- Connecting water/Tributary of Upper Sag Harbor Cove	SC
	SD
John Street Pond*	--
Round Pond	C
Little Northwest Creek -- Tidal portion	SC
Freshwater portion	B
Sub tributary/Rattlesnake Creek	B

*Note: The surface waters of John Street Pond are currently unclassified by NYSDEC.
It is uncertain whether these waters will be classified in the future.

Sources: 6NYCRR, Chapter 10, Article 16
Jacobson, NYSDEC, February 10, 1995

TABLE 3

LARGE AND SMALL MAMMALS FOUND IN SAG HARBOR VILLAGE
AND SURROUNDING AREAS

LARGE

opossum (*Didelphis marsupialis*)
white-tailed deer (*Odocoileus virginianus*)
muskrat (*Ondatra zibethicus*)
harbor seal (*Phoca vitulina*)
raccoon (*Procyon lotor*)
grey squirrel (*Sciurus carolinensis*)
eastern cottontail (*Sylvagus floridanus*)
red fox (*Vulpes fulva*)

SMALL

short-tailed shrew (*Blarina brevicauda*)
meadow vole (*Microtus icus*)
house mouse (*Mus musculus*)
little brown bat (*Myotis lucifugus*)
white-footed mouse (*Peromyscus leucopus*)
pine mouse (*Pitymys pinetorum*)
norway rat (*Rattus norvegicus*)
eastern mole (*Scalopus aquaticus*)
masked shrew (*Sorex cinereus*)
eastern chipmunk (*Tamias striatus*)

TABLE 4

COMMON SPECIES OF REPTILES FOUND IN SAG HARBOR VILLAGE
AND SURROUNDING WATERS

snapping turtle (*Chelydra serpentina*)
painted turtle (*Chrysemys picta picta*)
northern black racer (*Coluber constrictor constrictor*)
northern ringneck snake (*Diadophis punctatus edwardsi*)
eastern milk snake (*Lampropeltis doliata triangulum*)
northern diamondback terrapin (*Malaclemys terrapin terrapin*)
little brown snake (*Storeria dekayi dekayi*)
box turtle (*Terrapene carolina carolina*)
eastern ribbon snake (*Thamnophis sauritus sauritus*)
eastern garter snake (*Thamnophis sirtalis sirtalis*)

TABLE 5

COMMON AND RARE AMPHIBIANS FOUND IN SAG HARBOR VILLAGE

spotted salamander (*Ambystoma maculatum*) (rare)
 marbled salamander (*Ambystoma opacum*) (rare)
 tiger salamander (*Ambystoma tigrinum*) (rare)
 fowlers toad (*Bufo fowleri*)
 eastern newt (*Demictylus viridescens*)
 spring peeper (*Hyla crucifer*)
 gray treefrog (*Hyla versicolor*)
 green frog (*Rana clamitans melanota*)
 bullfrog (*Rana catesbeiana*)
 eastern spadefoot (*Scaphiopus holbrooki*)

TABLE 6

FINFISH COMMONLY FOUND IN THE WATERS SURROUNDING SAG HARBOR

blueback herring (*Alosa aestivalis*)
 alewife (*Alosa pseudoharengus*)
 American shad (*Alosa sapidissima*)
 American sandlance (*Ammodytes americanus*)
 bay anchovy (*Anchoa mitchilli*)
 American eel (*Anguilla rostrata*)
 menhaden (*Brevoortia tyrannus*)
 weakfish (*Cynoscion regalis*)
 sheepshead minnow (*Cyprinodon variegatus*)
 mummichog (*Fundulus heteroclitus*)
 killifish (*Fundulus majalis*)
 three-spined stickleback (*Gasterosteus aculeatus*)
 naked goby (*Gobiosoma boscii*)
 Atlantic silverside (*Menidia menidia*)
 striped bass (*Morone saxatilis*)
 rainbow smelt (*Osmerus mordax*)
 summer flounder, fluke (*Paralichthys dentatus*)
 bluefish (*Pomatomus saltatrix*)
 winter flounder (*Pseudopleuronectes americanus*)
 porgy (*Stenotomus chrysops*)
 Atlantic needlefish (*Strongylura marina*)
 bay pipefish (*Syngnathus leptorhynchus*)
 blackfish, tautog (*Tautoga onitis*)

TABLE 7

MOLLUSCS AND ARTHROPODS COMMONLY FOUND IN THE WATERS
SURROUNDING SAG HARBOR

bay scallop (*Aequipecten irradians*)
 blue crab (*Callinectes sapidus*)
 rock crab (*Cancer irroratus*)
 green crab (*Carcinus maenas*)
 American oyster (*Crassostrea virginica*)
 slipper shell (*Crepidula fornicata*)
 mud crab (*Eurypanopeus depressus*)
 American lobster (*Homarus americanus*)
 spider crab (*Libinia spp.*)
 horseshoe crab (*Limulus polyphemus*)
 common periwinkle (*Littorina littorea*)
 hard-shelled clam or quahog (*Mercenaria mercenaria*)
 ribbed mussel (*Modiolus demissus*)
 soft-shelled clam (*Mya arenaria*)
 blue mussel (*Mytilus edulis*)
 mud snail (*Nassarius obsoletus*)
 hermit crab (*Pagurus longicarpus*)
 oyster drill (*Urosalpinx cinerea*)

E. FLOODING AND EROSION

(a) **Natural Protective Features and Man-made Shoreline Conditions**

Natural Protective Features

Protection from coastal erosion is provided by a variety of natural shoreline features. In the Village of Sag Harbor, these features primarily comprise near shore areas, beaches, and vegetated marshes. Although there are notable bluffs at Barcelona Point and dune formations in the vicinity of Little Northwest Creek to the east of the Village, these features are virtually absent from the Village's shoreline.

Near shore areas, beaches, and vegetated marshes protect the adjacent upland in the Village from coastal erosion by dissipating the energy of incident waves. In general, maximum protection is provided by gradually sloping near shore areas and wider, more gently sloped beaches; wave impacts are more forceful, and thus the degree of erosion susceptibility is greater, if these features have a steeper gradient. Wide, thickly vegetated marshes also provide the greatest level of protection against waves.

The large section of shoreline containing bluffs on Barcelona Neck, less than one mile to the northeast of the Village, serves an important function in protecting the Village shoreline from coastal erosion (particularly along the beachfront to the east of the breakwater) by providing a continuous natural supply of sand in the littoral drift system.

See subsection (b), below for further discussion of the role of these bluffs with respect to the Village's shoreline.

Man-made Shoreline Conditions

A large portion of the shore front in the Village of Sag Harbor has been developed with structural protection devices (see [Figure 9](#); this *Figure 9* appears in the Village Harbor Management Plan as "[Figure 12 - WATER USE PLAN](#)"). The general design and function of the primary categories of structures found in the Village is described as follows:

- Bulkheads - These wall-like structures are usually composed of timber, but are sometimes constructed with steel, concrete, masonry, or other materials. Bulkheads are built along the shoreline and are intended primarily to retain upland material, but also provide a barrier against shoreline recession. Bulkheads are the most common coastal structures in the Village, particularly on the commercial properties between the breakwater and *Ship Ashore Marina*. Bulkheads are also present on numerous residential properties throughout the Village.
- Revetments - These devices are also built along the shoreline, but are composed of heavy rocks or concrete rubble that is intended strictly to provide "armoring" for protection against wave attack. Revetments are also fairly common in the Village, being found beneath the North Haven/Route 114 Bridge, at Sag Harbor Cove West Marina, between Haven's Beach and Beach Road, and at several other locations.
- Breakwaters - These structures can consist of uncemented rocks or rubble, concrete, and a variety of other materials. Breakwaters are oriented perpendicular to the primary path of travel of waves, and are designed mainly to provide a sheltered harbor area on the lee side by intercepting or dissipating incoming wave energy.
- Groins - These structures, which are usually composed of rock or concrete rubble, but can also be constructed of timber, are installed perpendicular to the shoreline for the purpose of trapping sediment moving near shore in the littoral drift system. Groins are not present in the Village, except the finger of concrete and masonry rubble projecting perpendicular to the shore at the Cor Maria property, which functions somewhat like a groin. Additionally, the breakwater also acts as a groin, intercepting sand carried in the westward-flowing littoral drift system at this location.

The Village originally consisted of a broad low-lying expanse of meadow and marsh land, extending in some areas a considerable distance south from the shoreline, surrounded by a series of low hills further back from the water. Today, much of the lower, or northerly

portion of the Village, consists of filled marshland with some vestigial wetland remaining, particularly to the west of the North Haven/Route 114 Bridge. The development that has occurred on these filled lands comprises a large portion of the area in the Village that is susceptible to coastal flooding - see further discussion in subsection (b), below.

(b) Flood-Prone and Erosion Hazard Areas

Flood-Prone Areas

The Village contains flood zones that have been designated by the Federal Emergency Management Agency (FEMA). There are several categories of flood zones, as depicted on FEMA's Flood Insurance Rate Maps, based on the degree of susceptibility to flood damage. Four flood hazard zones exist within the Village, as shown on [Figure 7](#) and summarized below:

- V Zone (i.e., high velocity zone, also called the coastal high hazard area) - that area of land which would be subject to breaking waves of three feet or greater height, in addition to still water flooding, during the 100-year storm event;
- A Zone (also called the area of special flood hazard) - that area of land which would primarily experience still water flooding, without significant wave activity, during the 100-year storm;
- B Zone - areas between the limits of the 100-year flood and the 500-year flood; or certain areas subject to 100-year flooding with average water depths of less than one foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood; and
- C Zone - areas of minimal flooding.

[Figure 7](#) depicts the 100-year floodplain (i.e., V and A zones), which encompasses all or a portion of every waterfront property in the Village. The width of the floodplain depends on topography. To the east of Milton Avenue, the floodplain lies immediately adjacent to the beach due to the relatively steep gradient of the adjacent upland. Between Milton Avenue and the breakwater, where the land is flatter, the floodplain extends further inland (especially at Haven's Beach). The low-lying lands to the west of Main Street have the most extensive areas in the 100-year floodplain, especially on the Redwood and Morris Cove peninsulas and the westerly portion of the Village Business District.

The V zone is located entirely to the east of the breakwater, and generally occurs as a narrow band along the shore. At Haven's Beach, the V zone extends inland several hundred feet, due to the relatively level contour of the land here. A zones extend landward

of the narrow V zone to the east of the breakwater, and occupy the entire 100-year floodplain in the inner harbor area.

Areas of B zone, which occur between the 100-year and 500-year floodplain boundaries, are also present within the Village. B zones extend inland from the A zones.

Most of the upland in the Village is designated as C zone. These areas of higher ground have minimal potential for flooding.

Erosion Hazard Areas

When the supply of sediment naturally brought to an area by longshore transport is blocked by a barrier, such as a groin, jetty or similar structure, the beaches on the down drift side of the structure will tend to erode since they no longer receive sediment nourishment from up drift beaches. The littoral currents associated with the eroding beach may become "starved" in the sense that they are not receiving an adequate supply of depositing materials derived from upstream beaches.

The directions of near shore sediment transport vary due to the configuration of the shoreline and the predominant direction of incoming waves. Although qualitative and anecdotal information suggests that the rates of longshore drift vary considerably throughout the Peconic Estuary system, no detailed studies have been made to determine the rates at various locations.

Mapped observations indicate that the Village of Sag Harbor lies between two headlands: the North Haven peninsula and Barcelona Neck. In both instances the longshore transport directions are split around the projecting headland, with bluffs at these headlands contributing sediment to the littoral drift system. This sediment is carried into Sag Harbor Bay by southerly transport along the east shore of North Haven and southwesterly transport along the western side of Barcelona Neck.

The Village shoreline does not contain any State -designated erosion hazard areas, and generally does not suffer from a significant erosion problem. Slight shoreline erosion was noted at several locations during a field survey conducted in January 1995; these included the bayfront at the extreme easterly end of the Village (near Little Northwest Creek), the area to the immediate east of Ship Ashore Marina, and the northwest corner of the Redwood peninsula.

The virtual absence of significant coastal erosion in the Village is attributable to a number of factors. The area to the west of the North Haven/Route 114 Bridge is sheltered from the most energetic waves originating in the open bays of the Peconic system. The two shoreline segments that were noted to have experienced minor erosion in the inner harbor, to the east of Ship Ashore Marina and at the northwest corner of the Redwood peninsula,

are oriented perpendicular to the longest fetch lines in Outer and Inner Sag Harbor Cove, respectively (where "fetch" is the distance of continuous open water over which winds can blow to create waves). However, both of these sites have suffered only minor slumping of the low embankment along the shore, and no structures are threatened. Consequently, neither site can be characterized as being an area of critical erosion.

The portion of the Village shore front between the North Haven/Route 114 Bridge and the breakwater is effectively sheltered from most waves by the breakwater. Additionally, almost this entire stretch of shoreline has been armored with bulkheads or revetments, providing artificial structural protection against potential erosion. However, it should be noted that the effectiveness of the breakwater has reportedly decreased dramatically over the years due to the gravitational settlement and wave-induced shifting of the rocks. As a result, even moderate storms, especially northeasters (which drive waves directly against the breakwater) can cause surging waves to overtop the breakwater. During a relatively modest storm in December 1994, waves that bypassed the breakwater caused substantial damage to the bulkhead at the Village Sewage Treatment Plant.

The shoreline to the east of the breakwater has the greatest potential for coastal erosion damage, since this area is exposed to waves traversing the open waters of Sag Harbor. Although the beach in this area is narrow, generally only 10 to 20 feet wide, active erosion here is presently limited to minor slumping of the low embankment at the easterly end of the beach. This lack of a significant erosion problem is due largely to the virtual absence of artificial impediments to the natural supply of sand delivered via littoral drift. Sand derived from the erosion of the bluffs at Barcelona Point is carried to the southwest by littoral currents. The shoreline along the west side of Barcelona Neck is undeveloped (including State natural resource management lands and an expansive tidal marsh), and shoreline structures (e.g., groins and jetties) that could interfere with littoral drift are not present.

In the area to the east of Walker Avenue, which includes the area of minor erosion near Little Northwest Creek discussed earlier, the individual residential lots are generally more than 200 feet deep. The houses on these properties are situated close to the street, allowing a large buffer against potential future erosion along the shore front. These properties do not have structural protection along the shoreline.

The housing lots between Walker Avenue and Haven's Beach are generally 100 feet deep or less. The homes on these parcels, which are situated much closer to the water than the homes further to the east, are all protected with structural devices (i.e., a continuous wooden bulkhead for the properties on Terry Drive, and a concrete rubble revetment for the properties between Beach Road and Haven's Beach).

F. HISTORIC RESOURCES AND OVERALL VISUAL QUALITY

(a) Sag Harbor's Historic District

In 1974, a local historic district was identified for Sag Harbor, and subsequently entered on the State and National Registers. The Sag Harbor Village Historic District was listed as significant at the State level. The district included a large portion of the waterfront, the central business district, and core portions of the nineteenth century residential neighborhoods. The statement of significance for the district nomination stated, in part:

...the Sag Harbor Village District is an historical environment of 18th and 19th century structures remarkably uninterrupted by 20th century intrusions. Maritime and cultural links with New England associate the Village with ports of that region rather than with other communities of New York ... the Village is extraordinary for the quantity of structures present from the 18th and first half of the 19th century, as well as for the quality of individual buildings.

Some outstanding individual buildings were described in the nomination, but the emphasis was on describing the character of the district as a whole. The predominant theme of the text and referenced buildings was Sag Harbor's whaling heritage, although buildings of several periods were included in the district.

In 1990, an intensive level survey of historic resources was undertaken to determine if a new district should be drafted for nomination. The survey concluded that the district should be enlarged, and in 1992 a new nomination was prepared and submitted to the State Board for Historic Preservation. The nomination presented new boundaries, based on the location of historic resources which relate to the six identified historic contexts of Sag Harbor (see below). The nomination was submitted to the State Board, and received its final revisions for listing on the National Register of Historic Places. The local district was amended to closely match the new State and National Register boundaries. The nomination included a full inventory of resources included in the expanded district.

There are no identified historic resources of local, State or national significance located outside the historic district boundaries ([the district is shown on Figure 8](#)).

(b) Overview of Historic Contexts and Existing Conditions

- Settlement

There are very few sites in Sag Harbor related to the settlement period which preserve their 18th century integrity. There are well-documented reasons for such sparse survival. The earliest construction for shelter may have been temporary in nature, since permanent settlement was delayed in Sag Harbor vis-a-vis the surrounding area. The opening years

of settlement involved rearranging the topography of the Village to fill marshes and reduce the earliest buildings to survive this kind of earthwork. Also, two major fires swept through the area known to have first been settled, destroying most of what remained. Finally, Sag Harbor's influx of prosperity in the early 19th century allowed residents to radically upgrade or build new structures, which would have been more commodious and stylish than their 18th century counterparts.

Several buildings are thought to have 18th century frames, including the Custom House, the Long Island Herald House, both on Main Street, and the George Snooks House on Hempstead Street in Eastville. None of these currently read as a settlement period house from the exterior or from interior plan. Those houses which do read as 18th century buildings from the exterior, Sagaponack House on Union Street and the Captain David Hand House on Church Street, are actually relocated from other communities. The Umbrella House, on Division Street, though much altered and in a deteriorating condition, is an 18th century building on its original site; its masonry construction adds to its uniqueness and has served to protect more of the building's integrity.

The Old Burying Ground located on Union and Madison Streets and laid out in 1767, is the most valuable cultural resource for Sag Harbor's interpretation as an 18th century community. Closed to interments in 1840 when Oakland Cemetery was opened, the site and memorial stones retain integrity as an 18th century resource.

While Sag Harbor's built environment from the 18th century is largely gone, the Village still retains its original orientation towards the harbor. Its major streets, all laid out in the 18th century, have not been altered in later years. Main, Madison, Division and Hampton Streets all follow the same basic routes they did in the 18th century. Main Street still terminates at Long Wharf, though the wharf itself is a modern construction. Hempstead Street, the old route to East Hampton later replaced as a thoroughfare, also retains part of its 18th century layout.

- Whaling

The survival of the structures which related to the many industries involved in keeping Sag Harbor's whale ships on the seas - shipyards, cooper shops, ropewalks, sail lofts, chandleries, wharfs, spermicetti warehouses, and blacksmiths - would greatly increase the understanding of the whaling industry. Most of these structures would have been located on the waterfront, along East Water Street (now Bay Street), and West Water Street. However, Sag Harbor's waterfront is an area that is continuously altered and rebuilt. Besides the natural process of decay that afflicts buildings in a marine environment, the technology related to maritime industries constantly changes. Sag Harbor's waterfront was also involved in both of the major 19th century fires. As the second fire occurred near the end of the whaling era, none of the industrial structures related to whaling remains. Other services related to the port activity, such as shipping offices and presses which may have

once existed in the commercial area, have also perished. The Custom House and post office are preserved in the home of Henry Dering, formerly located on Union Street but moved to Main Street, but the later arsenal, post office and police office are gone.

By far the largest survival of the whaling era is the residential building stock, spread through most of the historic area of the Village. A full range of buildings, both of designed and formal architecture and more indigenous vernacular building forms, is preserved. The most fully developed classical buildings, such as the Hunting House, are located on the major thoroughfares - Main Street and Hampton Street - which serve as "high" streets similar in character to New England communities such as Nantucket Town and Newburyport. The smaller houses owned by those engaged as crew or in supporting industries are located on the streets of less consequence, such as Rysam Street and Garden Street, or in a cluster as in Eastville. It is impressive that design details found in formal designed architecture recur in buildings of less consequence with regularity, and that these details seem to have been retained through the later 19th and early 20th centuries.

Another property type surviving from the whaling era is that of religious architecture. Whaler's Presbyterian Church replaced the earlier meeting house; the Baptist, Methodist and A.M.E. Zion churches were all built during the whaling era and survive with good integrity. The location of these buildings follows a pattern similar to the residential buildings. The Whaler's Church, designed by Minard Lafever, is located prominently on the hill of Union Street, displaying both its seniority in the community and its function as a beacon of home port for returning sailors. St. David's A.M.E. Zion Church, located on Eastville Avenue in the heart of Eastville, is relatively unknown even today, its location is so discreet.

Another resource from the whaling period are the 19th century burying grounds. Zion cemetery, located across Eastville Avenue from St. David's church, contains stones of families associated with Eastville since 1840, and is invaluable as a record of their culture. Oakland Cemetery, on Jermain Avenue, was opened for interments in 1840. Its location was nearly rural, and today it retains the attributes of a 19th century pastoral and picturesque burial ground.

- *Industry and Invention*

Fortunately, the record of Sag Harbor's industrial past exists in several building types, including residential, industrial and commercial buildings. The loss of such significant structures as the Byram-Sherry Works and the Montauk Steam Cotton Mill reduces the full picture of industrialization, though the archival record of these industries is quite complete.

The most significant survival of the industrial period of Sag Harbor is the Fahys Watchcase Factory, a.k.a. Bulova Watchcase Factory, a four-story, 73,000 square foot brick building. It is located in the center of the Village on Division Street, and retains much of its original

building material. Even in its current state of abandonment, the size and siting of the factory created an imposing statement about the importance of this industry to the community. The identification of several houses known to have been built by the Fahys Company for the workers who came to Sag Harbor furthers our understanding of the importance of this industry to the 19th century residents. Residential structures, serving as single family, multiple family or boarding house residences, all of which served the industrial population, have been identified in several parts of the Village.

Areas of the community developed for the working population in the late 19th century include areas south of Jermain Avenue (Grand, Harrison, Marsden and Hamilton Streets and Montauk Avenue), all of which were laid out by the Latham family before 1853. The declining economy of the community and the swamps and thick forests that persisted in this area delayed development until later in the century. Those lots which fronted Madison and Hampton Streets were developed first, but most of the lots were developed between 1873 and 1902. The houses in this area vary greatly in their integrity, as many of them have been altered and enlarged. In 1905, the largest remaining lot (ten acres) was acquired for Pierson High School. Other areas developed for workers in both the resort and factory industries include Bayview Avenue, Franklin Avenue, Oakland Avenue, and Jermain Avenue (formerly known as Parker, Wadsworth and Montauk Streets).

It is likely that many of the commercial structures were also developed during Sag Harbor's industrial growth. There are a few neighborhood commercial structures, but the majority of commercial activity was, and still is, focused on the northern end of Main Street. Unfortunately, these buildings have been greatly altered through the 20th century, and very few of them retain integrity as 19th century commercial structures.

- *Resort and Tourism*

The resort era brought a new population to Sag Harbor, both as transient visitors and seasonal residents. The influence of this influx is evident in all aspects of residential properties. Large houses built for successful whaling families were converted to use as summer homes and boarding houses, and new cottages were constructed for rent or purchase. Hotels were built on waterfront property formerly devoted to the whaling industry. The building activity was not limited to one area of the Village, but areas not previously built on were developed at this time.

Land in the eastern section of the Village between Hampton Street and the water, property previously owned by Mulford and Sleight, was developed by the Sag Harbor Real Estate Company. Franklin Street and Prospect Avenue were laid out between 1890 and 1902, and several houses on Bay Street (formerly East Water Street) were also built in this period. A large number of these cottages survive today, displaying characteristics of the late 19th century such as wraparound porches, decorative shingling, turrets and bays. The area became more completely associated with the construction of the Frank Havens estate (now Cor Maria). In general, tourist oriented sites within the Village are found in the early

settlement and harbor area which make up the Historic District established by the Village Board of Trustees to help preserve them.

Palmer Terrace, opened in 1891 in an area known previously as "Hunting Hill," has large, shingled Queen Anne style homes built over a twenty-year period. Although many of these houses were constructed for the resort industry, some may also have associations to the industrial leaders of the community. For example, Eaton's house was built as a summer cottage, but seems to have served as a full time residence after Eaton's establishment of his business in the Village. The buildings on Palmer Terrace survive with a high level of integrity. On the west side of the Village, cottages were constructed on John Street, near Upper Sag Harbor Cove, which also survive with a high level of integrity.

Buildings designed to house the more transient visitor survive in less quantity, and often in an altered form. Boarding houses such as Mary King's Rooms on Rysam Street are extant, but not currently functioning as boarding houses. The only hotel surviving from the resort period is the American Hotel on Main Street, which retains much of its 19th century material. Other wood frame hotels which survived into the 20th century have burned or been taken down.

Structures designed to serve the tourist population's leisure activities and transportation needs have also disappeared. The only railroad building extant is a freight depot, relocated and now used as a garden center. None of the steamship accommodations survive. The Sag Harbor Yacht Club - built in Deering Harbor as New York Harbor Yacht Club Cruise Station - retains both its original use and building form, and is representative of other waterfront structures that have been demolished. Some features of the fairgrounds survive in the current Mashashimuet Park, but the grounds as a whole are more reflective of Mrs. Russell Sage's work. Marine Park and Haven's Beach are both important open spaces reserved for recreational use early in the 20th century, and continue in that use today.

- *Eastville*

The area known locally as Eastville consists of Hampton Street, Hempstead and Liberty Streets, and Eastville Avenue. This area lays well outside the developing Village of Sag Harbor. Not until the industrial development of the late 19th and early 20th centuries, when houses for factory and resort workers were built on the outskirts of the Village, did the Eastville area become part of the fabric of Sag Harbor Village.

The history of the Eastville area dates to the first decades of the 19th century when the area was known as Snooksville. George Snooks' house on Hempstead Street, a known 19th century route, contains mid-18th century timbers. Freed Afro-Americans came to the Snooksville/Eastville area in the opening decades of the 19th century as well, though it is not yet clear from where they may have come. Sag Harbor, because of its ample maritime job opportunities, was a likely destination for freed Afro-Americans. Crew lists from the first quarter of the 19th century indicate that from 20 to 30 percent of seamen sailing on Sag Harbor whalers were either Afro-American or Native American.

The institution that brought stability and a sense of community to Eastville was St. David's A.M.E. Zion Church, constructed in 1840 on Eastville Avenue. During the mid-1850's the ethnic mix of Eastville, already including Afro-Americans, Native Americans and white English, expanded to include other immigrant groups, particularly from England and Ireland. During the 1860's, the women of Eastville took jobs as domestic servants in the homes of Sag Harbor's wealthier residents. Many also earned extra money as dressmakers, laundresses or tailoresses. In the last quarter of the 19th century, many of Eastville's residents found employment in the tourist industry of Sag Harbor.

As a result of these demographics, the small houses of Eastville, many built during the more prosperous years of the 1840s, were enlarged by the addition of dormers, rear ells and front porches. These types of additions are more common than the addition of new structures. Due to the small size of the Eastville buildings, in general, most have been greatly altered or modernized for suitable living conditions. The significance of Eastville lies in the preservation of the homes of a distinctive integrated working-class community, and the importance of St. David's Church as a religious community committed to the Afro-American and Native American populations.

- Mrs. Russell Sage

All of the buildings restored and built by Mrs. Russell Sage still exist, and attest to her vision and thoroughness. Her two restoration projects, the John Jermain House and the Benjamin Hunting House, both on Main Street, retain much of this 19th century material. Unfortunately, the wood columns of the Hunting House were replaced with aluminum columns which detract from its integrity. The buildings constructed with funds donated by Mrs. Sage - the John Jermain Library and Pierson High School - also both survive. The library has remained intact, while the high school has been enlarged and new windows have been installed - both detracting from the original form. The two open spaces developed by Mrs. Sage, Otter Pond and Mashashimuet Park, continue to provide a location to pursue recreational interests for Village residents. New construction on the lots surrounding Otter Pond has respected the mandate to keep the pond undeveloped. The buildings erected in the Park for the superintendent and groundskeeper retain features of their early 20th century construction.

(c) Archaeological Resources

An Algonquian Village called Wegwagonock preceded the European settlement of Sag Harbor. The name of the village and its location were recorded in the East Hampton Town records of 1711, 1718 and 1728. The topography of Sag Harbor was different in Wegwagonock days. The land under the American Hotel, the Corner Bar and the Bay Street Theater rose to form a bluff 50 feet high, known as Turkey Hill beside a small kettle pond (now the American Legion) where a freshwater stream (now Burke Street) emptied into the bay. The kettle, called the "frog pond" in time past, and the stream were surrounded by a broad, flat meadow where grass grew luxuriantly as late as the 1840's. The shoreline near the frog pond reached out for almost one-half mile to form a long, low

point of land to the northeast (later called Conking's Point), creating a half moon bay of graceful proportions. Inland to the southeast, the land rose to become another 50 feet high hill (today's High Street). Wegwagonock was a safe harbor, tucked between protecting hills, supplied with ample fresh water by the pond and the stream, with a high lookout point over the bay on one side, and low, easy access to the water on the other. The village enjoyed a varied diet of fish, shellfish, wild fowl, game, nuts and berries. It prospered on a profitable trade in wampum shell beads.

William Wallace Tooker, Long Island's pioneer ethnographer who was a resident of Sag Harbor, identified the boundaries of the old village based on the Algonquian artifacts he found. He wrote that Turkey Hill was leveled to fill the surrounding low land, and although Wegwagonock graves were found on the southeast side of the hill, they were discarded as landfill.

The Algonquians gave Sag Harbor a name. Each fall the women of Wegwagonock harvested ground nuts - apios tuberosa - twining vines with tubers the size of hen's eggs. They foraged in nearby Sagaponack which meant "the place where the big ground nuts grow" in the Algonquian language, according to historian W.S. Pelletreau. When the Europeans who settled in Sagaponack needed a harbor on the bay, Sag Harbor acquired the "Sag" part of the ground nut name.

All of Sag Harbor was designated an area of intensive aboriginal habitation in the 1978 Suffolk County Resources Inventory. This same publication lists early twentieth century sources which indicate Native American sites and artifacts. While many sites have been disturbed by development activity, there are a few sites - vacant lots, back yards, parks, roads and cemeteries - that could have significant remains. The earliest part of the Village, located in the central business district, is also likely to have been obliterated by development. Evidence of the foundations of the waterfront industrial buildings can be seen in shadings in vacant land, and it is very likely that archaeological evidence could be found underground. Shipwrecks have been found in the waters, along the waterfront, and it is very likely that the waterfront holds significant remains of piers, wharves, docks and ships.

The New York State Archaeological Sensitivity Map, dated March 1992, shows that Sag Harbor has multiple site sensitivity.

(d) General Community Character

Sag Harbor's general community character is a combination of several elements, including the pattern of its streets, the scale and placement of its buildings; the relationship of structures to the waterfront; landscaping and street scape features; and the views from different areas to the water. There are also important views from the water to the Village to consider, which are often seen across a water body and framed by other built or natural features. Sag Harbor's history constantly refers to the water, and therefore the visual

connection to the water is an important feature of any area. Conversely, Sag Harbor has been approached by hundreds of people by the water, and so its water side is also critical.

The developed areas of Sag Harbor are reflective of a street pattern established in the 18th and 19th centuries. The oldest streets are closest to the waterfront, and radiate from the focus of marine activity, Long Wharf. The central business district - Main Street - has been continuously developed and rebuilt following successive fires; though it follows its 18th century route, most of its buildings are reflective of post-1850 building traditions. To the east of the business district are a group of short, densely settled streets (Rysam, Cross, Rector and parts of Division) which are reflective of the street patterns and building scale of the 18th and early 19th centuries. To the southwest of the central business district, Garden Street also maintains this early character. As the community developed to the south, new streets were opened through the early 19th century. Union, Jefferson, Suffolk and parts of Madison Street, are notable for their buildings of the Greek Revival style, built in the 1820's and 1830's. The character of these early residential areas is defined by narrow streets which often are not straight; mature trees; and buildings with decorative details designed to be viewed from the street. The lot sizes in the 18th century portions of the Village are considerably smaller than the 19th century lots.

Later 19th century residential areas can be found to the east, in the High and Bay Street, Prospect and Franklin Avenue areas. These houses were built for Sag Harbor's resort trade in the 1880-1920 period, and feature wide streets and large houses set well back from the street. The porches, towers and bays of those houses take advantage of summer breezes and views.

Twentieth century development is found to the extreme east and west of the Village, in neighborhoods known as Azurest, Ninevah and Sag Harbor Hills (to the east), and Redwood (to the west).

As noted above, much of the historic connection of the Village to the waterfront has been lost due to fires and loss of waterfront industries. In many places the loss of buildings has resulted in visual access to the water which would not have been as likely in the 19th century. The views which have resulted increase the appreciation of Sag Harbor's picturesque setting.

(e) Character Areas

The 1986- LWRP identified three individual character areas: Village Business Center/Waterfront, Eastern Residential Waterfront, and Western Waterfront. These areas might be more succinctly defined by the breakdown of character areas as provided below. The eleven individual character areas are relatively intermingled near the center of the community, and more homogenous toward the boundaries. Photographs depicting each character area are included in Appendix F.

1. Marina Character Areas - include water-dependent and water-enhanced marine commercial activities, including boat dockage/mooring and repair, boat storage, and retail sale of marine fuel and equipment. These are the areas available to the public for waterfront commercial activity on a fee basis, and are indicative of the popularity of Sag Harbor as a recreational boating area. Although the buildings within these character areas are largely undistinguished, the visual landscape consists of boat hulls, masts, moorings, piers, docks and usually hosts a lot of activity. The character of these areas changes dramatically with the seasonal changes in boating activity - during the late fall, winter and early spring, when boats are hauled, the boat yards become congested, while in the spring, summer and fall, the waters are more densely populated. This fluidity allows for vastly different views, particularly as there are few permanent buildings in these areas. Several areas along the waterfront fit this description, including the Bay Street boat yard, Sag Harbor Yacht Club, both public and private boat dockage and mooring areas; also, included in marina character areas is the marina and boat yard use of Redwood Canal.
2. Marine Recreational Character Areas - include water-dependent and water-enhanced activities such as boat launching, boat dockage and mooring, beach use, and passive recreation facilities. These character areas include sites that are accessible and available to the public on a noncommercial basis, and are largely in public ownership. Many of these sites maintain natural landscape features, such as trees, lawns, open space, unpaved areas, and there are few buildings. Most have facilities such as benches, piers, bulkheads or other "perching" places to enjoy water views. These areas would include Haven's Beach, Marine Park, Windmill Park, Long Wharf and Otter Pond.
3. Marine Natural Character Areas - include sites that remain in an undeveloped state, such as a beach shore and wetlands area. These areas are inclusive of areas never developed and those areas which, once developed, are returning to their natural state. These areas support both vegetation and wildlife. The major areas include the wetlands on SPLIA's Custom House property, the area west of Northwest Creek, and the upper reaches of the Ligonee Brook drainage area, though there are several other small lots scattered throughout the Village.
4. Marine Residential Character Areas - include sites that have been developed with residential dwellings. Certain aspects of the visual character in these areas may reflect retained or restored natural scenery, such as wooded and landscaped portions of the properties, and fringing beaches and wetlands. However, the difference between these areas and Marine Natural Character Areas lies in the presence of structures and appurtenances associated with the residential development. Sites along the waterfront identified as Marine Residential Character Areas include the entire shoreline in the cove complex, west of Ship Ashore Marina (i.e., Redwood Neck, Inner Sag Harbor Cove, Upper Sag Harbor Cove, Morris

Cove, and outer Ligonee Brook), and the shoreline to the east of the breakwater, between Haven's Beach and the wetlands at Little Northwest Creek.

5. Business District Character Areas - include retail businesses, public buildings, pedestrian amenities, parking lots and, commercial buildings designed for commercial purposes and built as such, or buildings converted to commercial use from another use. These businesses are not maritime in character, but are a mix of "core" businesses such as grocery stores, hardware stores, delicatessens, offices, banks, and "specialty" stores such as art and craft galleries, clothing stores, and antique shops. Sag Harbor is fortunate to have maintained a mixed palette of commercial interest and a low vacancy level. The commercial activity is primarily located on Main Street, from Long Wharf to the fork at Madison Street, but commercial activity is also found near the waterfront east of Long Wharf, along Long Island Avenue southwest of the North Haven/Route 114 Bridge, and in the motel area on West Water Street. Small neighborhood ventures are found on Division Street, south of the Village's core, and on Main Street, near the Otter Pond bridge.
6. Residential Character Areas - include residential units, primarily single-family structures. While the historic housing described above dominates most of the central Village, large tracts of land have been developed in the past 50 years to the east and west of the Village. These neighborhoods (Azurest, Ninevah, Sag Harbor Hills, and Redwood) were developed primarily for their proximity to the water. They are largely single-family 2-4 dwelling units/acre and 5-10 dwelling units/acre. Those developments in the eastern portion of the Village have the quality of "houses amongst the trees," resulting from a high number of undeveloped lots and a low density unit/acre figure. In fact, very few houses actually have water views or waterfront locations. Redwood, located in the western part of the Village, is more landscaped and more fully developed. Here the waterfront plays a primary role in shaping the development of new buildings and additions, with wetlands abutting many of the building lots. The historic core of the Village draws its character from a more historic mix of fences, building setbacks, curbing, sidewalks and mature trees.
7. Industrial Character Areas - Although industrial and manufacturing activities are not permitted in the waterfront or marine districts, there are still several sites close to the waterfront which are industrial in character. These sites reflect Sag Harbor's 19th and early 20th century history of a manufacturing center, and are not unlike those found in the mill towns of upstate New York or New England. The natural gas storage container, Bulova Watchcase Factory, Eaton's Building on Jermain Avenue, and two small industrial buildings on Bay Street remain to represent this important era of Sag Harbor's development.
8. Open Space Character Areas - include upland areas without direct access to the waterfront which may be in private or public ownership, but visually accessible by

the public. These areas may be land "yet to be developed," or, in fact, protected. The lots exist as small oases in the more heavily developed areas. Often they provide a stand of trees or thicket of brush which has become home to birds and animals, and they also provide screening from more heavily developed areas.

9. Multi-Unit Residential Character Areas - include apartments, condominiums, villas, motels and inns. This high density development houses seasonal, temporary and permanent residents, and is found largely in the western part of West Water Street. The units are all of 20th century design and construction, and are designed to take maximum advantage of water views and access. These areas tend to have an atmosphere of privacy and seclusion, using limited access driveways, landscaping which screens activity from the public roadways, and water access restricted to residents.
10. Institutional Character Areas - include schools, churches, meeting halls, retreat centers and museums. These institutions are often located in adaptively-reused structures, such as Cor Maria (the former Havens Estate), and the Whaling Museum (the former Benjamin Hunting house); others are custom built for their purpose, such as the library, firehouses and most of the churches. These buildings are scattered throughout the historic district and the waterfront area, and are important as publicly accessible historic buildings.
11. Agricultural Character Areas - There is one site, the Cilli farm located on Glover Street, which maintains the qualities of its prior use as a dairy farm, including barns, fields, outbuildings and equipment. As agriculture was not historically common in Sag Harbor, the surrounding areas of Bridgehampton and Sagaponack being more suitable for farming, this singular site is unique and retains badly needed open space within the Village.

(f) Views/Visual Access Points

Because of the high level of public ownership, open space, and accessibility of the waterfront, good views toward the bays and coves are quite common. In fact, a large number of residents enjoy water views from their residences, and also from their places of work.

The view of the Village is linked with the water. The temporary visitor will most likely first see Sag Harbor in relation to the water, whether arriving by boat, the North Haven/State Route 114 Bridge, the Bridgehampton/Sag Harbor Turnpike, or County Route 60 (Long Beach). The irregular coastline which consists of inlets and developed and undeveloped shoreline combines with the built environment and trees to produce a complex picture. Sag Harbor "sits" in its environment, with neither the built nor natural environment dominating.

Visual access to the water from the Village is available at a great number of locations. Photographs seen on the following pages depict views from Long Wharf, Marine Park, Otter Pond, Redwood, and Windmill Park. These views include manmade features in the foreground, and marine and natural features in the middle and backgrounds. (Viewpoints are shown on [Figure 8](#); accompanying photographs are in Appendix F).

2.4 SUMMARY: ANALYSIS OF ISSUES, PROBLEMS AND OPPORTUNITIES

A. LAND USE AND ZONING

Development Potential

- **Cor Maria.** Cor Maria is a 16.7-acre Roman Catholic Church retreat which lies between Haven's Beach and the WF Waterfront Zoning District. It has more than 1,600 linear feet of shoreline on both the active harbor and Sag Harbor Bay. The breakwater structure that protects the harbor area extends from the shoreline of the Cor Maria property. Although no change is anticipated in the use of this property, if it should become available for reuse, it would have a significant impact on the entire Village and its character. This property is zoned for residential use and could yield an estimated 30 dwelling units.

In an effort to preserve the quality and character of the historic Cor Maria property - if the Roman Catholic Diocese should decide to sell this property - the Village should manage redevelopment of the site in congruence with zoning standards.

- **Cilli Farm.** This 8.97-acre property, located along Glover Street and Long Island Avenue, is referred to as "the Cilli Farm." This presently undeveloped property was previously a working dairy farm. It is zoned as R-20 One-Family Residence.

The Village is pursuing alternatives to maintain the property as open space.

Underutilized and Deteriorated Sites

A number of deteriorated and underutilized sites have been addressed since the first LWRP was adopted in 1986: Long Wharf has been reconstructed; Bay Street and West Streets have been repaved and rebuilt; a tourist information center has been established at Windmill Park; Marine Park has been renovated; Haven's Beach has been upgraded; the Village's business center has improved parking, and various landscaping improvements have been made; additional overnight accommodations in the Village are now available; water quality in Upper Sag Harbor Cove has been improved; and a portion of the Mobil Oil property has been acquired and improved as a park and parking area. Deteriorated and/or underutilized sites which remain and require attention are as follows:

- **Bulova Watchcase Factory Building.** The Bulova Watchcase Factory Building is a four-story, 80,000 square-foot, brick building. It is vacant, but considered to be in very

good condition. It is a locally designated historic/cultural landmark building, located within the Sag Harbor National Historic District. The Village approved an adaptive reuse of the building - to residential condominiums in the early 1980s. The capacity of the sewage treatment plant has been expanded to accommodate these condominiums, among other anticipated uses.

The Bulova Watchcase Factory site has undergone remediation to mitigate soil and groundwater contamination problems resulting from the former use of the site.

Water Use Districts

The waters around Sag Harbor are heavily used by both recreational boaters and commercial water craft. The high intensity of use in certain areas has caused conflicts in waterway usage (including dockage, moorings and anchorage), and navigation. The Sag Harbor shoreline has areas devoted to harbor use, residential areas, and other natural shorelines. Environmental quality requires that the shoreline area be managed in a manner which directs development, human activity, and shoreline hardening activities to the harbor area, and guides development away from environmentally sensitive lands.

Local regulatory standards and guidelines to be applied along the shore and to govern surface water uses are identified in Section 6 of the Village's Harbor Management Plan (1996). They address the physical design of structures and maintenance of navigational infrastructure, as well as use of surface waters. These standards have been adopted as an amendment to Chapter 53 (Waterways).

Using the powers granted by the State - to regulate construction up to the shoreline, and surface waters extending 1500 feet beyond - the Village can implement many of the harbor management concepts put forth in the Harbor Management Plan. Planning concepts which are not implemented through local legislation should be used by the Village to guide future efforts and to support responses provided the Towns of Southampton and East Hampton on their respective land use decisions about underwater land use within the Village's harbor.

A set of standards which should apply in all water use districts is put forth in the Village's Harbor Management Plan. These will serve generally to protect water-dependent uses, navigation utility, and environmental quality. The plan also puts forth more specific standards to guide development in each of the water use districts, in a manner which is both compatible with historic development trends and appropriate to environmental characteristics.

Water use districts are necessary to define appropriate surface water activities and to promote shoreline management in the Village of Sag Harbor. Identified on [Figure 3](#), in order of use intensity, these are: *Harbor District*, *Low Intensity District*, and *Conservation District*. A fourth water use district, the *Preservation District*, is recommended for ultra environmentally sensitive areas.

A premise of harbor management is that surface water use should be related to environmental characteristics, land use and navigational patterns. The *Harbor District*, for example, is the appropriate center for boat fishing, boating, and shellfishing for market purposes (known as "secondary contact recreation"). It is not a suitable area for human water sports such as swimming, diving, water skiing, and surfing ("primary contact recreation"). Primary contact recreation, in addition to secondary contact recreation, can be accommodated in the *Low Intensity* and *Conservation Districts* - provided safety and harbor management standards are enforced. Only unmotorized human water sports would be appropriate surface water uses for the *Preservation District*.

The *Harbor District* is best suited for accommodating high concentrations of water-dependent uses along the Sag Harbor waterfront. Water-dependent uses are defined as activities requiring a location in, on, over, or adjacent to, coastal waters because the activities require direct access to the water. Uses with the highest degree of dependence on waterfront access for navigation include commercial activities that require water depths to navigate, such as marinas, turning basins and docking facilities. Under the standards, preference will be toward water-dependent uses in areas that have been previously developed and do not exhibit significant natural resource values. Shoreline hardening to protect water-dependent uses is appropriate in the *Harbor District*.

The *Low Intensity District* serves as a transitional area between more intensive harbor uses, and conservation areas. The district is appropriate for residential waterfront uses, sited in a way which protect and promote public access opportunities. More intensive water-dependent uses such as marinas - appropriate for the *Harbor District* - are not appropriate for the *Low Intensity District* unless dictated by the unique siting requirements of a given use, and then only if all potential significant impacts are mitigated. Shoreline hardening should be limited to locations above the mean high water line and should only be utilized after all other nonstructural alternative erosion control protection methods have been exhausted.

▶ **The Village recommends that structures in waters be limited to the lesser of 60 feet in length, or 4 feet in depth in the *Low Intensity District*.**

The *Conservation District* is intended to support sensitive environmental resources and habitats. Construction in this area should avoid disturbance of natural shorelines. Projects which protect and enhance beaches, nearshore, bars, spits, wetlands, and other natural protective features shall be promoted. Shoreline hardening should only be used when no other practical design consideration is suitable, and only when essential to protect principal upland structures. Practical nonstructural vegetative measures should be used initially.

▶ **The Village recommends that structures in waters be limited to the lesser of 60 feet in length, or 4 feet in depth in the *Conservation District*.**

▶ **Preservation District. A *Preservation District* is recommended for areas which, because of their environmental character, deserve the highest protection from human**

activity. These areas proposed for the *Preservation District* include Round Pond, Otter Pond, Fore and Aft Pond, portions of Ligonee Brook and Little Northwest Creek. Only passive recreation activities, such as walking and viewing, should be allowed. The Village recommends that construction of shore hardening structures in the *Preservation District* be prohibited.

B. PUBLIC ACCESS AND RECREATION

The Village has the opportunity to expand and improve municipal facilities and public access by implementing infrastructure improvement projects and land use regulations. The ability of the Village to improve recreation facilities depends upon the human and financial resources available. The Village will continue to solicit grant support, donations and assistance from outside organizations (e.g., Suffolk County, nonprofit agencies, private owners) to upgrade public recreation facilities.

Parks

The Village of Sag Harbor owns four parks/recreation facilities: Haven's Beach, Windmill Park, Marine Park, and the Long Wharf. They are all located on or near the harbor. Long Wharf is owned by the County, and managed by the Village. Cumulatively, these facilities provide a considerable amount of waterfront access and recreational activities to the public.

▶ **Zoning.** Haven's Beach is zoned for residential use. Marine Park, Windmill Park and the Long Wharf are zoned for waterfront use. To insure that park lands will remain as public recreational and open space, the Village should rezone Haven's Beach, Marine Park, Windmill Park and Cove End Park to an open space/recreation classification. Conservation lands owned by the NYSDEC on Little Northwest Creek would also be appropriate for this classification.

● **Windmill Park** encompasses approximately 1.9 acres of shore front area that extends along both sides of the Sag Harbor/North Haven bridge abutment. A tourist information center, operating in the summer, is the only building on the property. It is housed in a windmill structure in the southeast corner of the park. Several benches and a single picnic table are situated on the east. The west is undeveloped and essentially unused. There is no direct connection between the two sides of the park. Minor additions, such as landscaping and walkways and benches, would significantly improve the park. [The State Department of Transportation proposes to reconstruct the North Haven/State Route 114 Bridge (scheduled to begin construction in the spring of 1999). Accessibility concerns could be discussed, with potential improvements made at such time.]

Boat Ramps

The Village has three, public boat ramps which access the bay. Each is in need of repair.

- **Marine Park Boat Ramp.** There is a concrete boat launching ramp at the Marine Park boat basin (see Figure 4) which provides access to the bay. This ramp is heavily used by baymen and recreational boaters, particularly in the summer. It is beginning to crack and subside, and the culvert located to its immediate east is collapsing.

- ▶ **The Village should repair this public boat ramp, and pursue project funding opportunities as they become available.**

- **Boat Ramps off John Street and Amherst Street.** These two boat ramps provide access to the Sag Harbor Cove Complex. They need to be improved for recreation and to address water quality problems (as discussed in the water quality section). The ramp off John Street provides access to the southeastern end of Upper Sag Harbor Cove. It is regularly used by fishermen and baymen. The second ramp - located on Inner Sag Harbor Cove on the Redwood peninsula, at the terminus of Amherst Road - provides access to Inner Sag Harbor Cove. Both ramps are unpaved, and through years of use have developed ruts and small swales which hinder launching and convey runoff and sediment into the cove.

- ▶ **Ramps need regrading. Large-size gravel should be installed that will stabilize the ramps, make the launch process easier, prevent sediment from entering the bay, and retain a permeable surface to permit continued percolation. In addition, small berms should be constructed at the top of each ramp, near the road, to prevent surface runoff from traveling down the ramp.**

Street Ends

There are three street ends in the Sag Harbor Cove Complex that provide public access to the waterfront: Yale Road, Notre Dame Road and Dartmouth Road. Selected street ends could be improved to provide better public and visual access to the waterfront.

Pedestrian Circulation

Bay Street and West Water Street, along with a short length of Long Island Avenue, are the Village's waterfront roadway. The development of their frontages and street scape - as they relate to each other and the waterfront - is disorganized, inconsistent in character and, in some instances in poor condition. This area, along with the area of Long Wharf, presents an outstanding opportunity to further improve both the environmental and economic qualities of the Sag Harbor waterfront.

Although Sag Harbor has both an attractive waterfront and a wonderful collection of historic buildings, ease of access, for tourists and other visitors, could be improved. As reported in recent years, approximately 4,800 tourists arrive each year by ferry - all pedestrians. Their enjoyment of Village resources can be substantially enhanced by better guidance and easily discerned pedestrian routings. The objective is to provide a well-

connected pedestrian access system that lends itself to self-guided tours through the Village waterfront and business center.

Many others come to Sag Harbor Village by automobile. Searching for a parking space adds to the congestion in the Village business center streets during the peak season. Finding a place to park is only the first step toward a successful visit. They must become pedestrians to really enjoy the beauty of Sag Harbor.

An important prerequisite in developing this opportunity is the planning coordination of public and private projects in such a manner as to achieve the greatest benefit for all. A major aspect of this is the opportunity to develop a continuous shoreline pedestrian walkway linking the various waterfront elements and also linking the waterfront with the Village business center and the major historic sites in that vicinity. One problem in considering this shoreline promenade is the lack of a well balanced pedestrian circulation pattern which would connect the promenade's extremities with the middle and southerly sections of Main Street in the Village business center. Encouraging walking would tend to decrease the automobile congestion problem in the center.

Underwater Land Grants

The State of New York Office of General Services (OGS) issued seven grants to various upland property owners for underwater lands in the Sag Harbor area. These grants were issued between 1845 and 1968, and in most of these cases these lands consist of upland properties or portions of the upland that were formerly underwater lands that have been filled in. Research into the status of these seven grants has revealed that all of the grants were issued with full interest given to the grantee. Unless the upland was sold to another party or surrendered to the State, ownership of the underwater lands remains with the original grantee; otherwise, the lands belong to the current upland owner. With the exception of a grant issued to the East Long Island Pottery Company in 1882, which was never utilized, the underwater land grants in Sag Harbor are all accounted for.

There are three waterfront properties that have been developed that do not have grants from the OGS. These include:

- the underwater lands that contain the Waterfront Marina owned by Malloy Enterprises;
- the former underwater lands that comprise the Marine Park property, which is owned by the Village of Sag Harbor; and
- the underwater lands and small upland area of the Sag Harbor Yacht Club property.

► **Grants/consents/leases for these lands should be obtained from the State. The Village should urge the State Office of General Services (OGS) to be specific and restrictive regarding the use of the underwater lands in the permit to insure the**

grants/consents/leases serve to prevent future uses and activities that may be inappropriate for waterfront locations.

► In addition, the Village of Sag Harbor was conveyed a portion of the underwater lands originally granted to the Long Island Rail Road (LIRR) in 1888 - when the existing Sag Harbor/North Haven bridge was constructed. Based on records provided by the Office of General Services, the LIRR still owns those underwater lands. The Village has suggested to the LIRR that the lands be given back to the State.

C. VESSEL USAGE AND WATERWAYS

Sag Harbor is a popular location for recreational and commercial boaters. During the summer boating season, the *Harbor District* is subject to extensive vessel traffic, particularly on weekends, as evidenced by data collected by the Village Harbormaster's office. Accordingly, vessel congestion occurs in a number of locations throughout the Harbor District. At some of these locations, congestion problems are heightened by localized shoaling.

In Sag Harbor, the area under the North Haven/State Route 114 Bridge tends to get congested due to the fact that the channel narrows just where there is a significant amount of vessel traffic created by boats seeking egress from and ingress to marinas and docking facilities in Outer Sag Harbor Cove. That area provides dockage for up to 385 vessels. The fueling dock at Sag Harbor Cove West Marina is another location of congestion in the Outer Cove.

Significant vessel activity occurs at the head of Sag Harbor, near Marine Park. The marinas and boatyard in this area provide dockage for approximately 225 boats. The Village anchorage area and the boat launch ramp can also accommodate a large number of vessels. As a result, during the summer, the head of Sag Harbor can become congested with vessels seeking to dock or head out into Sag Harbor Bay. Congestion also occurs where the channels meet in the harbor on the eastern side of Long Wharf, or by the docks on the west side of Long Wharf.

The Village's Harbor Management Plan evaluates waterway navigation and vessel use on the surface water bodies surrounding the Village of Sag Harbor. The plan addresses conflicts between surface water uses and harbor congestion. The issues and actions relevant to vessel use and waterways which serve to promote navigational safety and protect harbor infrastructure are summarized here.

Navigational Safety and Minimization of Conflicts

● **Enforcement of Waterways Regulation.** Jurisdiction with respect to over water vessel uses within the harbor complex is divided among the Village of Sag Harbor, the Village of North Haven, and the Towns of Southampton and East Hampton. Pursuant to Chapter 46A of the State Navigation Law, the Villages have the exclusive authority to regulate the over water use of vessels upon the waters that lie within 1,500 feet of their respective mean high water line. Additionally, in accordance with Section 130.17 of the New York State

Town Law, the Towns of Southampton and East Hampton regulate over water vessel use upon waters within their municipal boundaries, but not within the municipal limits of a village or the 1,500-foot area of water surface that extends from the mean high water line adjacent to incorporated villages. The Town of Southampton is responsible for the patrol of surface waters and enforcement of waterways regulations in Southampton Town waters. They include those portions of Outer and Inner Sag Harbor Cove lying outside of the Village's jurisdiction. Throughout the summer boating season, when recreational boating and other in-water recreational activities increase, the Town does not conduct regular patrols in this area due mainly to the fact that these waters are isolated from the main body of the Town's waters. In these areas, the Village Harbormaster can issue warnings to boaters in violation of waterways regulation but cannot issue citations or enforce Town law.

► **The Village of Sag Harbor should make an effort to cooperate with the Southampton and East Hampton Boards of Trustees regarding enforcement of common waters; The Village and Towns should each pass a local law to establish a cooperative agreement to allow the Village to assist with patrols in this area, and to transfer authority so the Village can enforce existing Town regulations.**

● **Docks.** The Harbor Management Plan notes that there are a number of docks located along the shoreline of Sag Harbor. Construction of private docks becomes an issue in areas where there is heavy vessel traffic, such as the harbor, because docks can worsen harbor congestion and threaten interference with navigation channels. They are also a concern in areas where there are significant natural resources.

Dock construction requires permits from the Village (and Southampton Town or State Office of General Services, depending on underwater land ownership). The Village should control the construction of docks. Dock construction should be directly connected with the character of the upland use. If the upland use is not water-dependent, then a dock should only be permitted to provide necessary access to reach navigable waters.

In the area west of the North Haven/State Route 114 Bridge, (designated as the *Low Intensity District*), where there is a narrow stretch of navigable waters between the land mass, water use activities have the inherent potential to conflict with navigation. Access through Outer Sag Harbor Cove is dependent on the maintenance of the existing navigation channel. Since the location of the channel in this area is fixed, the expansion of navigational access for private residential uses should not interfere or encroach on the navigation channel, nor result in increased vessel congestion.

► **The Village recommends that structures in waters be limited to the lesser of 60 feet in length, or 4 feet in depth in the *Conservation District*.**

Infrastructure

- **Breakwater Repair.** The breakwater that separates Sag Harbor from Sag Harbor Bay acts to shelter the harbor from the open waters of the bay, reducing the impacts of wave action generated in the bay. The breakwater was constructed in 1908 and rehabilitated in 1963. It is once again in need of repair. In the past thirty years, this structure has succumbed to gravitational settlement and wave-induced shifting of the rocks. Some of the supporting stones have fallen off. The effectiveness of the breakwater has been dramatically reduced to the point that even during moderate storms, especially northeasters (which drive waves directly against the breakwater), surging waves overtop the breakwater. The Army Corps of Engineers has conducted a field visit to assess rehabilitation needs, and determined that it needs to be rebuilt.

- ▶ **The breakwater should be rebuilt. Reconstruction proposals should consider height - appropriate to conditions.**

- **Dredging.** Water-dependent uses in Sag Harbor rely upon the navigational access infrastructure that has been established. Some of these channels have not been dredged since they were first established. In addition, there are areas situated outside of the delineated channels (including the western side of the breakwater, the anchorage area west of Long Wharf, and the area in the vicinity of the north end of the Long Wharf), that are in need of dredging to mitigate shoaling and water depth problems. [Refer to Policy 5.2, and the Village Harbor Management Plan.]

- ▶ **Dredging is an important activity with costs and impacts that require it to be undertaken to meet the current and future needs of water-dependent uses in the Harbor District. Dredging activities undertaken east of the North Haven/State Route 114 Bridge should be continued to the ten-foot depths initiated by the Army Corps of Engineers. West of the bridge, access channels should be maintained at sufficient depths (four feet below mean low water) to meet the needs of existing water-dependent uses.**

- ▶ **In 1960, the Suffolk County Department of Public Works (SCDPW) constructed an extensive navigation channel through Outer Sag Harbor Cove. This channel extends west from the North Haven/State Route 114 Bridge to the head of Paynes Creek. In 1965, this channel was extended south through Inner and Upper Sag Harbor Cove. The area in the vicinity of Marine Park was dredged in 1977, and the Village A and B Docks area was dredged in 1979. The analysis conducted as a part of development of the Harbor Management Plan determined that the portion of the main channel that extends from the North Haven/State Route 114 Bridge west to the Big Narrows, including the spur for the Village docks and the spur to the Ship Ashore Marina and Redwood Boat Basin, should be maintained in the public interest. That portion of the main channel that extends into Paynes Creek and the Inner and Upper Cove areas should remain as a designated channel, but no longer be publicly**

maintained, except in extreme circumstances -- this area is more appropriately a small craft area.

▶ The SCDPW has not conducted any maintenance dredging of the channels and basin in the Sag Harbor Cove/Bay Complex since they were originally established. The SCDPW has indicated that they have not received any formal requests for dredging from the Village through the Towns of East Hampton and Southampton, and are unaware of localized shoaling conditions or current dredging needs. Furthermore, with the exception of permit applications that were filed in 1990 for the dredging of a spur from the main channel to the Redwood boat basin at the Ship Ashore Marina in Outer Sag Harbor Cove, all dredging permits for Sag Harbor projects have expired. The administrative process for initiating County-sponsored dredging in local waters is a lengthy one, made worse by the time required to secure the necessary state and federal permit approvals. **The Village should promptly advise Suffolk County of their dredging needs so that the County may commence the application process and facilitate dredging where required.**

▶ There is a **navigation channel and turning basin** located within the **Sag Harbor area** that was originally dredged by the Army Corps of Engineers (ACE). This channel, which has not been dredged since it was constructed in 1937, was de authorized by the ACE in 1992. The Village is responsible for the placement and maintenance of navigational aids in this area. However, although this channel has shoaled and requires dredging, the federal government is no longer responsible for the dredge maintenance. Therefore, **the Village must either: 1) request that the ACE reauthorize this navigation channel; 2) request that the SCDPW add this channel to their list of dredging projects that are in the public interest; or 3) directly arrange for the private maintenance dredging of this channel.**

▶ **Shoaling** is impacting the **anchorage area in the harbor near the breakwater and the Long Wharf**. Shoaling is occurring along the western side of the breakwater, particularly near its intersection with the shoreline. This has restricted use of portions of the anchorage area located between the channel and breakwater to shallow-draft vessels. Shoaling is **also a problem in the small anchorage area west of the Long Wharf**, where reduced bottom depths make the area accessible only to shallow-draft vessels. Dredging would reestablish these mooring areas and improve navigation. **Both should also be added to the County's dredging list for the Sag Harbor area.**

▶ The NYSDEC is taking a closer look at all new dredging projects (those areas that have not been dredged within the past 20 years are considered new projects). New projects are not likely to receive approval unless an overwhelming public need can be demonstrated and the issue of acceptable dredge spoil disposal methods and sites can be addressed. In the past, dredge spoils were disposed in upland areas in the vicinity of the Redwood peninsula; Haven's Beach was utilized for the disposal of spoil materials from the Marine Park dredging site. Disposal of dredge spoils in these areas is no longer feasible because these areas are either residentially-developed, in close proximity to residential development, or (in the case of Haven's Beach) used for active public recreation. There

are no upland areas suitable for dredge spoil disposal in the Village. Therefore, **spoil materials generated from future dredging projects would likely have to be removed from the project site and disposed of at a suitable location outside of the Village.**

D. WATER RESOURCES

Water resources in the Village include surface water and ground waters. Their quality is impacted by point pollutants and nonpoint sources. Water quality problems of the Peconics, including Sag Harbor Cove and Sag Harbor Bay, are the focus of attention of various levels of government.

The Peconic Estuary Program (PEP) is a study of these problems by the local, County, State, and federal governments. The Peconic Estuary Program also focuses on such problems as the occurrence and persistence of brown tide and other especially destructive algae blooms, and the wide variety of nonpoint sources. The water quality of Upper Sag Harbor Cove is being monitored for two years as a part of the Peconic Estuary Program. The PEP has identified Sag Harbor Village as a *priority subwatershed* for analysis and management.

The United States Geologic Survey has commenced activities to assess groundwater underflow quantity in the area. The Suffolk County Department of Health Services, Division of Environmental Quality, will also be monitoring groundwater and surface water quality, evaluating pollution inputs to surface waters, and working with Department surface water quality modelers to support the development of management recommendations for the area.

Federal and State stormwater discharge permit programs are also a major undertaking for reducing the effects of point source pollutants on water bodies. In the State of New York this is accomplished through the administration of the State Pollutant Discharge Elimination System ("SPDES") program.

Point Sources

The principal point sources of pollution affecting waters in the Village of Sag Harbor are the Village Sewage Treatment Plant, marinas, stormwater discharges, and vessels. They are discussed in the following paragraphs:

- **Sewage Treatment Plant.** Sewage flow is presently discharged into Sag Harbor. Expansion of the sewage treatment plant to treat increased sewage flows and projected sewer flows. The treatment process would be upgraded to provide tertiary treatment of all sewage flows - to remove nutrients from the sewage flow that are presently discharged into Sag Harbor.
- **Marinas.** Marinas can contribute significantly to the concentration of pollutants in the water column, bottom sediments, and tissues of benthic organisms living within the limits of the marina itself. Pollutants from marinas and recreational boating may enter the water through discharges from boats, spills, maintenance areas, stormwater runoff and vessel operation. The types of pollutants often associated with marinas and recreational boating

activities include: organic materials discharges from recreational boats; toxic heavy metals associated with boat maintenance and repair operations at boatyards and marinas; petroleum hydrocarbons from refueling activities and bilge or fuel discharges from boats; fecal coliform bacteria; and, disruption of sediments and habitat from boat operations and dredging.

Point sources of pollution from marinas are primarily handled through the NYSDEC general permit for industrial activities, which applies to marinas. To receive a NYSDEC permit, marina operators are required to develop and implement comprehensive stormwater management plans and controls, and monitor runoff and pollutant discharges.

- **Stormwater.** The impacts of stormwater discharge on surface water quality can be mitigated to a large degree by the implementation of structural control measures (e.g., catch basins, leaching pool systems, and retention basins), which serve the multiple purposes of storing a specific volume of stormwater - allowing the stored water to be recharged to groundwater, and creating conditions by which sediment particles can settle out of suspension. The sedimentation function of stormwater management structures is particularly important, since most contaminants (including coliform bacteria) associate with fine-grained sediment particles. Sediment is removed from the stormwater, along with a large fraction of the associated contaminants. To keep these structures functioning, maintenance involving the removal of sediment is critical.

The Village currently applies site plan review procedures to marinas and other nonresidential land uses to assure the adequacy of such site improvements as surface drainage and on-site surface water disposal. The Village's commitment to protecting coastal water quality is also supported by the WF Waterfront Zoning District and MA Marine Zoning District -- where marinas and yacht clubs may not adversely effect adjacent tidal waters.

- ▶ **Haven's Beach is bisected by a drainage ditch which outlets to Sag Harbor Bay.** This ditch carries stormwater runoff collected along Bay Street and Hempstead Street - the runoff is conveyed into this ditch without pretreatment to remove pollutants. Stormwater runoff can contain a high degree of contaminants, particularly the "first flush" that is collected at the onset of a storm event. **Development of a wet detention system, or other stormwater mitigation measure, would reduce the pollution contributed by the drainage ditch.** Preliminary designs of alternative improvements are underway. The Village will require funding to implement the project and should pursue all feasible opportunities.

- **Vessels.** Vessel discharges can cause water quality problems. The discharge of these sewage wastes from boats can degrade water quality by: introducing microbial pathogens to surface waters; and locally increasing biological oxygen demand. Due to the high concentration of marine vessel activity (three marinas, one boat yard and two anchorage areas) and the location of the sewage treatment plant outfall, the entire area located inside the breakwater (Sag Harbor) is closed to shellfish harvesting by the NYSDEC on a year-

round basis. In addition, the NYSDEC has identified two specific areas in the harbor complex that are of a concern with regard to the potential contamination of shellfish beds due to seasonal water quality degradation and/or vessel discharges. These include the easterly portion of the Outer Sag Harbor Cove, and the waters in the Redwood boat basin. The NYSDEC has indicated that concentrated sewage discharges from vessels in these areas have the potential for the localized contamination of the underlying shellfish beds.

► To address the impacts associated with vessel waste discharges, **the Sag Harbor Cove/Bay Complex - west of the breakwater - should be designated by the State, by State statute, as a vessel waste "no-discharge zone."** The advantage of this designation would be to prohibit the discharge of sewage from marine toilets within the bounds of the harbor complex, and requires that vessels being used on these water bodies have their marine sanitation devices secured so that wastes from the marine sanitation devices cannot be readily discharged into those waters. This would be enforced by any police officer or peace officer acting pursuant to their special duties, including State Police, Environmental Conservation Police, State Park Police, Navigation Inspectors, and local Police Officers and Harbormasters. Although federal law prohibits the discharge of untreated sewage within three miles of the shore, treated sewage may be discharged inside this boundary and the U.S. Coast Guard has the sole responsibility for enforcement. The Village would enact a local law, should it be designated.

Installation of additional vessel pump-out facilities - especially in the Outer Sag Harbor Cove area - will support the "no-discharge zone" designation. **The New York State Clean Vessel Act Plan, August 1996, recommends that one additional pump-out facility be installed west of the North Haven/State Route 114 Bridge.**

● **Reclassification of Water Quality.** Water quality in the *Harbor District* is now classified as *SA* - which is the highest ranking for surface waters - indicating that waters are suitable for shellfish harvesting for market purposes, and primary and secondary contact recreation (i.e., boating, swimming). In actuality, the shellfishing and recreation potential of the area is limited because of the sewage treatment plant outfall, marinas, and anchorage areas located in the harbor. Because of these influences, 155 acres of underwater lands in the *Harbor District* (situated between the North Haven/State Route 114 Bridge and the breakwater) are uncertified by the NYSDEC and closed year-round to shellfish harvesting. In addition, in accordance with the National Shellfish Sanitation Program (described in the Village's Harbor Management Plan, Section 5.6.B and Appendix A), a seasonal closure area must be maintained around marinas to mitigate potential contamination problems.

► **The NYSDEC should reclassify surface water in the *Harbor District* to reflect actual water quality conditions.** The activities and land uses impacting the surface waters of the *Harbor District* will not change in the future. **The water quality classification for this area should be changed by the NYSDEC from *SA* to *SB* to reflect actual conditions.** [*SB* waters are considered suitable for primary and secondary contact recreation and any other use except the taking of shellfish for market purposes.]

● **Rowe Industries.** The Rowe Industries groundwater contamination site - located in the Town of Southampton - was listed on the Environmental Protection Agency's National Priorities List in July 1987. In 1988, a Consent Order was to conduct a Remedial Investigation/Feasibility Study to evaluate the exact nature and extent of site contamination. A preferred alternative was selected after public comment, and in September 1992, a Record of Decision (ROD) was signed for the site - to begin the remedial design and implement the proposed remedial action.

The remedial action for the Rowe Industries, Inc. Superfund Site will remove volatile organic compounds (VOCs) from the groundwater by pumping it through a series of extraction wells located on-site and in the contaminated groundwater plume. The contaminated groundwater will be conveyed from the extraction wells by underground piping to air-stripping equipment located on the site. Although the actual site is located outside the Village, the treated groundwater will be discharged to Sag Harbor Cove (by way of Ligonee Brook) through a diffuser, via a discharge pipe from the site. The diffuser will extend into Inner Sag Harbor Cove and be placed on the sediment surface. Before pumping of the groundwater begins, contaminated soils will be remediated and disposed of in accordance with all applicable federal and State statutes.

Throughout the life of the remedial action, monitoring of surface and groundwater conditions will be conducted to ensure that pumping and discharge activities do not cause significant adverse effects to nearby surface water bodies and wetlands. Baseline studies will be conducted prior to the remedial action. During the remedial action, monitoring of the condition of surface water, groundwater and the ambient air will be conducted in order to ensure that the remedial action is protective of human health and the environment. Once the clean up action levels are achieved, the air strippers, diffuser, and above ground features of the remedial action will be removed and the ground surface and bay bottom returned to conditions similar to that which existed prior to the remedial action.

Nonpoint Sources

The significant categories of nonpoint pollution impacting the ground and surface waters of Sag Harbor are fertilizers, failing on-site sewage disposal systems, waterfowl wastes, and roadway runoff.

● **Fertilizers.** Several waterfront residences in Sag Harbor have expansive lawns and ornamental plants that require fertilization. Fertilizers contain nitrates and phosphates that, in abundance, cause algae blooms. Since fertilizers constitute one of the largest sources of nitrogen applied to the land surface, they are also a significant potential nonpoint source of ground and surface water contamination.

► **Public education should continue, and regulation may be employed to limit or possibly eliminate the use of all or specific types of fertilizers.** Best management practices could include modification of application rates, discontinuance of reliance on fast-acting inorganic fertilizers, and promotion of low-maintenance lawns, which would require

both less fertilizer and less consumptive use of water. The use of natural vegetation and restricted usage of common garden fertilizers and pesticides would also be desirable. Slow-release organic fertilizers, wherever fertilization is necessary, would have a lesser impact. These measures could be described in a publication, such as a brochure, and distributed to Village residents. [E.g., *Save the Peconic Bays, Inc.* published a booklet that provides general information on water pollutants and offers rational actions to lessen negative impacts.]

- ▶ **Adopt-A-Stream.** A volunteer program should be established that would enable an individual or group to adopt a stream, pond, or length of shoreline. Each "adoption case" would consist of an initial evaluation of existing conditions and potential problems. The responsible individual or group by clearing their adopted water body by picking up trash and other debris at least twice a year, and paying attention to any negative and potentially destructive influences.

- **Failing Sewage Disposal Systems.** When not properly maintained, sewage disposal systems can cause contamination of surface and groundwater resources. Failing septic tank waste disposal systems can present a serious problem that is difficult to pinpoint through direct observation.

- ▶ **In order to identify faulty on-site sewage disposal systems in the vicinity of Otter Pond and Upper Sag Harbor Cove, a dye-testing program should be conducted.** The Village should investigate sources of funding, possibly in conjunction with the Suffolk County Department of Health Services, to establish a dye-testing program that would allow for the testing of systems in the area of concern, and provide financial incentives to enable local homeowners to upgrade failing systems.

- **Waterfowl Wastes.** Waterfowl waste contaminates water with pathogens and nutrients. The quality of water in Otter Pond, particularly, has become severely degraded as a result - in part - of a large resident waterfowl population. The Sage Foundation, the entity that owns the Otter Pond property, conducts an ongoing program to improve the foreshore so that pollutants are filtered before entering the pond.

- **Roadway Run-Off.**

- ▶ **Priority capital projects and the development of design standards for roads and bridges would be the important means of addressing urban nonpoint pollution from roads, highways and bridges. Runoff management systems should identify priority pollutant reduction opportunities and schedule implementation of retrofit projects to protect impacted areas and threatened surface waters.**

There are two boat ramps contributing sediment to the Sag Harbor Cove Complex that require improvement (also discussed under *B. Public Access and Recreation*): the boat launch ramp located on the Redwood peninsula, at the terminus of Amherst Road, and the ramp located off John Street, at the southeastern end of Upper Sag Harbor Cove. Boaters

maneuver trailers down these moderately sloped ramps to the water. Through years of use, these sites have developed ruts and small swales that convey roadway runoff and sediment directly into Sag Harbor Cove. The runoff can be reduced by upgrading the surface conditions of these ramps.

► **Both the Amherst Road and the John Street ramps will be regraded and large-size gravel will be spread that will stabilize the ramps, preventing sediment from entering the bay, and retaining a permeable surface to permit continued percolation. In addition, small berms will be constructed at the top of each ramp, near the roadway, to prevent surface runoff from traveling down the ramp. At Amherst Road, the runoff will be conveyed from the berm into a storm grate that is connected to a leaching pool. At John Street, the runoff will be directed into the drainage structure that rings the John Street wetland, rather than conveying it directly into the adjacent outlet stream that connects the pond to Upper Sag Harbor Cove. These upgrades will be instituted without significant cost to the Village, with grant assistance from the *Peconic Estuary Study*.**

E. FISH AND WILDLIFE

The following sites are either estuarine water bodies or wetland systems that have been impacted. These areas have not been designated by New York State as Significant Coastal Fish and Wildlife Habitats, but are locally important. The reasoning behind presenting this information is to outline ways in which the Village and private citizens can preserve and restore these degraded habitats.

● **Sag Harbor Cove Complex.** Water quality in this system is somewhat degraded. One major cause of degraded water quality in Sag Harbor Cove is due to input of untreated roadway runoff. For example, significant quantities of stormwater enter the Upper Cove from the northern end of CR 60 (Noyack - Long Beach Road). At this location, there are at least four points where runoff is channeled directly into waters of the Cove. These gross runoff points should be addressed by the County. Additionally, there is a major source of road runoff entering the Paynes Creek area from the residential area west of Noyack Road. This source of contamination is being addressed by the Town of Southampton.

Another reason for degraded water quality has been the loss of most of the original wetland fringe from the perimeter of the Cove. Construction of shoreline stabilization structures, docks and the deposition of dredge spoils has reduced the total salt marsh area in this system, incrementally, and prevented the retreat of wetland habitats inland as the sea level rises.

● **Otter Pond/Upper Sag Harbor Cove.** Otter Pond and its surrounding land has been severely degraded as a result of decreased tidal flushing, roadway runoff, public access and a large resident waterfowl population. As a result, the pond contributes coliform bacteria to Upper Sag Harbor Cove and is aesthetically unattractive due to its denuded shoreline and algal laden water. Polluted water from Otter Pond, that flows into Upper Sag Harbor Cove, has contributed to the year-round closure of the southeastern end of Upper Sag

Harbor Cove to shellfish harvesting. The Sage Foundation has an ongoing program to improve the foreshore, restoring the fringe of wetland grasses around the perimeter of the pond. This will aid in the filtration of pollutants entering the pond.

- ▶ **On-site sewage disposal systems in the vicinity of Otter Pond and Upper Sag Harbor Cove should be monitored to protect against potential failing.**

Wetlands

- **Round Pond and Ligonee Brook.** It is imperative that the freshwater features of Round Pond and Ligonee Brook be protected by suitable regulation and preserved, wherever possible, by the rigorous application of preservation strategies including acquisition, easements, reserve area and dedication and setbacks. The system of elements should be treated as a whole in any future management plan.

- **Wetlands Regulation.** The Village regulates development in wetland areas under local law: Bulkheading, Dredging, and Canals {Chapter 12}. This law regulates, by permit, dredging or filling and the construction of canals, bulkheads, and other shoreline structures that may impact tidal wetlands (located above mean high water). The law is not comprehensive, however, because it does not protect all wetland resources. In particular, the law does not address impacts from upland development activities. The Village contains a significant number of freshwater wetland areas and extensive areas of tidal marsh throughout the Sag Harbor Cove Complex. These wetland resources warrant stronger protection, and the NYSDEC, under Articles 24 and 25 of the Environmental Conservation Law, cannot be fully relied upon to protect wetland resources.

- ▶ **The Village should adopt a separate wetlands law that more specifically outlines provisions for activities that may impact all wetlands - tidal, freshwater, and brackish.** This law should contain a narrative that recognizes all three categories of wetland; outlines the significance of protecting these resources; and delineates where protected resources are found within the Village. This law should also outline the full realm of activities that should be regulated in order to protect wetland resources. The wetlands law would also contain some standards to implement the provisions of the *Conservation and Preservation Water Use Districts*. It would specify the necessary setback requirements and structural limitation applicable in these districts. [A copy of the draft Wetlands law is contained in Appendix B.]

- **Wetlands of Otter Pond.** Upland slopes adjacent to Otter Pond should be maintained in as natural a state as possible, with little fertilization. Additionally, Otter Pond has had most of its protective fringe removed. The area to the east of the pond still provides filtration and stabilization for the pond. A wetland restoration project at Otter Pond could restore the beauty, user benefit and quality of the pond. The Sage Foundation is working with Cornell Cooperative Extension - ongoing - to undertake a wetland planting around the perimeter of Otter Pond.

- **Wetland east of Glover Street and Cilli Avenue.** This area, locally referred to as the Cilli Farm, consists of a filled wetland site. Only a remnant ephemeral wetland pool remains to indicate where the original wetland was located. The fill has drastically altered the topography of the system and encouraged the invasion of weedy species such as common reed (*Phragmites australis*) and box elder (*Acer negundo*). Most vegetation has been removed by discing, through farming activity; woolgrass (*Scirpus cyperinus*) is the only valuable wetland plant apparent on the site. Despite the damage, this area still supports numerous species of common amphibians and bird (Held, pers.com.).

- ▶ **Every effort should be made to restore this area to its original wetland habitat. The Village cannot afford to lose this system due to the limited number of freshwater wetlands remaining in the area. The Village is pursuing alternatives to maintain the property as open space. If possible, the site should be restored and either acquired or protected as open space in perpetuity.**

- **Fore and Aft Pond.** This system has been somewhat degraded by the activities of a developer that attempted to drain the system by excavating a large "drainage" hole (Held, pers. com.). However, the effects of this impact have not been entirely determined. Water levels have been lower in the system since this occurrence, but ascribing this to the excavation is complicated by normal fluctuations in seasonal precipitation.

- ▶ **The Village should make every effort to protect the site from further impacts and preclude development near this very fragile and valuable system. Additionally, the Village should consider restoring the system if significant negative impact is evident.**

F. HISTORIC RESOURCES AND OVERALL VISUAL QUALITY

Surveys

With the submission of the State and National register nominations in 1992, and the enlargement of the district at the local level, Sag Harbor has identified all of its historic resources. No additional surveys are anticipated. The inventory of properties within the historic district (approximately 1,200) has been entered into a data base which should periodically be updated as new information on properties becomes available. The data base is kept at the Village Clerk's office.

Local Preservation Efforts

Sag Harbor first adopted a local historic preservation local law in 1974. The more recent protection offered under *Chapter 55, Article XV - Historic Preservation and Architectural Review* grants broad regulatory powers to the Board of Historic Preservation and Architectural Review. This Board is "... charged with the duty of maintaining the desirable character of the village ... and exercising sound judgement and of rejecting plans which, in its opinion, are not of harmonious character because of proposed style, materials, mass, line, color, detail" Every application for a building permit for the construction, reconstruction, or alteration of a building or structure within the Village falls under the Board's purview. Demolition or removal guidelines are included - designed to especially protect buildings and structures within the Historic District, and designated historic or cultural landmarks.

The historic preservation local law was amended in 1988, when the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" were adopted as criteria to be used when reviewing plans relating to a property in the Historic District. The amendment allowed the Village to be named a *Certified Local Government (CLG)* in 1989. This program, established through the National Historic Preservation Act, is a nationwide program of financial and technical assistance to preserve historic properties. The naming of the Village of Sag Harbor as a *Certified Local Government* firmly commits Sag Harbor to the protection of its historic resources, in partnership with the State and federal governments. As such, the opportunities for a wide range of preservation projects for the future will enjoy local government support and guidance. Sag Harbor has benefitted from its *CLG* status in receiving grants to assist in performing the Reconnaissance and Intensive Level Survey of Historic Resources (1990/1991); providing training for the Board of Historic Preservation and Architectural Review (1990/1991); producing a training manual for the Board (1991); preparing the State and National Register Historic District nominations (1992); and, preparing brochures concerning Sag Harbor's Historic Preservation Program (1992).

There is constant pressure to further develop/redevelop areas of Sag Harbor, which lie within the Historic District. As the amount of open space within the district is limited, the projects usually involve alterations and additions to existing buildings. The Board sees that constant vigilance, work sessions between building permit applicants and the Board of Historic Preservation and Architectural Review, and cooperation with Village boards and staff members prove to be the most positive forces for preservation advocacy. The relationship with the Village Building Department is particularly critical, and has been useful in resolving some situations on an advisory and work-session basis. However, because of the nature of the Board and its function, preservation is seen largely as a method of controlling development and reacting to permit applicants. Opportunities exist, particularly in the Board's public education role, for preservation to be seen as a positive and pro active force in the community. The Board supports appropriate adaptive reuse of historic buildings, and has taken a lead in publishing information for owners of historic buildings to assist them in appropriate treatments and repairs.

In order to more fully protect the significant nature of Sag Harbor's historic resources, Article XV is further strengthened by the requirement of a "Certificate of Appropriateness." This is required of any building owner who seeks to alter a building exterior within the Historic District, regardless of the requirement of a building permit. In this way, the steady erosion of historic materials and details - that may occur without notice - comes under the same review process as more substantial building projects. Obtaining a Certificate of Appropriateness became a requirement in 1994.

● **Historic Maritime Community.** The Village was included in a study of Long Island Sound and Peconic Bay *Historic Maritime Communities*, conducted by the Department of State; Office of Parks, Recreation and Historic Preservation; and Department of Environmental Conservation during 1996. The study made recommendations regarding the protection and promotion of local maritime heritage resources - including the option that communities may prepare a Historic Maritime Community Plan. Elements of the plan would address developing local awareness of the resources, identifying and protecting resources, maintaining economic vitality, and sharing the community's maritime history. Upon approval of the plan by the Secretary of State and the Commissioner of Parks, Recreation and Historic Preservation, the Village of Sag Harbor would be designated a Historic Maritime Community. The plan would enable the Village to be eligible for assistance under the Department of State-Division of Coastal Resources, and the Heritage Areas Program (Office of Parks, Recreation and Historic Preservation). The Village is in an optimum position to prepare a Historic Maritime Community Plan, since many of the components that would be emphasized in the plan have already been introduced - in other programs.

The following projects should be pursued:

- **Provide outdoor signage which describes, illustrates, and illuminates historic and cultural sites and structures.**
- **Provide accurate historic information to merchants and vendors.**
- **Encourage festivals and celebrations which honor Sag Harbor's past.**
- **Coordinate activities of groups already engaged in interpreting local history to the public -- to make visitation to all institutions logical and progressive, including: Sag Harbor Historical Society/Jail; Old Whaler's Church/Burying Ground; Firehouse Museum; Whaling Museum; Custom House; and John Jermain Library Local history room.**
- **Redesign the existing "Village of Sag Harbor" map - to include information important to visitors: restroom facility locations; museum hours; and park and playground locations. The current map includes both private and public buildings, and gives no indication of which are accessible, or what they have to offer. The street names are unclear, and there is no scale, making the area unappealing to pedestrians.**
- **Design and erect interpretive signage: permanent, year-round signage located near parking areas that would inform visitors about the history and development of the Village.**

- **Design and set up a historic trail: using Village streets as the road map and guide, a painted line could lead visitors to the important sites in the Village. Combined with interpretive signage, the trail would become a self-guided tour.**

Character Areas

There are issues and opportunities within most of the character areas, which need to be addressed to enhance and preserve visual quality. The following provides a description of the issues and opportunities in each character area - many of the opportunities take advantage of the increased visual access to the water - due to the loss of 18th and 19th century structures.

(1) Marina Character Areas - Marinas are important to both the economic health and aesthetic enjoyment of Sag Harbor. Because there are few buildings which relate to marina activities, the views to the water around the marinas are particularly vital and worthy of preservation. Permanent structures which would impede this view should be discouraged.

(2) Marine Recreational Character Areas - This character area is important as it provides public access and use to the waterfront, not just to the view. Public amenities such as rest rooms, changing rooms and service buildings should be located discretely and away from the shoreline.

Long Wharf. While no original material survives its 18th century construction, the existing structure is on the same site as this first construction, and it is symbolic of the long time connection Sag Harbor has to the water and maritime industries. Recent rehabilitation of the wharf has stabilized its structural integrity. However, the visible portions - asphalt pavement, guard rails and minimal bench seating - all ensure that the wharf's primary use will be public parking. Even though the wharf is used as a mooring for the ferry to Connecticut, commercial tour boats, and any visiting commemorative vessel, the overall impression of the wharf is automobiles. The area between the guard rail and the unprotected edge of the wharf is too narrow for safe pedestrian use, yet all the benches are located in this area.

► **A design study should be undertaken which would propose feasible alternatives to the present use, and offer a more attractive space to be utilized by pedestrians, primarily, with less emphasis placed on vehicular use. An opportunity exists to restrict parking on the Long Wharf to the southernmost portion, and to create a park-like atmosphere with planters, seating and other amenities at the northern end. This could be an area for strolling and viewing waterfront activities.**

(3) Marine Natural Character Areas - These areas are best protected and left in their natural state, with extremely limited accessibility. Areas without development are becoming critical in giving wildlife a protected habitat in the increasingly densely populated Village. Marine Natural Character Areas are closely linked with the recommended *Preservation Water Use District*.

► **It is recommended that the Village and local land trust continue to acquire privately-owned property in these character areas when the opportunity exists.**

(4) Business District Character Areas - These non-maritime commercial areas are vital to the year-round economy of the Village. Protection to most of the business district is afforded by *Chapter 55, Article XV - Historic Preservation and Architectural Review*. Non-architectural elements, such as the pavement, curbing, trees, fences, parking lots, street lighting, benches, waste containers and street signage all contribute (or detract from) the character. The design of all such site amenities should complement the surrounding landscape.

Curbing. The Village has been experiencing a loss of historic granite curbstones for several years, as the deteriorated stones are replaced with concrete curbs. New curb cuts mandated for accessibility are executed in concrete as well. The concrete curbs form a hard line of uniformity that was uncharacteristic of the sections of granite curbing used formerly.

► **Whenever possible, the historic granite curbing should be maintained and reused.**

Trees. The Sag Harbor Tree Committee inventoried the street and publicly-owned trees in the Village - recording their size, species and condition. When completed, this will contribute to a responsible care and replacement program throughout the Village, but particularly necessary in the *VB Village Business District*.

Benches. Benches located in the *VB Village Business District* get plenty of use, but are often located so near to the angled street parking spaces that they are crowded by the bumpers of the cars/trucks that are parked in those spaces. Sitting on a downtown bench becomes an experience with a focus on automobiles, not the street scape or the sidewalk.

► **Reorienting or redesigning the benches to take advantage of a more amenable view is recommended, as is locating more benches in areas where parking is not permitted.**

Street layout. The flagpole triangle at the north end of Main Street is on a direct axis with Long Wharf, leading the eye to a view down the wharf to the water. The triangle is also the center of a very confusing 5-way intersection. The overall impression of the spot is one of pavement and traffic, not of an approach to the waterfront.

Signage. Signage is regulated by *Chapter 55, Article XI - Supplemental Use and Dimensional Regulations*, and proposals are reviewed by the Board of Historic Preservation and Architectural Review. Though there are several signs "grandfathered," new signs must be of the type and design appropriate to Sag Harbor's character.

- ▶ **The design of Town, County and State signs is often less sympathetic, and can be confusing as well as distracting. Signage should be simplified by grouping signs on one post, and matching the size of lettering and color.**

Accessibility. Two public facilities, the Municipal Building and the John Jermain Memorial Library, have recently undertaken major projects to create accessible entrances for the handicapped. As more projects will be required to allow businesses to meet the requirements of the Americans with Disabilities Act (ADA), Sag Harbor must be prepared to work creatively with public officials and business owners to find appropriate solutions.

(5) Residential Character Areas - The Village's historic core residential areas have been well protected under *Chapter 55, Article XV - Historic Preservation and Architectural Review* - projects which require building permits must receive approval from the Board of Historic Preservation and Architectural Review, which uses as criteria for review the Secretary of the Interior's Standards for Rehabilitation.

However, the twentieth century neighborhoods are reviewed with more general design criteria; each of the neighborhoods possess individual character. Maintaining this character when the resident population is increasingly year-round is difficult. More residents are improving and enlarging their houses, and new houses are being built on vacant lots. This is especially critical in the "Azuresh," "Ninevah" and "Sag Harbor Hills" neighborhoods, where the overall character is still very much light woodland.

- ▶ **Maintaining setbacks and encouraging builders to retain existing trees will help this area maintain its character under pressure from development.**

(6) Industrial Character Areas - These sites - which reference Sag Harbor's past manufacturing and industrial involvement - are particularly threatened, since most activities associated with such uses are not permitted under current zoning. Some buildings, such as the Grumman buildings on Long Wharf, have been adaptively reused, but have lost much of their industrial character in the process.

- ▶ **The Bulova Watchcase Factory is the most substantial of the industrial landmarks in the Village. Any new use proposed for the structure should respect the visual qualities which identify it as an industrial building of the nineteenth century.**

(7) Open Space Character Areas - Available upland open space in Sag Harbor is at a premium. In other local communities, environmentally sensitive small lots have been deeded to the Nature Conservancy, the Peconic Land Trust or the local municipality to insure their perpetual natural state.

- ▶ **Parcels which are appropriate candidates for such conservation should be identified, and negotiations should be initiated with these appropriate not-for-profits or the Village.**

(8) Multi-Unit Residential Character Areas - These areas of densely developed residential housing are currently limited to the area of West Water Street. As waterfront property east of this area becomes available, it is not likely that new proposals will include development of similar character. The disadvantage of this type of development is the limited public access allowed to the waterfront.

(9) Institutional Character Areas - The schools, churches, meeting halls, retreat centers and museums which fall into this character area category are scattered throughout the Village. Public visibility is a large problem. Most of these institutions could use a higher public profile - to promote activities and services.

▶ **The Village should redesign the existing "Village of Sag Harbor" map - to show locations and provide information important to visitors regarding such facilities: accessibility concerns; public restroom locations; museum hours; church services.**

(10) Agricultural Character Areas - There is just one site in the Village which still reflects its former agricultural use - the Cilli farm, located on Glover Street. The property has been the subject of debate and draft development proposals for a number of years. The large land area makes the site an attractive one to developers. It is not likely that the site will go undeveloped much longer, although the additional infrastructure necessary to accommodate the development have yet to be put into place.

▶ **Any development on this site should try to maximize the open quality of the landscape, and emphasize that new buildings be clustered on the lot. The Village is pursuing alternatives to maintain the property as open space.**

SECTION III

WATERFRONT REVITALIZATION PROGRAM POLICIES

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The policies for the Village of Sag Harbor's local waterfront revitalization area are based on the economic, environmental, and cultural characteristics of the Village's waterfront area. The policies reflect existing laws and authority regarding development and environmental protection throughout the Village's local waterfront area. The application of these policies will guide an appropriate balance between economic development, preservation and restoration to promote beneficial use of, and prevent adverse effects on, the Village's coastal resources. No policy should be viewed as of being more significant than any other.

The policies should be interpreted in light of specific local land use laws and regulations of the Village of Sag Harbor - these laws should be consulted in the process of consistency review:

- *Chapter 12 of the Village Code (Bulkheading, Dredging and Canals)*
- *Chapter 15 of the Village Code (Environmental Quality Review) -- [see Appendix B]*
- *Chapter 43 of the Village Code (Sewers)*
- *Chapter 46 of the Village Code (Subdivision of Land)*
- *Chapter 53 of the Village Code (Waterways) -- [see Appendix B]*
- *Chapter 55 of the Village Code (Zoning)*
 - Article XV (Historic Preservation and Architectural Review)*
 - Article XVI (Site Plan Review)*
 - Article XVII (Tidal Flood Hazard Overlay District)*

The proposed laws - some of which are amended existing laws - are contained in Appendix B of this LWRP.

► Upon adoption of this amended Local Waterfront Revitalization Program, the policies will serve as the basis to judge the consistency of proposed actions by Village, State, and federal agencies with the LWRP.

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.

The Village of Sag Harbor is located on the north shore of the south fork of eastern Long Island, in Suffolk County. The Village is bisected by the boundaries of the Towns of Southampton and East Hampton. The Village covers an area of approximately two square miles and contains roughly 3.3 miles of shoreline.

The Village is, generally, fully developed in an appropriate mix of commercial, residential, and recreational uses. New development would be limited to in-fill development compatible with surrounding uses, and redevelopment of a few former industrial uses.

Much of the Village was originally developed when Sag Harbor became a prosperous whaling seaport in the late 18th century - early 19th century. This historic character has been maintained and is evidenced by the notable architecture, and a well-defined pattern of streets and land uses. The pattern includes waterfront areas, a central business district (Main Street), residential neighborhoods, parks, and open lands. Much of the Village, including the central business district and older residential areas, was locally designated as a historic district in 1974, and subsequently listed on the State and National Register of Historic Places. The District was later expanded.

Commerce and tourism occur mainly within the central business district and at the waterfront, along Main Street and the Long Wharf. This area contains marinas, yacht clubs, ferry service, public recreation facilities, and commercial fishing operations.

Outside of the waterfront commercial area, the Village shoreline is in a - more or less - natural condition. The manmade interruptions largely are limited to private docks and waterfront facilities associated with residential development.

The area of Sag Harbor Bay and the adjoining Northwest Harbor is an important fish and wildlife habitat, and is a New York State -designated Significant Coastal Fish and Wildlife Habitat.

The Village contains several environmentally significant marshes, wetlands, and intertidal and freshwater ponds which provide suitable habitat for coastal species and water quality benefits. These include the areas around Otter Pond, Little Northwest Creek, Outer, Inner, and Upper Sag Harbor Coves, Ligonee Brook, Fore and Aft Pond, Round Pond and John Street Pond.

Commercial fishing in Sag Harbor and within the coves surrounding the Village is minimal. Most of the fishing activity is recreational. However, commercial shellfishing does occur at the 351 acres of certified areas, and 28 acres of seasonally certified areas - which surround the Village.

1.1 Sustain the pattern of existing land use which defines Sag Harbor as a historic port.

The primary land use in the Village of Sag Harbor consists of medium and low density residential development. The Village central business district contains a large number of commercial and retail uses. Marine commercial development along the waterfront and public open space/recreation facilities also represent significant uses in the Village. Some institutional and public utility uses are also present. In general, these uses should remain.

This preferred pattern of development is reflected on [Figure 3](#), which shows existing zoning and functional areas described in Section II, Inventory and Analysis, beginning on page II-8. Preferred uses not reflected in [Figure 3](#) include: open space and recreation ([Figure 2](#)) and; natural resources ([Figure 6](#)). Additionally, the Water Use Plan ([Figure 9](#)) provides more detail. Additionally, although scattered undeveloped lots are suitable for in-fill development, some of these serve to control runoff and should be preserved as open space.

There are a small number of properties in the Village, both developed and undeveloped, that have development (or redevelopment) potential. To better control the way these lands are developed, and

to preserve open space, development on properties larger than five acres in size should be clustered (see Section 5.2).

The waters within the local waterfront area presently have a variety of uses, including wildlife habitat, commercial and recreational fishing, recreational boating, and passive recreation. In general, it is proposed that the existing uses should continue. It is important to note, however, that many of the LWRP's policies and implementation measures are aimed at improving and restoring coastal water quality, with the ultimate goal being the expansion of the total area that is available for shellfish harvesting, dependent upon upgrading and restoring the natural environment.

The *water use plan* for Sag Harbor is presented in this LWRP as **Figure 9** [attached at rear of (this) Section IV], and in **Figure 12** of the Sag Harbor Village Harbor Management Plan.

One item in particular that is brought out on the *water use plan* is the designation of a *line of navigation* along the shoreline to delineate the area that is considered suitable for dock construction. In the areas outside of the *Harbor Water Use District* and for non-water-dependent uses, this line follows the shoreline. Otherwise, the line of navigation generally follows the perimeter of existing dock structures.

A *Preservation Water Use District* is recommended for areas which, because of their environmental character, deserve the highest protection from human activity. These areas include: Round Pond, Otter Pond, Fore and Aft Pond, and portions of Ligonee Brook and Little Northwest Creek. Only passive recreation activities (e.g., walking, viewing) should be allowed in those areas. Construction of shore hardening structures should be prohibited.

Dredging is another area where action is required to implement the objectives of the LWRP. There are a number of navigation channels located throughout the Sag Harbor Cove Complex. Some of these channels have not been dredged since they were first established and will need maintenance dredging in the near future. Two areas, the western side of the Long Wharf and the southeastern section of the central mooring area, currently require dredging. For those areas considered in the public interest, including the main channel which stretches east from the Big Narrows to the breakwater and the navigation channel that extends into Sag Harbor, should be maintained as needed to provide clear passage though Village waters.

All dredging permits, with the exception of the one for the spur to the Ship Ashore Marina basin, have expired. The Village should promptly advise the Suffolk County Department of Public Works of the present dredging requirements to initiate the application process and secure the necessary dredging permits and assistance.

The breakwater also requires repairs. This structure, which separates Sag Harbor from Sag Harbor Bay, was constructed in 1908 and acts to shelter the harbor from the open waters of the bay, reducing the impacts of wave action generated in the bay. The breakwater was rehabilitated in 1963 to restore it to its original height and structural integrity. The breakwater is once again in need of repair. In the past thirty years, this structure has succumbed to gravitational settlement and wave-induced shifting of the rocks. Some of the supporting stones have fallen into the adjacent waters. Due to

these changes, the effectiveness of the breakwater has been dramatically reduced. As a result, even moderate storms, especially northeasters (which drive waves directly against the breakwater) can cause surging waves to overtop the breakwater. During a relatively modest storm event in December of 1994, waves that bypassed the breakwater caused substantial damage to the bulkhead in front of the Village sewage treatment plant. The Village has requested that the Army Corps of Engineers initiate the repair of the breakwater to prevent future storm damage problems and improve navigable conditions. Engineering plans are currently being developed.

A. Maintain Sag Harbor as a center of waterfront activity on Long Island.

1. Commercial and recreational water-dependent uses are the preferred uses in the *Waterfront Functional Area*. (Functional Areas are shown on Figure 3.) This area is fully developed in such uses. New water-dependent uses would occur only as redevelopment of existing uses or as accessory uses to existing water-dependent uses.

- ▶ Water-dependent uses are defined as activities which can only be conducted on, in, over or adjacent to a water body because such activities require direct access to that water body, and which involve, as an integral part of such activities, the use of the water.

2. Water-enhanced uses which are compatible with or supportive of water-dependent uses, and do not displace water-dependent uses, are encouraged in the *Waterfront Functional Area* and *Village Central Business District Functional Area*.

- ▶ Water-enhanced uses are defined as uses or activities which do not require a location adjacent to a water body, but whose location on the waterfront adds to the public use and enjoyment of the water's edge. Water-enhanced uses are primarily recreational, cultural, retail, or entertainment uses. Water-enhanced uses are encouraged throughout the local waterfront area - consistent with Village zoning.

- B. Redevelop the limited number of vacant/abandoned buildings or previously developed sites for uses that are compatible with the surrounding area.

Redevelopment actions are to result in some or all of the following, as appropriate: improved waterfront recreation opportunities or public access; improved views to the waterfront; improved environmental quality; enhanced community character and sense of place; and, enhanced visiting pleasure. The sites suitable for redevelopment or reuse include the Bulova Watchcase Factory and undeveloped land bound by Long Island Avenue, West Water Street, and Glover Street.

- C. Promote open space preservation and protection of historic land use character of large, private waterfront and inland parcels, such as the Cilli Farm property.

- D. Improve the central business district - along Main Street - as a destination for users of the waterfront by continuing to make it more attractive, and improving physical linkages to the waterfront.

- E. Maintain existing infrastructure, and where necessary, increase service capacity and efficiency to foster development identified in the LWRP.

1.2 Protect and enhance residential areas.

Residential areas contribute to the overall quality of life in the Village. Appropriate land use controls should be implemented to maintain and enhance this quality of life.

- A. Provide and maintain physical buffers to shield residential areas from incompatible uses.
- B. Preserve existing greenspace.
- C. Assure adequate parking in residential areas.
- D. Promote an architectural character in residential neighborhoods which is compatible with existing residences and reflects the Village's historic character.
- E. Encourage residential site designs which provide open space.
- F. Encourage residential site designs which provide waterfront views to the public.

1.3 Maintain and enhance natural areas, open space, and recreational lands.

Open space, in relation to the built environment, is central to the pattern of development which characterizes Sag Harbor's shoreline. Natural areas, open space and recreational lands constitute an important element of community character and provide flood control benefits and fish and wildlife habitats.

- A. Maintain the physical linkages between the *Village Central Business District Functional Area* and the waterfront.
- B. Protect natural resources and recreational lands which exist in Sag Harbor.
 - 1. Natural resources (i.e., marshes and wetlands): Otter Pond, Inner Sag Harbor Cove, Upper Sag Harbor Cove, Morris Cove, Ligonee Brook, Maple Swamp, Fore and Aft Pond, Round Pond, John Street Pond, and Little Northwest Creek;
 - 2. Recreation facilities: Haven's Beach, Village Docks "A" and "B," Cove End Park, Windmill Park, Long Wharf, Marine Park, Mashashimuet Park;
 - 3. Homeowner Association Properties: Azurest Property Owners Association, Sag Harbor Hills Improvement Association, Ninevah Beach Association; and,
 - 4. Conservation lands: New York State lands along the Little Northwest Creek.

- C. Encourage public access and primary contact recreation in the *Low Intensity Water Use District (LID)* and retain the *Conservation Water Use District (CD)* and the proposed *Preservation Water Use District (PD)* for preservation and enhancement of sensitive environmental resources and habitats.

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

- A. Reserve the water surface for water-dependent uses, particularly in the *Harbor Water Use District*.
- B. Recognize the qualities of a coastal location by application of the standards contained in Site Plan Review {Chapter 55, Article XVI}.
- C. Ensure that development takes advantage of the coastal location by: providing a building and site design which achieves a beneficial relationship with the coast; enhances visual and physical access to the coast; locates non-water-dependent accessory uses away from the water; expand waterfront amenities, including landscaping, public facilities, and pedestrian areas for public enjoyment; and, enhances the appearance of a site from the land and water.

1.5 Minimize adverse impacts of new development and redevelopment.

- A. Avoid alteration of the natural shoreline.
- B. Promote project designs which are consistent with the maritime heritage character of the Village, in terms of: mass and distribution of structures, scale, materials, intensity of use, and architectural style.
- C. Use best management practices in construction and operation.
- D. Consider environmental quality impacts, and avoid nuisance impacts from inappropriate lighting, noise, and odors, when creating and approving project designs.

POLICY 2 SUSTAIN THE VILLAGE OF SAG HARBOR AS A CENTER OF MARITIME ACTIVITY AND SUITABLE LOCATION FOR WATER-DEPENDENT USES.

The Village is one of two areas in the Peconic Bays that supports a concentration of water-dependent uses, and is important from a regional and local perspective. It is the intent of this policy to insure that uses and activities along the waterfront can and should benefit from this coastal location. The policy seeks to protect existing water-dependent commercial and recreational uses, and to promote suitable additional waterfront uses. It is also the intent of this policy to enhance the economic viability of water-dependent uses by ensuring adequate infrastructure and harbor management practices.

2.1 Protect existing water-dependent uses.

Avoid actions which would displace, adversely impact, or interfere with existing water-dependent uses.

2.2 Allow for new commercial and recreational water-dependent uses in the *Waterfront Functional Area*, consistent with local zoning. [See sub-policy 1.1]

Ensure that public actions enable Sag Harbor to continue to function as a center for water-dependent uses.

2.3 Minimize adverse impacts of water-dependent uses and provide for their safe operation.

Allow expansion of existing marinas, yacht clubs, boat yards, and other boating facilities to the extent there is: adequate upland for support facilities and services, including parking; sufficient waterside and landside access; appropriate nearshore depth to minimize dredging; minimization of effects on wetlands, shellfish beds, or fish spawning grounds; and, adequate water circulation.

2.4 Provide sufficient infrastructure for water-dependent uses.

- A. Protect and maintain existing public and private navigation lanes and channels - at depths consistent with the needs of water-dependent uses.
- B. Use suitable dredge materials for beach nourishment or other beneficial uses.
- C. Allow placement of suitable dredge materials in nearshore locations to advance maritime functions, provided that they are adequately contained and avoid impacts on vegetated wetlands - as depicted on the Village of Sag Harbor Wetlands Map - and Significant Coastal Fish and Wildlife Habitats.

2.5 Promote efficient harbor operation.

- A. Adhere to the Village of Sag Harbor's Waterways Law *{Appendix B}*.
- B. Limit congestion of harbor waters, conflict among uses, foster navigational safety, and minimize obstructions in coastal waters to reduce potential hazards to navigation.
- C. Prohibit any increase or additional use of coastal waters - if such poses a public safety hazard which cannot be addressed.
- D. Prohibit intrusions or encroachments upon navigation channels and other identified vessel use areas.
- E. Avoid shore and water surface uses which would impede navigation.

- F. Give priority to existing commercial navigation in determining rights to navigable waters.
- G. Foster multi jurisdictional, cooperative efforts to maintain infrastructure, promote harbor management and safety, and enforce harbor management laws.

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

- A. Ferry services are generally an appropriate accessory use for the Long Wharf when the service is integrated into a regional system.
- B. Anything but maintenance and modest expansion of excursion ferry service is inappropriate, due to the lack of adequate upland space or facilities.

POLICY 3 PROMOTE SUSTAINABLE USE OF LIVING MARINE RESOURCES IN SAG HARBOR.

The waters of Sag Harbor Cove and Sag Harbor Bay support a wide variety of finfish, shellfish and crustaceans. Hard clams, soft clams, bay scallops and conches, in addition to a variety of finfish species, are harvested from these waters by commercial and recreational fishermen. This use of living marine resources constitutes an important contribution to the coastal culture of Sag Harbor.

This section addresses protection and management of marine life for commercial and recreational uses. Most of the responsibility for management of the resources is conducted at the State and federal levels, while the Towns retain an important role in managing shellfish resources.

3.1 Ensure the long-term maintenance and health of living marine resources.

- A. Ensure that commercial and recreational uses of living marine resources are managed in a manner that: results in sustained usable abundance and diversity of the marine resources; does not interfere with population and habitat maintenance and restoration efforts; uses best available scientific information in managing the resources; and, minimizes waste and reduces discard mortality of marine fishery resources.
- B. Ensure that the management of the State's trans-boundary and migratory species is consistent with interstate, State-federal, and inter-jurisdictional management plans.
- C. Protect, manage, and restore sustainable populations of indigenous fish, wildlife species, and other living marine resources.
- D. Foster occurrence and abundance of marine resources by: protecting spawning grounds, habitats and water quality; and, enhancing and restoring fish and shellfish habitat - particularly for anadromous fish, oysters, and hard clams.

- E. Ensure that actions or activities that are likely to have an adverse effect on living marine resources are closely monitored to minimize potential interference.

3.2 Provide for commercial and recreational use of finfish, shellfish, crustaceans, and marine plants.

- A. Maximize the benefits of marine resource use so as to provide a valuable recreational resource experience and viable business opportunities for commercial and recreational fisheries.
- B. Where fishery conservation and management plans require actions that would result in resource allocation impacts, ensure equitable distribution of impacts among user groups - giving priority to existing fisheries in the State.
- C. Protect the public health and marketability of marine and fishery resources by maintaining and improving water quality.

3.3 Promote recreational use of marine resources.

Direct public use of marine resources provides recreational experiences and economic benefits that are integral to the coastal identity of Long Island. Commercial charter and party boats provide additional opportunities for recreational fishing in and around the waters of Sag Harbor.

Provide opportunities for recreational use of marine resources in the waters of Sag Harbor - consistent with existing land use character and provision of necessary support services.

1. Foster direct public recreational use of marine resources along shorelines, bays and surface waters.
2. Maintain the existing level of commercial party and charter businesses in Sag Harbor.

POLICY 4 MINIMIZE LOSS OF LIFE, STRUCTURES, AND NATURAL RESOURCES FROM FLOODING AND EROSION.

The Village of Sag Harbor's shoreline does not contain any officially designated erosion hazard areas, and generally does not suffer from a significant erosion problem.

Roughly one mile of shoreline, east of the breakwater, has been designated as a "V-zone" on the Flood Insurance Rate Maps of the Federal Emergency Management Agency, pursuant to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973. "V-zones" are coastal hazard areas which would be subject to breaking waves of three feet or greater height, in addition to still water flooding, during a 100-year storm event. All of the remaining shoreline lies within the 100-year flood plain, and is at some risk of flooding during a significant storm.

The natural cove formations which characterize much of Sag Harbor's coast help to protect the shoreline from erosion and flooding. Maintenance of natural coastal processes can also minimize shoreline erosion or flooding.

This policy seeks to protect life, structures, and natural resources from flooding and erosion. The policy reflects state flooding and erosion regulations, and provides measures for reduction of hazards and protection of resources.

4.1 Minimize losses of human life and structures from flooding hazards and erosion.

- A. Manage development in flood plains so as to avoid adverse environmental effects, to minimize the need for structural flood protection measures, and to meet federal flood insurance program standards.
- B. Mitigate the impacts of erosion on flood control structures.

4.2 Preserve and restore natural protective features.

- A. Maximize the protective capabilities of beaches and wetlands by: avoiding alteration or interference with shorelines in a natural condition; enhancing existing natural protective features; restoring impaired natural protective features; and, managing activities to minimize interference with, limit damage to, or reverse damage which has diminished the protective capacities of the natural shoreline.
- B. Minimize interference with natural coastal processes by: providing for natural supply and movement of unconsolidated materials; minimizing intrusion of structures into coastal waters and interference with coastal processes; and mitigating any unavoidable intrusion or interference.
- C. Allow alteration of the natural shoreline, where necessary, to support water-dependent uses appropriate for the *Harbor Water Use District (HD)*.

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

- A. Retain ownership of public trust lands which have become upland areas due to fill or accretion resulting from erosion control projects.
- B. Avoid losses, or likely losses, of public trust lands or use of these lands - including public access along the shore - which can be reasonably attributed to or anticipated to result from erosion protection structures.
- C. Mitigate unavoidable impacts on adjacent property, natural coastal processes and natural resources, or on public trust lands and their use.

4.4 Manage navigation infrastructure to limit adverse impacts on coastal processes.

Manage navigation channels to limit adverse impacts on coastal processes by designing channel construction and maintenance to protect and enhance natural protective features; prevent destabilization of adjacent areas; and, make beneficial use of suitable dredge materials.

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

- A. Give priority in expenditure of public funds to actions which protect public health and safety; mitigate flooding and erosion problems caused by previous human intervention; protect areas of intensive development; and, protect substantial public investment in land, infrastructure, and facilities.
- B. Expenditure of public funds is limited to those circumstances where public benefits exceed public cost, and prohibited for the exclusive purpose of protecting private development - except where actions are undertaken by an erosion protection district.

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

POLICY 5 PROTECT AND IMPROVE WATER QUALITY AND SUPPLY IN WATERS OF THE VILLAGE OF SAG HARBOR.

The purpose of this policy is twofold: (1) to protect the quality of coastal waters of Sag Harbor - including Sag Harbor Bay, Sag Harbor Cove Complex (i.e., Outer Sag Harbor Cove, Inner Sag Harbor Cove, Upper Sag Harbor Cove and Morris Cove), Ligonee Brook, Otter Pond, John Street Pond, Fore and Aft Pond, Round Pond, Little Northwest Creek, and ultimately, the Peconics; and (2) to ensure a plentiful and safe drinking water supply for the Village.

Water quality in the Village is impacted by point and nonpoint sources of pollution from upland sources within the watersheds which drain into the surface waters. Storm drains empty into the surface waters which do not filter or provide for retention and settling of sediments and pollutants. The outfall of the Village Sewage Treatment Plant, malfunctioning septic systems, waterfowl fecal wastes, and waste discharge from recreational boats are also contributing factors.

Based on the results of water quality monitoring, there are two areas where underwater lands in the Village are closed either year-round or seasonally to shellfish harvesting by the NYSDEC -- the largest of which is surrounding the sewage treatment plant outfall, in Sag Harbor.

The Village's drinking water is provided by the Suffolk County Water Authority from groundwater wells in and around the Village which tap a glacial aquifer. This aquifer source is of high quality, and there is a growing concern that it may become contaminated, due to its geological formation. But, protecting groundwater from contamination from pollutants which

percolate through the soil is still an issue as it relates to surface water contamination. Groundwater inevitably surfaces through springs, streams and ponds which drain into surface waters.

Water quality protection and improvement must be accomplished by the combination of managing new and remediating existing sources of pollution. In addition, where toxic wastes or other contaminants have been identified, more aggressive remediation measures will be needed.

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

Point source discharges to the surface waters in and around the Village include the sewage treatment plant outfall in Sag Harbor; stormwater outflows/drains at numerous locations, road ends and ramps; and vessel discharges - marinas and mooring areas [shown on Figure 5].

- A. Maintain the Village of Sag Harbor Sewage Treatment Plant in a manner in which continues to meet the limits set by State Pollution Discharge Elimination System (SPDES) permits.
- B. Manage uses which contribute flow to the Village Sewage Treatment Plant.
 - 1. Reduce infiltration of excess water in collection and transport systems.
 - 2. Eliminate unauthorized collection system hookups.
 - 3. Limit discharge volumes and pollutant loadings to or below authorized levels.
 - 4. Install low-flow water conservation fixtures in all new development and when replacing fixtures in existing development.
- C. Prevent point source discharges into Sag Harbor's coastal waters and manage or avoid land uses which would:
 - 1. exceed applicable effluent limitations or,
 - 2. cause or contribute to contravention ambient water quality classification and use standards or,
 - 3. materially adversely affect receiving water quality, or violate a vessel no-discharge zone.
- D. Pursue designation of waters within harbor complex and adjacent coves as a vessel waste no-discharge zone.

5.2 Minimize nonpoint pollution of coastal waters and manage activities causing nonpoint pollution.

The volume of nonpoint source pollutants entering surface waters of the Village can be reduced, and the quality of the runoff improved, by managing nonpoint sources of pollution in the Village. These nonpoint sources include: streets, parking areas and other impervious surfaces, and public and private landscaped areas. Contaminated groundwater from cesspools and septic tanks - which inevitably are released to surface waters through springs and brooks - is an additional nonpoint source.

The following management measures will be applied in the Village of Sag Harbor to reduce nonpoint source pollution:

A. For developing and redeveloping sites:

There is the potential for construction of new residential subdivisions in the Village. There are also opportunities for infill development, residential conversions from single-family to two-family dwellings, and for redevelopment of several significant parcels, such as the Bulova Watchcase Factory site and the Cor Maria property. New development and redevelopment have the potential to adversely affect coastal water quality if stormwater runoff is not managed.

1. Preserve natural features, including stream channels; minimize grading and cut-and-fill operations; ensure conformity with natural topography; and retain natural vegetation and trees to the maximum extent practical in order to create the least erosion potential and handle adequately the volume and rate/velocity of surface water runoff.
2. Stabilize disturbed soils and revegetate or seed as soon as practicable. In the interim, erosion protection measures such as temporary vegetation, retention ponds, recharge basins, berming, silt traps, and mulching shall be used to ensure that sedimentation is minimized and mitigated.
3. Ensure that the rate of surface runoff from a site is not increased by new construction by retaining and recharging runoff on the site.
4. Manage total suspended solids in runoff to attain pre development loadings.
5. To the greatest practical extent, maintain buffers of natural vegetation adjacent to water bodies or drainage ways to attenuate sediments, fertilizers, pesticides, or other chemicals. In any development, do not discharge stormwater or site runoff directly into coastal waters.

B. For road and bridge construction:

1. Plan, site, and design roads to manage erosion and sediment loss, and limit disturbance of land and vegetation.
2. Plan, site, and design bridges to protect ecosystems and areas that provide water quality benefits.
3. For roads and bridges - minimize to the extent practical - the runoff of contaminants to coastal waters.

C. For marinas, yacht clubs, and marine service businesses:

Marinas, yacht clubs, and marine service businesses are critical components to the maritime character and economy of the Village of Sag Harbor. Whenever such development is proposed, they should be encouraged to be located along the Village waterfront, within the *Waterfront Functional Area* - in compliance with applicable zoning standards - and be so designed and operated to reduce nonpoint source pollution.

1. Site and design marinas and yacht clubs to minimize the need for dredging and maintenance dredging.
2. Ensure adequate water circulation through basin morphometry or other means.
3. Provide for one additional vessel pumpout facility west of the North Haven/State Route 114 Bridge to meet the demand within Sag Harbor as specified in the New York State Clean Vessel Act Plan, August 1996.
4. Manage stormwater runoff, discharge of hazardous substances, and solid waste to prevent entry into coastal waters.

D. For hydromodifications:

Dredging for maintenance of existing channels, as described in the Harbor Management Plan, is necessary to maintain the Village of Sag Harbor as a center of maritime activity. These activities should occur only to support water-dependent uses and/or harbor circulation management as described in the Village's Harbor Management Plan. Manage dredging and maintenance dredging to achieve the following:

1. Maintain the physical and chemical characteristics of surface waters, reduce adverse impacts, and where possible, improve the physical and chemical characteristics of surface waters in channels.
2. Minimize impacts of channelization and channel modification on riparian habitat, and identify opportunities to restore habitat.

- a. Use vegetative means to protect shorelines from erosion. Hardened shorelines are appropriate in the *Harbor Water Use District*.
- b. Restore the wetland feeding Otter Pond; wetland fringe around Upper Sag Harbor Cove; and perimeter vegetation around small kettlehole northwest of Round Pond to simulate natural hydrology.

E. For floatables and litter:

1. Prohibit all direct or indirect discharges of refuse or litter into Sag Harbor's coastal waters or upon public lands contiguous to or within 100 feet of coastal waters.
2. Limit entry of floatables to surface waters through containment and prevention of litter.
3. Remove and dispose of floatables and litter from surface waters and shorelines.
4. Implement pollution prevention and education programs to reduce discharge of floatables and litter into storm drains.

5.3 Protect and enhance water quality of coastal waters.

- A. Protect water quality based on an evaluation of physical factors (pH, dissolved oxygen, dissolved solids, nutrients, odor, color and turbidity); health factors (pathogens, chemical contaminants, and toxicity); and aesthetic factors (oils, floatables, refuse, and suspended solids).
- B. Minimize disturbance of streams - including their bed and banks - in order to prevent erosion of soil, increased turbidity, and irregular variation in velocity, temperature and level of water.
- C. Protect water quality of coastal waters, estuaries, tidal marshes, and wetlands that are adjacent to and contiguous at any point to navigable waters from adverse impacts associated with excavation.
- D. Limit potential adverse impacts on water quality due to excavation or placement of fill using avoidance and minimization methods, including reduction in scope of work and use of clean fill.

5.4 Protect and conserve the quality and quantity of potable water.

- A. Prevent contamination of potable waters by limiting discharges of pollutants to maintain water quality according to water quality classification, and limiting land use practices which are likely to contribute pollutants to surface and groundwater supplies.
- B. Engage in water supply management methods which allow for a sufficient aquifer recharge and prevent saltwater intrusion into groundwater supplies.

POLICY 6 PROTECT AND RESTORE THE QUALITY AND FUNCTION OF THE VILLAGE OF SAG HARBOR ECOSYSTEM.

The purpose of this policy is to positively influence the ecosystems of the Village of Sag Harbor, which contribute to the ecosystems in the Peconic Bays and Shelter Island Sound. Ecosystems consist of physical components (nonliving resources including water, soil, energy and contaminants), and biological components (plants and animals).

Certain natural resources have been identified by the State for protection. These include regulated tidal and freshwater wetlands; designated Significant Coastal Fish and Wildlife Habitats; and rare, threatened, and endangered species. In addition to specifically identified, discrete natural resources, the quality of the Village's coastal ecosystem also depends on more common, broadly-distributed natural resources such as the extent of forest cover, the population of overwintering songbirds, or the benthic communities. These more common natural resources collectively affect the quality and biological diversity of the coastal ecosystem.

Several areas have been identified in the Village as locally-important habitats. These estuarine and freshwater fish and wildlife habitats include: Sag Harbor Cove Complex (Inner Sag Harbor, Upper Sag Harbor and Morris Coves); John Street Wetland; Otter Pond and Maple Swamp; Little Northwest Creek; Round Pond and Fore and Aft Pond; and, Ligonee Brook.

Protection of ecological resources is accomplished through protection of specific resources and ecological stewardship projects.

6.1 Protect and restore ecological quality throughout Sag Harbor.

The Village of Sag Harbor is rich in ecological resources. Intertidal marshlands rich in habitat values line the shore of the Outer Sag Harbor Cove, Upper Sag Harbor Cove and Morris Cove. Freshwater wetlands are located inland near Little Northwest Creek, Round Pond, Fore and Aft Pond, Maple Swamp, and Ligonee Brook.

A. Protect and restore ecological quality by adhering to the following measures:

1. Maintain values associated with Sag Harbor's natural areas, including vegetated tidal wetlands, and stream corridors. Examples of values which may be associated with natural areas are food and shelter sources for aquatic life and birds and mammals, nesting and nursery areas for various species, and migratory stopovers.
2. Retain and add indigenous plants to maintain and restore ecological quality by protecting existing indigenous plants from loss or disturbance to the practical extent.
 - a. Include use of suitable indigenous plants in development or areas where loss or disturbance of existing indigenous plants could not be prevented.
 - b. Avoid use of non indigenous plants which are invasive species - likely to alter existing natural community composition.

3. Avoid fragmentation of natural areas, and maintain corridors to facilitate movement of aquatic and wildlife species to foster their long-term survival within the Village local waterfront area.
 4. Avoid permanent adverse change to ecological processes.
- B. Reduce adverse impacts on ecological quality from existing development and mitigate impacts of new development.

Wherever development offers an opportunity for reducing adverse impacts to ecological complexes, and where such is practical and reasonable, measures should be taken to reduce adverse effects. Examples of measures to reduce cumulative effects of development include the maintenance and enhancement of open space, the addition of street trees and the maintenance and improvement of soil stability through vegetative means. New development can be designed to minimize adverse impacts, including cumulative impacts.

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.

Much of the shoreline of Sag Harbor Bay, beginning east of the breakwater, is designated as the Sag Harbor and Northwest Harbor Significant Coastal Fish and Wildlife Habitat, a New York State -designated significant habitat. The area provides habitats to significant plant, fish and wildlife resources year-round. It is described in a Significant Coastal Fish and Wildlife Habitat narrative and outlined on boundary maps prepared by the Department of State. [Refer to *Appendix C* of this LWRP for a copy of that narrative.]

- A. Protect Sag Harbor Bay's habitat values from uses or activities which would:
1. Destroy habitat values through direct physical alteration, disturbance, or pollution, or through indirect effects of actions which would result in a loss of a habitat;
 2. Significantly impair the viability of Sag Harbor Bay beyond the tolerance range of important fish or wildlife species which rely on the habitat values found within the designated area through:
 - a. degradation of existing habitat elements,
 - b. change in environmental conditions,
 - c. functional loss of habitat values, or
 - d. adverse alteration of physical, biological, or chemical characteristics.

The habitat impairment test presented in the Significant Coastal Fish and Wildlife Habitat narrative [*Appendix C*], must be met for any activity that is subject to consistency review by the Department of State. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The ranges of parameters which should be considered in applying the habitat impairment test include, but are not limited to, the following:

- ▶ *Physical parameters* such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, rate of erosion and sedimentation;
- ▶ *Biological parameters* such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and
- ▶ *Chemical parameters* such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

B. Where destruction or significant impairment of habitat values cannot be avoided, minimize potential impacts of land use or development through appropriate mitigation. Use mitigation measures which are likely to result in the least environmentally damaging feasible alternative:

1. Avoidance of potential adverse impacts, including:
 - a. avoiding ecologically sensitive areas,
 - b. scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions, and
 - c. preventing fragmentation of intact habitat areas.
2. Minimization of unavoidable potential adverse impacts, including:
 - a. reducing scale or intensity of use or development,
 - b. designing projects to result in the least amount of potential adverse impact, and
 - c. choosing alternative actions or methods that would lessen potential impact.
3. Specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment
4. Specific protective measures, included in the information presented under the Significant Coastal Fish and Wildlife Habitat "Impact Assessment."

C. Wherever practical, restore Sag Harbor Bay so as to foster its continued existence as a natural, self-regulating system by:

1. reconstructing lost physical conditions to maximize habitat values;
2. adjusting adversely altered chemical characteristics to emulate natural conditions; and
3. manipulating biological characteristics to emulate natural conditions through reintroduction of indigenous flora and fauna.

6.3 Protect and restore tidal wetlands.

Shallow waters with tidal vegetation are common in the Sag Harbor Cove Complex. Intertidal marsh areas and wetlands line the shores of Outer Sag Harbor Cove, Inner Sag Harbor Cove, Upper Sag Harbor Cove and Morris Cove.

- A. Comply with statutory and regulatory requirements of the State Tidal Wetlands Act for the protection of mapped tidal wetlands - including coastal fresh marsh; intertidal marsh; coastal shoals, bars and flats; high marsh or salt meadow; littoral zones and formerly connected tidal wetlands.
- B. Prevent the net loss of vegetated wetlands according to the following measures. Use the measure that will most likely result in the least environmentally damaging practicable alternative.
 1. Avoid placement of fill in, or excavation of, vegetated wetlands.
 - a. Choose alternative sites which would not result in adverse impacts on wetlands.
 - b. Reduce scale or intensity of development to avoid excavation or fill.
 - c. Choose design alternatives which would avoid excavation or fill.
 - d. Fill or excavation of vegetated wetlands may be permissible for the express purpose of wetland creation, restoration, or enhancement.
 2. Minimize adverse impacts resulting from unavoidable fill, excavation, or other activities by:
 - a. Reducing scale or intensity of use in order to limit incursion into wetland areas, and
 - b. Designing projects to result in the least degree of adverse wetland impacts.
 3. Provide compensatory mitigation for adverse impacts which may result from unavoidable fill, excavation or other activities remaining after all appropriate and practicable minimization has been accomplished.
 - a. Restore former wetlands or create new tidal wetlands according to the following priorities:
 - (1) in areas adjacent or contiguous to the site;
 - (2) where restoration of former tidal wetlands in areas adjacent or contiguous to the site is not appropriate or practicable, restore former wetlands in close physical proximity and within Sag Harbor;
 - (3) where restoration of former tidal wetlands is not appropriate or practicable, create new tidal wetlands in suitable locations as determined by sediment, exposure, shoreline characteristics, and water regime. Include consideration of loss of resource values which may exist at the mitigation site.
 - b. Where wetlands are restored or tidal wetlands created:
 - (1) Provide equivalent or greater area of mitigation wetland. Base the actual area of wetland provided on the following factors: characteristics of the

mitigation site; proposed wetland creation or restoration methods and designs; and quality of the wetland restored or created relative to the wetland lost.

- (2) Provide equivalent or greater value to that of the wetland area lost, as described in 6 NYCRR Part 661.
- (3) A lesser area of mitigation wetland may be allowed in cases where the mitigation wetland and its benefits would clearly be a greater value than the wetland lost.
- (4) Guarantee success of the compensatory mitigation. Wetland mitigation is considered successful if functional attributes of the wetland have been reached and maintained, including a plant density which approaches the design density.
 - (a) Carry out mitigation in accord with a compensatory plan which details wetland creation or restoration measures. Base compensatory plans on establishment of a natural, self-regulating wetland.
 - (b) Monitor and report on progress of the wetland mitigation according to a prescribed plan.
 - (c) Provide a suitable performance bond or other surety instrument guaranteed to an appropriate agency or organization to assure successful completion of the mitigation.

c. When a series of small, unavoidable wetland losses requires mitigation, combine mitigation projects to create larger contiguous wetland areas whenever the resulting ecological value would be greater than that achieved through pursuing discrete, separate efforts.

d. Protect wetland functions and associated benefits regardless of the availability of compensatory mitigation.

- (1) Do not fill, excavate, or dredge vegetated wetland areas which are part of the Sag Harbor / Northwest Harbor Significant Coastal Fish and Wildlife Habitat, Northwest Creek Significant Coastal Fish and Wildlife Habitat, Morris and Sag Harbor Cove, and Otter Pond and Maple Swamp.
- (2) Do not fill, excavate, or dredge vegetated wetland areas when the wetland loss would result in significant impairment of the remaining wetland area.
- (3) Retain functions and benefits associated with vegetated and non vegetated wetlands.

C. Provide adequate buffers between wetlands and adjacent, or nearby, uses and activities in order to ensure protection of the wetland's character, quality, values and functions. The adequacy of the buffer depends on the following factors:

1. potential for adverse effects associated with the use;
2. the nature and importance of the wetland and its benefits;

3. direction and flow of surface water between a use and adjacent or nearby wetland;
 4. buffer width necessary to achieve a high particulate filtration efficiency of surface runoff - as determined by vegetative cover type, soil characteristics, and slope of land; and
 5. other management measures or design alternatives to protect wetlands from adverse effects where site constraints do not allow sufficient buffer width.
- D. Maintain buffers to ensure that adverse effects of adjacent or nearby development are avoided by achieving a high filtration efficiency of surface runoff; avoiding permanent or unnecessary disturbance within buffer areas; and maintaining existing indigenous vegetation within buffer areas.
- E. Restore tidal wetlands wherever practical to foster their continued existence as natural, self-regulating systems by:
1. reconstructing lost physical conditions to maximize wetland values;
 2. adjusting altered chemical characteristics to emulate natural conditions;
 3. manipulating biological characteristics to emulate natural conditions through reintroduction of indigenous flora and fauna; and
 4. enhancing lands adjacent to wetlands to provide natural buffers to wetlands.

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.

The Village's land use pattern and formation in and around the waterfront area and central business district provide opportunities to expand public access to the waterfront and create an attractive pedestrian circulation scheme which incorporates waterfront marinas and public lands, downtown shops and commercial establishments, and existing parking areas.

Public recreation opportunities and waterfront access are provided at Haven's Beach, Marine Park, Long Wharf, Windmill Park, anchorage/mooring areas, Village A and B Docks - located along West Water Street, Cove End Park, and Long Wharf Marina. There are also conservation lands, owned by New York State, along Little Northwest Creek which provide additional open space. Public access into this conservation area is granted only by a permit issued by the NYSDEC. Additional public access opportunities are available at boat launching ramps and street ends.

Private marinas and yacht clubs, and private beaches (owned by private beach associations) provide additional facilities. In addition, Otter Pond and Mashashimuet Park, semi-private properties, are open for full use by the public.

Sag Harbor has several locations which offer visual access of the waterfront [Figure 8]. Views of Sag Harbor and Sag Harbor Bay are provided from Marine Park, the northern end of Long Wharf, Windmill Park, and private yachting and boating facilities in the harbor. Views of the greater Sag Harbor Bay are provided from Haven's Beach. Views of the water bodies in the area of the Sag Harbor Cove Complex are provided from West Water Street, Village A and B Docks, Cove End Park and street ends (Yale Road, Notre Dame Road, and Dartmouth Road). The views are of environmental areas, boats, and open water.

Opportunities to expand public access and waterfront recreation in the Village will be created if private waterfront properties are offered for sale or redeveloped by current owners. Modest improvements in public access and recreation can also be made through improving public park land and waterfront facilities.

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

- A. Preserve and improve public access and water-related recreation opportunities at Haven's Beach, Marine Park, Long Wharf, Long Wharf Marina, and the Village A and B Docks.
- B. Accept ownership of additional lands which can provide for public access to the waterfront or water-related recreational use.
- C. Provide public access and recreation facilities on non park, public waterfront lands.
- D. Provide public boat mooring areas in accordance with the Waterways Law {Appendix B}.
- E. Ensure access for the general public at locations where State or federal funds are used to acquire, develop, or improve parkland.
- F. Provide incentives to private development which provides public access and/or water-related recreation facilities.
- G. Include physical public access and/or recreation facilities as part of development whenever development or activities are likely to limit the public's use and enjoyment of open lands and water bodies.

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

Promote and maintain pedestrian and visual linkages between the *Waterfront Functional Area* and the *Village Central Business District Functional Area*.

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

- A. Avoid loss of existing visual access by limiting physical blockage by development/redevelopment or activities. Minimize adverse impact on visual access.
- B. Mitigate loss of visual access by providing for on-site visual access or additional and comparable visual off-site access.
- C. Increase visual access wherever practical.
- D. Protect existing visual access points to the waterfront or to natural resources by using Site Plan Review procedures {Chapter 55, Article XVI} to ensure that the scale, site design, or structural types of new development/redevelopment enhance existing visual corridors where possible, and encourage the creation of new scenic views.
- E. Provide for visual access to the waterfront and natural lands in the design of roadways and pedestrian amenities.

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.

- A. Limit grants, easements, permits, or lesser interest in lands underwater to those instances where there would be no adverse effect on the public interest.
- B. Limit the transfer of interest in public trust lands to the minimum necessary.
- C. Determine ownership, riparian interest, or other legal right prior to approving private use of public trust lands under water.
- D. Limit grants in fee of underwater lands to exceptional circumstances.
- E. Retain a public interest in the transfer of interest in underwater lands which will be adequate to preserve public access, recreation opportunities, and other public trust purposes.
- F. Avoid substantial loss of public interest in public trust lands by the cumulative impact of individual conveyances.
- G. Reestablish public trust interests in existing grants not used in accordance with the terms of the grant or the public trust doctrine.
- H. Issue land grants which pose minimum interference to the public trust.

7.5 Assure public access to public trust lands and navigable waters.

- A. Ensure that the public interest - in access below mean high water and to navigable waters - is maintained.
- B. Allow obstructions to public access for water-dependent uses and their facilities.
- C. Permit obstructions of public access for riparian non-water-dependent uses, in order to gain the minimum necessary reasonable access to navigable waters.
- D. Use the following factors in determining the minimum access necessary: the upland uses' dependence on access to navigable waters; the range of tidal fluctuation; the size and nature of the water body; the uses of the adjacent waters by the public; the traditional means of access used by surrounding similar uses; and, whether or not alternative means to gain access are available.
- E. Mitigate substantial interference or obstruction of public use of public trust lands and navigable waters.

7.6 Provide access and recreation which are compatible with natural resource values.

- A. Recreation and access opportunities should be designed in a manner which minimizes adverse impacts to environmentally sensitive lands.
- B. Public access and recreational activities should be limited where uncontrolled public use would lead to impairment of natural resources.

POLICY 8 PRESERVE HISTORIC RESOURCES OF THE VILLAGE OF SAG HARBOR.

Historic legend and physical evidence combine to comprise a significant element of Sag Harbor's character. Sag Harbor's prominence began with its growth as a center of whaling operations in the 18th century. As whaling declined in the mid-nineteenth century, other waterfront industries prospered - including shipping, steam powered passenger travel, flour and grain milling, concrete, and brick and pottery works. Resort development followed in the late 19th and early 20th centuries.

The settlement and growth of the Village in the 18th century and 19th century brought construction and reconstruction of waterfront facilities, commercial buildings and residential areas. Today, although little of the original waterfront development remains, a grid street pattern oriented to the harbor, historic homes, religious institutions, commercial and industrial structures, and seasonal tourist homes are remnants of the Village's past.

In 1974, the Village designated much of the waterfront, central business district and core portions of the surrounding nineteenth century residential neighborhoods as a local historic district. The

area was subsequently listed on the State and National Registers of Historic Places. In 1992, a new nomination was submitted to the State Board for Historic Preservation - presenting new boundaries. Expansion of the district was granted.

By the power of local zoning, the character of the Historic District is protected locally by the Board of Historic Preservation and Architectural Review {Chapter 55, Article XV}. The Board reviews and approves proposed alterations and construction of buildings within the historic district and of designated historic and cultural landmarks. The Board utilizes as criteria and is guided by the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The emphasis is on preservation of the district's whaling/shipping/resort character as a whole. This character is displayed by building exteriors - style, materials, mass, line, color, and detail - development scale, street pattern, landscaping and waterfront accessibility and views.

Sag Harbor was awarded Certified Local Government (CLG) status under the National Historic Preservation Act in 1989. This designation provides the Village with technical assistance and grant opportunities, in exchange for implementing the Secretary of the Interior's Guidelines when reviewing applications for the alteration or construction within the historic district, or for a designated historic or cultural landmark.

Historic and cultural landmarks designated in Chapter 55, Article XV of the Village Code, as of the fall of 1996 are: American Hotel, Main Street; Bulova Plant, Washington Street, Division Street and Madison Street; Cor Maria, Bay Street; Custom House, Garden Street; Hannibal French House, Main Street; Jared Wade House, corner of Union Street and Madison Street; John Jermain Library, Main Street; Methodist Church, Madison Street; Municipal Building, Main Street; Rysam-Sleight House, corner of Division Street and Burke Street; St. David A.M.E. Zion Church, Eastville Avenue; Umbrella House, Division Street; Whaler's Church and the Old Cemetery, Union Street; and, the Whaling Museum, southwest corner of Main Street and Garden Street.

The New York State Archaeological Sensitivity Map shows that Sag Harbor has multiple site sensitivity - suspected of containing archaeological resources. But, few artifacts are known to have been retrieved from the Village or its waterfront. This is explained, at least partially, due to the ground disturbance that has occurred during construction of the waterfront and central business district areas, and also because few archeological investigations have been conducted in the Village or under its harbor.

The intent of this historic preservation policy is to preserve Sag Harbor's historic, cultural, and archaeological resources. Concern extends not only to protection of specific sites or resources, but to protection of areas adjacent to those resources - and to the Village's historic district and waterfront area as a whole.

8.1 Maximize preservation and retention of historic resources.

The Board of Historic Preservation and Architectural Review is charged with maintaining an updated inventory of historic resources in the Village, and implementing the historic preservation

measures contained in Article XV of the Village Code. The Code requires that, in approving alteration and construction projects for buildings within the Historic District or designated historic and cultural landmarks, the Board shall adhere to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

- A. Maintain an updated local inventory of historic places.
- B. Preserve the historic character of the Historic District and designated historic and cultural landmarks - by utilizing, during review of building permit applications, the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
 - 1. Preserve and retain the historic character defining elements of a historic structure.
 - 2. Provide for efficient, compatible use of the historic resource.
 - 3. Minimize the loss of historic resources or the historic character of resources by relocating resources when they cannot be preserved in place.
 - 4. Allow for the demolition or removal of a historic or cultural landmark or any building within the Historic District only when relocation is infeasible, the resource cannot be adapted for any use on the existing site or on any new site, or notice has been served by the Village Board upon considering that the resource is imminently dangerous to the health, safety, morals and general welfare of the public.
 - 5. Avoid potential adverse impacts of development on adjacent or nearby historic resources.
- C. Preserve historic character, Village-wide:
 - 1. Undertake activities appropriate to the historic character of the affected resource.
 - 2. Design new development or redevelopment of such size, scale and proportions, massing, spaces, and spatial relationships so as to create a harmonious composition of the new or altered building or structure to existing buildings or structures as already exist, and the environs in which they are set.
 - 3. Design buildings, structures or signs to be of harmonious character using style, materials, mass, line, color, and detail or placement upon the property - or in relation to the spaces between buildings or the natural character of the landscape - to create a balanced and harmonious composition as a whole and in relation to its several parts and features to each other.

8.2 Protect and preserve archaeological resources.

Much of the Village has been identified as an area of multiple archaeological site sensitivity, on maps prepared by the New York State Office of Parks, Recreation and Historic Preservation.

- A. Conduct archaeological investigations prior to disturbance of sites identified on the Archeological Sensitivity Map, prepared by the Office of Parks, Recreation and Historic Preservation. The investigations should be sufficient to evaluate the presence of archaeological materials.
- B. Minimize potential impacts on archaeological resources by project designs which avoid or minimize resource disturbance - to the practicable extent.
- C. Catalog archaeological data prior to disturbance.
- D. Do not disturb or adversely affect any object of archaeological or paleontological interest situated on or underwater lands owned by the State of New York.

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

- A. Preserve and enhance the maritime character of the Village through implementation of land use regulations which preserve the traditional waterfront land use pattern, by maintaining water-dependent uses in the *Waterfront Functional Area*.
- B. Preserve and enhance waterfront views and public recreation areas.
- C. Provide interpretive materials and educational initiatives in appropriate settings to promote public understanding and appreciation of the Village's maritime heritage.
- D. Protect historic shipwrecks if found to exist off the Village's shoreline.
- E. Preserve and enhance historic navigational structures.

POLICY 9 ENHANCE VISUAL QUALITY AND PROTECT SCENIC RESOURCES IN THE VILLAGE OF SAG HARBOR.

A major contributor to local character are the views of the Village from its many approaches, and views from the Village of the water.

The view of the Village is linked to the water. A visitor will most likely first see Sag Harbor in relation to the water, whether arriving by boat, or by car across the North Haven/State Route 114 Bridge, Bridgehampton/Sag Harbor Turnpike, or County Route 60. The coastline consists of inlets and natural shoreline stretches, and a built-up harbor area. The view is of a village nestled in a coastal environment, where neither the built or undeveloped environment dominate. The view of the harbor features hulls, masts, moorings, piers, docks, public parks, and human activity.

While in the Village, the water can be viewed from many locations. In particular, quality waterfront views are available to the public from the Cove End Park, North Haven/State Route

114 Bridge, Windmill Park, Long Wharf, Marine Park, and Otter Pond. Waterfront views are also available to the public from street ends, particularly around the Cove Complex.

The historic character of the Village provides a significant visual experience for visitors and residents alike. It is expressed through the street grid pattern which is oriented to the waterfront, the moderate scale of development, historic residential areas, and commercial and institutional buildings in the central business district.

Wetlands, concentrations of fish and wildlife, shorelines in natural condition, and streams and ponds also contribute to the overall scenic quality of Sag Harbor.

The intent of this policy is to protect and enhance visual quality in the Village of Sag Harbor.

9.1 Protect and improve visual quality in the Village of Sag Harbor.

- A. Protect and improve visual quality when considering new development, redevelopment, or expansion project approvals.
 - 1. Remove, restore or screen deteriorated elements.
 - 2. Protect and enhance historic character. [See Policy 8]
 - 3. Group or orient structures to preserve open space and provide visual organization.
 - 4. Preserve existing vegetation and establish new vegetation to enhance scenic quality.
- B. Coordinate the addition of non architectural elements - such as pavement material and pattern, curbing, trees, fences, parking lots, lighting, street furniture, and signs in a manner which complements the surrounding natural and built landscape.
- C. Recognize water-dependent uses as important elements to the visual character of Sag Harbor - promote their presence, and protect the views which they provide.
- D. Preserve the scenic character of natural areas by avoiding changes in the configuration of natural shorelines and associated vegetation.
- E. Preserve and protect the quality and existence of open spaces and visual corridors through stewardship programs, strategic property acquisitions and land set asides.
- F. Protect the scenic values associated with public trust lands and waters by implementing harbor management initiatives which provide visual organization of harbor activities and structures - as provided by *Chapter 53 Waterways* [see *Appendix B*].
- G. Protect the scenic values associated with natural resources by maintaining undisturbed landforms and avoiding introduction of visual interruptions on the landscape.

POLICY 10 PROTECT AND IMPROVE AIR QUALITY IN LONG ISLAND.

This policy provides for the protection of the Long Island coastal area from air pollution generated within the coastal area, or from outside the coastal area, which adversely affects coastal air quality.

- 10.1 Control or abate existing and prevent new air pollution.**
- 10.2 Limit discharges of atmospheric radioactive material to a level that is as low as practicable.**
- 10.3 Limit sources of atmospheric deposition of pollutants to the Long Island Sound and Peconic Bays, particularly from nitrogen sources.**

POLICY 11 MINIMIZE ENVIRONMENTAL DEGRADATION IN THE LONG ISLAND COASTAL AREA FROM SOLID WASTE AND HAZARDOUS SUBSTANCES AND WASTES.

The long history of development has left a legacy of environmental degradation in some portions of the Long Island coastal area. Disposal of solid waste is a major regional issue. Many existing municipal and private landfills are at or above capacity, and some are producing leachate which degrade both surface and groundwater sources. A variety of substances, ranging from improperly disposed motor oils to industrial waste dumps, may pose immediate problems and can preclude or delay appropriate reuse of coastal lands. Smaller and more incremental solid waste problems arise from littering.

The intent of this policy is to protect people from sources of contamination and to protect coastal resources from degradation through proper control and management of wastes and hazardous materials.

- 11.1 Manage solid waste to protect public health and control pollution.**
- 11.2 Manage hazardous wastes to protect public health and control pollution.**
- 11.3 Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.**
- 11.4 Prevent and remediate discharge of petroleum products.**
- 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.**
- 11.6 Site solid and hazardous waste facilities to avoid potential degradation of coastal resources.**

POLICY 12 PROMOTE APPROPRIATE USE AND DEVELOPMENT OF ENERGY AND MINERAL RESOURCES.

Due to the size and built-out nature of the Sag Harbor local waterfront revitalization area, construction of a major energy facility in Sag Harbor would be inappropriate. This policy, therefore, is not applicable in the Village of Sag Harbor.

SECTION IV

**PROPOSED LAND AND WATER USES
AND PROPOSED PROJECTS**

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4.1 PROPOSED LAND USES

The primary land use in the Village of Sag Harbor consists of medium and low density residential development. The Village central business district contains a large number of commercial and retail uses. Marine commercial development along the waterfront and public open space/recreation facilities also represent significant uses in the Village. Some institutional and public utility uses are also present. In general, these uses should remain.

This preferred pattern of development is reflected on [Figure 3](#), which shows existing zoning and functional areas described in Section II, Inventory and Analysis, beginning on page II-8. Preferred uses not reflected in [Figure 3](#) include: open space and recreation ([Figure 2](#)) and; natural resources ([Figure 6](#)). Additionally, the Water Use Plan ([Figure 9](#)) provides more detail. Additionally, although scattered undeveloped lots are suitable for in-fill development. Some of these serve to control runoff and should be preserved as open space.

Specific projects, for the near-term, are identified in Section 4.3; there will be additional projects over the medium-term. Additionally, other projects of a similar nature will likely be developed over the next few years. Acquisition of undeveloped parcels (i.e., kettle holes or "natural sumps") will be pursued for the mitigative effects of nonpoint pollution.

There are a small number of properties in the Village, both developed and undeveloped, that have development (or redevelopment) potential. To better control the way these lands are developed, and to preserve open space, development on properties larger than five acres in size should be clustered (see Section 5.2).

4.2 PROPOSED WATER USES

The waters within the local waterfront area presently have a variety of uses, including wildlife habitat, commercial and recreational fishing, recreational boating, and passive recreation. In general, it is proposed that the existing uses should continue. It is important to note, however, that many of the LWRP's policies and implementation measures are aimed at improving and restoring coastal water quality, with the ultimate goal being the expansion of the total area that is available for shellfish harvesting, dependent upon upgrading and restoring the natural environment.

The *water use plan* for Sag Harbor is presented in this LWRP as [Figure 9](#) [attached at rear of (this) Section IV], and in [Figure 12](#) of the Sag Harbor Village Harbor Management Plan.

One item in particular that is brought out on the *water use plan* is the designation of a *line of navigation* along the shoreline to delineate the area that is considered suitable for dock construction. In the areas outside of the *Harbor Water Use District* and for non-water-dependent uses, this line follows the shoreline. Otherwise, the line of navigation generally follows the perimeter of existing dock structures.

A *Preservation Water Use District* is recommended for areas which, because of their environmental character, deserve the highest protection from human activity. These areas include: Round Pond, Otter Pond, Fore and Aft Pond, and portions of Ligonee Brook and Little Northwest Creek. Only passive recreation activities (e.g., walking, viewing) should be allowed in those areas. Construction of shore hardening structures should be prohibited.

Dredging is another area where action is required to implement the objectives of the LWRP. There are a number of navigation channels located throughout the Sag Harbor Cove Complex. Some of these channels have not been dredged since they were first established and will need maintenance dredging in the near future. Two areas, the western side of the Long Wharf and the southeastern section of the central mooring area, currently require dredging. For those areas considered in the public interest, including the main channel which stretches east from the Big Narrows to the breakwater and the navigation channel that extends into Sag Harbor, should be maintained as needed to provide clear passage through Village waters.

All dredging permits, with the exception of the one for the spur to the Ship Ashore Marina basin, have expired. The Village should promptly advise the Suffolk County Department of Public Works of the present dredging requirements to initiate the application process and secure the necessary dredging permits and assistance.

The breakwater also requires repairs. This structure, which separates Sag Harbor from Sag Harbor Bay, was constructed in 1908 and acts to shelter the harbor from the open waters of the bay, reducing the impacts of wave action generated in the bay. The breakwater was rehabilitated in 1963 to restore it to its original height and structural integrity. The breakwater is once again in need of repair. In the past thirty years, this structure has succumbed to gravitational settlement and wave-induced shifting of the rocks. Some of the supporting stones have fallen into the adjacent waters. Due to these changes, the effectiveness of the breakwater has been dramatically reduced. As a result, even moderate storms, especially northeasters (which drive waves directly against the breakwater) can cause surging waves to overtop the breakwater. During a relatively modest storm event in December of 1994, waves that bypassed the breakwater caused substantial damage to the bulkhead in front of the Village sewage treatment plant. The Village has requested that the Army Corps of Engineers initiate the repair of the breakwater to prevent future storm damage problems and improve navigable conditions. Engineering plans are currently being developed.

4.3 PROPOSED PROJECTS

The following is a summary of the projects that would implement and advance the Sag Harbor LWRP. This section enumerates projects that apply directly to the Village of Sag Harbor local waterfront area. It also lists additional projects which apply to areas outside of the local waterfront area, but which would serve to advance the policies and objectives of this LWRP, particularly with respect to coastal water quality enhancement.

Specific projects, for the near-term, are identified below; there will be additional projects over the medium-term. Additionally, other projects of a similar nature will likely be developed over the next few years. Acquisition of undeveloped parcels (i.e., kettle holes or "natural sumps") will be pursued for the mitigative effects of nonpoint pollution.

A. Proposed Improvements to Existing Facilities

- **Street Ends.** Improvements are necessary to the street ends and street ends/boat ramps located in the area of the Sag Harbor Cove Complex. The Dartmouth Road street end has become overgrown with vegetation which restricts public use in this area. The vegetation needs to be cut-back to better enable unhindered public access.

Both the Amherst Road and the John Street ramps are planned to be regraded and large-size gravel spread to stabilize the ramps, prevent sediment from entering the bay, and retain a permeable surface to permit continued percolation. In addition, small berms will be constructed at the top of each ramp, near the roadway, to prevent surface runoff from traveling directly down the ramp. At Amherst Road, the runoff will be conveyed from the berm into a storm grate that is connected to a leaching pool. At John Street, the runoff will be directed into the drainage structure that rings the John Street wetland, rather than conveying it directly into the adjacent outlet stream that connects the pond to Upper Sag Harbor Cove. These upgrades will be instituted without significant cost to the Village, with grant assistance from the *Peconic Estuary Study*.

- **Haven's Beach Renovation.** The Village of Sag Harbor owns the 18.8-acre Haven's Beach public bathing facility, which is located off Bay Street and fronts on Sag Harbor Bay. Existing recreational and sanitary facilities at Haven's Beach include a few pieces of play equipment, which are located adjacent to the beach, and a small building which houses one comfort station and the office and equipment for the lifeguards who supervise the beach facility. These existing recreational facilities, however, are limited in their ability to satisfy the recreation demands of the Village's large summer population, as well as year-round residents. Although this park spans over 18 acres, there is no well-defined picnic area and no other amenities beyond the beach and play equipment to make it more attractive and increase user enjoyment.

In addition, Haven's Beach is bisected by a drainage ditch which outlets to Sag Harbor Bay. This ditch carries stormwater runoff collected along Bay Street and Hempstead Street. This runoff is conveyed into this ditch without pretreatment to remove pollutants. It is also suspected that the runoff flowing through the Haven's Beach drainage ditch is contaminated with a number of nonpoint source pollutants that migrate to storm drains or directly into the ditch from nearby roadways in the adjacent watershed area. The pollutant loads carried through this drainage ditch can have a significant impact on the receiving waters of the bay, which have recently been experiencing water quality degradation problems (based on the NYSDEC's sampling conducted between October 1991 and July 1994). A continuation of this trend could lead to seasonal or permanent closures of productive shellfish beds.

The development of a bio-filtration system at Haven's Beach would mitigate this problem. Surface flows in the ditch would be diverted through the created wetland system to allow for settlement and some pretreatment of stormwater prior to discharge into Sag Harbor Bay. This detention system is expected to significantly reduce the load of suspended solids, pathogens, dissolved nutrients (i.e., nitrogen and phosphorus compounds, especially ammonia), oxygen-demanding substances, and certain metals currently carried in the stormwater runoff flowing through the ditch. After passing through the wetland system, flows would be diverted back into the drainage ditch to outlet to Sag Harbor Bay. Construction of this system is planned to begin in the spring of 1999.

- **Rysam/Bay Street Drainage Project.** Heavy rains often result in flooding in the area of Rysam, Burke and Bay Streets. The existing system is inadequate in terms of its ability to handle the large volume of stormwater generated by significant storm events. This system also does not have the capability to filter out pollutants before the stormwater is conveyed to the Marine Park boat basin and ultimately Sag Harbor Bay. The stormwater drainage culvert that is located under Bay Street, at the terminus of Rysam Street, needs to be upgraded to properly handle stormwater runoff prior to discharge into the harbor.

Grants were awarded to the Village - from the New York State Department of Transportation [Intermodal Surface Transportation Efficiency Act -Transportation Enhancement Program (ISTEA)] and the New York State Department of State [Environmental Protection Fund (EPF)] for the design and construction of the drainage and pollution control system. The project is expected to begin in 1998.

- **Village Boat Ramp Restorations.** There is a boat launching ramp located at the Marine Park boat basin. This ramp receives heavy usage throughout the year, and is in need of repair. The concrete ramp is beginning to crack and subside and the culvert located to the immediate east of this ramp is collapsing.

There are two additional boat ramps that require upgrading to improve boat launching capabilities to the Sag Harbor Cove Complex and address water quality problems. The boat launch ramp located on the Redwood peninsula, at the terminus of Amherst Road, is undeveloped. Boaters maneuver their trailers down this moderate slope to the water. Through the years of use, this site has developed ruts and small swales that make launching more difficult and convey roadway runoff and sediment directly into Inner Sag Harbor Cove. The boat launch ramp located off John Street, at the southeastern end of Upper Sag Harbor Cove, is in a similar state. These problems can be remedied by regrading the surface the ramps and installing a large-size gravel for ramp stabilization, to prevent sediment from reaching the Cove, and to retain a permeable surface for adequate percolation of stormwater runoff. In addition, small berms should be constructed at the top of each ramp to prevent surface runoff from traveling directly down the ramp. At Amherst Road, the runoff should be conveyed from the berm into a storm grate that is connected to a leaching pool. On John Street, the runoff should be conveyed into the John Street wetland to provide filtration prior to discharge into the Cove.

- **Windmill Park Renovation.** Windmill Park encompasses approximately 1.9 acres of shore front area that extends along the east and west sides of the North Haven/State Route 114 Bridge abutment. A tourist information center, operating in the summer, is the only building on the property and is housed in a windmill structure on the eastern portion of the site. The western portion of this property is undeveloped and essentially unutilized. There is no direct connection between the two sides of the park. Minor upgrades, such as landscaping and the addition of walkways and benches, would significantly improve site conditions and utilization.

It should be noted that any improvements made at this location would not occur until the North Haven/Route 114 Bridge is reconstructed (see Item D., below). Construction is proposed to commence on this project in the spring of 1999, or shortly thereafter.

- **Sewage Treatment Plant.** Expansion of the sewage treatment plant to treat increased sewage flows and projected sewer flows — design and engineering plans are underway. The treatment process would be upgraded to provide tertiary treatment of all sewage flows - to remove nutrients from the sewage flow that are presently discharged into Sag Harbor.
- **Pump-Out.** Installation of additional pump-out facilities, especially in the Outer Sag Harbor Cove area, will support the no-discharge zone designation. The *New York State Clean Vessel Act Plan, August 1996*, recommends that one additional pump-out facility be installed west of the North Haven/State Route 114 Bridge.

B. Proposed Environmental / Planning Studies

- **Long Wharf Design Study.** The location of Long Wharf makes it a suitable and convenient place for observing marine-related activities that are occurring in this area of the waterfront. The current design of the Long Wharf is primarily geared toward providing accommodations for vehicles. The entire surface area of Long Wharf is paved and is particularly attractive for vehicular circulation, with pedestrians being the less apparent user. A design study could be undertaken which would propose feasible alternatives to the present use and offer a more attractive space to be utilized primarily by pedestrians, with less emphasis placed on vehicular use.
- **Traffic Calming Study.** A study could be undertaken to review the current traffic patterns and street uses within the Village, and recommend methods to lessen negative impacts. The objectives of the study would include effective ways of slowing vehicular speed, and limiting bypass traffic.

C. Proposed Public Education Programs

- **Adopt-A-Stream.** A volunteer program should be established in the Village that would enable an individual or a group to adopt a stream, pond or length of shoreline. Each adoption case would consist of an initial evaluation of existing conditions and potential problems. The responsible individual or group would clean up their adopted water body by picking up trash and debris at least twice a year, and generally watching for negative and potentially destructive influences.
- **Bay Friendly Properties.** Public education and support for clean waters in the Village could be furthered by a program which would identify families, homes and businesses as being "Bay Friendly." Standards having a focus on effective and properly maintained waste water treatment and stormwater collection systems would be established. At the time such standards are met, the program would award the property owner with a bumper sticker or similar window decal.

D. New York State Projects

- **Bay Street Bridge.** The Bay Street Bridge (North Haven/State Route 114) contributes stormwater (road) runoff to the surface waters of Sag Harbor Bay and Sag Harbor Cove. The NYS Department of Transportation has announced that they plan to reconstruct the bridge. All design scenarios should provide mechanisms to address stormwater runoff. Reconstruction is planned to begin in spring of 1999.

E. Private Projects

- **Otter Pond Wetlands Creation and Culvert Restoration.** Otter Pond has been severely degraded as a result of decreased tidal flushing, stormwater drainage and a large, resident waterfowl population. As a result, the pond discharges coliform bacteria and other contaminants to Upper Sag Harbor Cove. This input of polluted water has contributed to the year-round closure of the southeastern portion of the upper cove to shellfish harvesting. The tidal outlet stream that runs through the culvert under Main Street must be cleared of any obstructions to restore tidal exchange between these two water bodies.

A wetland planting program should also be conducted around the perimeter of the pond to restore the protective wetland fringe that has been mostly eliminated. Additional wetland plants in the vicinity of the outlet stream would also help to reduce pollutant loadings to Upper Sag Harbor Cove. Otter Pond Park is owned by the Sage Foundation. The pond bottom lands and the tidal stream channel are the responsibility of the Town of Southampton. The Sage Foundation has recently been collaborating with the Cornell Cooperative Extension to design a wetlands restoration program. The Foundation should also collaborate with the Town of Southampton to seek a means of remedying the existing problems in the tidal outlet stream.

F. Property Acquisition

- **Marine Natural Character Areas and Open Space Character Areas.** These areas, identified in the Inventory, should remain in their natural state to provide a protected habitat for wildlife and to retain open space. The Village and local land trust should continue to acquire privately-owned property in these character areas when the opportunity exists.

Acquisition of the "*Cilli Farm*" property by the Village - to preserve open space and wetlands and to prevent further flooding in the area - should be made a priority.

SECTION V

TECHNIQUES FOR IMPLEMENTATION

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5.1 EXISTING LOCAL LAWS AND REGULATIONS

A. Incorporated Village of Sag Harbor

The Village of Sag Harbor has adopted a number of local laws and regulations that implement the policies of the LWRP, summarized as follows:

▶ ***Chapter 12 of the Village Code (Bulkheading, Dredging and Canals)***

Chapter 12 establishes regulations for the construction of bulkheading, docks, wharfs and piers into or along natural water bodies; the dredging and the digging of boat ramps, boat basins and canals to extend the flow of water bodies; and, the filling in of lands along the shoreline and in areas containing tidal wetlands (with the term "wetlands" corresponding to the State definition). This law sets forth a permit procedure for governing these activities within or adjacent to Village waters. All such permit applications are subject to a public hearing. A permit for any project will not be granted under *Chapter 12* that would: materially contribute to shoreline erosion in the Village; cause salt water intrusion into the groundwater aquifer serving the Village; create unreasonable waterway traffic; disturb the health and safety of persons walking along the beaches of the Village; or, adversely affect marine life in wetland areas.

▶ ***Chapter 15 of the Village Code (Environmental Quality Review)***

As a part of the adoption of the Local Waterfront Revitalization Program in 1986, the Village amended *Chapter 15* of the Village Code (Environmental Quality Review Law), to include provisions for the review of actions for consistency with the LWRP. Section 15-2.6 of the Village Code requires that any action to be undertaken within the local waterfront revitalization area must be consistent with the policies and purposes of the LWRP. All boards, departments, offices and other bodies and officers of the Village are required to review actions for consistency where it is determined that an action may have a significant effect on the environment. Where it is resolved that an action will not have a significant environmental impacts, consistency must be determined subsequent to the initial determination of non significance.

If it is concluded that any action would cause a substantial hindrance to the achievement of any policy or purpose of the LWRP, the proposed action shall not be undertaken unless it is found that: no reasonable alternatives exist that would permit the action to be undertaken without substantial hindrance to such policy or purpose; the action would be undertaken in a manner which will minimize all adverse effects on such policy or purpose to the maximum extent practicable; and/or the action will result in an overriding Village, regional or statewide public benefit. Those actions found to result in inconsistency with the LWRP must be modified to the satisfaction of the Village or they cannot be undertaken.

▶ ***Chapter 21 of the Village Code (Harbor Committee)***

Chapter 21 establishes a five-member Harbor Committee and a procedure whereby the Village administration will be made aware of ongoing and pending activities which may have an adverse impact on the quality of local waters, and of all opportunities for water quality improvement. The five members of the Harbor Committee are appointed by the Mayor, subject to approval by the Village Board of Trustees. All decisions are governed by a majority vote of the full Committee. The duties and responsibilities of the Harbor Committee include: monitoring all activities and reviewing all applications and proposals that may affect local waters; maintaining liaison with other appropriate government and civic bodies to assure cooperation that is to the mutual benefit of all concerned parties; being alert for sources of funding to implement projects related to water quality improvement and the implementation of other Committee recommendations; making timely and appropriate comments and recommendations to the Mayor and Board of Trustees and other Village Boards so that their actions protect and preserve local waters; promoting public education efforts regarding the role that individual citizens play in protecting and preserving local waters; and, making recommendations to the Board of Trustees with respect to revising and updating the LWRP.

▶ ***Chapter 27 of the Village Code (Land and Beach Use)***

Chapter 27 of the Village of Sag Harbor Code regulates activities at Haven's Beach and other Village-controlled buildings and grounds. *Chapter 27* designates Haven's Beach as a municipal beach of the Village and establishes operating hours and parking permit requirements for this facility. Permits are available to both residents (defined as Village taxpayers, permanent residents, temporary residents, and guests at lodging facilities within the Village) and nonresidents, although the fee structure differs between these two categories of beach users. Permit requirements are also set forth under this law for the use of Village buildings or grounds by civic organizations.

▶ ***Chapter 41 of the Village Code (Recreational Motor Vehicle Control)***

Chapter 41 regulates the use of recreational motor vehicles within the Village of Sag Harbor. This law prohibits the operation of a recreational motor vehicle on private property, unless the operator has the express written consent of the land owner, and on public grounds or property, including Village-owned land, except in areas dedicated to or commonly used by motor vehicles. Although not expressly stated, the above restrictions effectively prohibit general vehicular traffic along beaches throughout the Village, which applies particularly along the shoreline to the immediate east of the breakwater. Vehicular traffic along the shoreline in other portions of the Village is generally precluded by the presence of wetlands and structures (e.g., docks, bulkheads).

▶ ***Chapter 43 of the Village Code (Sewers)***

Chapter 43, also referred to as the *Sanitary Sewer Law*, establishes a sewage system with specific service areas for the Village. All premises situated within any of the service areas and which are used for human occupancy, employment or recreation, are required to be connected to the Village sewer system. A general sewer use permit is required for most uses that are connected to the system. A special sewer use permit is required for certain uses, including a major contributing industry. A special sewer use permit is also needed for any facility that requires a variance due to the generation of wastes that fail to meet certain specific criteria, or that requires ancillary equipment to mitigate the effect of a noncomplying waste. This law establishes specific design and construction standards for physical connections to the sewer system and related appurtenances, and specifies a review procedure for ensuring that all such equipment conforms with these requirements. Discharges to the sewer system that would interfere with the operation of the system are prohibited. *Chapter 43* also establishes a wastewater sampling schedule for industrial, commercial and institutional users, based on average annual flow and type of discharge. Specific protocols are established for monitoring, analysis, reporting, and record-keeping.

▶ ***Chapter 46 of the Village Code (Subdivision of Land)***

Chapter 46 of the Village Code, Subdivision of Land, establishes regulations to provide a schedule of procedures, standards and requirements for the review of subdivision proposals. The regulations include: subdivision approval procedures; site improvement standards; on-site requirements for parks, open spaces and natural features; provisions for clustered development; and, provisions for variances and waivers from required standards. The standards contained in this law include specifications for preparation of plats and plans, design criteria and standards details.

▶ ***Chapter 53 of the Village Code (Waterways)***

The Waterways Law applies to all waters of the Village and waters adjacent to the Village, to a distance of 1,500 feet from the mean high tide line. The main provisions of *Chapter 53* include: a prohibition on the dumping of oil, refuse, garbage or waste, and the discharge of toilets; the requirement of a Village permit for each vessel mooring (mooring locations are governed by a grid established and controlled by the Harbormaster); the prohibition of boats that anchor or moor in such a way that it rests within the lines of any navigation channel; the requirement of a Village permit for the mooring; the prohibition from operating all boats, other than those propelled by hand, within 100 feet of lifelines and bathing floats and 200 feet from any beach regularly used for bathing; the establishment of a maximum vessel speed of 5 miles per hour (mph), unless otherwise posted; the prohibition of waterskiing, windsurfing, and similar activities within 200 feet of the shoreline and within 50 feet of any bather, except when commencing or ending a ride; the prohibition of water scooters (e.g., jet skis) within harbor areas and designated public bathing beaches, and outside harbor areas to

a distance of 250 feet of the shoreline or within 50 feet of any bather, except when commencing or ending a ride at a speed no greater than 10 mph; and, the prohibition of skin diving, scuba, swimming, and related activities within any channel.

The 1996 amendment to *Chapter 53* clarifies enforcement authority, more specific mooring and mooring permit application, procedures and requirements; specifies requirements for the removal/elimination of navigation hazards; outlines general operating standards; and, contains more effective definitions of terms.

▶ ***Chapter 55 of the Village Code (Zoning)***

The Village Zoning Ordinance regulates all land use activities in the Village and establishes specific land use classifications or districts, as well as restrictions for the regulation of development and redevelopment actions within each district. All of the zoning classifications contained in the *Chapter 55* include provisions that require a minimum percentage of site area be retained as natural or landscaped open space. In most districts, natural vegetation that exists within 25 feet of the mean high water line or upland edge of a wetland must be preserved and sewage disposal systems must be set back a distance of 100 feet from these resources. Furthermore, in the R-20, Moderate Income and Multi-family residential districts, no fertilized vegetation can be planted within 25 feet of wetlands, coastal waters or beach and dune habitats.

Chapter 55 contains several articles that are applicable to the implementation of the Sag Harbor Village LWRP. These include the following:

● ***Article XV of Chapter 55 (Historic Preservation and Architectural Review)***

Article XV establishes a Historic Preservation and Architectural Review Board. This Board is responsible for maintaining the desirable character of the Village's Historic District and of designated historic and cultural landmarks. The review board is charged with the duty of disapproving the construction, reconstruction and alteration of buildings, structures or signs that are designed without considering the relationship of the new or altered building or structure to the character of existing buildings or structures and the environment within which they are set. The board also has the responsibility of exercising sound judgment and of rejecting plans which, in its opinion, are not of harmonious character because of: the proposed style, materials, scale, form, rhythm, proportion, mass, line, color, or detail; the proposed placement or alteration of buildings or structures upon the property; the relation of the proposed or altered buildings or structures to the spaces between existing buildings or the natural character of the landscape; or, because the proposed plans do not provide for the location and design of structures and open spaces so as to create a balanced and harmonious composition as a whole, and with regard to the relation among its several parts and features.

When reviewing plans relating to property within the Historic District or plans involving designated historic or cultural landmarks, the review board must utilize the criteria set forth in Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings established by the U.S. Secretary of the Interior. Development plans and proposals for structural improvement or change that are found to conform with these requirements will be issued a "Certificate of Appropriateness" by the review board.

- *Article XVI of Chapter 55 (Site Plan Review)*

Article XVI of the Village of Sag Harbor Zoning Code authorizes the Village Planning Board to establish a Site Plan Review procedure. Under these provisions, site plans must be reviewed for all proposed residential projects for three or more units, and for all nonresidential construction and land use projects. This review is aimed toward: implementing the intent of the Zoning Ordinance; assuring the adequacy of proposed site improvements such as grading, drainage, on-site stormwater recharge, erosion protection, sewage disposal (including pump-out facilities), and site access; integrating other required review procedures; coordinating development proposals and development potential of adjacent lands; and, assessing the impacts of the proposed development on adjacent lands, the availability of open space, visual access, and other general environmental and social factors. Site plans are required to show the location of the proposed development in relation to adjacent freshwater and tidal wetlands; first-floor flood elevations if located adjacent to tidal waters; the location of all natural resources such as dunes, streams, ponds, and lakes, as well as canals and bulkheads; the existing topography of the site and adjacent properties; and, existing and proposed stormwater drainage facilities to ensure that surface runoff is and/or will be directed away from surface waters and wetlands and into suitable structure designed to entrap pollutants prior to discharge.

- *Article XVII of Chapter 55 (Tidal Flood Hazard Overlay District)*

The Village has adopted the Tidal Flood Hazard Overlay District (Article XVII of the Zoning Law) law to minimize structural damages, threats to public safety, and other potential adverse impacts engendered by development in the coastal floodplain. This law establishes a Tidal Flood Hazard Overlay District (TFHO), and provides regulations that apply in addition to the development restrictions set forth under the standard zoning districts. Article XVII specifies minimum design and construction standards for buildings and other structures within the TFHO District, and establishes a review procedure for ensuring that all regulated structures conform with these requirements. The Village Building Inspector is the primary agent responsible for implementing the provisions of Article XVII.

The boundaries of the TFHO District are derived from the Flood Insurance Rate Maps which have been developed by the Federal Emergency Management Agency (FEMA). Activities within the TFHO District that are subject to the requirements of Article XVII include: construction, moving, alteration, or extension of any building or structure; occupying a building or structure; and using land for such activities as mining, dredging, filling, grading, excavation, and drilling. A distinct set of standards applies to structures in the "V zone" (coastal high hazard area) versus the "A zone" (area of special flood hazard). In general, due to the potential for wave impact damage in the V zone, structures in these areas must adhere to more stringent requirements than are specified for the A zone.

B. Town of Southampton Laws and Regulations

Certain laws and regulations enacted by the Town of Southampton effect activities on Town-owned underwater lands within the Village of Sag Harbor. These include the following:

Wetlands Management

The Town Trustees regulate the bottom lands of all water bodies in the Village which lie within the corporate limits of the Town of Southampton. Although not specifically stated in their Rules and Regulations for the Management and Products of the Waters of the Town of Southampton (April 1992), the Town Trustees regulate activities which might alter wetlands occurring below the mean high water line. This is implied in Article VII of the regulations, which restricts dredging, the construction of shoreline hardening structures, and the placement of moorings, tie-off poles or other obstructions. These regulations prohibit any person from digging, dredging or changing the bottom of any waters in the Town of Southampton unless authorized by a permit issued by the Trustees.

Shellfish Management

Article II of the Town of Southampton Rules and Regulations for the Management and Products of the Waters of the Town of Southampton contains provisions for shellfish management. These regulations establish specific requirements for harvesting methods and limits applicable to the taking of oysters, scallops, hard clams, soft clams, and crabs. They restrict the taking of shellfish to Town of Southampton residents and taxpayers who have obtain the required permit. The taking of shellfish is restricted to certified waters. Fish and crustaceans taken unintentionally during shellfish harvesting must be returned to the water at once without unnecessary injury. The regulations also prohibit the return of live starfish, drills, drum fish, and moonsnails to the Town waters.

C. **Suffolk County Regulations**

Designation of Critical Environmental Areas

The entire Peconic Bay system (including its tributaries and all lands extending 500 feet from the shoreline) has been designated by the Suffolk County Legislature as a *Critical Environmental Area (CEA)* pursuant to Local Law No. 29 of 1988. Therefore, in accordance with Part 617.12(b)(11) of the State Environmental Quality Review Act (SEQRA), any unlisted action occurring wholly or partially within or substantially contiguous to this *CEA* is automatically considered a Type I action and is subject to a coordinated SEQRA review. In each case, a Lead Agency must be designated, a Long Environmental Assessment Form (Long EAF) must be completed, and a Determination of Significance must be publicly filed. This determination must be based on the review of the Long EAF wherein the Lead Agency must determine if the proposed action would potentially result in at least one large and/or important impact to the environment. In those cases where the Lead Agency makes a "Positive Declaration of Significance," the preparation of an Environmental Impact Statement (EIS) is required.

Neither the Village of Sag Harbor nor the Towns of East Hampton or Southampton have designated any additional areas along the shoreline of the Village as *Critical Environmental Areas*.

5.2 **PROPOSED LOCAL LAWS AND AMENDMENTS TO LOCAL LAWS AND REGULATIONS - NECESSARY TO IMPLEMENT THE LWRP**

The following is a description of the proposed local laws and amendments to existing Village laws and regulations which are necessary to implement this LWRP:

A. **Enactment of a Wetlands Law**

The intent of this proposed local law is to protect and enhance all of the Village's wetlands (tidal, brackish and freshwater), tidal waters (where those waters meet with the Mean High Water mark), and contributing streams. The law will include provisions for 100' setbacks and easements.

B. **Enactment of a Waterfront Consistency Review Law**

The Village of Sag Harbor should adopt a local coastal consistency review law. The purpose of the local law will be to provide a framework for agencies of the Village 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. The intention of the local law will be to achieve a balance, permitting the

beneficial use of coastal resources while preventing: loss of living 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. Only those actions subject to consistency review will be listed in the proposed Waterfront Consistency Review Law. An agency shall, prior to approving, funding or undertaking the action that is located in the Village's Coastal Area, make a determination that it is consistent with the LWRP policy standards and conditions (Section III). The applicant, or in the case of a direct action, the agency, will be required to prepare and submit a completed Coastal Assessment Form (CAF) to provide information necessary to assist with the consistency evaluation. The *Harbor Committee* will continue as the authorized entity to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the Village of Sag Harbor Local Waterfront Revitalization Program policies and conditions.

C. Amendments to the Environmental Quality Review Law (Chapter 15)

Upon enactment of the Village's proposed Waterfront Consistency Review Law, the Village's Environmental Quality Code should be amended to remove all language regarding consistency determinations of actions in accordance with the Village's Local Waterfront Revitalization Program policy standards and conditions.

The purpose of *Chapter 15* will be, as originally intended, to implement for the Village of Sag Harbor the provisions of the State Environmental Quality Review Act.

D. Amendments to the Village Zoning Ordinance (Chapter 55)

The zoning ordinance of the Village should be amended to implement this LWRP. The proposed amendments are described below.

- *Site Plan Review* -- The Planning Board presently is authorized to review site plans for all proposed three or more family dwellings and all proposed nonresidential construction and land uses. The proposed amendment to the Village's Site Plan Review law (*Chapter 55*, Article XVI, § 55-16.1) will incorporate those surface water areas proposed for the *Preservation Water Use District*, in addition to those areas already included in the *Conservation Water Use District*. Potential effects of activities occurring on upland adjacent to the approximate boundary of those surface water areas should be considered.
- *Clustered Development* -- There are a small number of properties in the Village that have the potential to add a considerable number of dwelling units to the current housing stock. In most cases such development would result in significant impacts to the existing character of the Village, and in certain places, the waterfront.

To better control the way these properties may be developed in the future, and to avoid upzoning to lower development density (which would require the establishment of a new residential zoning classification), the Village should require clustered development and/or increased open space preservation requirements on properties five acres and larger as an alternative to standard development practices. This provision could be incorporated into the language for the R-20 One Family Residence District (*Chapter 55, Article IV*). Such action would be aimed at protecting natural, visual and/or cultural resources; reducing potential traffic impacts; and protecting the overall quality of the waterfront environment. It would affect the future use of the Cor Maria property, the Cilli Farm property, the Suffolk County Water District property, and a few other large, privately-owned areas of undeveloped space should these properties be subject to development proposals.

E. Water Use Standards

When the Sag Harbor LWRP was adopted in 1986, it included the establishment of three water use districts. These include the *Harbor District*, the *Low Intensity District*, and *Conservation District* (see [Figure 3](#)). Although the Village's objective for establishing these districts was to direct the intensity of water uses within the Sag Harbor Cove/Bay Complex, no use standards were developed to guide these activities. Standards for water use districts should be adopted as **amendments to Chapter 55 (Zoning) of the Village Code** and incorporated into the LWRP policies to effectively govern the extent of waterside activities occurring in Sag Harbor Village waters. Such water use standards will also provide additional protection to significant natural resources and allow uses in each district that are suitable for that location.

Additionally, a *Preservation District* is recommended for areas which, because of their environmental character, deserve the highest protection from human activity. These areas include: Round Pond, Otter Pond, Fore and Aft Pond, and portions of Ligonee Brook and Little Northwest Creek. Only passive recreation activities, such as walking and viewing, should be allowed in those areas. Construction of shore hardening structures should be prohibited in the *Preservation District*.

5.3 OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP

A number of public and private projects have been identified that would advance the policies and objectives of the LWRP.

- *Vessel Waste No-Discharge Zone* -- The waters of the Sag Harbor Cove Complex support extensive recreational boating activity. Although the Village provides vessel waste pump-out facilities and the Town of Southampton has recently provided a mobile pump-out boat for this area, local marinas do not provide these facilities and local waters are still subject to a significant amount of waste disposal that degrades

water quality. Consistent with the State's Clean Vessel Act Plan, the State should officially designate, by State Statute, the Sag Harbor Cove Complex, west of the breakwater, as a *no-discharge zone*, and should undertake appropriate actions to ensure that this designation is properly implemented and maintained. The Village would enact a local law, should it be designated.

The *New York State Clean Vessel Act Plan, 1996*, recommends that one additional pump-out facility be installed west of the North Haven/State Route 114 Bridge.

- *Underwater Land Grants* -- The State of New York issued underwater land grants to various upland property owners in the Sag Harbor area. These grants were issued between 1845 and 1968, and in most of these cases these lands consist of upland properties or portions of the upland that were formerly underwater lands that have been filled in. All of these grants were issued with full interest given to the grantee. There are three waterfront properties, however, that have been developed that do not have grants from the State Office of General Services. These include the underwater lands that contain the Waterfront Marina owned by Malloy Enterprises; the former underwater lands that comprise the Marine Park property, which is owned by the Village of Sag Harbor; and, the underwater lands and small upland area that comprises the Sag Harbor Yacht Club property. Grants for these lands should be obtained from the State through the appropriate application process. To insure that these grants are issued to permit the existing use of these sites, and to prevent future uses and activities that may be inappropriate for such waterfront locations, the Village should urge the State Office of General Services to be specific and restrictive regarding the use of the underwater lands when authorizing these interests.
- *Enforcement of Town Regulations in Town of Southampton Waters* -- At present, the Town of Southampton is responsible for the patrol of surface waters and enforcement of waterways regulations in Southampton Town waters, which includes those portions of Outer and Inner Sag Harbor Cove lying outside of the Village's jurisdiction. Throughout the summer boating season, when recreational boating and other in-water recreational activities increase, the Town does not conduct regular patrols in this area due mainly to the fact that these waters are isolated from the main body of the Town's waters. To ensure that an appropriate level of enforcement is provided in this area, the Town of Southampton should consider granting authority to the Village of Sag Harbor to allow the Village Harbormaster the ability to act on violations that are presently outside Village jurisdiction. Presently, the Harbormaster can only issue warnings to boaters outside Village waters that are violating speed restrictions or other waterways regulation; the Village cannot issue citations or enforce Town law to any other extent unless authorized by the Town. The Town and the Village should jointly pass a resolution to establish a cooperative arrangement to allow the Village to assist with patrols in this area and to transfer authority so the Village can enforce existing Town regulations.

- Harbor Management Plan -- The Village of Sag Harbor prepared a Harbor Management Plan in support of this amended LWRP. The Harbor Management Plan examines the conditions of the Sag Harbor Cove/Bay Complex with respect to surface water use and navigation, natural resource protection, and water quality. The plan sets forth a number of comments and recommendations for the future growth and management of the waters of the Complex. These recommendations will be implemented through the acceptance of the Harbor Management Plan by the Village Board of Trustees; through the undertaking of the projects outlined in Section 4 of the LWRP that effect the waterfront and offshore waters; and through the adoption and amendment of local laws, as proposed in Section 5 of the LWRP. *Chapter 53 Waterways*, is the primary implementing local law.

5.4 MANAGEMENT STRUCTURE NECESSARY TO IMPLEMENT THE LWRP

LWRP consistency review will become a part of the environmental review process that is conducted within the Village under the requirements of SEQRA. A determination of consistency shall be included in each Negative Declaration and Statement of SEQRA Findings issued by the Village.

The Village may **not** issue a negative SEQRA declaration or a finding of no significant impact for any action that is determined to be inconsistent with the Village of Sag Harbor LWRP. No action that is determined to be inconsistent with this LWRP may be directly undertaken, funded, or approved by the Village.

The Village or private applicant can propose modifications to any action that is determined to be inconsistent with this LWRP. If the reviewing agency deems that the modifications are sufficient to result in LWRP consistency, said modifications shall become conditions to project approval. All such conditions shall be incorporated into the Conditioned Negative Declaration or the Statement of SEQRA Findings, whichever applies.

Initial information for each proposed action subject to consistency review shall be obtained by means of the completed Coastal Assessment Form (CAF), which will be an addendum to the long Environmental Assessment Form (EAF). Additional information can be obtained through specific requests made to the applicant by the reviewing agency, similar to the process that presently applies during the SEQRA review.

Note that an "action," as defined herein, is identical to the term as it is applied under SEQRA, and includes: any project directly undertaken or funded by the Village; any project requiring the issuance of a permit or approval by the Village; any planning activity by a Village agency that commits the Village to a future course of action; and any municipal rules, regulations and policy making decisions.

A. Village Agency Involvement

The responsibility for conducting SEQRA reviews within the Village presently lies with the Village Board of Trustees as lead agency. The Board of Trustees may delegate this designated status to the Planning Board or Zoning Board of Appeals if deemed necessary. Henceforth, the lead agency shall assume the responsibility of conducting respective SEQRA reviews within the Village, and shall seek recommendations as appropriate from other Village entities in making necessary determinations. The lead agency in any given action shall retain ultimate responsibility for rendering any actual decisions pursuant to SEQRA, based on the recommendations rendered by other involved agencies. The following is a list of responsibilities of various Village agencies that may be involved in proposed actions that require SEQRA review.

- Village Board of Trustees - The Village Board of Trustees enacts local laws which govern land and water use activities within the Village and approves modifications to same; makes final decisions on actions such as change of zone and special use permit applications, including SEQRA determinations; appoints the Village Planning Board and Zoning Board of Appeals; allocates and approves funding for projects and studies related to coastal management (as well as all other aspects of the Village budget).
- Village Attorney - The Village Attorney drafts local laws and amendments to same; regulates the issuance of summonses for violations of the Village ordinances and enforces same; assists in SEQRA review determinations; and, aids in the prosecution of cases involving illicit dumping of hazardous materials into local waters, and other illegal activities.
- Village Clerk - The Village Clerk processes administrative paperwork for the Board of Trustees. The Village Clerk is responsible for advising each applicant or Village agency when a proposed action is subject to SEQRA review and provides the appropriate assessment forms pursuant to the Village SEQRA law. The Clerk also coordinates communications between these entities. In addition, the Village Clerk processes applications for docks and shoreline hardening structures or other activities pursuant to *Chapter 12* of the Village Code, files sewer permits after they are processed by the Village Sewer Department in accordance with *Chapter 43* of the Village Code, and presents information relevant to these permit applications to the Board of Trustees, as required, prior to public hearings.
- Planning Board - The Planning Board is a five-member board appointed by the Sag Harbor Village Board of Trustees in accordance with Section 179-g of the Village Law. The Planning Board is empowered and directed to undertake studies and make plans incorporating proposed legislation in the form of amendments to *Chapter 55* of the Village Code. The Planning Board must report to the Village Board of Trustees annually as to its progress and recommendations relative to the effectuation of foregoing studies and plans. The actions and objectives of the Planning Board must consider: the designation of areas and structures of historic value; the conservation and preservation of the natural shoreline

and wetlands; the proper recreational and commercial use of the waterfront; and appropriate changes to the Zoning Code.

- Zoning Board of Appeals - The Zoning Board of Appeals (ZBA) consists of five members appointed by the Sag Harbor Village Board of Trustees. The Zoning Board of Appeals is empowered to hear and decide any matter where an applicant alleges that the decision of the Village Building Inspector was in error, and any matter which the Building Inspector appeals on grounds of doubt as to the meaning or intent of any provision of the Zoning Code or to the location of any district boundary on the Zoning Map. The ZBA also has the power to authorize a variance from the terms of the Zoning Code.
- Harbor Committee - The five members of the Harbor Committee are appointed by the Mayor and are subject to approval by the Board of Trustees. The duties and responsibilities of the Harbor Committee include: monitoring all activities and reviewing all applications and proposals that may affect local waters; maintaining liaison with other appropriate government and civic; investigating sources of funding to implement waterfront-related projects; making timely and appropriate comments and recommendations to the Mayor and Board of Trustees and other Village boards; promoting public education efforts; and, making recommendations to the Board of Trustees with respect to revising and updating the LWRP.
- Harbormaster - The Harbormaster is responsible for the day-to-day operations of the Village of Sag Harbor marina facilities (Marine Park and boat basin, the Long Wharf Marina, Village A and B docks) and mooring area. The Harbormaster is also responsible for overseeing the dock masters and other assistant waterways personnel.
- Board of Historic Preservation and Architectural Review - The Board of Historic Preservation and Architectural Review consists of five members appointed by the Sag Harbor Board of Trustees. This board is responsible for maintaining the desirable character of the Village of Sag Harbor's Historic District and designated landmarks, and for disapproving plans and proposals that are designed without consideration of, or that would alter the character of, the Historic District and the buildings and structures contained therein.

B. LWRP Consistency Review Procedures

The Village Board of Trustees shall assume responsibility for conducting LWRP consistency reviews of actions within the local waterfront area, in accordance with the procedures that are outlined below:

- a) The action shall be classified by the Village Clerk according to SEQRA. Excluded and exempt actions are not subject to LWRP consistency review. Type II actions not subject to consistency review are listed in the Village of Sag Harbor Waterfront Consistency Review Law.

- b) Since the local waterfront area corresponds to the Village boundary, all Type I and unlisted actions are subject to LWRP consistency review.
- c) The Village Clerk shall require the completion of a CAF, in addition to a Long EAF as may be required, for each action subject to LWRP consistency review. For any action involving a private development application, the applicant shall be required to prepare the EAF/CAF. The Village Attorney shall prepare the EAF/CAF for any direct action by the Village.
- d) Upon receipt of the EAF/CAF submission, the Village Clerk shall determine if the documentation constitutes a complete statement for the purpose of determining consistency with the LWRP. The Village Clerk or Village Board of Trustees may request any additional material necessary to complete the review.
- e) The Village Planning Board shall review all proposed actions and make recommendations to the Village Board of Trustees. If it is determined that there are other involved agencies that must review the materials, a copy of the EAF/CAF, the application, and any supporting material shall be forwarded to each such involved agency. Additional copies shall be forwarded to interested parties, as deemed appropriate by the Village Board of Trustees.
- f) The Village Board of Trustees shall make a consistency determination based upon its review of the EAF/CAF and any input received from the Village Planning Board and other involved and interested agencies.
- g) The Village Board of Trustees shall maintain a file for each action made the subject of a consistency determination to be kept with the Village Clerk. This file shall be made available for public inspection upon request, subject to the requirements of the Freedom of Information Law.

- PROCEDURES TO REVIEW STATE ACTIONS FOR CONSISTENCY WITH THE LWRP

- a. *Notification Procedure*

- 1) When a State agency is considering an action in the local waterfront revitalization area, the State agency shall notify the Mayor and Board of Trustees ("Village Board") of the Incorporated Village of Sag Harbor ("Village").
- 2) Notification of a proposed action by a State agency:
 - shall fully describe the nature and location of the action;
 - shall be accomplished by use of either the State Clearinghouse, other existing State agency notification procedures, or through any

alternative procedure agreed upon by the State agency and local government; and

- shall be provided to the Mayor and Village Board as early in the planning stages of action as possible, but in any event, at least 30 days prior to the agency's decision on the action.
- 3) If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the Mayor and Village Board will serve as the State agency's notification to the local government.

b. *Local Government Review Procedure*

- 1) Upon receipt of notification from a State agency, the Village will be responsible for reviewing the proposed action for consistency with the policy standards and conditions of the Village's approved LWRP.
- 2) If the Village cannot identify any conflicts between the proposed action and the applicable policy standards and conditions of the approved LWRP, the Village should inform the State agency in writing of its finding. Upon receipt of the findings, the State agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- 3) If the State agency does not receive written notification of the Village's findings within the established review period, the State agency may then presume that the proposed action does not conflict with the policy standards and conditions of the Village's approved LWRP.
- 4) If the State agency does receive written notification that the proposed action conflicts with the policy standards and conditions of the Village's approved LWRP, the State agency shall not proceed with the action for a period of 90 days or until the identified conflicts have been resolved, whichever is earlier. A copy of the identified conflicts will be forwarded by the Village to the Secretary of State at the time that the State agency is notified. When notifying the State agency, the Village must identify the specific policy standards and conditions of the LWRP with which the proposed action conflicts.

c. *Resolution of Conflicts*

In accordance with procedural guidelines issued by the New York State Department of State (NYS DOS), the following procedure will apply whenever the Village has notified the

Secretary of State and State agency that a proposed action conflicts with the policy standards and conditions of its approved LWRP.

- 1) Upon receipt of notification from the Village that a proposed action conflicts with its approved LWRP, the State agency should contact the Village to discuss the content of the identified conflicts and the means for resolving them. A meeting of State agency and Village 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 Village.
- 2) If the discussion between the Village and the State agency results in the resolution of the identified conflicts, the State agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600. The Village will notify the State agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved.
- 3) If the consultation between the Village and the State agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary of State within 15 days following the discussion between the Village and the State agency. The party requesting the assistance of the Secretary of State will forward a copy of their request to the other party.
- 4) Within 30 days following the receipt of a request for assistance, the Secretary of State or a NYSDOS official or employee designated by the Secretary of State will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the State agency and the Village.
- 5) If agreement among all parties cannot be reached during this discussion, the Secretary of State shall notify both parties within 15 days of his/her findings and recommendations.
- 6) The State agency shall not proceed with the proposed action until either the Secretary's findings and recommendations have been received, or 90 days from the date a notification of a conflict was received from the Village, whichever is earlier.

● PROCEDURES FOR THE REVIEW OF FEDERAL ACTIONS FOR CONSISTENCY WITH THE LWRP

a. *Permits and Licenses*

- 1) The NYSDOS 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 Mayor and Board of Trustees.
- 2) Within 30 days of receiving such information, the Village will contact the assigned NYSDOS project reviewer to discuss the need to request additional information for review purposes and any possible problems pertaining to the consistency of a proposed action with local program policies.
- 3) When the NYSDOS and the Village agree that additional information is necessary, the NYSDOS shall request the applicant to provide the information. A copy of this information shall be provided to the Village upon receipt by the State.
- 4) Within 30 days of receiving the requested additional information or discussing the potential problems of the proposed action with the NYSDOS project reviewer (whichever is later), the Village will notify the NYSDOS of the reason(s) why the action may be inconsistent or consistent with local program policies.
- 5) After such notification, the Village will submit written comments and recommendations on the proposed action to the NYSDOS before or at the conclusion of the official comment period. If such comments and recommendations are not forwarded to the NYSDOS by the end of the public comment period, the NYSDOS will presume that the Village has "no opinion" on the consistency of the proposed action with local program policies.
- 6) If the NYSDOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Village, NYSDOS will contact the Village to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objections" to the applicant.
- 7) A copy of the NYSDOS "concurrence" or "objections" letter will be forwarded to the Village.

b. *Direct Actions*

- 1) After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, the NYSDOS will forward copies of the determination and supporting documentation and any other descriptive information on the proposed direct action to the Mayor, Village Board and other interested parties.
- 2) This notification will state the date by which all comments and recommendations list be submitted to the NYSDOS and will identify the assigned NYSDOS project reviewer.
- 3) The review period will last approximately 30 days. If comments and recommendations are not received by the end of the established review period, the NYSDOS will presume that the Village has "no opinion" on the consistency on the proposed direct federal agency action with Village coastal policies.
- 4) If the NYSDOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Village, the NYSDOS will contact the Village to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
- 5) A copy of the NYSDOS agreement or disagreement letter to the federal agency will be forwarded to the Village.

c. *Financial Assistance*

- 1) The NYSDOS will request information on a proposed financial assistance action from the applicant (State or Village agency) for consistency review purposes. A copy of this letter will be forwarded to the Mayor and will serve as notification that the proposed action may be subject to review.
- 2) If the applicant is a Village agency, the Mayor will contact the agency and request copies of any application documentation for consistency review purposes. If the proposed action has already been reviewed by the Village for consistency with the LWRP, the Mayor will notify the NYSDOS of the outcome of the review.
- 3) The Village will acknowledge receipt of the requested information and send a copy to the NYSDOS.

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

5.5 FINANCIAL RESOURCES NECESSARY TO IMPLEMENT THE LWRP

A. Proposed Improvements to Existing Facilities

●	<i>Haven's Beach Renovation</i>	\$ 300,000
●	<i>Rysam/Bay Street Drainage Project</i>	\$ 250,000
●	<i>Village Boat Ramp Restorations</i>	\$ 100,000
●	<i>Windmill Park Renovations</i>	\$ 25,000
●	<i>Sewage Treatment Plant</i>	\$ 2,500,000

B. Proposed Environmental/Planning Studies

●	<i>Long Wharf Design Study</i>	\$ 10,000
●	<i>Traffic Calming Study</i>	\$ 29,000

C. **Proposed Public Education Programs**

- *Adopt-A-Stream Program* \$ 5,000
- *Bay Friendly Properties* \$ 5,000

D. **Property Acquisition**

- *Cilli Farm* \$ 750,000

5.6 SUMMARY CHART OF ACTIONS WHICH IMPLEMENT LWRP POLICIES

Table 5-1 summarizes the LWRP policies that are implemented or enforced by each of the actions described in Sections 5.1 through 5.3.

Table 5-1

SUMMARY OF POLICY IMPLEMENTATION

	P O L I C Y											
	1	2	3	4	5	6	7	8	9	10	11	12
IMPLEMENTED OR ENFORCED BY:												
Chapter 12 (Bulkheading, Dredging and Canals)	•	•	•	•	•	•	•					
Chapter 15 (Environmental Quality Review)	•		•		•	•						
Chapter 43 (Sewers)	•				•	•					•	
Chapter 46 (Subdivision of Land)	•				•	•	•		•		•	
Chapter 53 (Waterways)	•		•		•	•	•		•			
Chapter 55 -- Zoning	•	•	•	•	•	•	•	•	•		•	
Article XV - Historic Preservation	•							•	•			
Article XVI - Site Plan Review	•				•		•		•			
Article XVII - Tidal Flood Hazard Overlay				•								
Wetlands Law (PROPOSED)	•	•	•	•	•	•		•				
Water Use Standards (PROPOSED)	•	•	•	•	•	•	•					
Vessel Waste No-Discharge Zone (PROPOSED)			•		•							
Underwater Land Grants							•					
Harbor Management Plan		•	•	•	•	•	•	•	•		•	
Improvements (PROPOSED)	•		•		•	•	•					
Environmental/Planning Studies (PROPOSED)	•	•					•		•	•	•	
Public Education (PROPOSED)	•	•	•		•	•		•			•	
Property Acquisition (PROPOSED)	•			•		•						

NOTE: In addition to the mechanisms listed above for implementing individual policies of the LWRP, all 11 applicable LWRP policies are implemented by the environmental quality review procedures [Chapter 15 (as applied in the Village pursuant to the State Environmental Quality Review Act)] and the LWRP consistency review process (as described in Section 5.4).

SECTION VI

**STATE AND FEDERAL ACTIONS AND PROGRAMS
LIKELY TO AFFECT IMPLEMENTATION**

Back of Section VI title page

State and federal actions will affect and be affected by implementation of the Village of Sag Harbor Local Waterfront Revitalization Program (LWRP). Under State law and the U.S. Coastal Zone Management Act, certain State and federal actions within or affecting the local waterfront area must be "consistent" or "consistent to the maximum extent practicable" with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. While consistency requirements primarily help prevent detrimental actions from occurring and help ensure that future options are not needlessly foreclosed, active participation of the part of State and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

The first part of this section identifies the actions and programs of State and federal agencies which should be undertaken in a manner consistent with the LWRP. This is a generic list of actions and programs, as identified by the New York State Department of State; therefore, some of the actions and programs listed may not be relevant to this LWRP. Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. Similarly, federal agency actions and programs subject to consistency requirements are identified in the manner prescribed by the U.S. Coastal Zone Management Act and its implementing regulations. The list of State and federal actions and programs included herein is informational only and do not represent or substitute for the required identification and notification procedures. The current official list of actions subject to State and federal consistency requirements may be obtained from the New York State Department of State.

The second part of this section is a more focused and descriptive list of State and federal agency actions which are necessary to further implement the LWRP. It is recognized that a State or federal agency's ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above, may not apply; and, that the consistency requirements cannot be used to require a State or federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Sections IV and V, which also discuss State and federal assistance available for implementation of the LWRP.

A. STATE AND FEDERAL ACTIONS AND PROGRAMS WHICH SHOULD BE UNDERTAKEN IN A MANNER CONSISTENT WITH THE LWRP

1. STATE AGENCIES

OFFICE FOR THE AGING

- 1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

DEPARTMENT OF AGRICULTURE AND MARKETS

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Programs
- 4.00 Permit and approval programs:
 - 4.01 Custom Slaughters/Processor Permit
 - 4.02 Processing Plant License
 - 4.03 Refrigerated Warehouse and/or Locker Plant License

DIVISION OF ALCOHOLIC BEVERAGE CONTROL/STATE LIQUOR AUTHORITY

- 1.00 Permit and Approval Programs:
 - 1.01 Ball Park - Stadium License
 - 1.02 Bottle Club License
 - 1.03 Bottling Permits
 - 1.04 Brewer's Licenses and Permits
 - 1.05 Brewer's Retail Beer License
 - 1.06 Catering Establishment Liquor License
 - 1.07 Cider Producer's and Wholesaler's Licenses
 - 1.08 Club Beer, Liquor, and Wine Licenses
 - 1.09 Distiller's Licenses
 - 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
 - 1.11 Farm Winery and Winery Licenses
 - 1.12 Hotel Beer, Wine, and Liquor Licenses
 - 1.13 Industrial Alcohol Manufacturer's Permits
 - 1.14 Liquor Store License
 - 1.15 On-Premises Liquor Licenses
 - 1.16 Plenary Permit (Miscellaneous-Annual)
 - 1.17 Summer Beer and Liquor Licenses
 - 1.18 Tavern/Restaurant and Restaurant Wine Licenses
 - 1.19 Vessel Beer and Liquor Licenses
 - 1.20 Warehouse Permit
 - 1.21 Wine Store License
 - 1.22 Winter Beer and Liquor Licenses
 - 1.23 Wholesale Beer, Wine, and Liquor Licenses

DIVISION OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
 - 3.01 Letter Approval for Certificate of Need
 - 3.02 Operating Certificate (Alcoholism Facility)

- 3.03 Operating Certificate (Community Residence)
- 3.04 Operating Certificate (Outpatient Facility)
- 3.05 Operating Certificate (Sobering-Up Station)

COUNCIL ON THE ARTS

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program.

DEPARTMENT OF BANKING

- 1.00 Permit and approval programs:
 - 1.01 Authorization Certificate (Bank Branch)
 - 1.02 Authorization Certificate (Bank Change of Location)
 - 1.03 Authorization Certificate (Bank Charter)
 - 1.04 Authorization Certificate (Credit Union Change of Location)
 - 1.05 Authorization Certificate (Credit Union Charter)
 - 1.06 Authorization Certificate (Credit Union Station)
 - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
 - 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
 - 1.09 Authorization Certificate (Investment Company Branch)
 - 1.10 Authorization Certificate (Investment Company Change of Location)
 - 1.11 Authorization Certificate (Investment Company Charter)
 - 1.12 Authorization Certificate (Licensed Lender Change of Location)
 - 1.13 Authorization Certificate (Mutual Trust Company Charter)
 - 1.14 Authorization Certificate (Private Banker Charter)
 - 1.15 Authorization Certificate (Public Accommodation Office - Banks)
 - 1.16 Authorization Certificate (Safe Deposit Company Branch)
 - 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
 - 1.18 Authorization Certificate (Safe Deposit Company Charter)
 - 1.19 Authorization Certificate (Savings Bank Charter)
 - 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
 - 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
 - 1.22 Authorization Certificate (Savings and Loan Association Branch)
 - 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
 - 1.24 Authorization Certificate (Savings and Loan Association Charter)
 - 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
 - 1.26 Authorization Certificate (Trust Company Branch)
 - 1.27 Authorization Certificate (Trust Company-Change of Location)
 - 1.28 Authorization Certificate (Trust Company Charter)
 - 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
 - 1.30 Authorization to Establish a Life Insurance Agency
 - 1.31 License as a Licensed Lender
 - 1.32 License for a Foreign Banking Corporation Branch

DEPARTMENT OF CORRECTIONAL SERVICES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

EDUCATION DEPARTMENT

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certification of Incorporation (Regents Charter)
 - 2.02 Private Business School Registration
 - 2.03 Private School License
 - 2.04 Registered Manufacturer of Drugs and/or Devices
 - 2.05 Registered Pharmacy Certificate
 - 2.06 Registered Wholesale of Drugs and/or Devices
 - 2.07 Registered Wholesaler-Repacker of Drugs and/or Devices
 - 2.08 Storekeeper's Certificate

EMPIRE STATE DEVELOPMENT/EMPIRE STATE DEVELOPMENT CORPORATION

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
 - 4.01 Capital projects for limiting air pollution
 - 4.02 Cleanup of toxic waste dumps
 - 4.03 Flood control, beach erosion and other water resource projects
 - 4.04 Operating aid to municipal wastewater treatment facilities

- 4.05 Resource recovery and solid waste management capital projects
- 4.06 Wastewater treatment facilities
- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
 - (a) Water Quality Improvement Projects
 - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
- 7.00 Marine Finfish and Shellfish Programs.
- 8.00 New York Harbor Drift Removal Project.
- 9.00 Permit and approval programs:

Air Resources

- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway

- 9.22 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- 9.23 Permit - Article 24, (Freshwater Wetlands)

Hazardous Substances

- 9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

Lands and Forest

- 9.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.28 Floating Object Permit
- 9.29 Marine Regatta Permit
- 9.30 Navigation Aid Permit

Marine Resources

- 9.31 Digger's Permit (Shellfish)
- 9.32 License of Menhaden Fishing Vessel
- 9.33 License for Non-Resident Food Fishing Vessel
- 9.34 Non-Resident Lobster Permit
- 9.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 9.36 Permits to Take Blue-Claw Crabs
- 9.37 Permit to Use Pond or Trap Net
- 9.38 Resident Commercial Lobster Permit
- 9.39 Shellfish Bed Permit
- 9.40 Shellfish Shipper's Permits
- 9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- 9.42 Permit - Article 25, (Tidal Wetlands)

Mineral Resources

- 9.43 Mining Permit
- 9.44 Permit to Plug and Abandon (a noncommercial, oil, gas or solution mining well)
- 9.45 Underground Storage Permit (Gas)
- 9.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

Solid Wastes

- 9.47 Permit to Construct and/or Operate a Solid Waste Management Facility
- 9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

- 9.49 Approval of Plans for Wastewater Disposal Systems

- 9.50 Certificate of Approval of Realty Subdivision Plans
 - 9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
 - 9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
 - 9.53 Permit - Article 36, (Construction in Flood Hazard Areas)
 - 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
 - 9.55 State Pollutant Discharge Elimination System (SPDES) Permit
 - 9.56 Approval -Drainage Improvement District
 - 9.57 Approval - Water (Diversion for) Power
 - 9.58 Approval of Well System and Permit to Operate
 - 9.59 Permit - Article 15, (Protection of Water) - Dam
 - 9.60 Permit - Article 15, Title 15 (Water Supply)
 - 9.61 River Improvement District Approvals
 - 9.62 River Regulatory District Approvals
 - 9.63 Well Drilling Certificate of Registration
 - 9.64 401 Water Quality Certification
- 10.00 Preparation and revision of Air Pollution State Implementation Plan.
 - 11.00 Preparation and revision of Continuous Executive Program Plan.
 - 12.00 Preparation and revision of Statewide Environmental Plan.
 - 13.00 Protection of Natural and Man-made Beauty Program.
 - 14.00 Urban Fisheries Program.
 - 15.00 Urban Forestry Program.
 - 16.00 Urban Wildlife Program.

ENVIRONMENTAL FACILITIES CORPORATION

- 1.00 Financing program for pollution control facilities for industrial firms and small businesses.

FACILITIES DEVELOPMENT CORPORATION

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

OFFICE OF GENERAL SERVICES

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land and grants of easement of land under water, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.
- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition.

DEPARTMENT OF HEALTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Approval of Completed Works for Public Water Supply Improvements
 - 2.02 Approval of Plans for Public Water Supply Improvements
 - 2.03 Certificate of Need (Health Related Facility - except Hospitals)
 - 2.04 Certificate of Need (Hospitals)
 - 2.05 Operating Certificate (Diagnostic and Treatment Center)
 - 2.06 Operating Certificate (Health Related Facility)
 - 2.07 Operating Certificate (Hospice)
 - 2.08 Operating Certificate (Hospital)
 - 2.09 Operating Certificate (Nursing Home)
 - 2.10 Permit to Operate a Children's Overnight or Day Camp
 - 2.11 Permit to Operate a Migrant Labor Camp
 - 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
 - 2.13 Permit to Operate a Service Food Establishment
 - 2.14 Permit to Operate a Temporary Residence/Mass Gathering
 - 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
 - 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
 - 2.17 Shared Health Facility Registration Certificate

DIVISION OF HOUSING AND COMMUNITY RENEWAL AND ITS SUBSIDIARIES AND AFFILIATES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.
- 2.00 Financial assistance/grant programs:
 - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
 - 2.02 Housing Development Fund Programs
 - 2.03 Neighborhood Preservation Companies Program
 - 2.04 Public Housing Programs
 - 2.05 Rural Initiatives Grant Program
 - 2.06 Rural Preservation Companies Program
 - 2.07 Rural Rental Assistance Program
 - 2.08 Special Needs Demonstration Projects
 - 2.09 Urban Initiatives Grant Program
 - 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs.

HOUSING FINANCE AGENCY

- 1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 2.00 Affordable Housing Corporation

MEDICAL CARE FACILITIES FINANCING AGENCY

- 1.00 Financing of medical care facilities

OFFICE OF MENTAL HEALTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities
- 2.00 Permit and approval programs:
 - 2.01 Operating Certificate (Community Residence)
 - 2.02 Operating Certificate (Family Care Home)
 - 2.03 Operating Certificate (Inpatient Facility)
 - 2.04 Operating Certificate (Outpatient Facility)

OFFICE OF MENTAL RETARDATION AND DEVELOPMENT DISABILITIES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Establishment and Construction Prior Approval
 - 2.02 Operating Certificate Community Residence
 - 2.03 Outpatient Facility Operating Certificate

DIVISION OF MILITARY AND NAVAL AFFAIRS

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.

NATURAL HERITAGE TRUST

- 1.00 Funding program for natural heritage institutions

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (INCLUDING REGIONAL STATE PARK COMMISSIONS)

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities
- 3.00 Funding programs for recreational boating, safety and enforcement
- 4.00 Funding programs for State and local historic preservation projects
- 5.00 Land and Water Conservation Fund programs
- 6.00 Nomination of properties to the federal and/or State Register of Historic Places
- 7.00 Permit and approval programs:
 - 7.01 Floating Objects Permit
 - 7.02 Marine Regatta Permit
 - 7.03 Navigation Aide Permit
 - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes

- 9.00 Recreation services program
- 10.00 Heritage Areas Systems

POWER AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority
- 2.00 Facilities construction, rehabilitation, expansion, or demolition

NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION

- 1.00 Corporation for Innovation Development Program
- 2.00 Center for Advanced Technology Program

DEPARTMENT OF SOCIAL SERVICES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities
- 2.00 Homeless Housing and Assistance Program
- 3.00 Permit and approval programs:
 - 3.01 Certificate of Incorporation (Adult Residential Care Facility)
 - 3.02 Operating Certificate (Children's Services)
 - 3.03 Operating Certificate (Enriched Housing Program)
 - 3.04 Operating Certificate (Home for Adults)
 - 3.05 Operating Certificate (Proprietary Home)
 - 3.06 Operating Certificate (Public Home)
 - 3.07 Operating Certificate (Special Care Home)
 - 3.08 Permit to Operate a Day Care Center

DEPARTMENT OF STATE

- 1.00 Appalachian Regional Development Program
- 2.00 Coastal Management Program
- 3.00 Community Services Block Grant Program
- 4.00 Permit and approval programs:
 - 4.01 Billiard Room License
 - 4.02 Cemetery Operator
 - 4.03 Uniform Fire Prevention and Building Code

STATE UNIVERSITY CONSTRUCTION FUND

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities

STATE UNIVERSITY OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities

DEPARTMENT OF TRANSPORTATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including but not limited to:
 - (a) Highways and parkways
 - (b) Bridges on the State highways system
 - (c) Highway and parkway maintenance facilities
 - (d) Rail facilities
- 3.00 Financial assistance/grant programs:
 - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
 - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg and New York
 - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
 - 3.04 Subsidies program for marginal branch lines abandoned by Conrail
 - 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
 - 4.01 Approval of applications for airport improvements (construction projects)
 - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
 - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
 - 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
 - 4.05 Certificate of Convenience and Necessity to Operate a Railroad
 - 4.06 Highway Work Permits
 - 4.07 License to Operate Major Petroleum Facilities
 - 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
 - 4.09 Real Property Division Permit for Use of State-Owned Property
- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and subarea or special plans and studies related to the transportation needs of the State
- 6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network

URBAN DEVELOPMENT CORPORATION AND ITS SUBSIDIARIES AND AFFILIATES

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Corporation
- 2.00 Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:
 - (a) Tax-Exempt Financing Program
 - (b) Lease Collateral Program
 - (c) Lease Financial Program
 - (d) Targeted Investment Program
 - (e) Industrial Buildings Recycling Program
- 3.00 Administration of special projects
- 4.00 Administration of State-funded capital grant programs

DIVISION OF YOUTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding or approval of such activities.

2. FEDERAL AGENCIES

DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

DEPARTMENT OF COMMERCE

National Marine Fisheries Services

- 1.00 Fisheries Management Plans

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Proposed authorizations for dredging, channel improvements, breakwaters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters
- 2.00 Land acquisition for spoil disposal or other purposes
- 3.00 Selection of open water disposal sites

Army, Navy and Air Force

- 4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities)
- 5.00 Plans, procedures and facilities for landing or storage use zones
- 6.00 Establishment of impact, compatibility or restricted use zones

DEPARTMENT OF ENERGY

- 1.00 Prohibition orders

GENERAL SERVICES ADMINISTRATION

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government
- 2.00 Disposition of Federal surplus lands and structures

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

- 1.00 Management of National Wildlife refuges and proposed acquisitions

Mineral Management Service

- 2.00 OCS lease sale activities including tract selection, lease sale stipulations, etc.

National Park Service

- 3.00 National Park and Seashore management and proposed acquisitions

DEPARTMENT OF TRANSPORTATION

Amtrak, Conrail

- 1.00 Expansions, curtailments, new construction, upgrading or abandonments or railroad facilities or services, in or affecting the State's coastal area

Coast Guard

- 2.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses
- 3.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON)
- 4.00 Expansion, abandonment, designation or anchorages, lightening areas or shipping lanes and ice management practices and activities

Federal Aviation Administration

- 5.00 Location and design, construction, maintenance, and demolition of federal aids to air navigation

Federal Highway Administration

- 6.00 Highway construction

FEDERAL LICENSES AND PERMITS

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403)
- 2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405)

- 3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408)
- 4.00 Approval of plans for improvements made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565)
- 5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344)
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)
- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.)

DEPARTMENT OF ENERGY

Economic Regulatory Commission

- 1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974
- 2.00 Exemptions from prohibition orders

Federal Energy Regulatory Commission

- 3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808)
- 4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b))
- 5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c))
- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b))

ENVIRONMENTAL PROTECTION AGENCY

- 1.00 NPDES permits and other permits for federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328)
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c)
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857)

DEPARTMENT OF INTERIOR

Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a))

Mineral Management Service

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans
- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185

INTERSTATE COMMERCE COMMISSION

- 1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines

NUCLEAR REGULATORY COMMISSION

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power plants pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969

DEPARTMENT OF TRANSPORTATION

Coast Guard

- 1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455
- 2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501)

Federal Aviation Administration

- 3.00 Permits and licenses for construction, operation or alteration of airports

FEDERAL ASSISTANCE*

DEPARTMENT OF AGRICULTURE

- 10.068 Rural Clean Water Program
- 10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans
- 10.410 Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.413 Recreation Facility Loans
- 10.414 Resource Conservation and Development Loans

- 10.415 Rural Renting Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.422 Business and Industrial Loans
- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

DEPARTMENT OF COMMERCE

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Intermodal Transportation
- 11.509 Development and Promotion of Domestic Waterborne Transport Systems

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- 14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
- 14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects
- 14.117 Mortgage Insurance - Homes
- 14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing
- 14.125 Mortgage Insurance - Land Development and New Communities
- 14.126 Mortgage Insurance - Management Type Cooperative Projects
- 14.127 Mortgage Insurance - Mobile Home Parks
- 14.218 Community Development Block Grants/Entitlement Grants
- 14.219 Community Development Block Grants/Small Cities Program
- 14.221 Urban Development Action Grants

14.223 Indian Community Development Block Grant Program

DEPARTMENT OF INTERIOR

- 15.400 Outdoor Recreation - Acquisition, Development and Planning
- 15.402 Outdoor Recreation - Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
- 15.411 Historic Preservation Grants-in-Aid
- 15.417 Urban Park and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.952 Water Research and Technology - Matching Funds to State Institutes

DEPARTMENT OF TRANSPORTATION

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction
- 20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

GENERAL SERVICES ADMINISTRATION

- 39.002 Disposal of Federal Surplus Real Property

COMMUNITY SERVICES ADMINISTRATION

- 49.002 Community Action
- 49.011 Community Economic Development
- 49.013 State Economic Opportunity Offices
- 49.017 Rural Development Loan Fund
- 49.018 Housing and Community Development (Rural Housing)

SMALL BUSINESS ADMINISTRATION

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 59.031 Small Business Pollution Control Financing Guarantee

ENVIRONMENTAL PROTECTION AGENCY

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control - State and Area wide Water Quality Management Planning Agency
- 66.451 Solid and Hazardous Waste Management Program Support Grants
- 66.452 Solid Waste Management Demonstration Grants
- 66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

* Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

B. STATE AND FEDERAL ACTIONS AND PROGRAMS NECESSARY TO FURTHER THE LWRP

1. STATE AGENCIES: ACTIONS AND PROGRAMS

OFFICE OF GENERAL SERVICES

- Prior to any development occurring in the water or on the immediate waterfront, OGS should be consulted for a determination of the State's interest in underwater or formerly underwater lands and for authorization to use and occupy these lands.

EMPIRE STATE DEVELOPMENT/EMPIRE STATE DEVELOPMENT CORPORATION

- Any action or provision of funds for the development or promotion of tourism related activities or development.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- Planning, development, construction, or expansion of recreational facilities/projects located in waterfront.
- Advance assistance under the Small Communities and Rural Wastewater Treatment Grant Program and a subsequent construction grant subsidy.
- Review of actions within National Register Districts pursuant to SEQR.
- At such time, support reclassification of *SA* waters to *SB* in the *Harbor Water Use District*.
- At such time, support revisions to the NYSDEC wetlands maps to reflect local wetlands locations and revisions mapped by K. Blumer.
- Superfund Site: Rowe Industries, Inc. — SPDES Permit for the discharge of treated groundwater into Sag Harbor Cove from diffuser.
- Provision of funding for pump-outs and dump stations at public/private facilities to support *no-discharge zone* designation and the Clean Vessel Act.

DIVISION OF HOUSING AND COMMUNITY RENEWAL

- Provision of funding under the Rural Preservation Company Program.
- Approval of funding for Rural Area Revitalization Program projects.

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

- Planning, development, construction, major renovation or expansion of recreational facilities or the provision of funding for such facilities.
- Provision of funding for State and local activities from the Land and Water Conservation Fund.
- Planning, development, implementation or the provision of funding for recreation services programs.
- Funding or partial funding of eligible activities through the Environmental Protection Fund (EPF) administered by OPRHP — including the acquisition, development and improvement of parks and historic properties.
- Provision of funding for pump-outs and dump stations at public/private facilities to support *no-discharge zone* designation and the Clean Vessel Act.
- Provision of funding for State and local historic preservation activities.
- Review of Type I actions within the National Historic Districts.
- Certification of properties within the National Register Districts.
- Activities under the Heritage Areas Systems.

DEPARTMENT OF STATE

- Provision of funding for the implementation of an approved LWRP.
- Provision of funding under the Community Services Block Grant program.
- Provision of funding for pump-outs and dump stations at public/private facilities to support *no-discharge zone* designation and the Clean Vessel Act.

COUNCIL ON THE ARTS

- Assistance from the Architecture and Environmental Arts Program for a design plan for the Long Wharf.

DEPARTMENT OF TRANSPORTATION

- Assistance for street repairs through the Consolidated Highway Improvements Program.
- Plans for the repair or replacement of the North Haven/State Route 114 Bridge - consider (in light of the) policies included in Section 3.

JOB DEVELOPMENT AUTHORITY

- Provision of low interest mortgage loans to local nonprofit development corporations to finance commercial and industrial facilities.

2. FEDERAL AGENCIES: ACTIONS AND PROGRAMS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

- Funding under the Urban Development Action Grant Program.
- Funding under the Community Development Block Grant Program for improvements in the waterfront.

DEPARTMENT OF DEFENSE

Corps of Engineers

- A U.S. Army Corps of Engineers permit would be required for the following activities:
 - dredging and shoreline stabilization
 - repair of the breakwater
 - repair or installation of boat ramps

ENVIRONMENTAL PROTECTION AGENCY

- Review of any proposed action within a National Register District pursuant to NEPA.
- [Rowe Industries, Inc. Superfund Site] — The remedial action must be conducted in a manner that is consistent with applicable coastal policies.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

- Funding under the Clean Vessel Act for pump-outs and dump stations at public/private facilities to support *no-discharge zone* designation and the Clean Vessel Act.

National Park Service

- Provision of funding under the Land and Water Conservation Fund Program.
- Review of federal actions within the National Register Districts pursuant to NEPA.

DEPARTMENT OF THE TREASURY

- Continuation of Incentives for Qualified Building Rehabilitation.
- Provision of appropriate tax-exempt status for nonprofit agencies active in the local waterfront area.

ECONOMIC DEVELOPMENT ADMINISTRATION

- Assistance under the Public Works and Economic Development Act for street improvements.

DEPARTMENT OF TRANSPORTATION

United States Coast Guard

- Maintenance/rehabilitation of facilities.
- Plans for the repair or replacement of the North Haven/State Route 114 Bridge must be considered in light of the Policies, as appear in Section III.

SECTION VII

CONSULTATION WITH OTHER AFFECTED

FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES

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PERSONS CONTACTED	LETTER (L) / PHONE (P)	INFORMATION REQUESTED	RESPONSE
Chris Pickerell Cornell Cooperative Extension - Suffolk County	- phone - personal contact	- Fish and Wildlife (F&W) Habitat Component - Waterfront Survey	- Completed (F&W) Habitat Component, 1994 - Completed Waterfront Survey, 1997
Edward Bower New York State Department of Transportation Region 10	- letter - personal contact	- Information RE plans for renovation of North Haven /State Route 114 Bridge	- Information received, 1997
Alan C. Bauder New York State Office of General Services	- letter - phone - personal contact	- Review of Underwater Grants and Easements	- Application submitted to OGS by Village, 1997
Vincent Cannuscio Supervisor, Town of Southampton	- phone - personal contact	- Support and/or monies for acquisition of open space	- Agreed to do everything possible, 1997
New York State Department of Environmental Conservation	- letter - personal contact	- Project Support - Haven's Beach - Project Support - Sewage Treatment Plant upgrade	- Support provided, 1996
Vito Minei Peconic Estuary Program	- letter - personal contact	- Grant for the upgrade of road end ramps	- Grant received, 1997
Army Corps of Engineers	- letter - personal contact	- Breakwater upgrade	- Process begun, 1997

PERSONS CONTACTED	LETTER (L) / PHONE (P)	INFORMATION REQUESTED	RESPONSE
Charles McCaffrey New York State Department of State Division of Coastal Resources	- letter - phone - personal contact	- Revision assistance, LWRP and HMP	- Assistance provided, 1992- 1998
John Bartow New York State Department of State Division of Local Government Services	- letter - phone - personal contact	- Revision assistance, LWRP and HMP	- Assistance provided, 1992- 1996
Renee Parsons New York State Department of State Division of Coastal Resources	- letter - phone - personal contact	- Revision assistance, LWRP and HMP	- Assistance provided, 1992- 1998
William Sharp New York State Department of State Division of Legal Services	- letter - phone - personal contact	- Legal advice/assistance, local laws and SEQRA re. LWRP and HMP	- Assistance provided, 1992- 1998
Robert Batson New York State Department of State Division of Legal Services	- letter - phone - personal contact	- Legal advice/assistance, local laws and SEQRA re. LWRP and HMP	- Assistance provided, 1997- 1998

Discussion of the Local Waterfront Revitalization Program (LWRP) and the Harbor Management Plan (HMP) occurred throughout the development of both documents. The Village Board of Trustees, Planning Board and the Harbor Committee would often have item(s) on their respective agendas relating to the documents. A list of the meeting dates and discussion points is provided, below.

Village Board of Trustees

April 2, 1996:	Public Meeting for Local Law No.1 of 1996 - <i>Chapter 53 Waterways</i>
May 7, 1996:	Harbor Management Plan presented
June 4, 1996	
July 2, 1996	
February 7, 1995:	Draft HMP / LWRP
May 18, 1995:	Joint meeting w / Cashin Associates, P.C. - Planning Board and Harbor Committee
July 5, 1995:	SEQRA - Sag Harbor Village Board established as Lead Agency
August 1, 1995	
September 5, 1995:	Adoption of Positive Declaration Notice of Intent to prepare a Draft DEIS Determination of Non-Significance
December 6, 1994:	Harbor Management Plan - funding w/ Cashin Associates, P.C.

Planning Board

May 18, 1995:	Joint meeting w / Cashin Associates, P.C. - Village Board and Harbor Committee
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Harbor Committee

March 20, 1997:	Discussion of status of draft LWRP Amendment
May 15, 1997:	Discussion of status of draft LWRP Amendment
June 19, 1997:	Discussion of status of draft LWRP Amendment
July 17, 1997:	Discussion of status of draft LWRP Amendment
January 18, 1996:	Discussion of status of draft LWRP Amendment
February 15, 1996:	Discussion of draft HMP
March 7, 1996:	Special work session for changes/recommendations of draft HMP
October 17, 1996:	Discussion of status of draft LWRP Amendment
January 19, 1995:	Discussion of status of draft LWRP Amendment
February 16, 1995:	Draft HMP received

March 16, 1995:	Draft HMP reviewed
April 20, 1995:	Discussion of draft LWRP Amendment w/ Cornell Cooperative Extension
May 18, 1995	Joint meeting w / Cashin Associates, P.C. - Village Board of Trustees and Planning Board
June 15, 1995:	Discussion of draft LWRP Amendment w/ Cornell Cooperative Extension
July 20, 1995:	Discussion of status of draft LWRP Amendment
August 17, 1995:	Discussion of draft HMP
November 16, 1995:	Discussion of status of draft LWRP Amendment
January 20, 1994:	Discussion of status of draft LWRP Amendment
February 17, 1994:	Discussion of status of draft LWRP Amendment
March 17, 1994:	Discussion of status of draft LWRP Amendment
April 21, 1994:	Discussion of draft LWRP Amendment w/ Department of State and Alison Cornish
May 19, 1994:	Reviewed proposed standards for <i>Water Use Districts</i> w/ Department of State; also present: Karen Blumer, Ecology Consultant
June 16, 1994:	Discussion of draft HMP w/ Department of State
August 18, 1994:	Discussion of draft HMP
September 15, 1994:	Discussion of status of draft LWRP Amendment; schedule Nov. 14-17 for Harbor Committee working sessions to pull all pre-written information together; discussion of goals and objectives of LWRP
October 20, 1994:	Discussion of status of draft LWRP Amendment
December 15, 1994:	Discussion of status of draft LWRP Amendment
February 18, 1993:	Joint meeting w / Board of Historic Preservation and Architectural Review; discussion of draft LWRP Amendment w/ Department of State
March 18, 1993:	Meeting w / Alison Cornish, Board of Historic Preservation and Architectural Review, re draft LWRP Amendment
May 20, 1993:	Discussion of draft LWRP Amendment
June 17, 1993:	Discussion of draft LWRP Amendment - extension of LWRP boundary line
July 15, 1993:	Meeting w / John Biasetti, Group for the South Fork, re wetlands and surface waters; also present: Department of State
August 19, 1993:	Discussed volunteer support to assist with draft LWRP Amendment
October 21, 1993:	New Chair, Jean Lane - discussed draft LWRP Amendment and organizing work sessions
November 18, 1993:	Discussion of draft LWRP Amendment
December 16, 1993:	Discussion of draft LWRP Amendment w/ Department of State and Alex Gregor, Gregor Environmental

November 19, 1992:
December 17, 1992:

Discussion of draft LWRP Amendment w/ Department of State
Discussion of draft LWRP Amendment w/ Department of State; also
present: Scott Strough, Southampton Town Trustee

SECTION VIII
LOCAL COMMITMENT

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A Local Waterfront Revitalization Program (LWRP) is a partnership effort which requires firm local commitment. This section of the LWRP details the Village of Sag Harbor's commitment to its LWRP.

To ensure that the needs and desires of the community continue to be reflected in the amended local program, the *Harbor Committee* played a key role in collecting information, reviewing written products, and coordinating various tasks through completion. The *Harbor Committee* is the "charge" behind ensuring the Village's waterfront area is managed in an appropriate manner. The *Harbor Committee* reviewed the objectives of the original LWRP (1986) and revised them to more accurately address current conditions.

At the start of the amendment process, Frank Gerecke chaired the *Harbor Committee* and voluntarily gave many hours to organizing the content of the amended LWRP. He also selected, with the *Harbor Committee*, individuals to write specific components of the amended LWRP. Some of these are listed, below. Credit is due to:

- Alison Cornish, who composed the "Historic Resources and Visual Quality" portion of the document.
- Chris Pickerell, Suffolk County Cooperative Extension, conducted research and pulled together information regarding locally important fish and wildlife habitats. The results of his research appears in the "Fish and Wildlife" portion of the document. Also in cooperation with the Suffolk County Cooperative Extension, the *Harbor Committee* measured the tidal fluctuations of the waters surrounding Sag Harbor, and gathered scientific information relating to water quality.
- Karen Blumer, Ecology Consultant, was selected by the *Harbor Committee* to identify and document the Village's wetlands. Her services resulted in the *Village of Sag Harbor Wetlands Map (1994)*, and recommendations for changes in wetland policy and law for the Village. Section II includes the material that she developed.

The *Harbor Committee* was an active participant throughout the amendment process toward gathering accurate information for the Village's updated LWRP. The *Harbor Committee's* level of involvement has included:

- ▶ Hardened Shoreline -- video-tape the shoreline, from the water, to determine the current number of bulkheads in the Sag Harbor/Bay Cove Complex;
- ▶ Recreation -- field-check locations and conditions of public and private recreation facilities; and
- ▶ Draft LWRP -- review and provide input on the draft LWRP.

The *Harbor Committee* held many meetings with State representatives present, and devoted the majority of their own meetings to the concerns of the LWRP. These meetings were open to the public and were usually attended by Village residents who offered input on the contents of the

draft LWRP (Section VII). Public meetings were also held in the Village Hall, usually in conjunction with Village Board meetings.

Community members were aware that the LWRP was being updated, to reflect current conditions, at a very early stage in the amendment process. The *Harbor Committee* utilized the special abilities and interests of members of the community. Interest and expertise were drawn from Sag Harbor's businessmen and residents into the preparation of this amended Local Waterfront Revitalization Program. Citizen input improved the data base, verified program information, evaluated various alternatives and expressed the values and concerns of the community.

The Village has recognized the need to continue public and private involvement in and commitment to the implementation of the LWRP. The Mayor and Village Board of Trustees will continue to be responsible for overall management and coordination of the LWRP. The Village Clerk-Treasurer will continue to serve as staff to the Mayor and Village Board on LWRP matters. These entities will continue to have specific duties, powers and responsibilities in furthering waterfront policies, projects and other program activities (see Section V).

The duties and responsibilities of the *Harbor Committee* will continue to include (as per *Chapter 21*):

- (1) Monitoring all activities and reviewing all appropriate applications and proposals which may affect local waters to make an early identification of any which might have and adverse impact on water quality and to ensure conformance with the Local Waterfront Revitalization Program (LWRP).
- (2) Maintaining liaison with other appropriate government and civic bodies so that full advantage may be taken of the efforts of others and cooperation may be extended for the mutual advantage of all concerned.
- (3) Being alert for funding programs which may make monies available for water quality -related activities and/or for implementation of other *Committee* recommendations.
- (4) Making timely and appropriate comments and recommendations to the Mayor, Board of Trustees and other village boards so that they may take timely and effective action to preserve and protect local waters.
- (5) Taking maximum practical advantage of opportunities to make the general public more fully aware of steps they can take to help preserve and protect local waters.
- (6) Making recommendations to the Board of Trustees with respect to revising and updating the LWRP.

SECTION IX

NEGATIVE DECLARATION - RESOLUTION

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4/21/98 # 41621

RESOLUTION

WHEREAS, heretofore and on May 6, 1986, the Village of Sag Harbor enacted its Local Waterfront Revitalization Program (LWRP), and

WHEREAS, that enactment has served as an essential governmental effort to enhance and preserve our harbor and adjacent upland areas, and

WHEREAS, the New York Legislature enacted the Environmental Protection Act creating the Environmental Protection Fund (EPF) in 1993 as a source of revenue to assist in programs of local coastal management, including updating local LWRP's, and

WHEREAS, the Village of Sag Harbor, by means of EPF funding thereafter retained Cashin Associates, P.C., to prepare a draft report of an amendment to the LWRP, and

WHEREAS, in July of 1995, the Board of Trustees designated itself as lead agency with respect said LWRP amendatory update, and

WHEREAS, this Board conducted an updated study of its harbor and shorefront incident to the temporary moratorium established under Local Law No. 2 of 1994, and

WHEREAS, this Board conducted an Environmental Impact Statement incident to the enactment of its LWRP on May 6, 1986, and

WHEREAS, the Board of Trustees has received no response to its most recent lead agency designation from any involved or interested agency excepting the Division of Coastal Resources and

Waterfront Revitalization of the Department of State of the State of New York (DOS), and

WHEREAS, the DOS has assisted the Board of Trustees in its work regarding the amendment of the LWRP, including (1) policies for use, protection and development of the waterfront area; (2) recommended land use and land use development controls; (3) alternatives for waterfront and harbor use; and (4) specific actions and projects proposed to implement the LWRP and achieve its objectives, and

WHEREAS, the Board of Trustees finds that the adoption of the amendment of the LWRP will not have a substantial adverse impact in any of the areas listed in 6 NYCRR 617.7(c)(1) of SEQRA, and

WHEREAS, the Board has been unable to identify any cumulative impact as described in Section 617.7(c)(2), and

WHEREAS, the Board has examined consequences of enactment of amendment of the LWRP consistent with the requirements of Section 617.7(c)(3), and

WHEREAS, the Board has prepared herein a Full Environmental Assessment Form and has concluded therein that the proposed action would not result in any adverse impact to land, water, area, plants, animals, agricultural resources, aesthetic resources, historic resources, archaeological resources, open space, recreation, energy, noise, odor, public health or character of the community, and

WHEREAS, the Board concludes that the enactment of the action, to wit, amendment of the LWRP, would protect and benefit

the environment rather than harm or allow harm to the environment.

NOW, THEREFORE, the Board of Trustees determines that a negative declaration under SEQRA is hereby adopted and the Board further authorizes the Mayor to execute a negative declaration and authorizes and directs the Village Clerk to file a copy of said negative declaration in the Village Clerk's Office and to transmit a copy of this resolution and negative declaration to the Division of Coastal Resources and Waterfront Revitalization, Department of State, 162 Washington Avenue, Albany, New York 12231, the New York State Department of Environmental Conservation at 50 Wolf Road, Albany, New York 12233 and at Building 40, SUNY at Stony Brook, Stony Brook, New York 11790, and to the NYS Clearing House, NYS Division of Budget, NYS Capitol, Albany, New York 12224.

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APPENDIX A

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APPENDIX B

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.

APPENDIX C

COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: Sag Harbor and Northwest Harbor

County(ies): Suffolk

FEB. 16 1987

Town(s): East Hampton, Shelter Island, Southampton

7.5' Quadrangle(s): Gardiners Island West, NY; Greenport, NY

	(IS) Individual Score	x	(R) Replace- ability	=	(ISxR) Final Score
ECOSYSTEM RARITY (ER):	<u>20</u>	x	<u>1.2</u>	=	<u>24.0</u>
Moderately shallow open water bays; not unusual in Peconic Bays area, but relatively uncommon on Long Island. Geometric mean: $\sqrt{16 \times 25} = 20$.					
SPECIES VULNERABILITY (SV):	<u>0</u>	x	<u>1.2</u>	=	<u>0.0</u>
No endangered, threatened, or special concern species reside in the area.					
HUMAN USE (HU):	<u>27</u>	x	<u>1.2</u>	=	<u>32.4</u>
Commercial bay scallop shellfishery significant in the northeastern United States; recreational fishery of county-level significance. Additive division: $25 + 4/2 = 27$.					
POPULATION LEVEL (PL):	<u>16</u>	x	<u>1.2</u>	=	<u>19.2</u>
One of five major concentration areas for harbor seals wintering in New York State.					

REPLACEABILITY (R): 1.2
 Irreplaceable

SIGNIFICANCE = $[(ER \times R) + (SV \times R) + (HU \times R) + (PL \times R)] = \underline{75.6}$

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITAT

PROJECT DESCRIPTION

SAG HARBOR AND NORTHWEST HARBOR

LOCATION AND DESCRIPTION OF HABITAT:

Sag Harbor and Northwest Harbor are adjoining bays on the north shore of the south fork of Long Island. The bays are located between North Haven and Cedar Point, in the Towns of East Hampton, Southampton, and Shelter Island, Suffolk County (7.5 Quadrangles: Greenport, N.Y.; and Gardiners Island West, N.Y.). This area is approximately 3000 acres in size, consisting primarily of open water. However, the fish and wildlife habitat also includes the tidal wetlands associated with Little Northwest Creek, and exposed rocks located near the Sag Harbor Cove jetty. Water depths in most of Sag and Northwest Harbors range from 6 to 20 feet below mean low water. The bays are bordered by much undeveloped land, including Suffolk County parklands and The Nature Conservancy's Mashomack Preserve. The NYSDEC owns approximately 190 acres of land surrounding Little Northwest Creek. The only major developments along the entire shoreline of these bays are the boating facilities in Sag Harbor Cove.

FISH AND WILDLIFE VALUES :

Sag Harbor and Northwest Harbor are generally representative of the Peconic Bays ecosystem, with broad expanses of moderately shallow water. This habitat type is unlike the very shallow bays on the south shore of Long Island or the relatively narrow bays on the north shore. Little Northwest Creek is an important component of this ecosystem, contributing to the biological productivity of the area.

Sag Harbor and Northwest Harbor are important to fish and wildlife throughout the year. Least tern (E), piping plover (T), and osprey (T) feed in the harbor area. Diamondback terrapin are scattered along the harbor coastline and tidal creeks but the importance of the area to this species is not well documented. From November through March, Sag and Northwest Harbors support wintering waterfowl concentrations of county-level significance. Mid-winter aerial surveys of waterfowl abundance for the ten year period 1975-1984 indicate average concentrations of over 440 birds in the bays each year (1,082 in peak year), including scaup, black duck, common goldeneye, bufflehead, red-breasted merganser, canvasback, mallard, and Canada goose. During much of the same time period (December - early May), concentrations of harbor seals also occur in Sag Harbor and Northwest Harbor. Exposed rocks near the Sag Harbor Cove jetty provide an important "haulout" area, which seals use for resting and sunning. This location is one of about five major haulouts around Long Island, serving as a focal point for seals feeding in the Sag Harbor area. Northwest Harbor

may also be important feeding and resting habitat for juvenile Kemp's Ridley sea turtles (E) especially during the late summer and fall. More documentation is needed on the use of the area by this species as well as other sea turtle species.

Sag Harbor and Northwest Harbor are productive habitats for marine finfish and shellfish. This area is one of the most important bay scallop producing areas on Long Island, supporting a commercial shellfishery significant in the northeastern United States. Oysters are present in lesser numbers, providing limited recreational and commercial shellfishing opportunities. The bays serve as nursery and feeding areas (April-November, generally) for many estuarine fish species, such as weakfish, winter flounder, and scup. Northwest Harbor sustains a commercial and recreational winter flounder fishery of county-level significance. Fishing pressure in the area extends from spring through fall.

IMPACT ASSESSMENT :

Any activity that would substantially degrade the water quality in Sag Harbor or Northwest Harbor would affect the biological productivity of this area. All species of fish and wildlife would be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. It is essential that high water quality be maintained in the area to protect the shellfishery. Efforts should be made to control discharges of sewage from recreational boats and upland sources. Thermal discharges, depending on time of year, may have variable effects on use of the area by marine species and wintering waterfowl. Installation and operation of water intakes would have significant impacts on juvenile (and adult, in some cases) fish concentrations, through impingement or entrainment. Construction of shoreline structures, such as docks, piers, bulkheads, or revetments, in areas not previously disturbed by development (i.e., natural beach or salt marsh), may result in the loss of productive areas which support the fish and wildlife resources of Sag and Northwest Harbors. Undeveloped woodlands bordering Sag Harbor and Northwest Harbor are particularly important for maintaining the water quality and habitat value of the harbors and should be preserved as a buffer zone. Any permanent alteration or human disturbance of the harbor seal haulout area, or obstruction of seal migrations, would adversely affect this species. Significant underwater noise, from dredging or other activities, could also preclude harbor seals from using the area.

KNOWLEDGEABLE CONTACTS:

Tom Hart or Andrew Milliken
N.Y.S. Department of State
Division of Coastal Resources &
Waterfront Revitalization
162 Washington Avenue
Albany, NY 12231
Phone: (518) 474-3642

Harry Knoch, Wildlife Manager
NYSDEC - Region 1
State University of New York, Building 40
Stony Brook, New York 11790
Phone: (516) 751-7900

John Poole, Marine Resources Specialist IV
Bureau of Marine Finfish and Crustaceans
NYSDEC - Region 1
State University of New York, Building 40
Stony Brook, New York 11790
Phone: (516) 751-7900

Pieter VanVolkenburgh, Chief
Bureau of Shellfisheries
NYSDEC - Region 1
State University of New York, Building 40
Stony Brook, New York 11790
Phone: (516) 751-7900

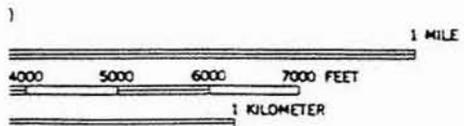
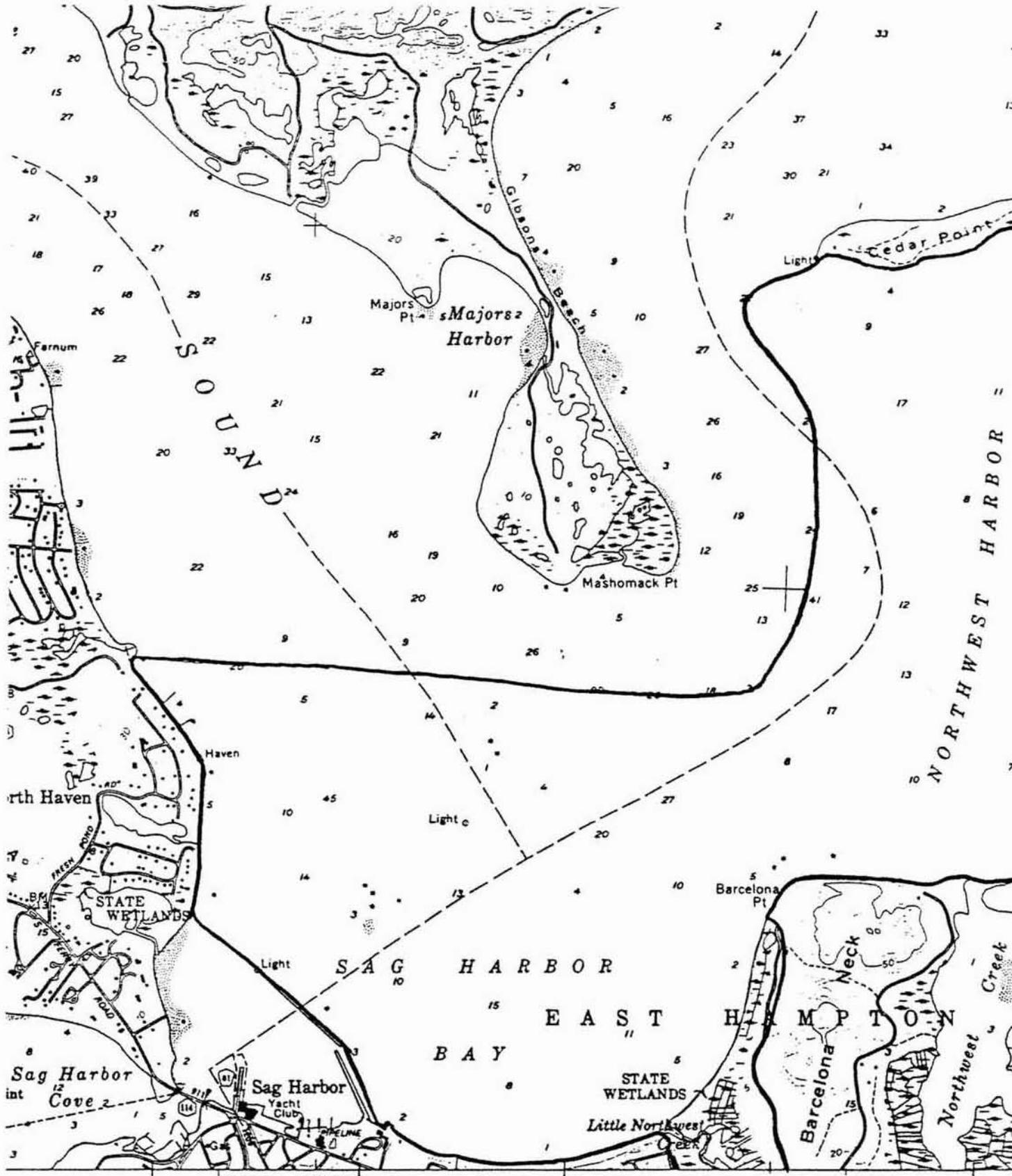
Sam Sadove, Research Director
OKEANOS Ocean Research Foundation
216 E. Montauk Highway
P.O. Box 776
Hampton Bays, New York 11946
Phone: (516) 728-4522

New York State Department of
Environmental Conservation
Significant Habitat Unit
Wildlife Resources Center
Delmar, New York 12054
Phone: (518) 439-7486

Larry Penny, Director
Environmental Protection
Town of East Hampton
159 Pantigo Road
East Hampton, New York 11937
Phone: (516) 267-8462

Arnold Leo, Secretary
East Hampton Baymens Association
Box 498
Amagansett, New York 11930
Phone: (516) 324-2216

Louise Harrison
Suffolk County
Department of Health Services
Bureau of Environmental Management
County Center
Riverhead, NY 11901
Phone: (516) 548-3064



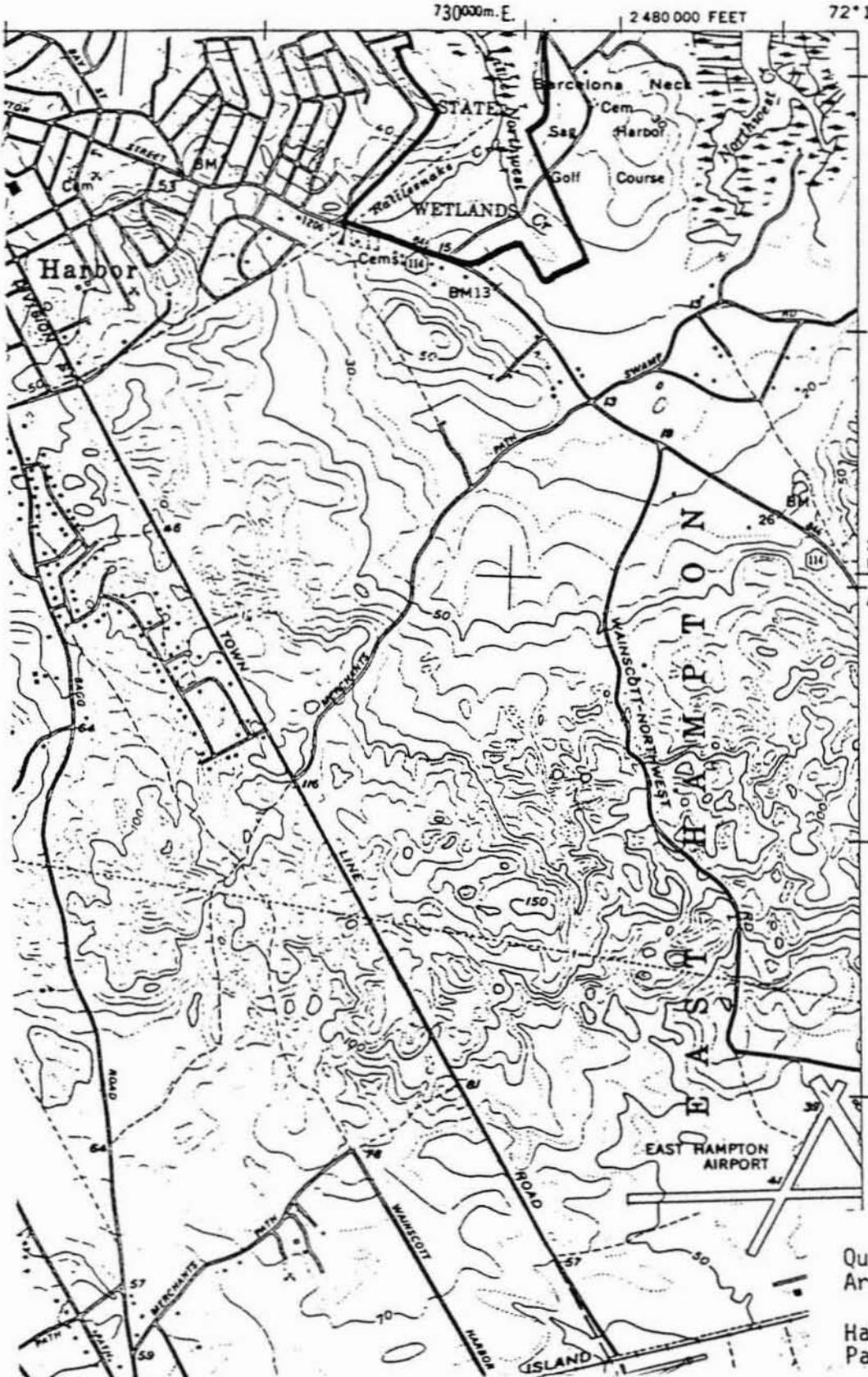
INDEX TO
1:2500 (1" = 200')

Quad: Greenport, NY
 Area Name: Sag Harbor and Northwest Harbor
 State: _____
 County: _____
 Town or City: _____
 Incorporated Village: _____

Habitat Boundary:
 Page 1 of 3

SAG HARBOR QUADRANGLE
 NEW YORK-SUFFOLK CO.
 7.5 MINUTE SERIES

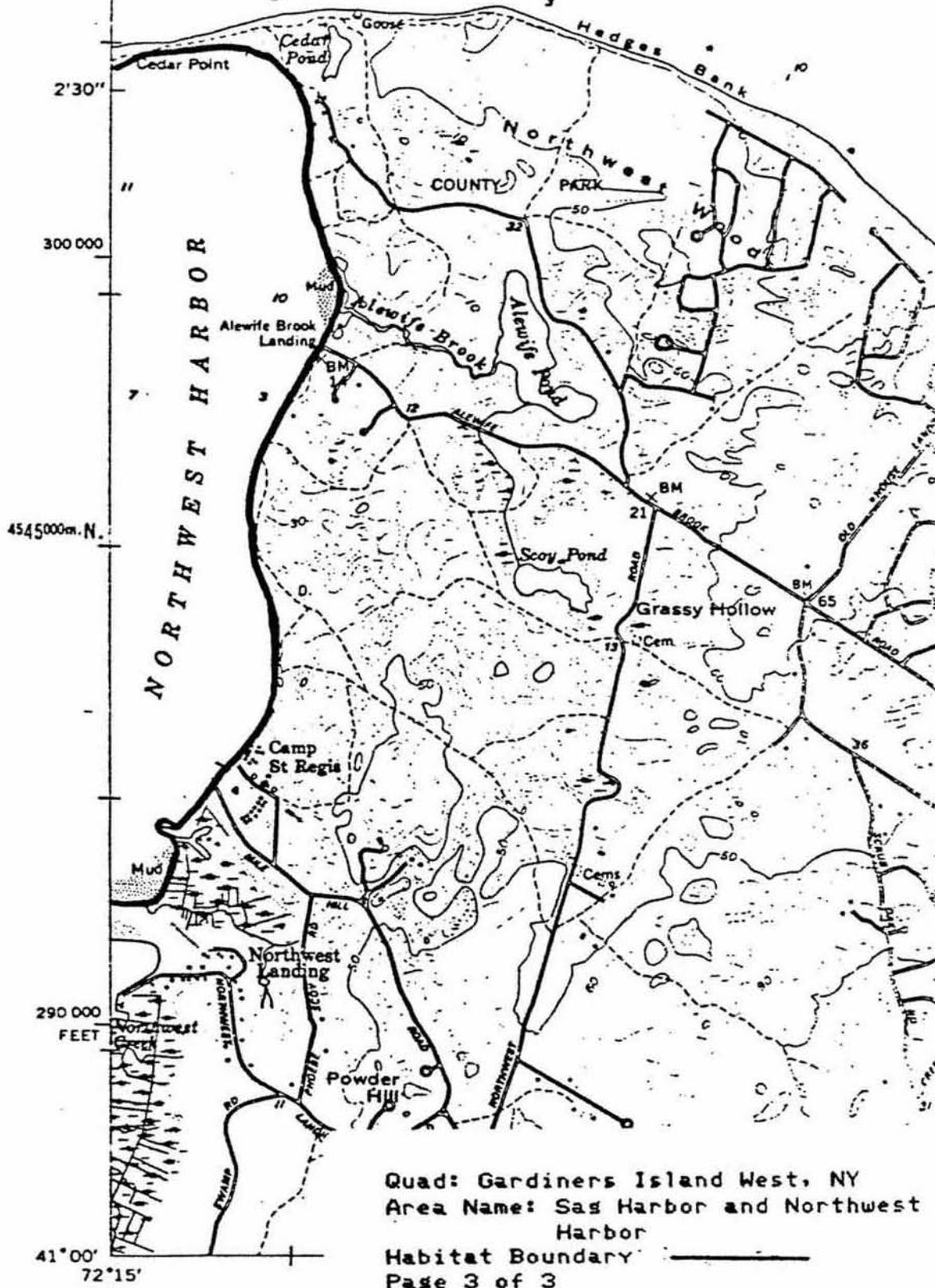
GARDINERS ISLAND
 WEST



730000m. E. 2 480 000 FEET 72° 15' 41' 00'

280 000 FEET
 4540000m. N.

Quad: Sag Harbor, NY
 Area Name: Sag Harbor and
 Northwest Harbor
 Habitat Boundary:
 Page 2 of 3



Quad: Gardiners Island West, NY
 Area Name: Sag Harbor and Northwest Harbor
 Habitat Boundary
 Page 3 of 3

SAG HARBOR

APPENDIX D

NESTING BIRDS FOUND IN THE SAG HARBOR VILLAGE AREA

spotted sandpiper (*Actitis macularia*)
red-winged blackbird (*Agelaius phoeniceus*)
wood duck (*Aix sponsa*)
sharp-tailed sparrow (*Ammodramus caudacutus*)
seaside sparrow (*Ammodramus maritimus*)
American wigeon* (*Anas americana*) PB
green-winged teal (*Anas crecca*)
blue-winged teal (*Anas discors*)
mallard (*Anas platyrhynchos*)
mallard x American black duck (*Anas platyrhynchos x rubripes*)
American black duck (*Anas rubripes*)
gadwall (*Anas strepera*)
ruby-throated hummingbird* (*Archilocus colubris*) PrB
cedar waxwing* (*Bombycilla cedrorum*) CB
Canada goose (*Branta canadensis*)
great horned owl* (*Bubo virginianus*) PB
cattle egret (*Bubulcus ibis*)
red tailed hawk* (*Buteo jamaicensis*) CB
broad winged hawk* (*Buteo platypterus*) PB
green-backed heron (*Butorides striatus*)
whip-poor-will* (*Caprimulgus vociferus*) PrB
northern cardinal* (*Cardinalis cardinalis*) CB
American goldfinch* (*Carduelis tristis*) PrB
house finch* (*Carpodacus mexicanus*) CB
purple finch* (*Carpodacus purpureus*) PrB
great egret (*Casmerodius albus*)
veery* (*Catharus fuscescens*) PB
willet (*Catoptrophorus semipalmatus*)
belted kingfisher (*Ceryle alcyon*)
chimney swift* (*Chaetura pelagica*) PrB
piping plover (*Charadrius melodus*)
killdeer* (*Charadrius vociferous*) CB
northern harrier (*Circus cyaneus*)
marsh wren (*Cistothorus palustris*)
yellow billed cuckoo* (*Coccyzus americanus*) PrB
black billed cuckoo* (*Coccyzus erythrophthalmus*) PrB
northern harrier* (*Colaptes auratus*) CB
northern bobwhite* (*Colinus virginianus*) CB
rock dove* (*Columba livia*) CB
eastern wood-pewee* (*Contopus virens*) PrB
American crow* (*Corvus brachyrhynchos*) CB
fish crow (*Corvus ossifragus*)
blue jay* (*Cyanocitta cristata*) CB
mute swan (*Cygnus olor*)
prairie warbler* (*Dendroica discolor*) PrB
chestnut-sided warbler* (*Dendroica pensylvanica*) PB
yellow warbler* (*Dendroica petechia*) CB

pine warbler* (*Dendroica pinus*) CB
grey catbird* (*Dumetella carolinensis*) CB
little blue heron (*Egretta caerulea*)
snowy egret (*Egretta thula*)
acadian flycatcher* (*Empidonax virescens*) CB
horned lark (*Eremophila alpestris*)
American kestrel* (*Falco sparverius*) CB
common moorhen (*Gallinula chloropus*)
common yellowthroat* (*Geothlypis trichas*) CB
American oystercatcher (*Haematopus palliatus*)
barn swallow* (*Hirundo rustica*) CB
wood thrush* (*Hylocichla mustelina*) CB
northern oriole* (*Icterus galbula*) CB
least bittern (*Ixobrychus exilis*)
herring gull (*Larus argentatus*)
great black-backed gull (*Larus marinus*)
red-bellied woodpecker* (*Melanerpes carolinus*) PB
song sparrow* (*Melospiza melodia*) CB
red-breasted merganser (*Mergus serrator*)
northern mockingbird* (*Mimus polyglottos*) CB
black and white warbler* (*Mniotilta varia*) PrB
brown-headed cowbird* (*Molothrus ater*) PrB
great crested flycatcher* (*Myiarchus crinitus*) CB
black-crowned night-heron (*Nycticorax nycticorax*)
eastern screech owl* (*Otus asio*) PrB
ruddy duck (*Oxyura jamaicensis*)
black capped chickadee* (*Parus atricapillus*) CB
tufted titmouse* (*Parus bicolor*) CB
house sparrow* (*Passer domesticus*) CB
indigo bunting* (*Passerina cyanea*) PrB
savannah sparrow (*Passerculus sandwichensis*)
osprey (*Pandion haliaetus*)
double-crested cormorant (*Phalacrocorax auritus*)
ring necked pheasant* (*Phasianus colchicus*) CB
rosebreasted grosbeak* (*Pheucticus ludovicianus*) PrB
downy woodpecker* (*Picoides pubescens*) CB
hairy woodpecker* (*Picoides villosus*) CB
rufous-sided towhee* (*Pipilo erythrophthalmus*) CB
scarlet tanager* (*Piranga olivacea*) PrB
glossy ibis (*Plegadis falcinellus*)
pied-billed grebe (*Podilymbus podiceps*)
blue-grey gnatcatcher* (*Poliophtila caerulea*) CB
common grackle* (*Quiscalus quiscula*) CB
Virginia rail (*Rallus limicola*)
clapper rail (*Rallus longirostris*)
bank swallow (*Riparia riparia*)
black skimmer (*Rynchops niger*)
eastern phoebe* (*Sayornis phoebe*) PrB
American woodcock* (*Scolopax minor*) CB
Ovenbird* (*Seiurus aurocapillus*) PrB
chipping sparrow* (*Spizella passerina*) CB

field sparrow* (*Spizella pusilla*) CB
American redstart* (*Setophaga ruticilla*) CB
eastern bluebird* (*Sialia sialis*) PB
red-breasted nuthatch* (*Sitta canadensis*) PB
white-breasted nuthatch* (*Sitta carolinensis*) CB
northern rough-winged swallow (*Stelgidopteryx serripennis*)
least tern (*Sterna antillarum*)
roseate tern (*Sterna dougallii*)
common tern (*Sterna hirundo*)
European starling* (*Sturnus vulgaris*) CB
tree swallow (*Tachycineta bicolor*)
Carolina wren* (*Thryothorus ludovicianus*) CB
brown thrasher* (*Toxostoma rufum*) CB
house wren* (*Troglodytes aedon*) CB
American robin* (*Turdus migratorius*) CB
eastern kingbird* (*Tyrannus tyrannus*) CB
blue winged warbler* (*Vermivora pinus*) PrB
white eyed vireo* (*Vireo griseus*) PB
red eyed vireo* (*Vireo olivaceus*) CB
mourning dove* (*Zenaida macroura*) CB

* From *The Atlas of Breeding Birds in NY State*. eds. Robert F. Andrie and Janet R. Carroll. c 1988. Cornell University Press.

PB = possible breeding

PrB = probable breeding

CB = confirmed breeding

APPENDIX E

WINTER WATERBIRDS FOUND IN AND AROUND SAG HARBOR

wood duck (*Aix sponsa*)
razorbill (*Alca torda*)
dovekie (*Alle alle*)
northern pintail (*Anas acuta*)
American wigeon (*Anas americana*)
northern shoveler (*Anas clypeata*)
green-winged teal (*Anas crecca*)
blue-winged teal (*Anas discors*)
Eurasian wigeon (*Anas penelope*)
mallard (*Anas platyrhynchos*)
American black duck (*Anas rubripes*)
gadwall (*Anas strepera*)
great blue heron (*Ardea herodias*)
ruddy turnstone (*Arenaria interpres*)
lesser scaup (*Aythya affinis*)
redhead (*Aythya americana*)
ring-necked duck (*Aythya collaris*)
greater scaup (*Aythya marila*)
canvasback (*Aythya valisineria*)
American bittern (*Botaurus lentiginosus*)
brant (*Branta bernicla*)
Canada goose (*Branta canadensis*)
bufflehead (*Bucephala albeola*)
common goldeneye (*Bucephala clangula*)
Barrow's goldeneye (*Bucephala islandica*)
sanderling (*Calidris alba*)
dunlin (*Calidris alpina*)
red knot (*Calidris canutus*)
purple sandpiper (*Calidris maritima*)
least sandpiper (*Calidris minutilla*)
common snipe (*Capella gallinago*)
willet (*Catoptrophus semipalmatus*)
killdeer (*Charadrius vociferus*)
snow goose (*Chen caerulescens*)
old squaw (*Clangula hyemalis*)
mute swan (*Cygnus olor*)
American coot (*Fulica americana*)
common loon (*Gavia immer*)
red-throated loon (*Gavia stellata*)
American oystercatcher (*Haematopus palliatus*)
bald eagle (*Haliaeetus leucocephalus*)
harlequin duck (*Histrionicus histrionicus*)
herring gull (*Larus argentatus*)
laughing gull (*Larus atricilla*)
ring-billed gull (*Larus delawarensis*)
lesser black-backed gull (*Larus fuscus*)
Iceland gull (*Larus glaucoides*)

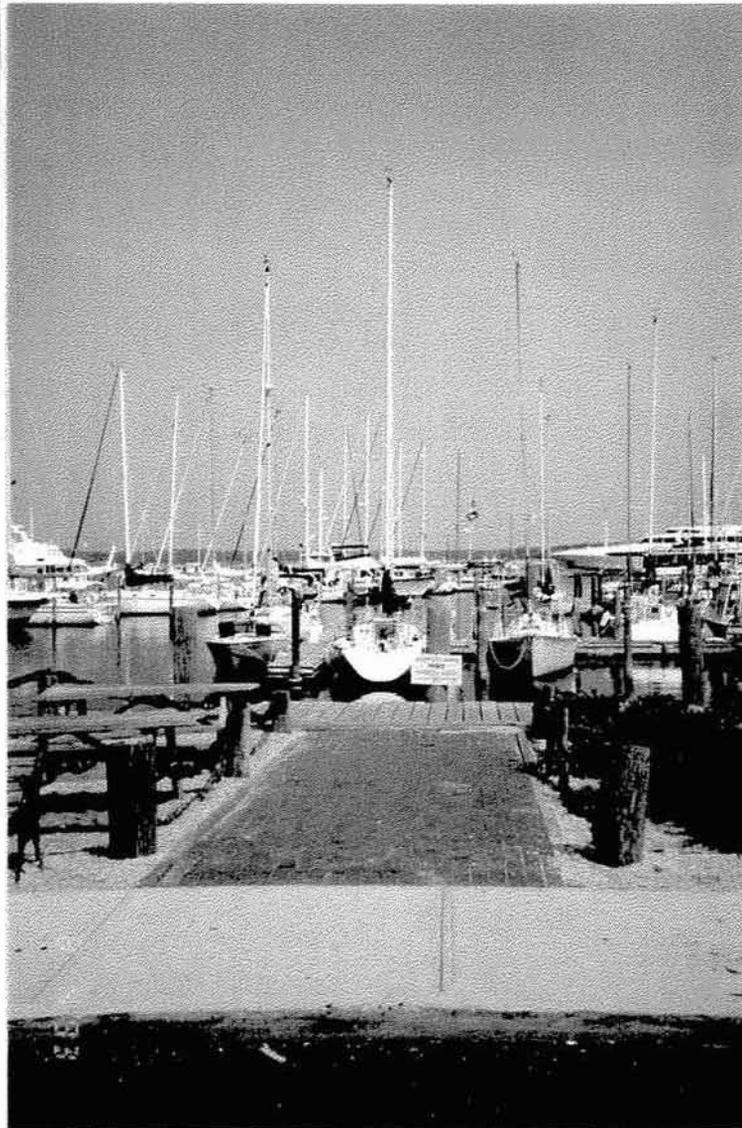
glaucous gull (*Larus hyperboreus*)
great black-backed gull (*Larus marinus*)
little gull (*Larus minutus*)
Bonaparte's gull (*Larus philadelphia*)
hooded merganser (*Lophodytes cucullatus*)
belted kingfisher (*Megaceryle alcyon*)
white-winged scoter (*Melanitta deglandi*)
black scoter (*Melanitta niger*)
surf scoter (*Melanitta perspicillata*)
common merganser (*Mergus merganser*)
red-breasted merganser (*Mergus serrator*)
northern gannet (*Morus bassanus*)
black-crowned night heron (*Nycticorax nycticorax*)
tundra swan (*Olor columbianus*)
ruddy duck (*Oxyura jamaicensis*)
double-crested cormorant (*Phalacrocorax auritus*)
great cormorant (*Phalacrocorax carbo*)
American woodcock (*Philohela minor*)
black-bellied plover (*Pluvialis squatarola*)
horned grebe (*Podiceps auritus*)
red-necked grebe (*Podiceps grisegena*)
pied-billed grebe (*Podilymbus podiceps*)
Virginia rail (*Rallus limicola*)
clapper rail (*Rallus longirostris*)
black-legged kittiwake (*Rissa tridactyla*)
common eider (*Somateria mollissima*)
king eider (*Somateria spectabilis*)
parasitic jaeger (*Stercorarius parasiticus*)
greater yellowlegs (*Tringa melanoleuca*)

APPENDIX F



MARINA CHARACTER AREA: Sag Harbor Yacht Yard

MARINA CHARACTER AREA: East of Long Wharf





MARINA CHARACTER AREA: Redwood Canal



MARINA CHARACTER AREA: West Water Street



MARINE RECREATIONAL CHARACTER AREA: Haven's Beach



MARINE RECREATIONAL CHARACTER AREA: Marine Park



MARINE RECREATIONAL CHARACTER AREA: Windmill Park and shoreline



MARINE RECREATIONAL CHARACTER AREA: Otter Pond



MARINE RECREATIONAL CHARACTER AREA: Issue -- Long Wharf parking



**MARINE RECREATIONAL CHARACTER AREA:
Issue -- seating and walking**



MARINE NATURAL CHARACTER AREA: Northwest Creek Area



BUSINESS DISTRICT CHARACTER AREA



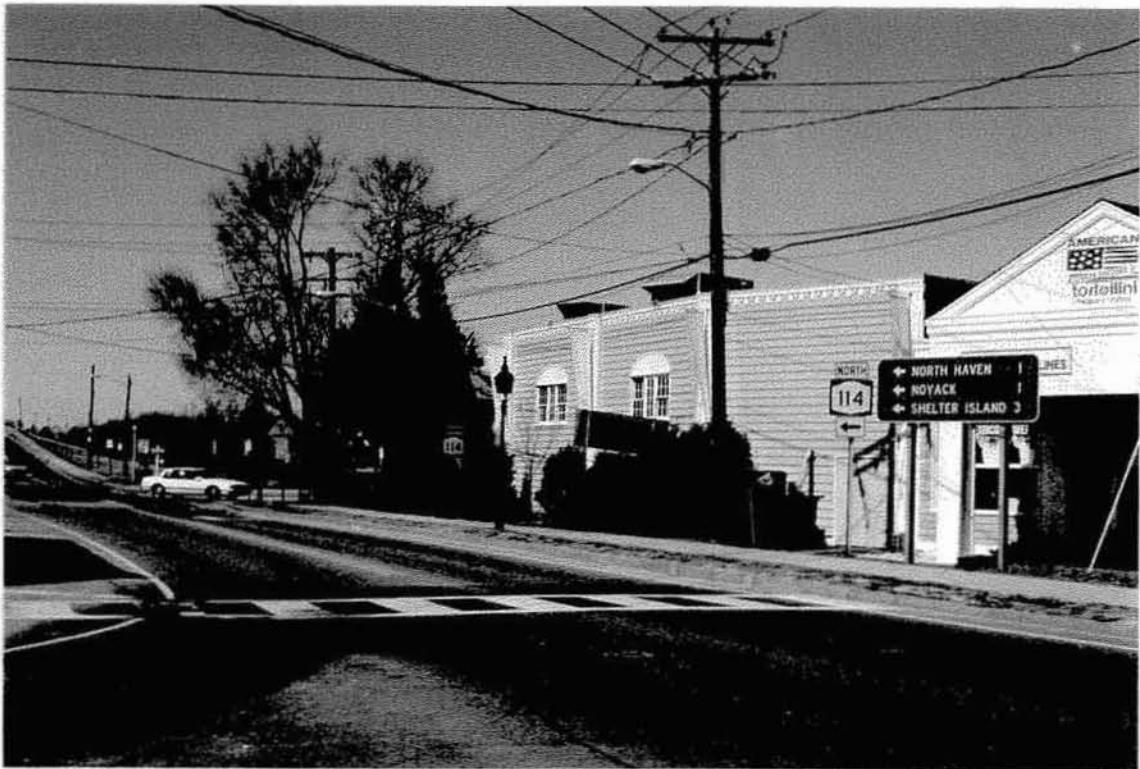
**BUSINESS DISTRICT
CHARACTER AREA**



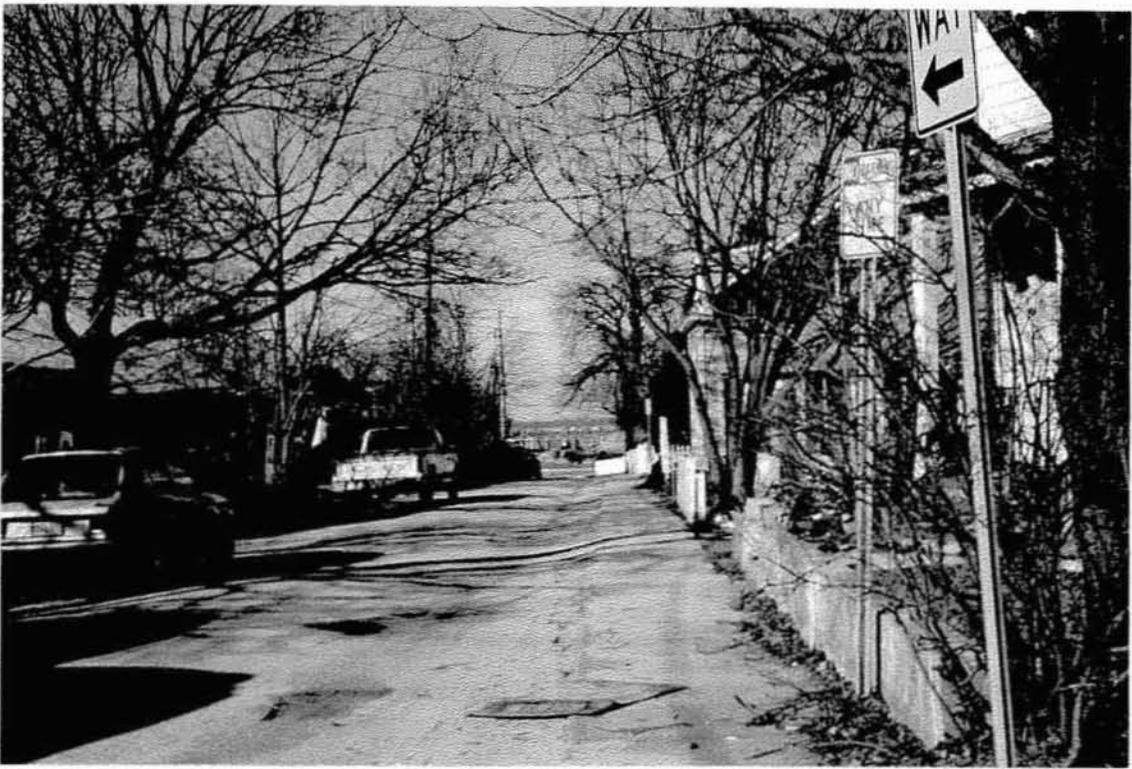
**BUSINESS DISTRICT
CHARACTER AREA:
Issue -- benches**



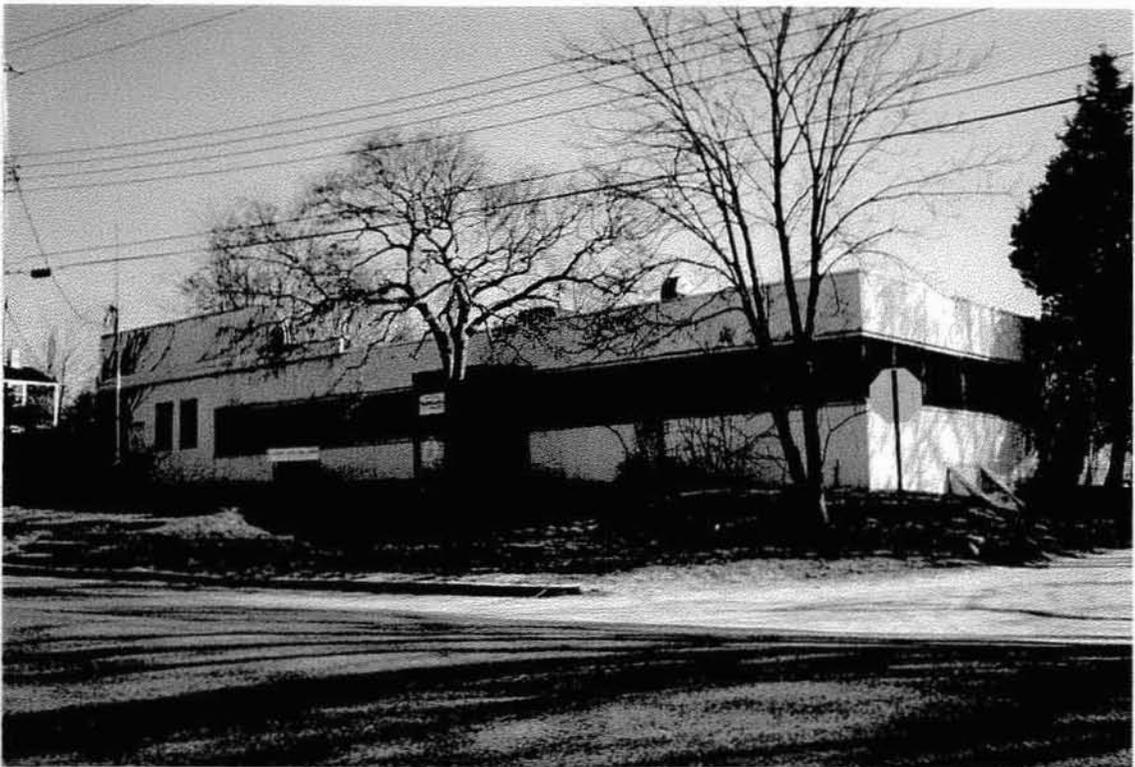
BUSINESS DISTRICT CHARACTER AREA: Issue -- 5-way intersection



BUSINESS DISTRICT AREA: Issue -- signage



RESIDENTIAL CHARACTER AREA: Rector Street



INDUSTRIAL CHARACTER AREA



RESIDENTIAL CHARACTER AREA: Issue -- woodland protection



INDUSTRIAL CHARACTER AREA: Issue -- unused and decaying property



OPEN SPACE CHARACTER AREA: Mashashimuet Park



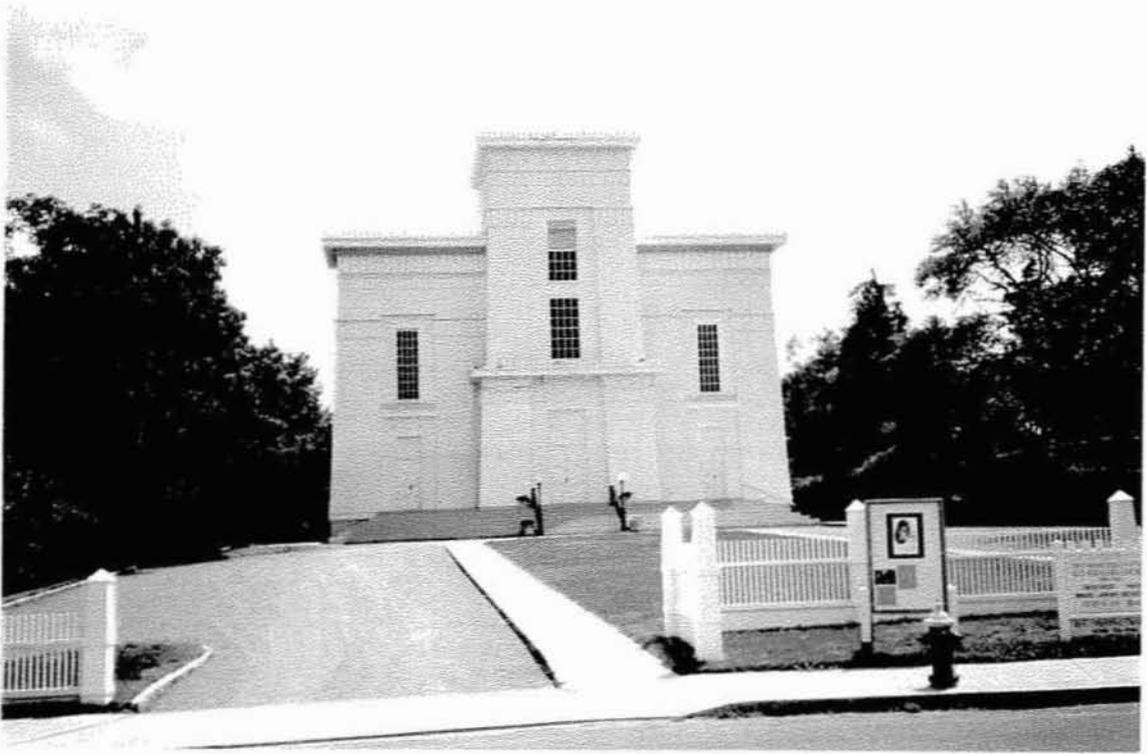
OPEN SPACE CHARACTER AREA: Mashashimuet Park



MULTI-UNIT RESIDENTIAL CHARACTER AREA: West Water Street



MULTI-UNIT RESIDENTIAL CHARACTER AREA: Long Island Avenue



INSTITUTIONAL CHARACTER AREA: Whalers Presbyterian Church



AGRICULTURAL CHARACTER AREA: Cilli Farm



View north from Long Wharf



View east from Long Wharf



View northwest from Windmill Park



View northwest from West Water Street



View east from North Haven Bridge (NYS Rte. 114)



View south from North Haven Bridge (NYS Rte. 114)



View north from Redwood



View northwest from Redwood



View southwest from Redwood



View south from Redwood



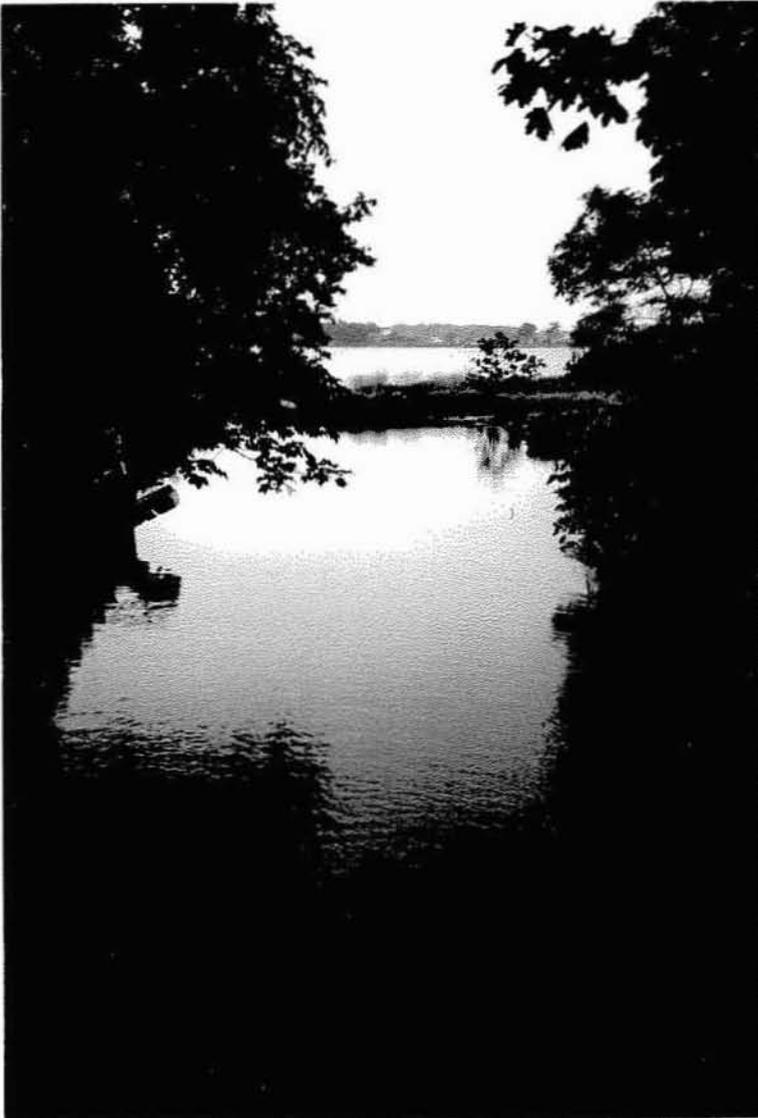
View north from Redwood Avenue - Sag Harbor Cove



View south from Redwood Avenue - Upper Sag Harbor Cove



View southeast from Otter Pond bridge



View northwest from Otter Pond bridge



View northwest from Haven's Beach

Village of Sag Harbor Harbor Management Program

HMP

Adopted:

Village of Sag Harbor Board of Trustees, December 1, 1998

Approved:

NYS Secretary of State, Alexander F. Treadwell, April 2, 1999

Concurred:

U.S. Office of Ocean and Coastal Resource Management, June 23, 1999

LWRP/HMP Amendment

Adopted:

Village of Sag Harbor Board of Trustees, February 14, 2006

Approved:

NYS Secretary of State, Christopher L. Jacobs May 31, 2006

Concurred:

U.S. Office of Ocean and Coastal Resource Management, June 15, 2006

**Resolution of the
Village of Sag Harbor Board of Trustees**

**Adoption of the Amended
Sag Harbor Local Waterfront
Revitalization Program
and
Harbor Management Plan**

WHEREAS, the Village of Sag Harbor completed a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of the Executive Law, which was adopted by the Village Board of Trustees on May 6, 1986 and approved by the New York State Secretary of State on June 11, 1986; and

WHEREAS, the Village desired to update and amend the Local Waterfront Revitalization Program (LWRP), including a Harbor Management Plan (HMP); and

WHEREAS, a draft amended Local Waterfront Revitalization Program was accepted by the New York Department of State and circulated for review to state, regional, and local agencies; and

WHEREAS, the Village, as lead agency, filed a Negative Declaration pursuant to Article 8 of the Environmental Conservation Law for amendment of the Local Waterfront Revitalization Program; and

WHEREAS, the Village has enacted all local laws necessary to implement the amended Local Waterfront Revitalization Program on December 1, 1988;

BE IT RESOLVED, that the Village's amended Local Waterfront Revitalization Program/Harbor Management Plan is hereby adopted; and

BE IT FURTHER RESOLVED, that the Village Board of Trustees hereby directs the Mayor of the Village to submit the amended LWRP/HMP, and all related local implementing laws, to the New York State Secretary of State for approval pursuant to Article 42 of the NYS Executive Law-the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

ALEXANDER F. TREADWELL
SECRETARY OF STATE

April 12, 1999

Honorable Pierce W. Hance
Mayor
Village of Sag Harbor
P.O. Box 660
Main Street
Sag Harbor, NY 11963

Dear Mayor Hance:

It is with great pleasure that I inform you that the Department of State has approved the amendment of the Village of Sag Harbor Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this amendment is to be commended for advancing a comprehensive management program that promotes the balanced preservation, enhancement and utilization of the valuable resources of the coastal area.

I am notifying state agencies that the Department has approved the amendment of your Local Waterfront Revitalization Program and am advising them that their activities must be undertaken in a manner consistent with the Sag Harbor program to the maximum extent practicable.

I look forward to continuing to work with you as you revitalize and protect your waterfront.

Sincerely,

A handwritten signature in cursive script that reads "Alexander F. Treadwell".

Alexander F. Treadwell

AFT:gdh



1045
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

JUN 23 1999

DEPARTMENT OF STATE
COASTAL PROGRAMS

JUN 28 1999

RECEIVED

Mr. George R. Stafford
Director, Division of Coastal Resources
and Waterfront Revitalization
New York Department of State
41 State Street
Albany, New York 12231

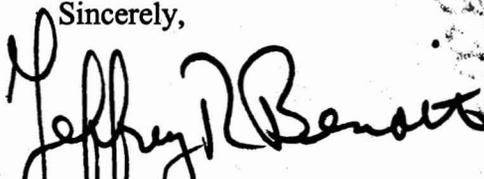
Dear Mr. Stafford:

The Office of Ocean and Coastal Resource Management (OCRM) concurs with your request to incorporate the amendments to the Village of Sag Harbor Local Waterfront Revitalization Program (LWRP) into the New York State Coastal Management Program as a Routine Program Change (RPC). We received comments from three Federal agencies, none of which objected to incorporating the LWRP as a RPC. This approval assumes you will make no further changes to the document in addition to the ones submitted.

Pursuant to your RPC submission, OCRM has identified the following new or revised enforceable policies: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11. Other changes to the state's enforceable policies based on the LWRP are essentially the same as those found in state law under 19 NYCRR, Part 600.5.

In accordance with the Federal Coastal Management Regulations, 15 CFR 923.84, Federal Consistency will apply to the enforceable policies contained in the revised Village of Sag Harbor LWRP after you publish notice of our approval.

Sincerely,


Jeffrey R. Benoit
Director



**RESOLUTION: Adoption of LWRP and Harbor Management Plan
Revisions Required by 2005 Amendments to Chapter 53 of the Village
Code (Waterways)**

WHEREAS, the Board of Trustees of the Village of Sag Harbor approved certain amendments to Chapter 53 of the Village Code (Waterways) in April, 2005 (Local Law No. 7 of 2005); and

WHEREAS, as a result of these amendments, revisions to the Village Local Waterfront Revitalization Program and Harbor Management Plan were necessary, and those revisions were prepared by Village consultants Cashin Associates, P.C.; and

WHEREAS, the necessary revisions have undergone consistency review at the local level and have thereafter been approved by the New York State Department of State, in accordance with Chapter 42 of the New York State Executive Law; now, therefore, be it

RESOLVED, the Board of Trustees hereby approves the following changes to the Local Waterfront Revitalization Program: revised Figures 2 and 9 and Map 2; and the following changes to the Harbor Management Plan: revised Figures 11 and 12 and revised text for Sections 5.5 and 6.1 (text attached hereto); and be it

FURTHER RESOLVED, the Village Clerk is directed to file the amendments as may be required by the Executive Law and other applicable law, and to maintain copies of the revisions in the Village Office.

February 14, 2006



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

George E. Pataki
Governor

Christopher L. Jacobs
Secretary of State

May 31, 2006

Honorable Edward Deyermond
Mayor
Village of Sag Harbor
55 Main St
PO Box 660
Sag Harbor, NY 11963

Dear Mayor Deyermond:

I am pleased to inform you that I have approved the amendment of the Village of Sag Harbor Local Waterfront Revitalization Program (LWRP), pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. I commend the Village for addressing current waterfront issues by refining its LWRP and Harbor Management Plan to further refine existing surface water activity and conditions. The revisions should be a tremendous help in clarifying and further specifying permitted areas for moorings, restriction of vessel speed, and certain enforcement procedures.

I am notifying State agencies that I have approved your LWRP amendment and am advising them that their activities must be undertaken in a manner consistent, to the maximum extent practicable, with the program.

I look forward to working with you as you continue to revitalize and protect your waterfront.

Sincerely,

A handwritten signature in black ink, appearing to be "C. L. Jacobs", written over a horizontal line.

Christopher L. Jacobs
Secretary of State

CLJ:lt\gn



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
 NATIONAL OCEAN SERVICE
 OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
 Silver Spring, Maryland 20910

JUN 15 2006

Mr. George R. Stafford
 Director, Division of Coastal Resources
 New York Department of State
 41 State Street
 Albany, New York 12231

Dear Mr. Stafford,

Thank you for the New York Division of Coastal Resources' June 1, 2006, request that changes to the Village of Sag Harbor Local Waterfront Revitalization Program (LWRP) be incorporated into the New York Coastal Management Program (CMP). You requested that changes to the Village of Sag Harbor LWRP described below be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and Office of Ocean and Coastal Resource Management (OCRM) Program Change Guidance (July 1996). OCRM received the request on June 2, 2006.

Based on our review of your submission, we concur that the changes to the Village of Sag Harbor LWRP are RPCs and we approve the incorporation of the changes as enforceable policies of the New York CMP. Federal Consistency will apply to the approved changes only after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b) (4). Please include in the public notice the list of changes to enforceable policies provided in this letter, and please send a copy of the notice to OCRM.

SECTIONS APPROVED

Name/Description of Local Law/Regulation/Policy Added to the CMP	Legal Citation	Date Adopted by Village; State	Date Effective in Village and State
<ul style="list-style-type: none"> o LWRP Figures 2 and 9 o Harbor Management Plan Figures 11 and 12, and Map 2 o Harbor Management Plan text - Sections 5.5 and 6.1 	Chapter 53 (Waterways) of the Village Code, amended through Local Law #7 of 2005	February 14, 2006; May 26, 2006	May 10, 2006

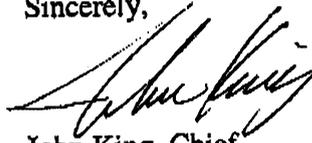
PUBLIC AND FEDERAL AGENCY COMMENTS

OCRM received no comments on this RPC submission.



Thank you for your cooperation in this review. Please contact Carleigh Trappe at (301) 713-3100, extension 165, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John King". The signature is fluid and cursive, with a large initial "J" and "K".

John King, Chief
Coastal Programs Division

VILLAGE OF SAG HARBOR - HARBOR MANAGEMENT PLAN

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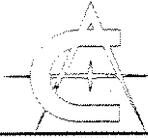
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EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

Sag Harbor Village is located on the north shore of the south fork, in the eastern portion of Suffolk County, Long Island. Sag Harbor, with its interconnected system of embayments, is one of the major cruising ports on eastern Long Island and contains two important areas of marine activity. The harbor provides anchorage, docking and a variety of marine support services making this area a popular location for recreational boating, particularly during the summer season. This popularity has led to the need for the Village of Sag Harbor to assess the extent of this marine activity and waterfront development. The following Harbor Management Plan examines these conditions, and sets forth a number of comments and recommendations with regard to the future growth and management of Village waters.

The main goals of this plan are described as follows:

- to address conflicts between surface water uses and mitigate harbor congestion;
- to protect the important natural resources of the harbor complex, especially shellfish populations, tidal wetlands, and wildlife communities;
- to preserve and, to the extent possible, enhance water quality conditions in the harbor complex; and
- to ensure that human recreational and commercial activities are allowed to continue in these waters, in a manner and at a level that does not result in significant adverse impacts to water quality or natural resources.

The inland boundary for the Harbor Management Plan study area includes all properties fronting on the surface water bodies located within the Incorporated Village of Sag Harbor. The waterside boundary begins at the point of mean high water on the shoreline, where the boundaries for the Village of Sag Harbor and the Town of East Hampton converge in Little Northwest Creek, and extends into Sag Harbor Bay for a distance of 1,500 feet from the shoreline. The study area boundary follows the shore at this distance until reaching the municipal boundary between the Village of Sag Harbor and the Village of North Haven. At this point, the study area boundary follows the line of equal-distance between the two villages through Sag Harbor and Outer Sag Harbor Cove to the Big Narrows. At this point, the waterside boundary for the study area follows the line of equal-distance between the Village of Sag Harbor and the Town of Southampton until it reach the mean high water line at the head of Ligonee Brook.

Most of the watershed area of the Sag Harbor Cove/Bay Complex is comprised of low and medium-density residential development, recreational facilities, the Sag Harbor business district and open space. Higher density residential development is found in the vicinity of the Village center. Waterfront uses include a number of marinas, two boat yards, the Sag Harbor Village sewage treatment plant, recreational facilities and residences.

Jurisdiction over the Sag Harbor Cove/Bay Complex and its shoreline is divided among numerous entities at various levels of government. These include the Town of Southampton, the Town of East Hampton, and the Incorporated Village of North Haven, in addition to the Incorporated Village of Sag Harbor, the State of New York and various Federal government agencies. Based on this multiplicity of political jurisdictions which apply to the study area, the cooperation of many of these involved political entities is necessary to achieve some of the management goals set forth in this document, such as the improvement of water quality and the protection of natural resources. Therefore, this Harbor Management Plan should be viewed as a starting point for such future, comprehensive harbor management efforts.

The underwater lands in the harbor management study area are owned by the Town of Southampton and the State of New York. Southampton Town owns all the bottom lands situated within the Sag Harbor Cove system. The State owns all of the lands north and east of the line delineated by the old bridge that ran to North Haven which was destroyed in 1892. The State Office of General Services has issued a small number of grants for underwater lands in the Sag Harbor area. There are, however, a few parcels of underwater lands and former underwater lands in private ownership in this study area that have not been legally authorized by the State.

There are a number of navigation channels located throughout the Sag Harbor Cove/Bay Complex. These channels have not been dredged since they were first established, and certain areas now, or will in the near future, require dredging. In addition, there are areas situated outside of the delineated channels that are in need of dredging to mitigate shoaling and water depth problems. Dredge spoil materials from the dredging projects that have occurred in the study area have been historically disposed of in upland areas in the Village.

The Sag Harbor Harbormaster is responsible for patrolling the harbor management study area and enforcing the regulations that apply within this area. Certain surface water areas of Sag Harbor Cove, however, are located outside of the Village's jurisdiction; these areas are the responsibility of the Town of Southampton. Because this area is isolated from the main body of waters patrolled by the Town bay constables, it does not receive regular patrols. The Village Harbormaster does not have the authority to enforce the Town regulations in this area or issue citations for violations he may encounter during his regular patrols.

When the Sag Harbor LWRP was adopted in 1986, it included the establishment of three water use districts. These include the harbor district, the limited-intensity district, and conservation district. Although these districts were established, no use standards to guide activities that occurred within these districts were developed.

Recreational boating is an important water-dependent use in the Sag Harbor Cove/Bay Complex. Sag Harbor contains two anchorage areas that can accommodate up to 150 vessels. The marina facilities also provide permanent and transient dockage for over 600 vessels. Harbor congestion results from this extensive activity in the summer season. Known locations where congestion problems occur include the head of Sag Harbor, near Marine Park; the area under the North Haven/State Route 114 bridge; the area where the channels meet near the north end of the Long Wharf; and occasionally in the vicinity of the Sag Harbor Cove West Marina and Village docks.

The Village contains a significant number of freshwater wetland areas and extensive areas of tidal marsh throughout the Sag Harbor Cove Complex. The Sag Harbor Cove/Bay Complex is also a highly productive area for shellfish and marine finfish. The cove complex is also an important wintering area for a variety of waterfowl.

Stormwater runoff is the primary source of coliform bacteria contamination in the harbor complex. Depending on the type of development present, stormwater runoff can also be a source of metals, organic compounds, nutrients, or other contaminants. Other sources of water quality degradation include malfunctioning on-site sewage disposal systems, effluent from the Sag Harbor Village sewage treatment plant and direct inputs of wastes from waterfowl. Vessel discharges, although not the only source of pollutants to the Sag Harbor Cove/Bay Complex, can cause localized water quality problems. The discharge of sanitary wastes from boats can degrade water quality by: introducing microbial pathogens into surface waters; and locally increasing biological oxygen demand.

Marinas can also contribute significantly to the concentration of pollutants in the water column, bottom sediments, and tissues of benthic organisms living within the limits of the marina itself. Pollutants from marinas and recreational boating may enter the water through discharges from boats, spills, maintenance areas, stormwater runoff and vessel operation. The types of pollutants often associated with marinas and recreational boating activities include: organic materials discharges from recreational boats; toxic heavy metals associated with boat maintenance and repair operations at boat yards and marinas; petroleum hydrocarbons from refueling activities and bilge or fuel discharges from boats; fecal coliform bacteria; and disruption of sediments and habitat from boat operations and dredging.

In order to advance the management objectives of this Harbor Management Plan, as specified above, a number of measures have been recommended, as summarized below.

- To provide the State Office of General Services, as well as the Village of Sag Harbor, with an accurate understanding and record of underwater land ownership in the harbor district, those parties who currently hold deeds to upland properties that were formerly lands underwater, or that include lands underwater, should negotiate appropriate leases for these lands with the State.
- The portion of the main navigation channel that extends from the North Haven/State Route 114 bridge west to the Big Narrows, including the spur for the Village docks and the spur to the Marine District, should be maintained in the public interest.
- That portion of the navigation channel that extends into Paynes Creek and the Inner and Upper portions of Sag Harbor Cove should remain as designated channels, but no longer be maintained with public funding, except in extreme circumstances.
- The Village of Sag Harbor should promptly advise the Suffolk County Department of Public Works of their dredging needs to commence the application process and facilitate dredging, where required, in areas that have been dredged in the past and in areas adjacent to the Long Wharf and the breakwater, that have not been dredged before.

- The Village of Sag Harbor must make a determination as to whether the navigation channel in Sag Harbor that the village has demarcated on the Waterways Chart and that was formerly dredged by the Army Corps of Engineers, should be: re-authorized by the Corps; added to the County list of projects that are considered in the public interest; or privately maintained.
- The Village of Sag Harbor should evaluate dredge spoil disposal options; unless appropriate upland sites can be identified, spoil materials should be removed from dredging sites and properly disposed of outside of the Village.
- To ensure that an appropriate level of enforcement is provided in the areas of Sag Harbor Cove that are under the jurisdiction of Southampton Town, the Village should strive to establish a cooperative arrangement with the Town that would allow the Village Harbormaster to assist with patrols in this area and extend authority to the Village so they can enforce the Town's existing regulations.
- The boat launching ramp located in the boat basin in Marine Park is in need of repair. The Village should investigate appropriate means of funding for the reconstruction of this amenity.
- When the water use districts were established as a part of the adoption of the Sag Harbor LWRP in 1986, no use standards were developed to regulate the activities that occur in these districts. The Village should adopt the standards set forth in this Harbor Management Plan as appropriate.
- In an effort to control the construction of docks, this activity should be directly connected with the character of the upland use. If the upland use is not water-dependent, then a dock should only be permitted to provide necessary access to reach navigable waters. Therefore, significant dock construction would essentially be restricted to the harbor district, where water-dependent uses are concentrated.
- The Village of Sag Harbor should designate a pierhead line along the shoreline of the harbor management area to delineate the area that is considered suitable for dock construction.
- The Village should issue requests to the Army Corps of Engineers for the repair of the breakwater.
- In an effort to place greater emphasis on environmental protection and resource preservation, a new water use district should be adopted. This "preservation" district would be more restrictive than the existing conservation district. Areas to be included in this district are Otter Pond, Round Pond, and the upper reaches of Ligonee Brook and Little Northwest Creek. These issues will require attention in the village Local Waterfront Revitalization Program.

- In an effort to ensure that Village public recreation areas and open spaces remain as such, the Village should adopt an Open Space/Recreation Law and rezone Otter Pond, Mashashimuet Park, Haven's Beach and the NYSDEC conservation area adjacent to Little Northwest Creek under this classification.
- The Village should adopt a Wetlands and Watercourses Law that would: specifically outline provisions for activities that may impact both tidal and freshwater wetlands; define what these areas are; outline the significance of protecting these resources; delineate protected areas in the Village; and contain standards required to implement the proposed preservation water use district and the existing conservation district.
- To strengthen the Village's commitment to protecting coastal water quality, the Village should include standards in the Site Plan Review Law that would apply to marinas and boat yards and their associated upland activities.
- To address the impacts associated with vessel waste discharges, the Sag Harbor Cove and Sag Harbor areas, and Shelter Island Sound should be designated by the USEPA as a vessel waste "no-discharge zone". This designation would prohibit the discharge of these wastes in these Village waters, and afford the Village the authority to enforce laws governing such discharges and inspect vessels within the bounds of the harbor complex.
- To improve the quality of stormwater discharges conveyed to Sag Harbor Bay through the drainage ditch at Haven's Beach, a stormwater detention system should be constructed to significantly reduce contaminant loadings prior to discharge to the receiving waters.
- The culvert that connects the Outer Sag Harbor Cove to Upper Sag Harbor Cove should be renovated to restore adequate tidal flushing in this area.
- The implementation of best management practices at marinas and the installation of additional vessel pump-out facilities in the study area, particularly in Outer Sag Harbor Cove, should be instituted to improve surface water quality in the harbor district.
- The activities occurring in Sag Harbor are not compatible with shellfish harvesting and are not predicted to change in the future. Furthermore, since the NYSDEC water quality standards that mandate the closure of the harbor area to shellfishing will continue to be maintained, the water quality classification in this area should be revised to "SB" to reflect actual conditions.
- Mitigation actions should be implemented in the vicinity of Otter Pond and the southeastern extreme of Upper Sag Harbor Cove to improve surface water quality in this area, including conducting an educational campaign to instruct the public about the detrimental impacts of feeding waterfowl.
- A dye-testing program should be undertaken that would allow for the testing of on-site sewage disposal systems in the southeastern area of Upper Sag Harbor Cove and provide financial incentives to homeowners to upgrade failing systems.

- The boat ramps located at the ends of Amherst Road and John Street should be upgraded to improve stormwater detention and water quality in the adjacent cove waters.



SECTION ONE

SECTION 1 INTRODUCTION

1.1 Description of the Project

This document formulates a comprehensive plan for the management of resources in the Sag Harbor Cove/Bay Complex. The main goals of this plan are described as follows:

- to address conflicts between surface water uses and mitigate harbor congestion;
- to protect the important natural resources of the harbor complex, especially shellfish populations, tidal wetlands, and wildlife communities;
- to preserve and, to the extent possible, enhance water quality conditions in the harbor complex; and
- to ensure that human recreational and commercial activities are allowed to continue in these waters, in a manner and at a level that does not result in significant adverse impacts to water quality or natural resources.

As detailed in Section 2, jurisdiction over the harbor complex is divided among a number of government entities and regulatory agencies. Various other parties have a vested interest in issues related to these waters. Consequently, although the Village of Sag Harbor can implement certain strategies to protect important resources in the harbor management study area, the Village cannot unilaterally effect a comprehensive harbor management plan for the entire harbor complex. In light of these considerations, the present document is intended to serve the following objectives, as follows:

- to advance a number of specific measures and programs that further the management goals outlined above; and
- to provide a concrete set of harbor management objectives for the use and preservation of the harbor management study area that satisfies the goals of the Village, and for the harbor complex that satisfies the goals of all parties involved.

1.2 Geographic Context

The Sag Harbor Cove/Bay Complex is located in the County of Suffolk on the South Fork of Long Island. This interconnected system of shallow embayments is connected to and receives tidal influence from the Peconic Estuary system.

The following water bodies within the Sag Harbor Cove/Bay Complex comprise the harbor management area for this study (see [Figure 1](#) and Section 4.1 for more extensive information on these water bodies):

- the southern portion of Outer Sag Harbor Cove, located between the North Haven/State Route 114 bridge and the Bay Point/Redwood Terrace narrows area;
- the eastern portion of Inner Sag Harbor Cove, located between the Big Narrows and the Little Narrows and mouth of Ligonee Brook;
- Upper Sag Harbor Cove, which is located in the western section of the Village, south of the Redwood peninsula;
- Otter Pond and John Street Pond, which are both located at the southeastern extreme of Upper Sag Harbor Cove and tidally-connected to this water body;
- Morris Cove, which comprises a southerly extension of Upper Sag Harbor Cove;
- the eastern portion of Ligonee Brook, which is located at the western extreme of the Village and extends southeast from the Little Narrows area of Upper Sag Harbor Cove;
- the southern portion of Sag Harbor Bay, which is a large embayment located between the North Haven peninsula and Barcelona Neck; and
- the western portion of Little Northwest Creek, as contained within the municipal boundary of the Village of Sag Harbor.

1.3 Identification of Study Area Boundary

The upland boundary of the Sag Harbor Cove/Bay Complex harbor management study area includes all properties fronting on surface water bodies located within the Incorporated Village of Sag Harbor. The upland boundary is shown in [Figure 2](#) and delineated as follows.

- Starting a point located at the mean high water mark at the mouth of Ligonee Brook, and proceeding in a southeasterly direction, following the boundary between the Incorporated Village of Sag Harbor and the Town of Southampton to its intersection with Brick Kiln Road. Then, proceeding east along Brick Kiln Road to its intersection with Jesse Halsey Lane. Thence proceeding northwest on Jesse Halsey Lane to the intersection with Havens Lane; then east along Havens Lane to the intersection with Columbia Street. The boundary then runs north along Columbia Street to the intersection with John Street. Thence following John Street in an easterly direction to the intersection with Main Street. At this point, the line proceeds across Main Street to follow the outer limits of the parcel which contains Otter Pond Park, and returning back to Main Street. The boundary then proceeds northeast along Main Street to the intersection with Glover Street, then northwest on Glover Street to Vitali Cilli Avenue.

At this point, the boundary follows Vitali Cilli Avenue which loops around to reconnect back to Glover Street; it then proceeds northwest along Glover Street to the intersection with Redwood Road. The boundary line then proceeds east and then south along Redwood Road to South Redwood Road; then northeast along South Redwood Road to Cove Road. At this point the boundary runs north along Cove Road to intersect with Redwood Road, and then west along Redwood Road to its terminus and intersection with Glover Street.

The boundary then proceeds northwest along Glover Street to the connection with West Water Street; then following West Water Street in an easterly direction to the intersection with Long Island Avenue. The boundary then proceeds northeast along Long Island Avenue to the intersection of Long Island Avenue, Main Street and Bay Street (State Route 114). At this point, the boundary proceeds east along Bay Street to the intersection with Hempstead Street.

The boundary then follows Hempstead Street east to Beach Road (also known as Shore Road) and then proceeds in a northeasterly direction along Beach Road to the point at which this roadway turns to the east. From this location, the boundary generally follows an easterly course, running along Terry Drive, then Sound Drive, then Ninevah Place and finally, Harding Terrace, and continuing east until intersecting with the property boundary for the New York State Conservation Area located on the western side of Little Northwest Creek. Thence proceeding to the south, then west, then southeast, then southwest, following this property boundary until it intersects with the municipal boundary of the Incorporated Village of Sag Harbor. Then proceeding to the northeast and then to the north, along the municipal boundary between the Incorporated Village of Sag Harbor and the Town of East Hampton (which extends through the center of Little Northwest Creek) to the shoreline.

- The waterside boundary for the Sag Harbor Cove/Bay Complex harbor management study area begins at the point of mean high water on the shoreline, where the boundaries for the Village of Sag Harbor and the Town of East Hampton converge, and then extends offshore in a northerly direction for a distance of 1,500 feet. The boundary then proceeds northwest, maintaining a constant 1,500 foot separation from the mean high water line on the shore until reaching the municipal boundary line between the Village of Sag Harbor and the Village of North Haven. At this point, the waterside boundary proceeds to the south-southwest, and then generally to the west, following a line of equal-distance between the shorelines of the two incorporated villages through Outer Sag Harbor Cove; then continuing along a line of equal-distance between the shoreline of the Village of Sag Harbor and the Town of Southampton, through the western portion of Outer Sag Harbor Cove, the Big Narrows, Inner Sag Harbor Cove, and Ligonee Brook until reaching the mean high water mark at the head of Ligonee Brook, and the point of beginning for the upland boundary.

The line of equal distance was chosen as the waterside boundary throughout the harbor complex because much of this area is too narrow to permit each outlying municipality to extend its surface water jurisdictional boundary a full 1,500 feet. In many places, the 1,500-foot jurisdictional boundaries overlap and/or extend upland.



SECTION TWO

SECTION 2 EXISTING AUTHORITIES

2.1 Political and Regulatory Jurisdiction

Jurisdiction over the Sag Harbor Cove/Bay Complex and its shoreline is divided among numerous entities at various levels of government. These include the Town of Southampton, the Town of East Hampton, and the Incorporated Village of North Haven, in addition to the Incorporated Village of Sag Harbor, the State of New York and various Federal government agencies. The current roles and responsibilities of the agencies and entities that effect the use, management and conservation of the Sag Harbor Cove/Bay Complex are shown in Table 1. A more complete discussion of the roles and responsibilities of the various governmental entities is contained in Appendix A.

The multiplicity of political jurisdictions which apply to the Sag Harbor Cove/Bay Complex complicates efforts to manage this important resource effectively. In many cases, more than one review, permit and/or approval is required to undertake a certain action. This can make it more difficult, as well as timely, when attempting to conduct dredging or other similar activities that are essential to the efficient operation of the harbor district. Furthermore, although tangible benefits can result from the initiatives undertaken by an individual municipality (e.g., the Village of Sag Harbor, in the case of this plan) or government agency, the cooperation of all involved political entities is necessary to achieve overall management goals such as the improvement of water quality and enhancement of ecological resources.

The Village of Sag Harbor exercises multi-faceted responsibilities with respect to activities within the Sag Harbor Cove/Bay Complex and the areas of the harbor complex watershed located within its jurisdiction. These responsibilities are summarized as follows.

- The Village has the exclusive authority for the general regulation of land use activities within its boundaries, which coincide with the mean high water line for the landward extent, the seaward extent of which is 1,500 feet from the mean high water line.
- The Village has the exclusive authority to regulate, under navigation law, the overwater use, operating speed, and anchoring and mooring of vessels in coastal waters extending for a distance of 1,500-feet from the mean high water line along the shoreline within its boundaries. This jurisdictional authority for the Village, which is derived from the State Navigation Law, does not affect the proprietary rights of the owner(s) of the underwater lands. Nor does the Village's vessel regulation jurisdiction supersede the authority of the Town of Southampton or the State to regulate the use of underwater lands owned by these authorities.

In some areas the Village of North Haven's surface water jurisdiction overlaps with that of the Village of Sag Harbor. This, however, has not led to conflicts over the use of the harbor and cove complex, particularly with regard to the construction of docks and similar structures, and

the regulation of moorings. This is because the two Villages have established an amicable relationship wherein the Village of Sag Harbor generally patrols the waters off the shores of North Haven and notifies that Village of any marine-related problems.

As discussed in Section 3.3, the Town of Southampton owns the underwater lands inside Sag Harbor Cove. Therefore, permits for certain activities undertaken within this area are required from both the Village of Sag Harbor and the Town of Southampton, as well as the State in some cases (e.g., shellfishing and wetlands).

The New York State agencies involved in the coastal affairs of the Sag Harbor Cove/Bay Complex are shown in Table 1. The New York State Department of Environmental Conservation (NYSDEC), the Department of State (NYSDOS) and the Sea Grant Institute have primary responsibility for the planning, management and/or the execution of research within this area. Sea Grant's role is limited to research work. NYSDEC permits and regulates the State's recreation and commercial fisheries and the tidal and freshwater wetlands, and manages other natural resources common to the coastal environment. NYSDEC also provides technical support for the coastal zone management program and is responsible for preservation of water quality throughout the State. The Department of State, through its Division of Coastal Resources and Waterfront Revitalization, has developed and administers the State's Coastal Management Program. The Sea Grant Institute is a consortium of the State University and Cornell University. Sea Grant conducts a program of research, advisory service work and education that is directed at improving the wise use and conservation of the State's marine and freshwater resources.

The Federal agencies vary greatly in their roles and responsibilities, as shown in Table 1. The agencies noted in this table are engaged in programs that directly effect the use of coastal lands, coastal waters and harbors. The offshore and upland jurisdictions of these agencies vary according to responsibility. Certain Federal entities, such as the Department of Interior, have several agencies that conduct a wide variety of programs that effect the coastal zone.



SECTION THREE

SECTION 3
EXISTING LAND AND WATER USES AND REGULATIONS

3.1 Upland Uses

A. General Land Use

The Village of Sag Harbor and surrounding area is characterized by rolling terrain with significant areas of woodlands and extensive areas of shoreline containing beaches and fringing wetlands. As shown in the generalized land use map in [Figure 3](#), much of the shoreline area of the Sag Harbor Cove/Bay Complex is developed with low and medium density single-family residential development. Higher density residential development is found outside the harbor management study area, in the interior portions of the Village and in the vicinity of the central business district (CBD). Recreational facilities include Village marina facilities, waterfront parks, a Village beach, and smaller, private homeowners' association beaches, which are discussed in greater detail in Section 3.1.E below. Areas of undeveloped open space are found to the east of the breakwater. There is also one parcel of land which is generally used for institutional purposes. This land is known as the Cor Maria property and is owned and operated as a retreat by the Roman Catholic Diocese. These easterly-located recreational and institutional lands are important for the enhancement of visual resources and the enjoyment of passive recreational opportunities. The various land uses situated along the Sag Harbor Village waterfront are discussed in greater detail in Sections 3.1.C, 3.1.E, and 3.2.B below.

The area located between the eastern end of the Redwood peninsula and the breakwater is the Harbor District. Commercial uses are present throughout this central portion of the waterfront and include (from west to east): Redwood Boat Basin; Ship Ashore Marina and boat basin; residential condominiums; two private residences; Malloy's Sag Harbor Cove West Marina; the Village of Sag Harbor A and B Docks; Il Sole Ristorante; Malloy's Sag Harbor Cove East Marina; a private residence; a small apartment complex; a storage warehouse; a two-story professional office building; the North Haven/State Route 114 bridge; Windmill Village Park; the Long Wharf and Promenade; Waterfront Marina; Sag Harbor Village Marine Park and Boat Basin; the Sag Harbor Yacht Club; a large area of Village-owned property that contains the Village of Sag Harbor sewage treatment plant and approximate 8,150 square-foot parcel of waterfront land that is presently utilized by the Sag Harbor Yacht Yard for boat storage, and a park and parking area; the Breakwater Sailing School; the Sag Harbor Yacht Yard; and the undeveloped western portion of the Cor Maria property, from which a two-section, 3,180-foot breakwater extends. These uses are a waterfront extension of the CBD and are in many respects related to the historic maritime use and development of this area. The only commercial use located on the waterfront, outside of the harbor district, is a local radio station facility, which is situated on the north shore of Upper Sag Harbor Cove. The shoreline marine uses and in-water structures found in the Harbor District are shown on HMC.

The Village-owned land that constitutes the former Mobil Oil site is located to the immediate east of the Marine Park parking area. This property includes a dock that was formerly utilized by Mobil for the offloading of petroleum products. The Village of Sag Harbor acquired the Mobil Oil property in 1994 and is redeveloping the western portion of the site, which abuts Marine Park, for additional parking area and additional common waterfront access that will incorporate the dock structure. The Sag Harbor Yacht Yard has negotiated a new lease with the Village and has relocated its boat storage facilities to the 8,150 square-foot eastern portion of the Mobil property. In addition, 7,250 square feet has been leased to the Breakwater Yacht Club. The Breakwater Yacht Club is proposing to construct a sailing school on this site, as discussed in Section 3.1.E below.

B. Zoning

The zoning in the harbor management area is a mix of residential and commercial classifications (Figure 4). The western portion of the subject area, which includes the Upper Sag Harbor Cove and Morris Cove areas and western portion of the Village shoreline, is zoned R-20 Residential. The central portion of the harbor management area is zoned primarily Waterfront (WF). Two areas located at the eastern end of the Redwood peninsula are zoned for Marine (MA) use and Multiple-Family Residence (MF) development.

The R-20, MF, WF and MA zoning classifications have open space requirements. In the R-20 and MF zoning districts, a minimum of 50 percent of the site area must be preserved as natural or landscaped open space. In the WF and MA districts, the requirement is 30 percent of the site area. Access walks or driveways may be included in this required open area, but structures such as tennis courts, swimming pools or other constructed areas must be excluded. Furthermore, all existing site areas which contain tidal or freshwater wetlands and beach and dune habitats must be preserved in their natural state. In the R-20 and MF districts, all existing natural vegetation located within 25 feet of wetlands and beach and dune habitats must also be preserved.

In the R-20, MF and MA zoning districts, individual on-site sewage disposal systems must be set back a minimum of 100 feet from the mean high water (MHW) line or 100 feet from the upland edge of any wetland, beach and/or dune habitats. In the R-20 and MF districts, fertilized vegetation cannot be planted within 25 feet of the MHW line or within 25 feet of any wetland, beach and/or dune habitats.

MA Marine District

The only MA Marine District in the harbor management area comprises the Ship Ashore Marina and Redwood Boat Basin, located on the north side of Redwood Road, just east of Cove Road. The zoning designation for this property was created to recognize the limited suitability of such marine uses as well as to assure their future compatibility with both the surrounding residential uses and the fragile character of the environment in Upper Sag Harbor Cove. Permitted uses in a Marine zoning district include the following.

1) *Nonprofit Marinas and Yacht Clubs*, provided that:

- no adverse impacts result to groundwater of the Village, and impacts to the ecology of adjacent tidal waters are minimized;
- sanitary restrooms, pump-out facilities, holding tanks and sewage disposal systems are provided in accordance with the regulations of the Village, the Suffolk County Department of Health Services, and New York State;
- provisions are made for the collection and disposal of boat-generated solid wastes;
- outdoor lighting is not projected into or visible from neighboring upland properties, and is not more than ten feet above the ground or dock structure (excluding appropriate navigational aides deemed necessary by the Village); and
- fuel storage facilities are adequately contained so as to prevent spillage, leakage or damage from storms and are set back at least 50 feet from the mean high water line. Fuel pumps may be located conveniently to service boats, provided that precautions are taken to prevent spillage into tidal waters. In no case can fuel storage or service pumps be located less than 100 feet from adjacent property lines or can any fuel storage tanks be constructed above ground. The recommendations of the Village Fire Chief, the Town Bureau of Fire Prevention and the National Board of Fire Underwriters must be considered with respect to the siting and construction of all fuel storage facilities.

- 2) *For-profit Marinas and Yacht Clubs*, provided that they conform to the same conditions and performance standards set forth for nonprofit marinas and yacht clubs, and further provided that any accessory service functions include provisions for marine supplies, and minor and emergency repairs for boats and boat rentals. One accessory dwelling unit may be provided for a superintendent or caretaker.
- 3) *Public Utility* structures or rights-of-way, *sewage treatment plants*, or *water supply facilities* that are either water-dependent or necessary to service the Marine District.
- 4) *Residential community facilities* including: water-related municipal parks, playgrounds or recreational areas; and water-dependent municipal or other governmental buildings, structures, or facilities supportive of other uses in the Marine District.
- 5) *Residential dwellings* that lawfully existed prior to the adoption of the MA Marine zoning classification.

Special Exception uses may be permitted in a Marine District when issued a Special Exception Use Permit by the Zoning Board of Appeals, pursuant to Article XIII of the Zoning Code. Special Exception uses include: boat yards, including boat sales, rentals,

and indoor and outdoor storage areas; marine supply and hardware establishments; boat service and repair facilities, provided that major repairs are not found to be incompatible with the use of adjacent properties; beach or tennis clubs; and commercial charter and fishing boat docking. Boat yards, boat service and repair establishments and similar facilities are all subject to the same conditions and performance standards set forth for marinas and yacht clubs.

In Marine Districts certain uses, buildings or structures may be permitted as accessory to the principal or special exception uses when located on the same parcel as the principal use. Accessory uses that are not water-dependent must be located as far away from the shoreline as possible. Accessory uses include: customary accessory uses or structures; private garages or private off-street parking and truck loading space; and signage. Parking and loading areas and signs must be consistent with the supplementary regulations contained in Section 55-11 of the Zoning Code.

A number of uses are specifically prohibited in an MA zone. These include: manufacturing or industrial uses, except for the establishment of an approved boat yard; retail stores or shops not expressly permitted in MA Districts; offices, unless permitted as a customary accessory use; new residential dwellings, including cooperative and condominium developments; resort motels; drive-in businesses; outdoor vending machines or equipment; and automobile ferry slips, terminals or other landing places.

WF Waterfront District

The WF Waterfront District encompasses most of the harbor district, stretching east from the western side of the North Haven bridge to (but not including) the Cor Maria property, just west of the breakwater. The WF zoning classification was established to ensure that the maritime character of the Village's seaport area, and the economic benefits derived thereof, will be preserved and continued. This classification was designed to: maximize public access to the shoreline from both onshore and offshore points; protect views of the harbor and/or shorefront from certain vantage points; and restrict land use and development along the shoreline to water-dependent uses that would benefit most from a waterfront location and would serve to enhance the maritime character and tradition of the Village.

Permitted uses in a WF Waterfront District include all of the uses permitted as-of-right in the Marine District (pre-existing dwelling units, marinas, water-dependent government facilities, water-related municipal recreational uses, and public utility structures) as well as restaurants and bus shelters. Like the Marine District, permitted special exception uses in a Waterfront District, that require Zoning Board of Appeals approval, include boat yards and commercial charter and fishing boat docking facilities; however, beach and tennis clubs are not permitted by special exception in a waterfront district. Accessory uses permitted in the WF District are the same as those permitted in a Marine District, and must be located on the same lot with the principal use. Accessory uses that are not water-dependent must be located as far away from the shoreline as possible. Prohibited in a WF District uses are the same as those prohibited in an MA District, with the exception of resort motels which are expressly prohibited only in an MA District.

Other Zoning Classifications

The predominant zone along the Village's waterfront is the R-20 One-Family Residence District, which is also the primary zoning classification within the entire Village. The R-20 District encompasses almost the entire Redwood peninsula, except for Redwood Marina, all of the Upper Sag Harbor Cove area, (including the Glover Street, Morris Cove and Ligonee Brook communities); and the shoreline to the east of the breakwater (including the western portion of the Cor Maria property).

Permitted uses in an R-20 Residential District include: one-family detached dwelling units; municipal parks, playgrounds and recreation areas; public libraries or museums; and fire stations, municipal offices or any other government buildings of similar character. In an R-20 zoning district private moorings, docks or similar marine structures in a tidal wetland or waterway are considered accessory uses. Marine structures must comply with the restrictions contained in the Waterways Law (Chapter 53 of the Village Code).

The only MF Multiple-Family Residence zoning district in the harbor area is a single contiguous parcel located on West Water Street, immediately to the east of the Redwood peninsula. Permitted uses in an MF Residence District include clustered one-family attached dwelling units and multiple dwellings. Moorings, docks or similar marine structures in tidal wetlands or waterways are considered accessory uses in an MF zone and must also comply with the restrictions contained in Chapter 53 of the Village Code.

The only portion of the harbor management study area located within the Village Business district is situated in the vicinity of the Long Wharf, encompassing properties on the north side of Long Island Avenue and at the Long Wharf promenade. This classification generally permits commercial and retail uses and certain municipal and institutional uses as-of-right.

C. Water-Dependent and Water-Enhanced Uses

Water-dependent uses contribute significantly to the long-term economic vitality and public enjoyment of coastal areas. A water-dependent use is a use that requires a location on, in, or directly adjacent to the water in order to function or exist. A water-enhanced use does not require a location on or adjacent to the water in order to effectively operate, but derives certain benefits from a waterfront location, such as the increased enjoyment level of the users.

The Sag Harbor Cove/Bay Complex contains a number of water-dependent uses. These comprise both public and private facilities, and include the Sag Harbor Yacht Club, the Sag Harbor Yacht Yard, five private marinas, the Sag Harbor Village docks, Marine Park (a Village facility which includes the Sag Harbor boat basin), the Village of Sag Harbor sewage treatment plant, Windmill Village Park, Haven's Beach and Park (a Village facility), and a number of boat launching ramps. In addition, a Village-owned waterfront lot is proposed to be developed with a community sailing school, which is a water-dependent use.

Private residences are the typical sites for water-dependent uses (i.e. -swimming, access to sculls and other small boats, etc.) in the areas located east and west of the harbor district. These include many private homeowners' association beach facilities and private docks and boat basins. Section 3.2 below contains a more extensive discussion of many of the water-dependent uses located along the Sag Harbor Village waterfront.

D. Traditional Maritime Uses

Sag Harbor's history centers heavily on its days as a whaling port. In the mid-1800's, Sag Harbor was a leader in the whaling trade, ranking with New Bedford and Nantucket. The original Long Wharf was constructed in the early 1770's for convenient trade and navigation and operated by a Wharf Company, which remained in existence until 1896. In the early 1800's additional sections were added to the Long Wharf, which was extensively utilized for whaling purposes. Whaling activities rapidly increased the wealth and population of Sag Harbor, employing over 800 men and boys on ships or in related industries along the waterfront.

As the whaling industry declined in the 1850's, various other waterfront industries replaced this activity, including shipping; steampowered passenger travel; flour and grain milling; Concrete block, brick and pottery works; and shipyards, among others. In 1870, the Long Island Railroad extended a line for passenger and freight service to Sag Harbor. In 1891, the E.W. Bliss Company began conducting experiments with torpedoes in Noyack Bay. They established a facility on land leased from the Long Island Railroad, on the eastern side of the Long Wharf. Even the fires that destroyed many waterfront industries and businesses in 1845 and 1877 did not deter this area from continued growth and prosperity.

After the turn of the century, the railroad track was extended to the end of the Long Wharf and was used to facilitate the loading and offloading of coal, grain and other products. The turn of the century also brought the Sag Harbor Yacht Club (which was merged from two smaller clubs in 1897), the construction of the breakwater (1902-1908) and the federal navigation channel in 1937, the establishment of Haven's Beach, two breweries, a lumber and coal company, and the Texas Oil Co. The E.W. Bliss Company also extensively expanded their torpedo testing activities, which were propelled by the two world wars. After the Second World War, E.W. Bliss disbanded their operations and their facilities were taken over by Agawam Aircraft, and then Grumman.

Although the shorefront has changed since then, and the whaling industry has long been abandoned, many of the existing waterfront uses have established their foundation in this past. The protection offered by the harbor, which made it an attractive location for whaling, shipping and trade in the 19th century, supports extensive recreational boating and other tourism marine-related activities today. The harbor district and the Outer Sag Harbor Cove areas both contain full service boat yards. The waterfront also supports a passenger excursion ferry service from Connecticut and charter boat services, as well as a moderate shellfishing industry.

These maritime uses situated along the Sag Harbor waterfront are important to the economic vitality of Sag Harbor Village and are expected to continue and flourish. As discussed above, the Waterfront zoning classification was designed to preserve and protect existing water-dependent uses, and ensure that future waterfront development is reserved for uses that would most benefit from a shoreline location and advance the maritime traditions of the Village.

E. Public Access and Recreation

The waterfront throughout the Sag Harbor Cove/Bay Complex contains a variety of water-dependent recreational uses which provide excellent opportunities for public access to the cove complex, Sag Harbors and Sag Harbor Bay (Figure 5). The cove complex and Sag Harbor are connected through a narrows that is spanned by the North Haven/State Route 114 bridge. This bridge has a vertical clearance of 19 feet at its highest point. This may present a problem for larger boats, particularly those with flying bridges, with regard to gaining access to Outer Sag Harbor Cove. These vessels may have to wait for favorable tide conditions to reach the inner cove waters.

Both passive and active recreational uses, including beaches, parks, marinas and boat launching ramps, represent a primary resource in this area. Many of the uses and facilities that offer public access to the waterfront are discussed in further detail in Section 3.2 below and in the LWRP document. Public land and beach use is regulated under Chapter 27 of the Village of Sag Harbor Code, as discussed in Section 5. Public and private beach and park facilities include the following:

- *Haven's Beach* - a 18.8-acre, Village-owned public bathing facility which contains limited picnicking and playground amenities and comfort stations, and lifeguard supervision in the summer season;
- *Windmill Park* - located along both sides of the North Haven/State Route 114 bridge abutment, on the western side of the Long Wharf, this 1.9-acre strip of shorefront contains a small beach area, a tourist information center, a few benches for public viewing and a single picnic table;
- *Otter Pond* - an 11.3-acre property, located in the southwest portion of the Village, which contains a nature walk with five meditation benches located at various intervals around the pond (this park is owned and managed by the Sage Foundation);
- *Marine Park* - a 1.9-acre, Village-owned and operated facility located on Bay Street, which contains the Harbormasters office, a boat basin and boat launch, docking facilities along the bulkhead, a public comfort station, and a village green area with picnic tables, barbecues and benches; and

- *Long Wharf* - this large, public docking facility contains benches and a public walkway around its perimeter for strolling, scenic viewing, and fishing, and a Village-owned marina on the western side for the docking of recreational and charter boats.

- *Private Beach Associations*

There are three private communities located to the immediate east of Haven's Beach. Each facility maintains a limited access point to the waterfront and a small parking area for the exclusive use of community property-owners and their guests. These private facilities include the Azurest Property Owners Association beach; the Sag Harbor Hills Improvement Association beach; and the Ninevah Beach Association property. Although they are restricted for the use of residents within the adjacent communities, these facilities provide access to the shoreline that would otherwise be blocked by private, waterfront residential development.

- *Boat Launching Ramps*

Several sites throughout the Village of Sag Harbor have ramps leading into the bay and coves suitable for launching boats. Some of these structures serve as informal launching ramps, consisting of road ends which are unpaved, while others are formal paved launching ramps. The locations and physical condition of these ramps are discussed in greater detail in Section 3.2.C below.

- *Breakwater Yacht Club Sailing School*

The Breakwater Yacht Club will build a community sailing school on the Village-owned waterfront property leased to the Breakwater Yacht Club. The proposed sailing school facility will be housed in a two-story frame structure to be erected on the site. The proposal also includes the construction of a floating dock for boat storage and a ramp to extend off of the bulkhead. This facility will allow the Breakwater Yacht Club to expand their present program, which is open to the schools and community youth organization in the Village of Sag Harbor area. Presently, 40 percent of the scholarships awarded for this program go to Sag Harbor youth.

F. Infrastructure

Sewage Collection, Treatment and Disposal

The Sag Harbor Sewage Treatment Plant (STP) is located on Bay Street in the Village of Sag Harbor. The plant is situated at the water's edge and discharges treated wastewater directly into Sag Harbor via a single ten-inch diameter, cast iron outfall pipe which extends through the bulkhead seawall. A Village-maintained dinghy dock, which is discussed in Section 3.2.B., is located directly in front of this discharge point. The STP outfall pipe may be above or below sea level, depending on the stage of the tide.

The service area for the Village STP covers approximately 50 acres of the more intensively developed central business district, and includes a large portion of the harbor district (see [Figure 8](#)). The STP performs secondary treatment of sewage and "extended aeration" on the effluent up to the point of discharge. The plant monitoring and reporting requirements are set forth in the State Pollution Discharge and Elimination System (SPDES) permit issued by NYSDEC for the Sag Harbor STP. This is discussed in further detail in Section 4.1.E.

Outside the Village sewerage district, property owners are required to provide on-site sewage disposal systems (OSDSs) for developed parcels. The regulatory requirements for OSDS's and potential threats to water quality from these sources are discussed in greater detail in the LWRP document.

The Village of Sag Harbor collects vessel wastes at two pump-out facilities. Both facilities are available for use at Marine Park, free of charge, to any vessel operator. One pump-out station is a stationary facility that is attached to the Marine Park bulkhead; the other pump-out is a mobile facility. Use of these facilities must be arranged through the Harbormaster. All of the vessel wastes collected by these systems are stored in an underground tank. This tank is emptied by a private contractor and the wastes are hauled to the Suffolk County Scavenger Waste Facility at Bergen Point, in the Town of Babylon, for treatment and disposal. Vessel wastes are discussed in further detail in Section 4.1.F.

Public Water Supply

The Suffolk County Water Authority (SCWA) supplies the entire Village of Sag Harbor with potable water supplies. Water is currently drawn from three wells at the SCWA well field located on Division Street opposite Middle Line Highway. According to SCWA engineers, one older well was recently retired due to turbidity problems. Due to this fact, the SCWA can only marginally meet the demands during peak use periods in the summer. However, water restrictions are not required to meet this demand. A new well field is presently under construction further inland off Sag Harbor Turnpike. This new well field will supplement supplies from the Division Street well field and is expected to be in service some time in the summer of 1996 (Bassler, January 24, 1995).

G. Visual Resources

The visual quality of the Sag Harbor Cove/Bay Complex waterfront is characterized by a combination of several elements, including: the pattern and placement of streets and buildings in the Village center; the relationship of structures to the waterfront; the rural nature of shoreline residential development; the extent of shoreside landscaping and woodland vegetation; and the views looking out over the water from different areas along the shore. There are also a variety of significant views of the waterfront available from the water, which are framed by the built and natural environment. Since the Village is viewed by a large number of people who access the waterfront from the waterside, this aspect of visual quality is important. (Visual resources are discussed in greater detail in the LWRP).

Because of the large degree of public ownership of waterfront lands, the extent of shoreline vegetation, and the accessibility of the waterfront, good views of the harbor and cove areas are quite common. A large number of residents enjoy water views from their homes and/or places of employment. Visual access to the water from upland areas is provided in a number of areas. Many views include manmade features in the foreground, with marine and natural elements in the middle and backgrounds.

Views of the Village are linked with the water. Temporary visitors, whether arriving by boat, the North Haven/State Route 114 bridge, or Noyack Long Beach Road (County Route 60), will likely note the Sag Harbor shoreline in relation to the water. The irregular coastline, which is comprised of inlets, open space and manmade structures, provides a combination and variety of pleasing views.

3.2 Water Uses

A. Harbor Use Districts

The Sag Harbor Village LWRP, which was adopted in 1986, established three harbor use districts (i.e. - the Harbor District, the Low-Intensity District, and the Conservation District) for controlling the intensity of waterside uses within the Sag Harbor Cove/Bay Complex (see [Figure 4](#)). These harbor use districts, as they are presently defined, are described as follows.

- *Harbor District (HD)* - This area extends from the western side of the Marine District, east to the breakwater. This area is designated for intensive boating and commercial harbor uses, and encompasses four private marina facilities (discussed below in Section 3.2.B), the Village mooring area, the Long Wharf, the Sag Harbor Village sewage treatment plant and two Village marine-recreational facilities. It is subject to a considerable amount of vessel traffic and other marine-related activities during the summer boating season. This district was designed as a means of controlling marine commercial and recreational uses by limiting such activities to a specific area of the waterfront. Such action would help to strengthen the economic base of this area and protect important natural and historic resources located outside the district boundaries.
- *Low-Intensity District (LID)* - One area within the Sag Harbor Cove/Bay Complex has been designated as a Low-Intensity District. This area extends from the breakwater east to the eastern boundary of the harbor management area. The LID was designed as a general boating area where intensive boating activities would not be permitted. The LID area primarily contains residential uses along the shoreline and is subject to a limited amount of vessel traffic.

- *Conservation District (CD)* - There are two Conservation Districts areas within the harbor management study area. One CD area is located at the western end of the Village and encompasses the waters within the HMP area to the west of Cove Road on the Redwood peninsula (which includes Upper Sag Harbor Cove, Morris Cove, and Otter Pond, and Ligonee Brook). The other CD area encompasses that portion of Little Northwest Creek that is located within the harbor management area. These areas were designated as a means of protecting the sensitive natural resources (e.g., marshes and tidal flats) found therein, and to preserve and protect water quality and resources located with areas subject to poor tidal flushing. The CD is subject to very limited recreational and boating activity in the Upper/Inner Sag Harbor Cove areas; Little Northwest Creek is part of a NYSDEC protected wetland preserve.

B. Marinas, Docks and Bulkheads

Sag Harbor is protected from the east by a 3,180-foot long breakwater, which is discussed in Section 3.2.G below. The shoreline of the Sag Harbor Cove/Bay Complex contains a number of marinas and other marine-related facilities that service the local boating industry (see HMC). The size of the marinas and other boat docking facilities is controlled in large part by the parking standard contained in the Village Zoning Ordinance. Marinas and boat yards are required to provide one parking space per each boat slip, mooring, dock space or similar unit of capacity, plus one space per each five boat slips. Vessel pump-out facilities are located at the Marine Park bulkhead and at the Sag Harbor Yacht Club. The Village also operates a mobile pump-out facility, as discussed in Section 4.1.F.

The following marina descriptions have been based on information provided in the Northern 1994 Waterway Guide (published by Argus, Inc.), as supplemented by interviews with Village officials. This listing is arranged by geographic location, from west to east.

- *Ship Ashore Marina*

Ship Ashore Marina is a private facility located on Redwood Road, in the western portion of the harbor management area. Ship Ashore Marina has direct access to Outer Sag Harbor Cove. The marina is located within the Redwood canal. This marina contains 35 slips with electric service, and can accommodate power boats up to 35 feet in length. A boat launch ramp, shoreside dock, and on-site boat storage are also provided. The Ship Ashore facility is open year-round for fueling (gasoline only) and boat repair services, and is served by a 30-ton lift.

- *Redwood Boat Basin*

Redwood Boat Basin is a private facility located on Redwood Road at the eastern end of the Redwood Peninsula in the western portion of the harbor management area. It has direct access to Outer Sag Harbor Cove. It has 71 slips, and can accommodate power boats up to 30 feet in length. On-site boat storage is available.

- *Sag Harbor Cove West Marina*

Sag Harbor Cove West Marina is a private facility located on West Water Street, west of the North Haven/State Route 114 bridge, at the eastern end of Outer Sag Harbor Cove. This marina has 84 slips (30 of which are for transient vessels), and offers seasonal dockage for power boats up to 50 feet in length. Electric service and a fueling dock (gasoline only) are also provided. Additionally, the Sag Harbor Cove West Marina facility offers associated motel and restaurant services, laundry, and showers.

- *Village A and B Docks*

The Village of Sag Harbor operates two docks in eastern Sag Harbor Cove known as the A and B docks. These docks are located on West Water Street, in the cove area between Sag Harbor Cove West Marina and Sag Harbor Cove East Marina (discussed below). The A dock, which is located adjacent to Sag Harbor Cove East Marina, is a fixed structure that provides 22 slips for vessels up to 30 feet in length. The B dock, which is located near the Sag Harbor Cove West Marina, is a floating structure that provides 50 slips for vessels up to 30 feet in length. Both docks offer electric and water services and provide seasonal dockage (from April 1 to October 31), with annual leasing fees that vary based on residency status. The Village charges additional fees for the provision of seasonal and transient electric service at each dock and for the use of shower facilities at Marine Park (discussed below). Although they are seasonal berths, the slips at these docks are also subleased for transient use. The Village requires that the lessee notify the Village if they are going to vacate their slip for more than two days. The entire sublease fee is retained by the Village. The Village currently charges a set rate per foot (based on the length of the vessel) for transient subleasing. The A and B docks are generally utilized for in-water winter storage (seasonally from November 1 to March 31).

In addition to the dockage available at the A and B dock facilities, the Village provides 48 seasonal cable slips along the shoreline between the two docks. The cable slips can accommodate boats up to 18 feet in length. The cable slips are leased on a seasonal basis, with rates based on residency status. Short-term tie-up fees are charged for all three docking locations at a rate of \$10.00 for four hours.

Off-street parking is provided in the vicinity of these docks. There are 14 parking spaces located along the north side of West Water Street, adjacent to the cable slips. There are also two small parking areas located adjacent to the A and B docks. The parking area near the A dock can hold nine cars; the area near the B dock can accommodate ten. In addition, there are 14 parking spaces available in a small lot located across from the A dock and 16 spaces situated along the south side of West Water Street, adjacent to the Sag Harbor Inn.

- *Sag Harbor Cove East Marina*

Sag Harbor Cove East Marina is a private facility located on West Water Street, east of Sag Harbor Cove West Marina and west of the North Haven/State Route 114 bridge. This

marina provides 80 slips (25 of which are for transient vessels) on a seasonal basis with electric service, and offers dockage for power boats up to 85 feet in length. Ice and groceries, laundry, and showers are available. A restaurant, snack bar, and motel are also situated on-site.

- *The Long Wharf*

The Long Wharf structure is owned by Suffolk County, but all dockage activities are controlled by the Village of Sag Harbor. Docking occurs along the entire face of the Wharf, with the exception of the area set aside for the Village marina finger docks and floating dock (see discussion below) which comprise the Long Wharf Marina. The number of vessels that can tie up at any one time depends on vessel lengths. Typically, only larger vessels (to a maximum length of greater than 100 feet) utilize the Long Wharf on a regular basis. Smaller boats wishing to dock in this area utilize the finger piers (discussed below) or the adjacent mooring area (discussed in Section 3.2.D).

New England Steamship Lines runs a seasonal (summer) passenger excursion ferry service from Haddam, Connecticut that docks at the northern end of the Long Wharf. The "Yankee Clipper" (which has a capacity of 500 persons) departs Haddam each morning, to dock at the Long Wharf by noon. This ship returns to its home port three hours later. This dockage arrangement is governed by a long-term lease with the Village, for which the ferry company pays an annual fee that increases from year to year.

Other large seasonally-operated vessels utilize the western side of the Long Wharf for docking (see discussion of Village docking facility below), including large sail boats that come from Mystic, Connecticut and stay overnight. The *American Beauty* provides an established charter service which is operated by Harbor Tours, Inc. This 45-foot vessel can accommodate a maximum of 38 passengers. This charter service offers sightseeing cruises and other private charters in the Peconic/Gardiners Bay system.

- *Village Finger Docks (Long Wharf Marina)*

The Village provides seasonal dockage on the west side of the Long Wharf, known as the Long Wharf Village marina. This floating dock contains nine finger piers for small vessels on its western side; in addition, vessels (including charter boats) can tie up along the eastern side, between the main floating dock and the Long Wharf. These slips are utilized on both a seasonal and transient basis. There is a set rate for seasonal dockage; the Village charges a per-foot rate for transient use. The seasonal and transient dockage rates vary at this facility based on whether or not electric and water services are provided. Slips without these services are offered at lower rates. During the winter season, the finger piers are stored adjacent to the A dock.

- *Waterfront Marina*

Waterfront Marina is a private facility located north of Bay Street, on the east side of the Long Wharf. Waterfront Marina provides seasonal dockage for 67 vessels. Both power and sail boats, up to a maximum length of 150 feet, can be accommodated at this facility. Services include dock-side electricity, ice, and showers. A restaurant is also located on-site.

- *Marine Park and Boat Basin*

Marine Park is a Village-owned and operated facility situated on Bay Street, to the immediate east of Waterfront Marina. Seasonal and transient dockage is provided at this facility. A total of 32 vessels (maximum length 40 feet) can be docked along the main bulkhead. 16 of the slips are for transient usage. An additional fifteen vessels can be docked on a seasonal basis in the boat basin, eleven at boat slips and four on cable slips. The Village charges an annual rate for the seasonal use of dockage at the Marine Park facility. These rates are set based on residency status. Transient rates are also charged on a per-foot basis. The slips at the Marine Park site are also subleased when the lessee vacates them for any extended length of time. The entire sublease fee is retained by the Village.

Dock-side electricity and showers are available at the Marine Park site; fees for these services are charged on an annual and transient basis. In addition, the Village maintains a dinghy dock which supplies eighty slips that provide access to the Village mooring field. The dinghy dock is located at the eastern end of Marine Park, and extends off the bulkhead which is situated in front of the Village sewage treatment plant. This dock is installed every year, at the beginning of April. Annual dinghy dock rates vary based on residency status.

A boat launching ramp, which can accommodate one trailer at a time, is present in the boat basin. Use of this ramp is free to Village residents but non-residents and commercial users are charged a fee. There are two floating docks located directly west of the boat ramp. These are operated by the Bayview Bait and Tackle shop, which is located across the street from this site, on the corner of Bay and Rysam Streets. Seasonal daily and commercial permits for ramp usage are issued through the Harbormasters' office.

Parking for the Marine Park facility is provided on-site. In addition, approximately 25 off-street parking spaces are located along the north side of Bay Street, adjacent to Marine Park. Another 14 spaces are located along the south side of the boat basin. The Village provides additional parking in a municipal lot located directly south of the Sag Harbor Yacht Club docks (discussed below), on the east side of the boat basin. This lot can accommodate over 40 vehicles. The Village will be extending this parking lot eastward onto the former Mobil Oil property. The Village acquired this land in October of 1994. There are also over 50 parking spaces located along the south side of Bay Street, across from the Marine Park and yacht club facilities.

- *Sag Harbor Yacht Club*

Sag Harbor Yacht Club (SHYC) is a private facility located on Bay Street, to the immediate east of Marine Park. Dockage is provided for 75 vessels, both sail and power, up to a maximum length of 140 feet. This facility also has a vessel pump-out station. The SHYC has an easement agreement with the Village for the dock area that extends off the bulkhead located just west of the Village sewage treatment plant. (This is the same bulkhead that provides access to the Village dinghy dock). Under this easement agreement, the yacht club must maintain the triangular parcel of shorefront property situated behind the bulkhead with landscaping and a dumpster. The SHYC utilizes the eastern portion of the Marine Park boat basin. The yacht club maintains approximately 12 boat slips along the south and east sides of this basin. Services provided by the SHYC include showers, electric and a fueling dock.

- *Sag Harbor Yacht Yard*

Sag Harbor Yacht Yard is a full-service boat repair and storage facility located on Bay Street, to the immediate east of the Sag Harbor Yacht Club (and the Village sewage treatment plant). The yacht yard provides year-round dockage for 25 vessels, both sail and power, up to a maximum length of 50 feet. Services offered at this facility include a full range of boat repairs, a 35-ton lift, and showers. The Sag Harbor Yacht Yard has negotiated a lease agreement with the Village of Sag Harbor to utilize 8,150 square feet of land area in the southeastern portion of the Village-owned property (located to the immediate west of the Yacht Yard site) for boat storage purposes. The Yacht Yard had previously leased the smaller, waterfront area in the northeastern portion of this property.

- *Private residential docks, bulkheads and boat basins*

As shown on [Figure 11](#) and [HMC](#), there are numerous private docks, bulkheads, and boat basins that adjoin residential properties throughout the harbor management study area. Most of the bulkheading is found throughout the harbor district, along the shoreline of the marinas and other marine-related facilities. The Sag Harbor Cove West Marina includes a boat basin that is fully bulkheaded. The Marine Park boat basin has hardened shorelines along three sides, the western portion of this facility is unprotected. There are also a considerable number of bulkheaded properties along the shoreline of the Redwood peninsula. The southern portion of the Redwood peninsula also contains a private boat basin that is entirely bulkheaded. The only hardened shoreline found on the east side of the breakwater consists of a low masonry wall along the front of the Cor Maria property, and rubble revetments and wooden bulkheads along the stretch of shoreline located to the immediate east of Haven's Beach. This area includes most of the properties along Terry Drive.

The private docking structures found throughout the area are mostly small in size and generally can accommodate only one or a few boats. There are four private docks located along the eastern side of Ligonee Brook; six private docks within Morris Cove; twelve

private docks along the shoreline of Upper Sag Harbor Cove; and 19 private docks along the perimeter of the Redwood peninsula.

C. Boat Launch Ramps

Boat launching within the Sag Harbor Cove/Bay Complex occurs at both formal and informal launch areas (see [Figure 5](#)). There is one boat launching ramp located in the Upper Sag Harbor Cove area, on the north side of John Street, at the southern end of the cove. Although not paved, this ramp is a more formalized location for water entry, which appears to receive a considerable amount of use by local fisherman and baymen. Another launch location is situated at the western terminus of Amherst Road, on the Redwood peninsula. This site provides access to Inner Sag Harbor Cove. Unlike the John Street facility, this launching ramp does not appear to be heavily utilized, since it consists of an unpaved accessway that is somewhat overgrown with weeds and field grasses.

One active launch ramp is located in the Village Harbor District. The launching ramp is a public ramp located within the Marine Park boat basin, which consists of a paved entry ramp that extends directly from Bay Street. This launching ramp is in need of repair. An inactive ramp is located at the end of Cove Road in Redwood.

D. Mooring Areas and Anchorages

The Village of Sag Harbor operates a large mooring area which is located between the navigation channel and the breakwater. There is another, smaller, mooring area situated on the western side of the Long Wharf. Combined, these areas can accommodate up to 150 vessels, although the number varies depending on vessel size. There are generally 130 usable moorings locations at all times. Shoaling in the vicinity of the breakwater and near the Long Wharf limits the use of these areas to shallow-draft vessels. The shallow conditions make these areas inaccessible to vessels that would otherwise lease the available mooring locations, thereby denying the Village of this potential source of income. Dredging in both areas would eliminate this problem. Dredging is discussed in Section 3.2.G below.

The Village leases mooring locations on both a seasonal and transient basis. At present, the lessee must supply their own ground tackle at all but one location in the mooring field. The Village provides the ground tackle at this one location, which is utilized for transient moorings during the summer boating season. An annual (seasonal) mooring fee is charged, with the established rate based on residency status. The Village charges a set rate on a per night basis for the use of the transient mooring. The seasonally-leased moorings are also sub-leased for transient use. Seasonal lessees are required to notify the Village whenever their mooring location will be vacant for more than two days. In all cases where the Village sub-leases a mooring location, one-half of the nightly rate is given to the lessee as compensation for the use of their ground tackle.

As previously noted, the boating season runs from April 1st through October 31st; all vessels must be off the moorings by November 1st. The ground tackle should have a winter stake installed or be removed from the water by December 1st. The Village also requires that all ground tackle be inspected every two years by a private contractor hired at the owners expense. A copy of the inspection report must be submitted to the Harbormaster. The owners of ground tackle are responsible for maintaining their equipment. If notified by Harbormaster that their lines must be repaired or replaced, the owner must undertake such action within 24 hours of notification. The Harbormaster has established mooring regulations that were passed by resolution of the Village Board in January of 1995. These regulations set standards for mooring equipment and establish the bi-annual inspection of ground tackle as a Village policy. It is envisioned by the Harbormaster that these regulations will eventually be adopted as an amendment to Chapter 53 of the Village Code (the Waterways Law).

Each year the Village has a large waiting list for mooring leases. During the 1994 boating season, the Harbormaster was able to accommodate everyone on this list. The Village allows each former lessee the opportunity to renew their lease prior to March 1st. Thereafter, these locations become available for open leasing. In 1994, the Village earned over \$1,600 for the use of its transient mooring tackle; however, they shared a substantial amount of sub-lease fees with the owners of the respective ground tackle. Considering the demand for mooring locations, and the potential earnings that could be made from the direct sublease of these locations, it may be financially advantageous to the Village to invest in some additional ground tackle to provide an increased number of transient mooring locations.

E. Recreational Boating and Other In-Water Recreational Uses

Recreational boating is an important water-dependent use in the Sag Harbor Cove/Bay Complex. For recreational boaters on the eastern end of Long Island, Sag Harbor is a centrally-located port that is easily approached from the east or west. It is located approximately ten miles from Plum Gut and 15 miles from Shinnecock Canal. Over the years Sag Harbor, with its well-protected harbor area, has become increasingly more popular as a haven for summer boating and marine recreation. The close proximity of the central business district to the shoreline makes Sag Harbor Village an attractive destination for day cruises or for overnight excursions. The Village offers a variety of amenities to satisfy the provisionary and entertainment needs of recreational boaters.

As noted in previous sections, the summer boating season brings a significant increase activity, from charter boats and the ferry which brings tourists daily from Connecticut, to the extensive use of the marina and mooring areas by local and other Long Island area residents. Each year the demand for mooring space and dockage has increased. The harbor locations that experience the most concentrated activity include the Long Wharf; and the area in the vicinity of Waterfront Marina, Marine Park and the Sag Harbor Yacht Club (east of the North Haven/State Route 114 bridge). Congestion in this area is further complicated by docking structures that have encroached into the navigation channel. Boating activity is also heavy in the vicinity of the Village docks and the private marinas on the western side of the bridge, inside the protected Outer Sag Harbor Cove.

In 1994, an informal visual survey was conducted by the Harbormaster's office to estimate the average number of vessels entering the harbor and outer cove areas during mid-summer. This survey was conducted on two consecutive Saturdays. Incoming vessels were counted as they passed the Long Wharf for a three-hour period on both days. On the first Saturday, approximately 825 vessels were counted. The following Saturday, approximately 820 vessels were counted. This survey gives a clear indication that vessel activity during the summer months in Sag Harbor is extensive.

The increased boating activity in the Sag Harbor Cove/Bay Complex results in a number of congested areas during the height of the summer season. One of the main areas of congestion is the area in the vicinity of the North Haven/State Route 114 bridge. Boat traffic in this area tends to get congested due to the fact that the channel narrows and there are generally a significant number of boats seeking egress from and ingress to Outer Sag Harbor Cove. There are four marina and docking facilities in Outer Sag Harbor Cove that provide dockage for up to 385 vessels. The Ship Ashore Marina provides a full range of storage and repair services. Both the Sag Harbor Cove West and Whaler's Marinas offer overnight accommodations, among other services. Therefore, the Outer Sag Harbor Cove area supports an extensive amount of boating activity.

Another area of congestion is found near the end of the Long Wharf, where two navigation channels intersect. Although this area is marked by navigational aids, there is still a considerable amount of conflict that occurs here. This problem is further complicated by the fact that ballast was unlawfully dumped at the end of Long Wharf, reducing the water depths in this area and creating a navigation hazard. The harbormaster reports that it is not uncommon for boats to collide with this debris. Shoaling problems along the western side of the Long Wharf are also impacting access to this structure and creating the potential for future congestion problems in this area.

Congestion occurs in the Sag Harbor area, where the channels meet. Problems can arise when an increased number of boaters are attempting to enter or exit from the main channel to the harbor channel on the eastern side of the Long Wharf or the dockage and anchorage areas on the western side of the Long Wharf. Vessels are also known to create congestion problems in the channel adjacent to Sag Harbor Cove West Marina. This problem is caused when boats line up to utilize the fueling dock at this marina. Of the four marine facilities located in this vicinity, the Sag Harbor Cove West Marina is the only one that has a fueling dock.

Other in-water activities that occur in the Sag Harbor Cove/Bay Complex include windsurfing, power surfboarding, jet skiing, diving, water skiing and swimming. Swimming generally occurs at Haven's Beach, in the protected swimming area. No swimming is permitted in boat channels or in the Sag Harbor area. Water skiing, power surfboarding, jet skiing and windsurfing are not permitted within 500 feet of docks, moorings and the shoreline. Waterskiing, surfboarding and water scooters (jet skis) are regulated under Section 53-12 of the Village Code (as discussed below in Section 5.5). Jet skis are permitted to travel throughout the harbor area provided they do not exceed the five-mile per hour harbor speed limit and do not create a wake. Violators are generally issued summons and/or expelled from the area.

Windsurfing occurs in the Sag Harbor Bay area, east of the breakwater. This area is also a popular area for catamaran use. There have been occasional problems with windsurfers who block access to the navigation channel. No water skiing is allowed inside the breakwater or within the Sag Harbor Cove complex.

There is no "rafting-up" of vessels permitted within the harbor complex. Rafting-up is defined as boats tying up to one another and anchoring in one location for a prolonged length of time. This activity has been associated with localized water quality degradation due to vessel waste discharges.

F. Commercial and Recreational Shellfish Harvesting and Finfish

The waters of Sag Harbor Cove and Sag Harbor Bay support a wide variety of finfish, shellfish and crustaceans. Hard clams, soft clams, bay scallops, and conches are sought after by both commercial and recreational baymen. Oysters are also taken occasionally and ribbed mussels are sometimes harvested for bait. Finfish species taken from these waters include winter flounder, eel, white perch, porgy (scup), striped bass, weakfish, spearing, sea robin, blowfish and an occasional fluke. Blue claw crabs and squid are also harvested. Lobsters are only occasionally taken from waters east of the breakwater.

Some of the finfish and shellfish which are taken commercially are delivered to local markets, but the vast majority are cold-packed and shipped into New York City. Most of the commercial packing and shipping is performed at facilities in Wainscott or Shinnecock, and according to one source in Southampton, there does not appear to be any need for additional facilities of this kind within the Village harbor management area.

There is one commercial bayman who docks within Sag Harbor Cove, just west of the Route 114 bridge. He primarily harvests bay scallops from Sag Harbor and other waters within Southampton and East Hampton, but also drags for fish. Another full-time commercial bayman resides just outside of the Village Harbor District boundaries. He primarily harvests bay scallops, hard clams and conches from Sag Harbor Cove and other Southampton town waters. There are no charter fishing boats which operate from the Village Harbor District (Andersen, January 19, 1995; Semlear, January 20, 1995).

The Village of Sag Harbor does not have the authority to regulate the harvest of shellfish or finfish within the harbor management area. NYSDEC regulates commercial harvesting in all waters; the Town of Southampton regulates both commercial and recreational harvesting of shellfish, crabs and shrimp within Upper Sag Harbor Cove, Morris Cove, and Sag Harbor Cove. Regulatory controls in both Towns and the State are exercised through a permit system. The regulations are discussed in further detail in Section 5.6.

G. Navigation Channels, Vessel Use and Dredging

As noted above, the coastal waters in the Sag Harbor Cove/Bay Complex are heavily utilized by both recreational and commercial watercraft. The high intensity of use has

caused conflicts and problems with respect to waterway usage (including dockage, mooring and anchorage) and navigation. Many of these issues are discussed below.

Jurisdiction

Jurisdiction with respect to over-water vessel uses within the harbor complex is divided among the Village of Sag Harbor, the Village of North Haven, and the Towns of Southampton and East Hampton. Pursuant to Chapter 46A of the State Navigation Law, the Villages of Sag Harbor and North Haven have the exclusive authority to regulate the over-water use of vessels upon the waters that lie within 1,500 feet of their respective mean high water line. This gives the Villages the authority to regulate the over-water mooring and anchoring, vessel speed, the use of personal watercraft, and associated recreational activities such as water skiing and wind surfing.

In accordance with Section 130.17 of the New York State Town Law, the Towns of Southampton and East Hampton regulate over-water vessel use upon waters within their municipal boundaries, but not within the municipal limits of a village or the 1,500-foot area of water surface that extends from the mean high water line adjacent to incorporated villages. Additionally, as discussed in Section 2.2, the State of New York and the Town of Southampton own the underwater lands in Sag Harbor, and the Outer, Inner and Upper Coves, respectively. Therefore, they have the right to regulate and control all activities that entail the use of the bottom lands in these areas.

Navigation

Waterway hazards and obstructions within navigable waters include rocks and submerged and visible wrecks. Abandoned vessels are also hazards to navigation and removal is constrained since they are generally not registered, which makes it difficult to trace the owner in order to assign the costs of removal to the responsible party. Floating debris (consisting of timbers, logs, pilings, etc.) is often generated as a result of storms and tides, or ice damage to structures. The Towns are generally responsible for removing navigation hazards within local waters, and usually perform this task in Village waters at the Village's request. Navigation hazards also include excessively long docks, as well as shoals and bars within or in close proximity to navigation channels, particularly within the coves.

Sag Harbor is protected from the east by a two-section, 3,180-foot breakwater. This structure extends in a northeasterly direction from western shoreline of the Cor Maria property (a location known or formerly known as Conklin Point), and protects well over 100 acres of surface water area. The construction of the breakwater was completed by the U.S. Army Corps of Engineers (ACE) in 1908. Navigation and navigational activities, including the development of a federal navigation channel in 1937, have been designed and coordinated around this structure since that time.

The breakwater was constructed at an elevation of 7.5 feet above mean low water. The original natural depth of the protected area varied from three to 17 feet at mean low water. The ACE conducted extensive rehabilitation of the breakwater in 1963, which involved the placement of over 1,500 tons of stone to rebuild the structure to its original

elevation. Since that time, the entire breakwater has settled and needs to be repaired. In some areas the foundation is failing. Waves created by storm events break over the top of this structure, resulting in damage to shoreline structures. Rehabilitation should include the replacement of stone to increase the elevation by five to six feet, as well as the refurbishing of the foundation to improve structural integrity.

There are a number of navigational aids found within the Sag Harbor Cove/Bay Complex. Navigational aids are placed and maintained by the Village as private aids to navigation, with the permission of the U.S. Coast Guard (USCG). These navigational aids include buoys, fixed lights, range markers, day markers, and other such devices. In the Sag Harbor area, navigational aids delineate the channels and mark obstructions in local waters, as summarized below.

In Sag Harbor Bay, leading into the harbor, there are a number of buoys. The Sag Harbor sea buoy marks the middle of the entrance channel to Sag Harbor and can be passed on either side. Immediately east of the sea buoy is a green lighted buoy which marks the main navigation channel in Sag Harbor Bay. South of this green buoy is a white buoy which marks an area of rocks that are visible above the water surface at low tide.

At the harbor entrance there is a fixed green light located at the northwestern end of the breakwater. Just west of the breakwater is the navigation channel which is delineated by three buoys; one near the channel mouth, one near the northern end of the Long Wharf, and one located inside the harbor area along the western edge of the mooring area. This channel, once maintained by the Army Corps of Engineers, is now marked by the Village to maintain it as an active navigation channel. The channel buoys are provided by the Village of Sag Harbor and set and maintained by the Village Harbormaster. These exclusionary markers are used in the vicinity of Haven's Beach, in Sag Harbor Bay, to delineate the swimming area.

The North Haven/State Route 114 bridge is a fixed structure with a 19-foot vertical clearance and 37-foot horizontal clearance. This bridge is marked with red lights indicating the safest points of entry into Sag Harbor Cove. These lights provide a guide into Outer Sag Harbor Cove for boaters who are entering the harbor at the northwestern end of the breakwater. The navigation channel that runs from east to west through Outer Sag Harbor Cove is delineated by nine buoys. Three of the five red buoys that mark the northern side of this channel are lighted. All of these buoys are set and maintained by the Town of Southampton.

Dredging

Dredging activities undertaken in any navigable waterway within New York State are regulated by the U.S. Army Corps of Engineers (ACE) and NYSDEC, and the Towns of Southampton and East Hampton, as discussed in Section 5.7 and Appendix A. Local dredging activities are also regulated under Chapter 12 of the Village of Sag Harbor Code, as discussed in Section 5.4 below. The dredging of public channels, public boat basins and mooring areas in the Sag Harbor Bay/Cove complex has been performed in the past by

the ACE and the Suffolk County Department of Public Works (SCDPW). These public dredging projects are described as follows.

As discussed briefly in Appendix A, in 1937, the ACE completed construction on a navigational channel 10 feet deep, 100 feet wide and 0.4 miles long extending into Sag Harbor from about 450 feet northwest of the breakwater. The channel terminated in a turning basin, a channel extension towards Conklin Point, and two adjacent anchorage areas. The northeastern anchorage area was dredged to a depth of 8 feet, and the southern anchorage area was dredged to 6 feet deep. The navigation channel, turning basin and anchorage areas are depicted in [Figure 11](#).

Since 1963, when the ACE completed repair work on the breakwater, the ACE has had no other direct involvement in navigation projects within the harbor management area. The Sag Harbor federal channel and anchorage areas were deauthorized by the passage of the Water Resources Development Act of 1992. The breakwater is still under federal jurisdiction and any necessary future maintenance will be conducted by the ACE. However, ACE will not have any direct future involvement in maintenance dredging activities for the channel. Once the channel was deauthorized, it fell under the authority of the USCG (and the Village to mark and maintain) since it is still an active navigation channel.

According to the Village Harbormaster, several areas inside the breakwater have experienced shoaling and cannot accommodate boats with a draft deeper than four feet. Shoaling has occurred along the west side of the Long Wharf and the western side of the breakwater.

Since the federal navigation channel was deauthorized in 1992, the Sag Harbor Yacht Club has constructed an addition to their dock which extends into the navigation channel. Should the channel be reauthorized by the ACE, this portion of the Yacht Club dock would have to be removed or the channel would have to be realigned. The Waterfront Marina dock also encroaches into the turning basin of this navigation channel.

In 1960, the Suffolk County Department of Public Works (SCDPW) dredged a navigational channel through Outer Sag Harbor Cove that measured 100 feet wide and approximately seven feet below mean low water (MLW), which extended from approximately 400 feet west of the North Haven/State Route 114 bridge (and approximately 100 feet west of an underwater telephone cable) westerly through the Big Narrows. Just past the Big Narrows, the channel was widened to 150 feet wide and approximately six feet below MLW, extending into Paynes Creek. In 1965, the channel was extended south through Inner Sag Harbor Cove, the Little Narrows and Upper Sag Harbor Cove, and included the mouth of the Otter Pond tributary. The SCDPW also dredged the Village dock boat basin (Outer Sag Harbor Cove) in 1978 and the nearshore portion of Sag Harbor bordering the Village Marine Park in 1977. All SCDPW dredging projects are shown in [Figure 11](#).

The SCDPW plans to dredge a southerly spur off the main channel in Outer Sag Harbor Cove, to service the mouth of the Redwood boat basin, in the vicinity of the Ship Ashore Marina. SCDPW has filed permit applications with NYSDEC and ACE in 1990, but has not yet received approval. One problem facing this proposed project is the identification

of a suitable dredge spoil disposal area (Hunter, February 16, 1995; SCDPW File Search, 1994).

The areas where dredged material was historically placed by SCDPW are depicted in [Figure 11](#). Dredge material taken from the Sag Harbor Cove main channel was placed on the beachfront north of Long Beach Road and upland in the vicinity of the Ship Ashore Marina, where a condominium complex is now located. Dredge material from the westerly extension of the main channel and from Paynes Creek was placed on the south side of Long Beach Road as well as in upland areas of the Ship Ashore Marina and on adjacent parcels located further south. Dredge material from the Village docks (Sag Harbor, Part #1 - [See Figure 11](#)), was also placed in upland disposal locations in the vicinity of Ship Ashore Marina. Dredged material taken from the Village Marine Park facility was spread on upland areas at Haven's Beach. With the exception of the Sag Harbor (Redwood Cove) spur, all of the permits for SCDPW projects have expired. In order to facilitate future SCDPW dredging actions, new dredge material disposal areas must be identified, grain size and chemical constituent analyses must be conducted, and easements must be obtained from property owners.

The SCDPW has not conducted any maintenance dredging in the Village coastal waters since the channel or basin areas were first dredged. The SCDPW has not received any recent requests from the Village through the Towns of East Hampton and Southampton for further dredging, and hence, are not aware of any localized shoaling conditions or need for future dredging.

NYSDEC is presently taking a "hard look" approach at all "new" dredging projects. "New" dredging projects are defined as those areas that have not been dredged within the past 20 years, whether or not initial or maintenance dredging was conducted in the past. "New" projects are not likely to receive approval from NYSDEC unless an overwhelming public need can be demonstrated, and the issues of contaminated sediments and the current lack of local disposal locations for such materials are adequately addressed (Hunter, February 16, 1995; Rogers, February 14, 1995).

The administrative process for initiating County-sponsored dredging in local waters is a lengthy one, coupled with the usual time constraints involved with securing the necessary State and federal permit approvals. Once the SCDPW receives a request for dredging, the request must be reviewed to determine the public need and receive approval from the Dredging Projects Screening Committee (consisting of the Commissioner of SCDPW, several legislators, the Suffolk County Council on Environmental Quality and the Suffolk County Executive). Once approved by the Dredging Projects Screening Committee, site specific information must be gathered (including a site survey, estimation of quantities and particular dredging requirements) and permit applications filed. In the past, SCDPW dredging projects were funded through appropriations from the County Capital Program. However, the dredging funds were deleted from the 1995 Capital Budget, which implies that no new dredging will be funded by Suffolk County from 1995 through 1997 (Rogers, February 14, 1995).

3.3 Public Trust Doctrine and Underwater Lands

A. Public Trust Doctrine

New York, upon attaining Statehood, succeeded the King of England in ownership to all lands within the State not already granted away, including all rights and title to the navigable waters and the soil under them (Public Lands Law, section 4; People v. Trinity Church, 22 N.Y. 44, 1860; Langdon v. Mayor, 93 N.Y. 129, 1883). Broadly speaking, the State holds title to the vast stretches of foreshore and submerged lands along the Atlantic Ocean and Long Island Sound, and all underwater lands not otherwise conveyed away by patents or grants. The State holds title to these tidelands and submerged lands in its sovereign capacity in trust for the use and enjoyment of the public, under the *public trust doctrine* (People v. Steeplechase Park Co., 218 N.Y. 459, 1916; Appleby v. City of New York, 271 U.S. 364, 1926; Coxe v. State, 144 N.Y. 396, 1895). This legal doctrine emerged from the ancient concept that the King had the right of way, an "incorporeal hereditament", to all navigable streams and waterways; the underlying theory being the protection of the public interest in fisheries and navigation.

The Public Trust Doctrine provides that underwater lands and foreshore lands (i.e., lands between the high and low tide lines or mean high and low water lines) be held by the State of New York in trust for the people, who have certain rights in these lands. When the foreshore is covered by the tides, the public may use the water covering the foreshore and underwater lands for boating, bathing, fishing, recreation and other lawful purposes. When the tide is out, the public may pass over the foreshore as a means of access to reach the water for these purposes, may travel along the foreshore, and may lounge and recline on foreshore lands, provided that such activity does not cause impairment of habitat areas.

State title to the public foreshore and submerged lands, and the power of disposition, is incident and part of its sovereignty which cannot be surrendered, alienated or delegated, except for some public purpose or some reasonable use for the public benefit, and without impairing public rights in the remaining lands and water. Inherent in the nature of public trust lands is that they support diversified and important ecosystems without which many public rights, including fishing, swimming and the like, would be impossible to enjoy. The public interest demands the preservation and conservation of this vital natural resource against pollution, overuse, destruction and infringement by others, whether public or private.

It is in the public interest that State, Town and other governmental ownership of public trust lands be maintained and when possible recovered from private ownership. Where full public ownership no longer exists, the application of the Public Trust Doctrine requires that any remaining rights of the public to use such lands should be preserved and protected for present or future enjoyment.

Occupation of public trust lands by littoral and riparian owners for purposes of gaining access to navigable waters should be undertaken in a reasonable manner which does not unnecessarily interfere with the public's right of passage upon, and use of the waters overlying such lands, and other public trust purposes. Considerations of public safety,

resource protection and the need for access at a given location may be utilized as factors in determining the level and types of access to be provided. Public use of publicly-owned foreshore and underwater lands, and lands immediately adjacent to the shore shall be discouraged only where such use would be inappropriate for reasons of public safety, military security, or the protection of coastal resources.

Physical access to trust lands is often hindered by natural features, development conditions, or land ownership patterns along the shoreline. The presence of high bluffs, for example, will effectively block land-side access to the adjacent beach. In some areas, the intertidal portion of trust lands have been entirely eliminated, as has occurred where bulkheads extend into the littoral zone. In some areas where intertidal lands remain, access to these lands by the general public is blocked by the presence of private property along the waterfront. Importantly, the Public Trust Doctrine does not grant the public the right to pass over private property in order to gain access to the trust lands beyond. In some cases where public lands are present on the shorefront, perpendicular access to trust lands is limited by residency restrictions, such as are typically applied to municipally-owned parklands. In other areas, lateral access along the public foreshore is obstructed by docks, groins, and similar structures.

A number of guidelines have been established by New York State for use in determining if a given proposed action is consistent with the requirements of the Public Trust Doctrine. These guidelines are summarized below.

- 1) The action should not entail unnecessary obstruction or encroachment by a riparian or littoral land owner to the detriment of the public's right of access over and use of the foreshore and the waters above trust lands. If while reasonably exercising riparian or littoral rights, the public's right of access along the foreshore or other trust lands is obstructed, the property owner should afford a limited easement on the adjacent upland for the public to pass.
- 2) With the exception of projects undertaken in furtherance of the commerce of the State, riparian and littoral owners are not entitled to any use of public trust lands which is inconsistent with the public right to obtain access for navigation or which unreasonably interferes with other public rights under the Public Trust Doctrine. Furthermore, it is inappropriate for a riparian or littoral owner to occupy public trust lands for a private use that is not dependent on a waterfront location. Uses which do not fulfill this water-dependency criterion include, but are not limited to, residences, bars, and restaurants.
- 3) Agencies having regulatory and planning jurisdiction over public trust lands should assure that any grants, funding, permits, leases, licenses, or other approval actions involving private use of public trust lands contain conditions and restrictions necessary to protect public rights while enabling the limited purpose of the grant, lease, etc. to be realized. In addition, agencies should, as trustees of public trust lands, endeavor

to enforce available statutory and common law remedies for redress of any violation of public trust rights and for the recovery of public access to these lands.

Any action which unreasonably and unnecessarily limits or interferes with public trust rights such as commerce, navigation, fishing, and recreation, without having a significant overriding public benefit, shall be deemed inconsistent with the requirements of the Public Trust Doctrine.

- 4) Filling of the foreshore and other public trust lands may occur only in limited circumstances. These are:
 - a. To advance public access goals in a manner which does not significantly affect other objectives of this Harbor Management Plan. Examples include fill necessary for the construction and maintenance of boat launches, public trailways and beaches and foreshore areas lost as a result of natural forces.
 - b. To restore wetlands and other habitat areas which have been destroyed by dredging and other human activities or by natural forces.
 - c. To construct, maintain and protect projects necessary for the public welfare and to promote the commerce of the State. Examples include filling necessary for the protection of public roadways.
- 5) Agencies in their actions should not approve any action or project, including a land transaction, until all conflicts are resolved to make the action consistent with the requirements of the Public Trust Doctrine.

B. Underwater Land Ownership

The ownership of the underwater lands in the Sag Harbor Cove/Bay Complex is divided between the Town of Southampton and the State of New York. The boundary line for these lands was originally delineated by the original bridge that spanned the inlet between Sag Harbor Village and the Village of North Haven. Today this dividing line is defined as running from the location of the old bridge abutment on the south shore of the North Haven peninsula to the residence owned by Rose Black, which is located along the shorefront of Sag Harbor Village, west of the existing North Haven/State Route 114 bridge (see [Figure 7](#)). The Town of Southampton owns the underwater lands located west of this line, within Sag Harbor Cove, and the State owns the bottom lands to the east.

New York State Underwater Land Ownership

The colonial governors acting as agents of the Duke of York, whose own title originated from a direct grant of the King, made grants of land on Long Island (among other places)

to settlers to establish towns. These grants conveyed to the towns or town trustees the Crown's title to uplands and underwater lands within the boundaries of the patent. They also constituted recognition of Long Island towns as corporate entities by English authority. The patent boundaries generally extended to the outer limits of the mouths of creeks, rivers, harbors and bays. The royal patents did not include the waters or underwater lands in Peconic Bay, Gardiners Bay, or Long Island Sound, and extended only to the high water mark along the shores of these waterbodies.

Upon attaining Statehood, New York, in its first Constitution confirmed the colonial patents indirectly in declaring that "such parts of the common law of England...and the acts of the legislature of the colony of New York, as together did form the law of said colony" on April 19, 1775, and "shall be and continue the law of this state" (the New York Constitution of 1777, Article XXXV). The Constitution of 1777 also confirmed and ratified the proprietary and governmental powers in the town trustees. New York, upon attaining Statehood, also succeeded the King of England in ownership to all lands within the State not already granted away, including all rights and title to the navigable waters and the soil beneath them (Public Lands Law, Section 4; People v. Trinity Church, 22 N.Y. 44, 1860; Langdon v. Mayor, 93 N.Y. 129, 1883). The uplands and submerged land described in the colonial patents remained vested in the towns as confirmed by the first New York Constitution and subsequent State Constitutions.

As noted above, Peconic and Gardiners Bays did not pass by colonial patent to any of the towns on eastern Long Island and the lands under those waters are in the possession of the State (Town of Southold v. Parks, 41 Misc. Rep. 456, 84 N.Y.S. 1078 Sup. Ct. Suffolk Co., aff'd, 183 N.Y. 513, 1905; Laws of 1884, chapter 385, as amended by the Laws of 18965, chapter 916). The State granted Suffolk County the authority to lease lands under these bays for shellfish cultivation, beginning at a point 1000 feet from shore (Laws of 1969, chapter 990).

State-owned underwater lands are managed by the New York State Office of General Services (OGS). The OGS issues grants, leases, easements and other interests for these underwater lands. They also investigate encroachments on riparian rights and make sure there is no interference with navigation channels. The OGS also reviews NYSDEC and ACE comments for proposed projects that affect State-owned bottom lands to ensure that the benefits to the public will not be deprived and that the environment will not be adversely impacted. The OGS strives to achieve satisfaction on the part of all parties involved prior to the issuance of an interest.

The State Office of General Services is the agency responsible for issuing grants, leases and easement for underwater lands and other interests for docks and associated marine-related structures that are placed on State-owned underwater lands. In the case of Sag Harbor Village, the OGS would be the authorizing agency for docks proposed in the Sag Harbor Bay area. The construction of any commercial dock or any private, non-commercial that exceeds 4,000 square feet in area (including perimeter area) would require an interest from the OGS. Non-commercial structures less than 4,000 square feet in size do not need an interest.

Little Northwest Creek

The underwater lands in Little Northwest Creek were originally granted to the Town of East Hampton under their colonial patents. In 1972, the New York State Department of Environmental Conservation purchased over 190 acres of wetlands, meadows and uplands situated on the eastern and western sides of Little Northwest Creek with monies authorized under the Environmental Quality Bond Act. This acquisition included the transfer of ownership for the underwater lands from the Town of East Hampton to the State. All of these lands have been established as a State conservation area. Access into this area is granted only by a permit issued by NYSDEC.

Town of Southampton Underwater Land Ownership

The Town of Southampton holds ownership to all the bottom lands situated within Outer Sag Harbor Cove, Inner Sag Harbor Cove and Upper Sag Harbor Cove, including Morris Cove, Ligonee Brook and Otter Pond. These underwater lands were granted to the Town through colonial patents. The Andross Patent was issued in 1676 and conveyed the original land title to all common lands and lands beneath the creeks, streams, harbors and bays to the settlers of the Town of Southampton. The Dongan Patent was issued in 1686 and confirmed this original land grant. The Dongan Patent created the Southampton Board of Trustees to hold and manage all the unappropriated lands for the use and benefit of the freeholders of the town. These colonial charters extended the boundaries of the Town of Southampton, as well as the other towns on Long Island, only to the outer limits of the mouths of creeks, rivers, harbors and bays, and no further unless a larger abutting bay of water was specifically named as being included in the grant. Thus, the Town of Southampton's ownership of the underwater lands in the Sag Harbor Cove complex extends only to the mouth of Outer Sag Harbor Cove (as shown in Figure 7).

C. Underwater Land Grants and Leases

The underwater lands owned by New York State, as shown in Figure 6, are generally located east of the North Haven/State Route 114 bridge. These lands are managed by the New York State Office of General Services, which oversees the issuance of land grants and leases for underwater lands. A number of underwater land grants have been issued by the State to various owners of upland shorefront property along the Sag Harbor waterfront over the years. These grants were issued for the express purpose of either *commerce and beneficial enjoyment*. Grants issued for commerce were given to shorefront businesses for more restricted activities and were usually written with conditions. If the conditions were not followed, the State may bring an action to declare the grant void and thereby recover ownership, per Section 78 of the Public Lands Law. Beneficial enjoyment grants were given to shorefront property owners without restriction and provided more complete title to the underwater lands. In either case, the grantee was given full ownership rights to the bottom lands. Grants for commerce were issued in the early part of the 1800's, and then the issuance of grants for beneficial enjoyment became more commonplace. Around 1890, the State began to restrict the grants issued for beneficial enjoyment as well.

As listed in the following table, and shown on Fig. 6, the State Office of General Services records indicate that a total of seven underwater lands grants were issued by the State of New York in the Village of Sag Harbor. Four of the State grants were issued for commerce; three of these grants were issued in the 1800's. Upon a review of the original letters patents, it appears that these commerce grants were written without restrictions and provided the grantee with full ownership interest in the underwater lands. The remaining three grants were issued for beneficial enjoyment purposes. The status of these grants is discussed below.

<u>Grantee</u>	<u>Date</u>	<u>Type</u>
● Wm. Cooper & Jonathan Havens	October 30, 1845	Commerce
● East Long Island Pottery Co.	December 19, 1882	Commerce
● The Long Island Railroad	October 26, 1888	Commerce
● Socony-Vacuum Oil Co.	June 23, 1933	Beneficial Enjoyment
● The Village of Sag Harbor	February 3, 1956	Beneficial Enjoyment
● Agawam Aircraft Products	July 17, 1958	Commerce
● Sag Harbor Yachts, Inc.	October 16, 1968	Beneficial Enjoyment

In most of these cases, the grant lands consist of upland properties or portions of the upland that were formerly underwater lands that have been filled in. In situations where the upland ownership has changed since the grants were first issued, unless the State reconveyed the title to the underwater lands to the new property owner, the original grant to the original upland owner remains in effect. It is unclear whether some of the upland property owners were aware of the fact that their filled lands originally belonged to the State and that they did not actually hold clear title to them. In certain situations, the original upland owners were granted underwater lands in the 1800's by the Trustees of the Freeholders and the Commonality of the Town of East Hampton, who believed they owned all the underwater lands in Sag Harbor Bay by virtue of their colonial patents. These lands, however, have been in the possession of the State since the termination of English control, as discussed above; thus, the East Hampton Town Trustees had no authority to give the underwater lands away.

The underwater land grant issued to Wm. Cooper and Jonathan Havens in 1845 was released and surrendered, and the subject area was reconveyed by the State as a part of a larger land grant made to Agawam Aircraft Products, Inc. in July of 1958. In this case, the grant was made for the upland area which was once land underwater.

The grant issued to the East Long Island Pottery Company in December of 1882 was never utilized because this company never opened for business. This grant, however, is still shown to exist. The majority of the underwater land area authorized under this grant was absorbed as a part of a larger grant issued to the Long Island Railroad in October of 1888. This grant gave the railroad full interest in the underwater lands. The LIRR transferred ownership to a portion (about 75 percent) of these lands to the New York State Department of Transportation for the reconstruction of the North Haven/State Route 114 bridge at its current location. The State, in turn, conveyed its interest in these lands to Suffolk County, who reconveyed ownership to the Village of Sag Harbor. The LIRR still owns two small outlying areas of the original land underwater land grant area issued in

1888. These areas are situated on the east and west sides of the Village-owned underwater lands.

In 1930, the Village of Sag Harbor purchased all of the waterfront portion of the Standard Oil property (formerly Socony-Vacuum Oil Company). The lands sold to the Village comprised the former underwater land area that was granted to Socony-Vacuum Oil Co. in June of 1933. The grant issued to Socony-Oil in 1933 gave them full ownership to this land. This ownership was transferred to the Village of Sag Harbor when they purchased these lands from Mobil Oil Company in 1930.

In April of 1956, the Village of Sag Harbor sold a parcel of waterfront property they acquired in 1922 to Agawam Aircraft Products, Inc. (AAP). AAP added this parcel to its adjoining properties to gain ownership of a large block of waterfront property. The upland property sold by the Village to AAP comprised the former underwater land area for which the Village received a grant from the State in February of 1956. Since the State grant gave the Village full ownership to the underwater lands, this ownership was subsequently transferred to AAP.

The entire parcel of upland owned by Agawam Aircraft Products, Inc. (which was all formerly underwater lands) was sold in 1964. AAP had received a grant from the State for these former underwater lands in July of 1958. This property, which included the former Village-owned parcel which was sold to AAP in 1956, was sold two more times thereafter. These lands are presently owned by Malloy Enterprises.

In 1968, the State issued a grant to the Sag Harbor Yacht Yard. This grant remains in effect today.

Based on the information outlined above, the seven grants for underwater lands were all issued with full interest given to the grantee. Unless the upland was sold to another party, the ownership of the underwater lands remains with the original grantee; otherwise, the lands belong to the current upland owner. In the case of the grant issued to the East Long Island Pottery Company in 1882, this grant was never utilized. Therefore, this grant should be released and surrendered by the State. The six other underwater land grants have been accounted for.

There are, however, three waterfront properties that have been developed that do not have grants from the State Office of General Services. These include: the underwater lands that contain the Waterfront Marina, owned by Malloy Enterprises; the former underwater lands that comprise the Marine Park property, which is owned by the Village of Sag Harbor; and the former and current underwater lands of the Sag Harbor Yacht Club property. Grants for these lands should be obtained through the appropriate application process. In addition, since the Village of Sag Harbor owns a large portion of the original grant issued to the Long Island Railroad, they should seek to gain ownership of the two adjoining parcels of underwater lands still owned by the railroad.

There are generally three ways of securing a grant for underwater lands from the State Office of General Services. Each of the three methods provides a certain degree of ownership security in the underwater lands. An arrangement could also be worked out with the State to for a combination of the three.

The method that provides the strongest interest in the property would involve the issuance of an underwater land grant per Section 75-10 of the Public Lands Law. This grant would provide the grantee with full and complete interest in the lands with no conditions or restrictions but at the full cost of the land.

The second method provides for the conveyance of the lands for public parks, beaches, streets, etc. to a public entity who holds upland ownership under Section 75-7A of the Law. The grantee would own the land in perpetuity as long as they fulfill the conditions of the grant. Therefore, this method would not provide the grantee with full fee conveyance in the property. The fee established for the value of the lands in this case is discounted because a reverter clause would be contained in the grant that restricts the use of the lands. If the lands are ever utilized for any other purpose aside from that specified under the terms of the grant (i.e. - a commercial marina), the grantee would have to buy out the reversion interest in the lands.

The third option involves the issuance of an easement for the lands from the State. Although this is the simplest process, it does not grant full interest in the lands. The State would still retain ownership.

The Village of Sag Harbor should consider exercising the third option to obtain an easement for the underlands in the Sag Harbor area. The area located south of the main navigation channel, between the Long Wharf and the breakwater is utilized for mooring and other marine-related uses. Through the issuance of an easement, the Village would have greater control over what activities occur in this area and to what degree.



SECTION FOUR

SECTION 4 ENVIRONMENTAL CONDITIONS

4.1 Surface Water Quality

A. Existing Surface Waters

The estuarine environment within the Village of Sag Harbor consists of a large open embayment, a semi-enclosed man-made harbor area, a series of interconnected tidal basins, a tidal pond and a small tributary draining into Sag Harbor Bay. The most seaward of these water bodies is Sag Harbor Bay followed by a man-made harbor area called "Sag Harbor." The interior water bodies consist of a series of inland tidal embayments known collectively as Sag Harbor Cove, actually consisting of Outer Sag Harbor Cove, Inner Sag Harbor Cove, Upper Sag Harbor Cove and Morris Cove. Otter Pond is a tidal pond in Mashashimuet Park. Little Northwest Creek is the small tributary draining into greater Sag Harbor on the eastern Village boundary.

Sag Harbor Bay

Sag Harbor Bay is a shallow subtidal embayment adjunct to Northwest Harbor and Shelter Island Sound bordered in the south by Havens Beach and Cor Maria.

Sag Harbor

Sag Harbor is a semi-enclosed area situated at the entrance to Sag Harbor Cove. Sag Harbor is protected from the open bay by an elongated stone breakwater and is connected to Sag Harbor Cove by a tidal strait spanned by the North Haven/State Route 114 bridge. The area experiences incomplete tidal flushing twice daily by strong tidal currents. Water quality is seasonally affected by boat traffic and docking and marina facilities.

Sag Harbor Cove Complex

Sag Harbor Cove is actually a series of four water bodies (i.e., Outer Sag Harbor Cove, Inner Sag Harbor Cove, Upper Sag Harbor Cove and Morris Cove) that will be referred to collectively as the Cove complex. Each of the basins is connected by a series of narrow navigation channels; a strait from the northern end of the Outer Sag Harbor Cove connects these waters to Sag Harbor. The overall surface area of the Sag Harbor Cove Complex is approximately 0.7 square mile; average depth within this area is approximately five feet. Average tidal range is at least 1.7 feet; average spring tide range is closer to 3 feet. A limited salinity study conducted in 1991 indicated that the entire Cove complex was "nearly well-mixed" and is influenced strongly by coastal salinities. There was a slight longitudinal salinity gradient, with salinity decreasing mildly in an upstream direction (Najarian Associates and Cornell Cooperative Extension, 1992).

Little Northwest Creek

Little Northwest Creek is a small tributary that feeds into Sag Harbor Bay and forms the eastern border of the Village. The tidally-influenced portion of the Creek is surrounded by approximately 190 acres of State-owned tidal wetlands and buffering upland managed by NYSDEC.

Otter Pond

Otter Pond is a shallow intertidal pond of approximately four acres located within Mashashimuet Park. Otter Pond receives saltwater from a tidal creek originating in Upper Sag Harbor Cove which flows under Main Street. Due to restrictions caused by stones and debris at the pond's connection to the creek, tidal fluctuation for the Pond is approximately one foot while the tidal amplitude in Upper Sag Harbor Cove is approximately 1.7 feet. Freshwater enters the eastern end of the pond from a large red maple swamp across Jermain Street between Joels Lane and Archibald Way.

The water quality of Otter Pond is generally poor. The pond receives high nutrient loads and is nearly eutrophic. Much of the pond bottom is covered by a thick organic sediment layer, which contributes to nutrient availability, and is indicative of high primary production and low decomposition rates.

John Street Pond

The John Street Pond is an isolated intertidal pond and associated wetland fringe that is connected to Upper Sag Harbor Cove via a culvert running under John Street. Freshwater enters the southwestern portion of the area through storm drains and flows towards the culvert at the northeastern corner of the pond. The pond is very shallow with a sandy bottom overlain by pockets of organic matter. Tidal fluctuation is minimal due to restrictions caused by the diameter and elevation of the culvert under John Street.

Ligonee Brook

Ligonee Brook is a small freshwater brook running from east to west draining into the southeastern end of Inner Sag Harbor Cove. The Sag Harbor Village boundary is along the entire length of the Brook. For surface water quality classification purposes, this creek is conveniently divided into two reaches; from the mouth to Brick Kiln Road and from Brick Kiln Road to the source. West of Brick Kiln Road in the lower reach of the Brook there is some salt water influence; east of the road in the upper reaches there is little if any salt influence except during extreme storm surges.

B. Water Quality Classifications and Use Standards

Discharge standards and water quality classifications have been assigned by NYSDEC to the surface waters in the Village of Sag Harbor, pursuant to Title 6, Chapter 10 of the Codes, Rules and Regulations of New York State (NYCRR). These classifications set discharge standards and are not necessarily indicative of existing water quality conditions.

General water quality classifications are summarized in terms of their best usage, as presented in Table 2. The general water quality classifications assigned to each water body in the harbor management area are shown on [Figure 7](#) and summarized in Table 3.

The quality of marine and estuarine waters can be assessed on the basis of a variety of variables, including color, odor, floating and suspended solids, oil, toxic compounds, and other deleterious substances. Water quality classifications in New York State are currently based primarily on three indices: total coliform level, fecal coliform level, and dissolved oxygen concentration.

In order to be certified as a shellfish harvesting area, the median total coliform level for any series of samples must be 70 MPN/100 ml or less (where MPN/100 ml is the most probable number of organisms per 100 milliliters of sample). New York State (2 NYCRR Part 701.20) classifies these certified shellfishing waters as "SA", which designates the highest level of water quality. An "SB" classification is assigned where the monthly median total coliform level is 70 to 2400 MPN/100 ml, where no more than 20 percent of the samples exceed 5000 MPN/100 ml, and where the monthly geometric mean value is 200 MPN/100 ml or less. The best intended use for SB waters is swimming.

Shellfish harvesting is restricted in portions of the harbor management area, as depicted in [Figure 7](#), due to actual or potential water quality deterioration. The area between the breakwater and the North Haven/State Route 114 bridge, which contains the Village STP outfall and mooring areas, is closed year-round to shellfish harvesting. An additional year-round closure has recently been set by NYSDEC in the southern portion of Upper Sag Harbor Cove due to poor water quality at the outlet of the tributary from Otter Pond. There are two seasonal harvesting restrictions in the waters of Outer Sag Harbor Cove - just west of the North Haven/State Route 114 bridge and the Redwood Cove area. Shellfish may not be harvested from these waters anytime from May 15th through October 31st. The seasonal restrictions that were placed by NYSDEC on these two areas were based primarily on historic records of reduced water quality during the warmer months of the year. The reviewer should note that all NYSDEC shellfish harvesting restrictions discussed above and depicted in [Figure 7](#), are based on 1995 conditions. These are subject to change on an annual basis. A detailed discussion of NYSDEC water quality sampling data and results which support the State closure areas is presented in the following Section 4.1.C. Shellfish harvesting regulations are discussed in further detail in Section 5.6.

C. Existing Water Quality Conditions

The primary objective of most on-going water quality monitoring programs in New York State is to prevent human health impacts from exposure to pathogenic bacteria and viruses (e.g., the hepatitis and Norwalk viruses, and the Salmonella bacteria), which can result from either direct contact with contaminated water or the consumption of tainted shellfish. However, the detection of these pathogens is generally a time consuming and tedious undertaking. Consequently, water quality testing typically entails the use of coliform bacteria, which are relatively easy to measure; these bacteria co-occur with the pathogens of primary concern and serve as indicators of the possible presence of those pathogens.

TABLE 2

**NEW YORK STATE WATER QUALITY CLASSIFICATIONS
DEFINED ACCORDING TO BEST USAGE**

Freshwater Classification	Best Usage
AA	Source of water supply for drinking, culinary or food processing purposes and any other usages.
A	Source of water supply for drinking, culinary or food processing purposes and any other usages.
B	Primary contact recreation and any other use except as a source of water supply, for drinking, culinary or food processing purposes.
C	The waters are suitable for fishing and fish propagation. The water quality shall be suitable for primary and secondary contact recreation even though other factors may limit the use for that purpose.
D	The waters are suitable for fishing. The water quality shall be suitable for secondary contact recreation even though other factors may limit the use for that purpose. Due to such natural conditions as intermittency of flow, water conditions not conducive to propagation of game fishery, or stream bed conditions, the waters will not support fish propagation.
Saline Classifications	Best Usage
SA	The waters shall be suitable for shellfishing for market purposes and primary and secondary contact recreation.
SB	The waters shall be suitable for primary and secondary contact recreation and any other use except for the taking of shellfish for market purposes.
SC	The waters are suitable for fishing and fish propagation. The waters shall be suitable for primary and secondary contact recreation even though other factors may limit the use for that purpose.
SD	All waters not primarily for recreational purposes, shellfish culture or the development of fish life, and because of natural or man-made conditions cannot meet the requirements of these uses.
Special Classification	Best Usage
I	The waters shall be suitable for secondary contact recreation and any other usage except for primary contact recreation and shellfishing for market purposes.

Definitions:

- **Best usage of waters** as specified for each class shall be those used as determined by the commissioner and the administrator in accordance with the considerations prescribed by the Environmental Conservation Law and the Federal Water Pollution Control Act of 1972.
- **Primary contact recreation** shall mean recreational activities where the human body may come in direct contact with raw water to the point of complete submergence. Such uses include swimming, diving, water skiing, skin diving and surfing.
- **Secondary contact recreation** shall mean recreational activities where contact with the water is minimal and where ingestion of the water is not probable. Such uses include, but are not limited to, fishing and boating.

TABLE 3

CLASSIFICATIONS ASSIGNED TO SAG HARBOR WATER BODIES.

<u>WATER BODY</u>	<u>CLASSIFICATION</u>
Sag Harbor Bay	SA
Sag Harbor Cove Complex (All of cove southwest of North Haven/State Route 114 Bridge)	SA
Ligonee Brook -- Mouth to Brick Kiln Road.	SC
From Brick Kiln Road to source.	C
Otter Pond -- Connecting water/Tributary of Shelter Island Sound.	SC
	SD
John Street Pond*	--
Little Northwest Creek -- Tidal portion.	SC
Freshwater portion.	B

*Note: The surface waters of John Street Pond are currently unclassified by NYSDEC.
It is uncertain whether these waters will be classified in the future.

Sources: 6NYCRR, Chapter 10, Article 16
Jacobsón, NYSDEC, February 10, 1995

Surface water quality data are collected and analyzed by NYSDEC on a routine basis in shellfish growing areas, including the estuarine waters of the harbor management area. A total of 17 sampling stations have been established by NYSDEC throughout the Sag Harbor Cove/Bay Complex, including 16 stations west of the breakwater and one station to the immediate east of the breakwater. These waters have been designated by NYSDEC as shellfish growing area No. 19.

The water quality data collected by NYSDEC, which consist of total and fecal coliform bacteria measurements, as well as shoreline inventories of actual and potential point source and non-point source pollution, are used to determine the certification status of shellfish beds in accordance with the provisions of the National Shellfish Sanitation Program. Bacterial water quality at any given station is considered to be acceptable with respect to shellfish harvesting for direct human consumption if either of the following two conditions apply: (a) the median total coliform level is 70 MPN/100 ml or less and no more than percent of the samples exceed a total coliform level of 330 MPN/100 ml; OR (b) the median fecal coliform level is 14 MPN/100 ml or less and no more than 10 percent of the samples exceed a fecal coliform level of 49 MPN/100 ml. The units MPN/100 ml are the most probable number of organisms per 100 milliliters of water sample, as determined by standard laboratory protocol.

Based on NYSDEC's review of coliform data collected during the five-year period between 1986 and 1991, as summarized in a report prepared September 22, 1991, 155 acres of underwater lands situated between the North Haven/State Route 114 bridge and the breakwater are presently classified as uncertified year-round. These waters include the buffer zone of closure around the sewage treatment plant outfall. The single sampling station located in close proximity to the STP outfall consistently failed to meet the shellfish harvesting standards for both total and fecal coliform levels, under dry weather conditions as well as during significant rainfall events during the 1986 through 1991 sampling period.

An additional 25 acres of underwater lands are closed year-round to shellfishing in Paynes Creek, which extends westward from Inner Sag Harbor Cove (to the south of the Long Beach causeway), outside the harbor management area. This closure area is defined by the results of coliform testing at a single station at the head of the creek which fails to meet shellfish harvesting criteria.

Seasonal closures covering two separate areas totaling 28 acres are presently in effect in the harbor management area. These seasonally certified areas include underwater lands to the immediate west of the North Haven/State Route 114 bridge (which contains the Village A and B docks, Sag Harbor Cove West Marina, and Sag Harbor Cove East Marina) and the cove on the north side of the Redwood peninsula in which the Ship Ashore Marina and Redwood Boat Basin are situated. Both of these areas of seasonal closure are in effect as a precautionary measure due to potential contamination derived from vessel waste discharges. Shellfish harvesting can occur in these waters between November 1 and May 14, when vessel activity is minimal.

A station in the southeastern corner of Upper Sag Harbor Cove, between Bluff Point and the outlet of Otter Pond, consistently failed to meet the standards for total and fecal coliform bacteria under both dry weather and wet weather conditions during NYSDEC's

1986 to 1991 analysis period. On the basis of those data, NYSDEC subsequently classified the affected area as closed to shellfish harvesting on a year-round basis. The causes of deteriorated water quality in this area are not fully clear, according to NYSDEC. However, it is suspected that the discharge from Otter Pond is a significant source of coliform bacteria. Otter Pond is known to support a large waterfowl population, which is a significant contributor of fecal matter, and collects stormwater runoff from adjacent roadways which contains non-point source contaminants. In addition, this portion of the shoreline is closely surrounded by older residences, which may be adding to pollution conditions via inadequately treated septic wastes. Poor mixing at the eastern end of Upper Sag Harbor Cove also may be a factor in elevated coliform levels.

During NYSDEC's 1986 to 1991 analysis period, all of the sampling stations located in Upper Sag Harbor Cove failed to meet the fecal coliform standard during wet weather conditions. However, except for the aforementioned single station in the southeastern corner of the cove, all of these stations were in compliance with the total coliform standard during wet weather conditions. As noted previously, bacterial water quality is considered to be unacceptable for shellfish harvesting only when both the total and fecal coliform criteria are contravened. Consequently, only the southeastern corner of the cove has been incorporated into the area of year-round closure. The remaining portions of the cove are designated for continued certification, except during emergency conditions such as extraordinary rainfall events.

During the period between October 1991 and July 1994 (i.e., subsequent to the preparation of the September 22, 1991 water quality report), NYSDEC measured coliform levels during 14 separate sampling events. Although these data have not yet been incorporated into a new water quality report by NYSDEC, a preliminary analysis was undertaken by Cashin Associates for the purposes of this Harbor Management Plan. The findings of that preliminary analysis indicate that coliform levels at four stations have contravened shellfish harvesting standards during the supplemental sampling period. These include the two stations located within the current, year-round uncertified areas adjacent to the STP outfall and at the head of Paynes Creek. The station in the southeastern corner of Upper Sag Harbor Cove, which defines an area that was closed year-round to shellfish harvesting on the basis of NYSDEC's 1991 report, continues to contravene the shellfish harvesting standard according to the 1991 through 1994 data.

NYSDEC's supplemental data indicate that the station located immediately east of the breakwater also contravened the shellfish harvesting standard for the sampling period between October 1991 and July 1994. However, this station was in compliance with the fecal coliform standard (and, therefore, is in compliance with the overall shellfish harvesting criteria) for the entire monitoring period, which comprises 44 separate sampling events between June 1986 and July 1994. This situation warrants continued close monitoring in the coming years, and may indicate that water quality mitigation measures are needed to prevent possible further closure of currently certified shellfish beds located east of the breakwater in Sag Harbor Bay.

NYSDEC also conducts periodic shoreline and pollution source surveys as part of its duties under the National Shellfish Sanitation Program. The most recent survey was conducted between April and July 1988. Since development conditions have not changed

substantially during the intervening seven-year period, the findings and conclusions of that report are still generally applicable today.

The 1988 pollution source survey indicated that water quality in shellfish growing area No. 19 may be adversely affected by septic effluent from residential dwellings, particularly those houses that are situated in close proximity to the shoreline. However, no evidence of actual system malfunctions was observed. It should be noted that NYSDEC's study area includes some neighborhoods that lie outside the harbor management area (e.g., along Paynes Creek and the south shore of Ligonee Brook, and the southern portion of the North Haven peninsula).

Other pollution sources noted in NYSDEC's report include the STP outfall, stormwater drains, road ends and boat launching ramps, and freshwater inputs from Ligonee Brook, Otter Pond, and other small streams and ponds. The six marinas surveyed at that time were all found to be located within year-round or seasonally uncertified areas. Waterfowl were observed throughout the area, particularly in Otter Pond.

D. Stormwater Runoff and Non-Point Source Pollution

When considering impacts to surface water quality, pollution sources are generally classified into one of two categories, namely point or non-point sources. The term "point source" as defined by the federal Clean Water Act means "any discernable, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged." Although diffuse runoff is generally treated as non-point source pollution, runoff that enters and is discharged from a conveyance as described above (i.e., stormwater outfall pipes) is treated as a point source. Point sources also include effluent discharges such as those from sewage treatment plants and industrial waste treatment facilities.

Point Sources

Stormwater outfalls are a significant point source of pollution affecting surface water quality in the Village. While not subject to federal or state permit requirements, stormwater outfalls are considered point sources. This category of point source pollution also includes the localized impacts resulting from runoff that is directed to surface waters via culverts, streams, and tidal inlets. A culvert located under John Street directs runoff to the tidal creek and salt marsh that connects to Upper Sag Harbor Cove. A culvert that passes under Jermain Avenue carries runoff into Otter Pond and its associated fringing wetlands. Culverts are also located at Haven's Beach and under Redwood Road and Main Street. Tidal inlets are located at Little Northwest Creek, Haven's Beach, and Ligonee Brook. Stream flow is discharged via Little Northwest Creek and its tributary, Rattlesnake Creek, as well as Ligonee Brook.

Stormwater discharges from upland areas can contribute sediment loads, pathogens, nutrients, road salts, metals, hydrocarbons and organic materials into adjacent surface waters. The Harbor Committee has developed a listing and map of the potential point-source discharges in the Village (see [Figure 8](#)).

The Suffolk County Department of Health Services found contaminated wells in a small residential area along the Village's southern boundary at Ligonee Brook. A significant groundwater plume of organic contamination is flowing northwest towards, and has reached, its discharge boundary at Sag Harbor Cove. The plume, which is approximately 600 feet wide, 3000 feet long, and about 80 feet below the ground surface at its maximum depth, is entering the Cove along the shoreline to the west of the mouth of Ligonee Brook. The source of the contamination has been determined to be an industrial plant located on the east side of the Sag Harbor-Bridgehampton Turnpike between Carroll Street and Lily Pond Drive. The plume originated due to the activities of the former industrial tenant, Rowe Industries, Inc. Rowe Industries, Inc. was an electric motor manufacturing firm that used solvents for degreasing.

The immediate action taken to provide the affected residents with an adequate and safe drinking water supply was to extend the Suffolk County Water Authority's distribution system, and to install individual hookups to the mains. This work was completed in 1985. In 1988, a Consent Order was signed between the EPA and the present and former site owners to conduct a Remedial Investigation/Feasibility Study to evaluate the exact nature and extent of the contaminants present and to assess the resulting impacts on public health and the environment. In September 1992 a Record of Decision was issued to begin the remedial design and implement the proposed remedial action at the site.

The Remedial Action for the Rowe Industries Superfund site will remove VOCs from the groundwater by pumping it through a series of extraction wells, both on-site and in the surrounding area, which tap into the contaminant plume. The contaminated groundwater will be conveyed from the extraction wells by underground piping to air-stripping equipment located on the site. The on-site air stripper facility will be operated in accordance with the operations and maintenance plan to avoid any spills or clean them up should they occur. The treated groundwater will be discharged to Sag Harbor Cove via a pipe fitted with a diffuser at the outlet end. The diffuser will extend into the cove and be placed on the sediment surface. Treated water shall meet all applicable State water quality standards.

Throughout the duration of the remedial action, surface and groundwater conditions will be monitored to ensure that pumping and discharge activities do not cause significant adverse effects to nearby surface water bodies and wetlands. Baseline studies will be conducted prior to the commencement of the remedial action. During remediation, monitoring of the condition of surface water, groundwater and the ambient air will be conducted to ensure that the project is protective of human health and the environment. Once the clean-up action levels are achieved, the air strippers, diffuser, and above-ground features of the project will be removed and the ground surface and bay bottom will be returned to conditions similar to that which existed prior to the remedial action.

Non-point Sources

By contrast to point sources, non-point sources of surface water contamination include stormwater sheet flow runoff (i.e. - unchanneled flow from paved surfaces, buildings and construction sites), and infiltrated groundwater flows from cesspools and septic tanks. Fertilizers and pesticides also contribute nitrogen and organic compounds to ground and surface waters. Technically, the term "non-point source" is defined to mean "any source of water pollution that does not meet the legal definition of "point source" under the Clean Water Act. In contrast to point sources, non-point sources are not subject to federal and state permit requirements.

Many categories and subcategories of non-point sources affect coastal waters. The U.S. Environmental Protection Agency, pursuant to 1991 amendments to the Coastal Zone Management Act, has developed guidance to focus on five major categories of non-point sources that impair or threaten coastal waters nationally: (1) agricultural runoff; (2) urban runoff (including developed and developing areas); (3) silvicultural (forestry) runoff; (4) marinas and recreational boating; and (5) hydromodification and wetlands (channelization and channel modification; dams; stream bank and shoreline erosion; wetlands and riparian areas). A full description of EPA's guidance for coastal non-point sources can be found in EPA's publication entitled Guidance Specifying Management Measures for Sources of Non-Point Pollution in Coastal Waters (U.S. EPA January 1993).

Non-point sources of pollution affecting coastal waters and tributaries within the Village of Sag Harbor fall within the following three EPA categories: (1) urban runoff; (2) marinas and recreational boating; and (3) hydromodification and wetlands. Overlapping areas between point sources and non-point sources occur with respect to urban runoff, marinas and recreational boating. While stormwater discharges and marinas are subject to point source regulation under the state and federal stormwater regulations, the factors contributing to the sources are largely non-point in nature. For example, while a stormwater outfall into Sag Harbor is a discernable and direct point source, the contributing areas and sources are extremely diffuse and are considered to be non-point. Accordingly, water pollution from urban runoff, marinas and recreational boating activities needs to be addressed in both the point and non-point source management programs.

Marinas and mooring areas can contribute significantly to the concentration of pollutants in the water column, bottom sediments, and tissues of benthic organisms living within the limits of the marina itself. Pollutants from marinas and recreational boating may enter the water through discharges from boats, spills, maintenance areas, stormwater runoff and vessel operation. The types of pollutants often associated with marinas and recreational boating activities include: organic materials discharged from recreational boats; toxic heavy metals associated with boat maintenance and repair operations at boat yards and marinas; petroleum hydrocarbons from refueling activities and bilge or fuel discharges from boats; fecal coliform bacteria; disruption of sediment and habitat from boat operations and dredging.

The Sag Harbor Bay/Cove Complex and the tributary ponds and freshwater systems that feed into these waters (e.g. - Otter Pond which is located at the head of Upper Sag Harbor Cove, and Ligonee Brook in the southwesterly corner of the Village) are heavily utilized

by waterfowl. Fecal wastes from these birds can contribute significantly to the overall coliform levels in the receiving waters. This problem is exacerbated by recreational feeding of waterfowl, which results in increased population levels and interrupted seasonal migratory patterns. Waterfowl feeding is a popular activity at Otter Pond (Lane, February 6, 1995).

E. Sewage Treatment Plant Effluent

The coastal waters in the Village harbor management area presently receive effluent from the Sag Harbor STP. As discussed in Section 3.1.F, the Sag Harbor STP is situated near the shoreline and discharges secondary-treated effluent to the surface waters of Sag Harbor proper via an outfall pipe through a steel bulkhead. The pipe outlet may lie above or below the water level depending upon the stage of the tide.

Requirements for the level of treatment and monitoring of the STP effluent are set forth in the New York State Pollutant Discharge Elimination System (SPDES) permit issued by the NYSDEC for the facility. Under the present conditions of the permit, the plant operator is required to continuously monitor the flow rate and record the Ph level, settleable solids, dissolved oxygen (DO), residual chlorine and temperature of the effluent on a daily basis. Monthly monitoring of BOD5 (5-day biochemical oxygen demand), suspended solids, fecal coliform and total coliform must also be recorded. The current permitted design capacity of the Sag Harbor STP is 0.15 million gallons per day (MGD), and according to the plant operator, the facility has not experienced any recent problems meeting the actual flow rates or effluent constituent requirements set by the SPDES permit. Details concerning historic improvements to the plant are discussed in Section 3.1.F. Discharge Monitoring Reports (DMRs) which summarize the influent and effluent quantities and constituent concentrations, are sent monthly to the NYSDEC headquarters in Albany, the Region I NYSDEC office in Stony Brook, and the SCDHS in Farmingville, New York. The present SPDES permit expires on April 1, 1999 and is expected to be renewed with no additional conditions (Banarge, February 17, 1995; Ryder, March 3, 1995).

NYSDEC typically designates shellfish harvesting closure areas around STP outfalls. These closure areas are established to provide adequate dilution to the effluent and as a precaution to offset potential impacts to the sanitary condition of the shellfish stock in the event of a plant malfunction. A shellfish harvesting closure area of approximately 155 acres was established when the Sag Harbor plant became operational in December of 1977. Within this area of the harbor, the waters are designated as uncertified for shellfish harvesting although the surface water quality classification in the area is Class SA (see Section 4.1.B for a discussion of water quality classifications).

F. Vessel Waste Discharges

NYSDEC has identified two specific areas in the harbor complex that are of concern with regard to the potential contamination of shellfish beds due to seasonal water quality degradation and/or vessel waste discharges: the easterly portion of Outer Sag Harbor Cove, and the waters in the Redwood boat basin. Both of these areas are used on a

seasonal basis for high density, overnight anchoring, especially during summer holiday weekends. NYSDEC has indicated that concentrated sewage discharges from vessels in these areas have the potential for the localized contamination of the underlying shellfish beds. NYSDEC believes that the potential exists for tainted shellfish to reach market if these areas are harvested during or immediately after a busy period of vessel activity during which boats discharge untreated wastewater into the bay.

As discussed above, vessels docked, moored, anchored or otherwise operating on the waters of Sag Harbor are potential contributors of pollution and can adversely affect water quality, fish and wildlife habitats, and human health. During peak periods of the boating season, more than 800 vessels have been recorded entering Sag Harbor and Sag Harbor Cove daily and accommodations for approximately 750 vessels are available for overnight stays throughout the harbor.

Many of the vessels operating on the waters of Sag Harbor are equipped with one of three types of marine sanitation devices (MSDs) and the mechanisms needed for storage and discharge of vessel wastes. Type I MSDs produce an effluent having a fecal coliform bacteria count of not greater than 1,000 per 100 milliliters and no visible floating solids. Type II MSDs (required on vessels over 65 feet in length) produce an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter. Type III MSDs are designed to prevent the overboard discharge of treated or untreated sewage or any waste derived from sewage (33 CFR 1593).

Storage or discharge of vessel sewage is regulated on board through the use of a "Y-valve" which can be controlled by the operator. There are two settings for a Y-valve, one which directs the effluent to a holding tank, and the other which discharges it directly overboard. Coast Guard regulations require the Y-valve to be secured or disabled while the vessel is inside the federally-established three-mile no discharge zone so as to prevent any possible removal of untreated sewage other than to a marine pump-out facility (40 CFR 140.3).

The Village of Sag Harbor, in cooperation with adjoining municipalities, may wish to pursue a vessel waste no-discharge zone designation within the waters of the harbor complex, adjacent coves, and the Peconic Estuary. The advantage of this designation would be to prohibit the discharge of vessel sewage within the bounds of the harbor zone and give jurisdiction to local officials for the enforcement of laws governing discharges and vessel inspections. Although Federal law prohibits the discharge of untreated sewage within three miles of shore, treated sewage may be discharged inside this boundary and the United States Coast Guard has the sole responsibility for enforcement. Legislation has recently been enacted that would authorize no-discharge zones. If the Sag Harbor area is approved as a no-discharge zone, the Village may enforce the State no-discharge designation or adopt and enforce a local law prohibiting the discharge of vessel wastes in Sag Harbor waters.

The Village of Sag Harbor presently maintains two pump-out facilities (one stationary and one mobile) which are available free of charge to any vessel operator. The stationary pump-out is located on the bulkhead at the Marine Park facility. Use of this device requires that the vessel be docked in the adjacent slip in order to gain access. Collection

at this location is constrained due to the hose length and by the availability of dockage. An additional station west of the bridge would encourage greater use of pump-outs.

The majority of vessel sewage collected in the Village is through the mobile pump-out facility, which was set up in 1992. The Harbormaster or dockmaster must be contacted for use of the mobile facility. The maximum wait to use the pump-out is approximately 30 minutes; however, an appointment can be set up in advance to use the facility.

The mobile facility is located on a truck, giving it a broader scope of usage. The mobile unit has shown increased usage in the last two years. In 1993, it was the only facility available and collected 2,370 gallons of boat wastes. In 1994, the combined total was 3,900 gallons collected mostly from the mobile pump-out. A permit from NYSDEC is issued for the truck to operate within the Village. The amount of waste collected by the mobile device is also constrained by the length of the hose. It can only reach a maximum of 34 feet from the dock.

It is important to note that the Town of Southampton has acquired five 22-foot pump-out boats with 300-gallon capacity. These boats will patrol throughout Town waters and pump-out any vessel free of charge. Patrons can hail the vessels on the established marine radio channel. One of these boats will frequent the Sag Harbor Cove area, which lies within Town boundaries.

All of the vessel sewage collected by the pump-out facilities are presently stored in an underground tank. These wastes are removed by a licensed private carter and trucked to the Suffolk County Scavenger Waste Facility at Bergen Point, in the Town of Babylon, for treatment and disposal.

G. Toxic Substances

The nearshore marine environment is highly susceptible to toxic pollutant inputs from a variety of sources including urban runoff, marinas, mooring areas, boat repair operations, fuel storage facilities and other upland sources. Heavy metals such as copper, lead and zinc are the most prevalent non-point chemical pollutants typically found in urban runoff. As noted previously, activities associated with boat yards and marinas often contribute metals and petroleum hydrocarbons to the water column and bottom sediments.

Metal-containing compounds are highly used in boat operation, maintenance and repair. Lead is used in fuel additives; ballast and bilge discharges cause its release. Arsenic is used in paint pigments. Copper and tin are used in antifoulant paints. Other metals (i.e., iron and chrome) are used in the construction of marinas and boats. Heavy metals adhere to fine-grained sediment particles. Contaminated sediments become resuspended into the water column during dredging operations. High metal concentrations may bioaccumulate in fish and shellfish and impact beneficial uses of the affected waterbodies. In addition, marinas and boat storage and repair facilities may also contribute solvents, antifreeze, cleaning agents and paints to the marine environment.

Petroleum hydrocarbons are derived from oil products. The source of most petroleum hydrocarbons in urban runoff can be attributed to vehicle engine drippings, and illegal disposal of used oil in storm drains. Concentrations of petroleum hydrocarbons in marine environments are also attributed to commercial fuel storage facilities, refueling activities and bilge or fuel discharges from boats. Petroleum hydrocarbons are toxic to marine organisms and can also accumulate in benthic sediments.

Toxic materials may also be delivered to the marine environment via groundwater flows which originate from contaminated upland sources. Groundwater becomes contaminated when water percolating through the soil carries pollutants downward through the soil and to the water table. Eventually, groundwater resurfaces in springs or in discharges to streams, wetlands, or other surface waters. There are several facilities in the Village which have had documented spills of hazardous substances. Spills that have a potential for contaminating the marine resources within the harbor management area include the Rowe Industries site, the Bulova Watchcase Factory, the former Mobil Oil property, and the Sag Harbor-Bridge Street site. These spill sites are described in greater detail in the LWRP.

4.2 Ecological Resources

A. Wetlands

Wetlands within the Village of Sag Harbor have been classified by the NYSDEC as either tidal or freshwater, based on the vegetation they support. The type of vegetation is largely determined by the salinity of the surface water and the degree of inundation. The depth of water and the predominance of certain vegetative species serve as indicators to help distinguish between different types of wetlands.

There are six, State-regulated freshwater wetlands scattered throughout the Village. One of those, in the area of Little Northwest Creek, is a Class I (most important) wetland. The other five are Class II wetlands. Additional brackish and freshwater wetlands have also been identified within the Village, which have not yet been incorporated into the NYSDEC wetland inventory maps (Blumer, May 1994). Those will be suggested to the NYSDEC as future amendments to the NYSDEC wetlands inventory maps, and are also shown on [Figure 9](#).

Tidal wetlands found within the Village of Sag Harbor consist of the following four, major types: intertidal marsh (IM), high marsh (HM), coastal shoals, bars and mudflats (SM), and littoral zone (LZ), which are briefly described below.

- An IM classification is assigned to those wetland areas located between average high and low tide levels, and within which smooth cordgrass (*Spartina alterniflora*) is the predominant vegetative species. IM areas are the most biologically productive of all wetlands categories, and have high values for flood and sediment control. Even small patches of IM wetland are considered by NYSDEC to be of critical importance.

- HM areas are normally the uppermost tidal wetland zone, and are typically dominated by salt meadow cordgrass (*Spartina patens*) and salt grass (*Distichlis spicata*). The upper limit of this zone is often occupied by marsh elder (*Iva frutescens*) and groundsel bush (*Baccharis halimifolia*). The common reed (*Phragmites australis*) may also be present, especially in areas that have been disturbed by human activities.
- SM wetlands are those areas lacking smooth cordgrass that are covered by water at high tide and are exposed or covered by less than one foot of water at low tide. Sediment texture can vary significantly in SM areas, from mud flats in many protected embayments to sandy shoals in areas subject to wave and current action.
- LZ wetlands occur in tidal waters of average depth less than six feet that do not meet the requirements for classification under any of the other wetland categories. SM and LZ areas exhibit extreme variability in their contribution to biological productivity and other tidal wetland values, but are generally less valuable than IM or HM areas in this regard.

Significant areas of tidal wetlands that are found in the harbor management area are described briefly as follows and are shown on [Figure 9](#).

Sag Harbor Bay

There is very little intertidal vegetation within the bay area, except a small patch of smooth cordgrass (*Spartina alterniflora*) occurring near the breakwater. The shallower sub-tidal portions of the bay, however, support extensive beds of eelgrass (*Zostera marina*).

Little Northwest Creek

Surrounding Little Northwest Creek is a 190 acre State-owned wetland and buffering upland managed by NYSDEC. The intertidal portions of the marsh consist of undisturbed high marsh with salt meadow cordgrass (*Spartina patens*), spike grass (*Distichlis spicata*), black grass (*Juncus gerardii*), perennial glasswort (*Salicornia virginica*), sea lavender (*Limonium carolinianum*), perennial salt marsh aster (*Aster tenuifolius*) and seaside gerardia (*Agalinis maritima*), with a low marsh fringe with smooth cordgrass (*Spartina alterniflora*). The upland fringe is dominated by a narrow to wide stand of common reed (*Phragmites australis*). Reeds are more extensive in the upper reaches of the tidally influenced portion of the creek.

Sag Harbor Cove Complex

The series of embayments comprising the Sag Harbor Cove complex consists of some of the most productive waters within the Village of Sag Harbor. The intertidal fringe of the Cove is surrounded by typical estuarine marsh species (*Spartina alterniflora* & *patens*) where structural fortification and dock facilities are absent. The width of the fringe is determined by the slope of the intertidal shoreline and the presence of upland disturbances and barriers. In the shallow intertidal waters starting at the marsh fringe there are

extensive areas of highly productive mudflats and sand bars colonized by numerous species of algae including: bladder wrack (*Fucus vesiculosus*), knotted wrack (*Ascophyllum nodosum*) and Irish moss (*Chondorus crispus*). Sea lettuce (*Ulva lactuca*) common throughout the cove is indicative of high nutrient conditions. Deeper waters within the cove support very dense beds of eelgrass (*Zostera marina*) which greatly increases primary productivity.

Ligonee Brook

The entire length of the lower intertidal portion of Ligonee Brook is bordered by typical estuarine marsh vegetation with pockets of common reed (*Phragmites australis*) where upland disturbance has taken place (e.g., near houses). Just west of Brick Kiln Road, there is occasional tidal influence, but the species composition is more representative of a freshwater-dominated wetland with a small pocket of maple swamp north of the Creek adjacent to Brick Kiln Road, unique to this area of the Village.

Otter Pond

At one time Otter Pond was bordered by a healthy fringe of estuarine wetland. Today the majority of the pond perimeter is vegetated by turf grasses and only a fringe of smooth cordgrass (*Spartina alterniflora*) remains on the northern shorelines. This very shallow habitat is characterized by high nutrient loads and near-eutrophic conditions. Extensive subtidal growth of sea lettuce (*Ulva lactuca*) is indicative of high-nutrient conditions. Widgeon grass (*Ruppia maritima*) is also found in the pond. Waterfowl concentrations on Otter Pond have contributed significantly to the degradation of water quality, as discussed in Section 4.1.C.

John Street Pond

John Street Pond is very shallow with a sandy bottom overlain by pockets of organic sediment. Vegetation surrounding the pond is typical of a disturbed estuarine marsh; common reed (*Phragmites australis*) dominates the upland edge of otherwise native intertidal species such as smooth cordgrass (*Spartina alterniflora*) and salt meadow cordgrass (*Spartina patens*). The presence of the reeds forms an effective barrier around the entire pond system which is located in the middle of a residential neighborhood. As a result, this area acts as "oasis" in the center of this otherwise heavily populated area.

B. Significant Coastal Fish and Wildlife Habitats

Under the New York State Coastal Management Program, the New York State Department of State (NYS DOS) has designated Sag Harbor/Northwest Harbor as a Significant Coastal Fish and Wildlife Habitat. Portions of this protected area lie within the harbor management area, as depicted in [Figure 9](#). Coastal fish and wildlife habitats throughout New York State were evaluated by NYS DOS as to their State-wide significance. A habitat is considered significant if it meets the following criteria:

- the habitat is essential to the survival of a large portion of a particular fish or wildlife population (e.g., feeding grounds, nursery areas);
- the habitat supports a species which is either endangered, threatened or of special concern as those terms defined in 6NYCRR Part 182;
- the habitat supports fish or wildlife populations having significant commercial, recreational or educational value;
- the habitat is a type which is not commonly found within the State; and
- the habitat or its values are difficult or impossible to replace in kind.

The Village, through implementation of this Harbor Management Plan and the Local Waterfront Revitalization Program, has incorporated policy standards to protect the State-designated habitat. The following is a description of the Sag Harbor and Northwest Harbor Significant Coastal Fish and Wildlife Habitat and the relative values of the natural resources occurring there.

Sag Harbor/Northwest Harbor

Location and Description of Habitat:

The Sag Harbor/Northwest Harbor Significant Coastal Fish and Wildlife Habitat covers an area of approximately 3,000 acres in the Towns of Southampton, East Hampton and Shelter Island in Suffolk County on the north shore of Long Island's South Fork (7.5-minute Quadrangles: Greenport, N.Y.; and Gardiners Island, N.Y.). The Habitat extends northward and eastward from the Sag Harbor breakwater and consists mostly of the open waters of Sag Harbor Bay and Northwest Harbor, but also includes the State's Little Northwest Creek tidal wetland preserve and exposed rocks near the breakwater. Only the southwestern-most portion of the Habitat, in the Town of East Hampton, lies within the Village harbor management area.

Water depths in most of the Sag Harbor/Northwest Harbor Habitat range from 6 to 20 feet below mean low water. The bays are bordered by much undeveloped land, including Suffolk County parklands and the Nature Conservancy's Mashomack Preserve. NYSDEC owns approximately 190 acres of land surrounding Little Northwest Creek. The only major developments along the entire shoreline of these bays are to the southwest, within the Village of Sag Harbor.

Fish and Wildlife Values:

Sag Harbor Bay and Northwest Harbor are generally representative of the Peconic Bays ecosystem, with broad expanses of moderately shallow water. This habitat type is unlike the very shallow bays on the south shore of Long Island or the relatively narrow bays on the north shore. Little Northwest Creek is an important component of this ecosystem, contributing to the biological productivity of the area.

Sag Harbor Bay and Northwest Harbor are important to fish and wildlife throughout the year. Least Tern (State endangered species), piping plover (State endangered species), and osprey (State threatened species) feed in the harbor area. Diamondback terrapin are scattered along the harbor coastline and tidal creeks, but the importance of the area to this species is not well documented. From November through March, Sag Harbor Bay and Northwest Harbor support wintering waterfowl concentrations of county-level significance. Mid-winter aerial surveys of waterfowl abundance for the ten-year period 1975-1984 indicate average concentrations of over 440 birds in the bays each year (1,082 in peak year), including scaup, black duck, common goldeneye, bufflehead, red-breasted merganser, canvasback, mallard, and Canada goose. During much of the same time period (December - early May), concentrations of harbor seals also occur in Sag Harbor Bay and Northwest Harbor. Exposed rocks near the Sag Harbor breakwater provide an important "haulout" area, which seals use for resting and sunning. This location is one of about five major haulout sites around Long Island, serving as a focal point for seals feeding in the Sag Harbor area. Northwest Harbor may also be important feeding and resting habitat for juvenile Kemp's Ridley sea turtles (State endangered species), especially during the late summer and fall. More documentation is needed on the use of the area by this species as well as other sea turtle species.

Sag Harbor Bay and Northwest Harbor are productive habitats for marine finfish and shellfish. This area is one of the most important bay scallop producing areas on Long Island, supporting a commercial shellfishery significant in the northeastern United States. Oysters are present in lesser numbers, providing limited recreational and commercial shellfishing opportunities. The bays serve as nursery and feeding areas (April-November, generally) for many estuarine fish species, such as weakfish, winter flounder, and scup. Northwest Harbor sustains a commercial and recreational winter flounder fishery of county-level significance. Fishing pressure in the area extends from spring through fall.

Impact Assessment

Any activity that would substantially degrade the water quality in Sag Harbor or Northwest Harbor would affect the biological productivity of this area. All species of fish and wildlife would be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. It is essential that high water quality be maintained in the area to protect the shellfishery. Efforts should be made to control discharges of sewage from recreational boats and upland sources. Thermal discharges, depending on the time of year, may have variable effects on the use of the area by marine species and wintering waterfowl. Installation and operation of water intakes would have significant impacts on juvenile (and adult, in some cases) fish concentrations, through impingement or entrainment. Construction of shoreline structures, such as docks, piers, bulkheads, or revetments, in areas not previously disturbed by development (i.e., natural beach or salt marsh), may result in the loss of productive areas which support the fish and wildlife resources of Sag and Northwest Harbors. Undeveloped woodlands bordering Sag Harbor and Northwest Harbor are particularly important for maintaining the water quality and habitat value of the harbors and should be preserved as a buffer zone. Any permanent alteration or human disturbance of the harbor seal haulout area, or obstruction of seal

migrations, would adversely affect this species. Significant underwater noise, from dredging or other activities, could also preclude harbor seals from using this area.

C. Shellfish Resources

As discussed in earlier Sections (3.2.F and 4.2.B), the coastal waters off the Village of Sag Harbor are extremely productive habitats for shellfish, and support a commercial shellfishery of great significance to the northeastern United States. Sag Harbor Bay/Northwest Harbor is one of the most important bay scallop (*Argopecten irradians*) producing areas on Long Island. American oysters (*Crassostrea virginica*) are present in lesser numbers, providing limited recreational and commercial shellfishing opportunities. Both bay scallops and hard-shelled clams (*Mercenaria*) can be found within the Sag Harbor Cove complex. Soft-shelled clams (*Mya arenaria*), ribbed mussels (*Modiolus demissus*) and conch (*Busycon* spp.) are also harvested from waters within the Village harbor management area. Other shellfish species present include: slipper shell (*Crepidula fornicata*), common periwinkle (*Littorina littorea*), blue mussel (*Mytilis edulis*), mud snail (*Nassarius obsoletus*), and oyster drill (*Urosalpinx cinerea*) (Sag Harbor Village Draft LWRP, 1995; Semlear, January 20, 1995; Andersen, January 19, 1995).

As discussed in the LWRP, the populations of bay scallops and oysters (*Argopecten irradians* and *Crassostrea virginica*, respectively) throughout the Peconic Estuary system suffered a dramatic crash during successive brown tide episodes that commenced in 1985. Data provided in the BTCAMP study (SCDHS, 1992) show a decline in the Peconic Estuary scallop harvest (in terms of shucked meats) from 683,000 pounds in 1974 to 5,200 in 1986, and 250 pounds in 1988. The harvest recovered somewhat in 1989 to 1,570 pounds, but was still only a fraction of the peak annual yield.

A similar effect during the recent brown tide episodes has been noted for the American oyster. The landings of oysters from the Peconic system declined from more than 1.5 million pounds in 1976 to 56,700 pounds in 1985, 1,800 pounds in 1987, and less than 900 pounds in 1989. The catch of Peconic Estuary hard clams (*Mercenaria*) during the late 1980's did not suffer a comparable overall decline; however, the clams harvested during that period were observed to have reduced weight and quality relative to pre-brown tide specimens (SCDHS, 1992).

Based on analyses conducted during the ongoing Submerged Aquatic Vegetation Study for the Peconic Estuary Program (summarized in a draft report to the SCDHS, by Cashin Associates, P.C., dated February 1995), it appears that the recent crash of the Peconic Estuary shellfishery was due in large part to the direct, physiological effect of the brown tide micro-organism (*Aureococcus anophagefferens*) on the affected shellfish species. In particular, it is believed that *Aureococcus* has a relatively low nutritional value, is too small to be efficiently retained by the filter feeding apparatus of shellfish, produces a toxin that inhibits feeding by shellfish, and possesses structural features which impair digestion. Due to these factors, it is hypothesized that bay scallops and oysters are unable to take in a sufficient quantity of food during brown tides to fully support their biological activities, resulting in retarded growth and higher mortality.

For the past several decades, the Trustees of the Town of Southampton have been conducting a hard clam and bay scallop seeding program. In 1994, 40,000 seed scallops were distributed throughout the Sag Harbor Cove complex, and chowder clams were placed for spawning purposes in the cove waters between Bay Point and Sag Harbor Cove West Marina. The Trustees expect to double their seed clam program in 1995, and are considering distributing these to Sag Harbor waters. In addition, approximately one million juvenile scallops are scheduled for placement in Sag Harbor in 1995 (Semlear, January 30, 1995).

The harvesting of shellfish from restricted waters is sometimes undertaken by municipalities to deplete shellfish stock in uncertified waters, and to use these shellfish (which cannot be harvested for direct marketing) in order to increase the stock in certified areas. A purification period is necessary to allow the shellfish to cleanse themselves of microbial contamination. This purification is typically achieved by relaying, which involves the direct transfer of shellfish from uncertified to certified waters; the harvesting of this stock would be prohibited for the amount of time necessary to complete purification (set by NYSDEC at 21 days minimum). Shellfish cleansing can also be achieved through depuration, which involves the placement of the shellfish in a controlled aquatic environment for a minimum period of 48 hours prior to transfer to certified waters.

The Town of Southampton Trustees have not been involved in any shellfish transplant programs in the past. However, they may consider removing shellfish from Paynes Creek (which is currently closed year-round to shellfish harvesting) and transplanting these to suitable receiving waters at some time in the future (Semlear, January 30, 1995). The replenished beds would be closed to harvesting for a temporary period as dictated by NYSDEC to allow for adequate cleansing of the transplanted shellfish. During this temporary closure period, the receiving waters must be patrolled to prevent illegal harvesting.

D. Finfish and Crustacean Resources

Sag Harbor Bay and adjacent Northwest Harbor support expanses of eelgrass (*Zostera marina*) beds, and for this reason, are extremely productive habitats for marine shellfish, finfish and crustaceans. The eelgrass beds are discussed in further detail in the LWRP. These waters also serve as a nursery and feeding area (generally from April through November) for many estuarine finfish including weakfish (*Cynoscion regalis*), winter flounder (*Pseudopleuronectes americanus*) and porgy or scup (*Stenotomus chrysops*).

The waters of the Sag Harbor Cove complex are also highly productive habitats for finfish and crustaceans. Table 4 presents a list of the finfish and crustacean species which are commonly found in the coastal waters of Sag Harbor.

Late summer (1994) shallow water seining in the area indicated the presence of large numbers of locally-significant fish species including: bay anchovy (*Anchoa mitchilli*), menhaden (*Brevoortia tyrannus*), Atlantic silverside (*Menidia*), snapper bluefish (*Pomatomus saltatrix*) and winter flounder (*Pseudopleuronectes americanus*). Other species caught during this seining include: sheepshead minnow (*Cyprinodon variegatus*),

TABLE 4

FINFISH AND CRUSTACEANS COMMONLY FOUND
IN THE WATERS SURROUNDING SAG HARBOR

FINFISH

blueback herring (*Alosa aestivalis*)
alewife (*Alosa pseudoharengus*)
American shad (*Alosa sapidissima*)
American sandlance (*Ammodytes americanus*)
bay anchovy (*Anchoa mitchilli*)
American eel (*Anguilla rostrata*)
menhaden (*Brevoortia tyrannus*)
weakfish (*Cynoscion regalis*)
sheepshead minnow (*Cyprinodon variegatus*)
mummichog (*Fundulus heteroclitus*)
killifish (*Fundulus majalis*)
three-spined stickleback (*Gasterosteus aculeatus*)
naked goby (*Gobiosoma boscii*)
Atlantic silverside (*Menidia menidia*)
striped bass (*Morone saxatilis*)
rainbow smelt (*Osmerus mordax*)
summer flounder, fluke (*Paralichthys dentatus*)
bluefish (*Pomatomus saltatrix*)
winter flounder (*Pseudopleuronectes americanus*)
porgy (*Stenotomus chrysops*)
Atlantic needlefish (*Strongylura marina*)
bay pipefish (*Syngnathus leptorhynchus*)
blackfish, tautog (*Tautoga onitis*)

CRUSTACEANS

blue crab (*Callinectes sapidus*)
rock crab (*Cancer irroratus*)
green crab (*Carcinus maenas*)
mud crab (*Eurypanopeus depressus*)
American lobster (*Homarus americanus*)
spider crab (*Libinia spp.*)
horseshoe crab (*Limulus polyphemus*)
hermit crab (*Pagurus longicarpus*)

Source: Village of Sag Harbor Draft LWRP, 1995.

mummichug (*Fundulus heteroclitus*), killifish (*Fundulus majalis*), three-spined stickleback (*Gasterosteus aculeatus*), naked goby (*Gobiosoma boscii*), Atlantic needle fish (*Strongylura marina*) and bay pipefish (*Syngnathus leptophynchus*). Weakfish (*Cynoscion regalis*), striped bass (*Morone saxatilis*), and porgy (*Stenotomus chrysops*) have also historically been caught in the Cove complex.

Although less important economically as compared with local shellfish and finfish landings, the waters of Sag Harbor Bay and the Cove complex also support various crustaceans. Blue-claw crab (*Callinectes sapidus*) and American lobster (*Homarus americanus*) are two species of commercial importance found in these waters. Benthic crustaceans, primarily spider crabs (*Libinia* spp.) and rock crabs (*Cancer irroratus*), are the primary prey species taken by juvenile sea turtles which utilize the waters of Sag Harbor Village from June through November. Sea turtles are discussed in further detail in Section 4.2.F.

E. Resident and Migratory Birds

Over 50 species of birds reportedly utilize the coastal waters and shoreline areas for overwintering, feeding and resting; these species are listed in Table 5. The majority of the overwintering birds breed further north in the Arctic to subarctic areas from Alaska to Greenland and south through Canada.

The coastal waters and upland areas within the Village Harbor Management area provide feeding or resting habitat for at least nine species of birds which are currently listed by the State or Federal government as endangered, threatened or of special concern. These species include: bald eagle, northern harrier, osprey, least tern, roseate tern, common tern, piping plover, least bittern and eastern bluebird. None of these birds, however, are known to nest within the harbor management area.

All of the waters west of the North Haven/State Route 114 bridge (including the Sag Harbor Cove Complex/Paynes Creek and the mouth of Ligonee Brook) are designated as a protected sanctuary area for waterfowl, pursuant to Article 4 of the Rules and Regulations for the Management and Products of the Waters of the Town of Southampton. This regulation prohibits the hunting, shooting or taking of any waterfowl within the sanctuary boundaries.

F. Endangered, Threatened and Special Concern Species of Wildlife

The coastal waters and upland areas in the vicinity of Sag Harbor Village provide habitat for at least 14 rare wildlife species. These include 9 species of birds, 3 species of reptiles, and 2 species of amphibians. Four species are listed as federally endangered and one as threatened nationally under the Endangered Species Act, and the remainder are listed by NYSDEC as endangered (3 species), threatened (3 species) or species of special concern (4 species) within New York State. These species are listed along with their protected status codes in Table 6.

TABLE 5

WINTER WATERBIRDS FOUND IN AND AROUND SAG HARBOR

wood duck (*Aix sponsa*)
 razorbill (*Alca torda*)
 dovekie (*Alle alle*)
 northern pintail (*Anas acuta*)
 American wigeon (*Anas americana*)
 northern shoveler (*Anas clypeata*)
 green-winged teal (*Anas crecca*)
 blue-winged teal (*Anas discors*)
 Eurasian wigeon (*Anas penelope*)
 mallard (*Anas platyrhynchos*)
 American black duck (*Anas rubripes*)
 gadwall (*Anas strepera*)
 great blue heron (*Ardea herodias*)
 ruddy turnstone (*Arenaria interpres*)
 lesser scaup (*Aythya affinis*)
 redhead (*Aythya americana*)
 ring-necked duck (*Aythya collaris*)
 greater scaup (*Aythya marila*)
 canvasback (*Aythya valisineria*)
 American bittern (*Botaurus lentiginosus*)
 brant (*Branta bernicla*)
 Canada goose (*Branta canadensis*)
 bufflehead (*Bucephala albeola*)
 common goldeneye (*Bucephala clangula*)
 Barrow's goldeneye (*Bucephala islandica*)
 sanderling (*Calidris alba*)
 dunlin (*Calidris alpina*)
 red knot (*Calidris canutus*)
 purple sandpiper (*Calidris maritima*)
 least sandpiper (*Calidris minutilla*)
 common snipe (*Capella gallinago*)
 willet (*Catoptrophus semipalmatus*)
 killdeer (*Charadrium vociferus*)
 snow goose (*Chen caerulescens*)
 old squaw (*Clangula hyemalis*)
 mute-swan (*Cygnus olor*)
 American coot (*Fulica americana*)
 common loon (*Gavia immer*)
 red-throated loon (*Gavia stellata*)
 American oystercatcher (*Haematopus palliatus*)
 bald eagle (*Haliaeetus leucocephalus*)
 harlequin duck (*Histrionicus histrionicus*)
 herring gull (*Larus argentatus*)
 laughing gull (*Larus atricilla*)
 ring-billed gull (*Larus delawarensis*)
 lesser black-backed gull (*Larus fuscus*)
 Iceland gull (*Larus glaucoides*)
 glaucous gull (*Larus hyperboreus*)

Diamondback terrapins (*Malaclemys terrapin*) have been reported throughout the study area, feeding in Little Northwest Creek and the Sag Harbor Cove complex, and breeding along the shoreline of Sag Harbor Bay. The diet of terrapins consists primarily of marine snails, clams and worms (The Audubon Society Field Guide to North American Reptiles and Amphibians, 1987).

Kemp's Ridley sea turtles (*Lepidochelys kempii*) have recently (1993) been reported and confirmed as occurring throughout the Peconic Estuary, east of Nassau Point (Southold Town), and notably within the Sag Harbor Bay/Northwest Harbor area. Whereas adult Kemp's Ridelys are typically concentrated near their breeding grounds in the Gulf of Mexico, juveniles of this species have been found with great regularity along the inshore waters off the northeastern Atlantic Coast. These northern waters have been found to provide an important developmental habitat for juvenile sea turtles. Juvenile Kemp's Ridelys actively forage in local waters for approximately 21 weeks, from about June 12th through the first week of November. Approximately 90 percent of their diet consists of crabs, and the majority are the non-swimming types including spider crabs (*Libinia* spp.) and rock crabs (*Cancer irroratus*) which are presumably easier for juvenile sea turtles to catch.

Although not currently listed as a rare species, but worthy of being noted, there is a significant population of harbor seals (*Phoca vitulina*) which utilizes the stone breakwater in Sag Harbor as a "haulout" area for resting and sunning. This location is significant, because Sag Harbor is one of only five major seal haulout areas on Long Island. In addition, two other species of seals have been observed in the area on occasion by the Okeanos Ocean Research Foundation, Inc., including harp seal (*Phoca groenlandica*) and grey seal (*Halichoerus grypus*).

4.3 Flooding and Erosion

A. Natural Protective Features

Protection from coastal erosion is provided by a variety of natural shoreline features. In the Village of Sag Harbor, these features primarily comprise nearshore areas, beaches, and vegetated marshes. Dunes and bluffs, which are also important natural protective features found throughout Long Island, are absent from the Village's shoreline.

Nearshore areas, beaches, and vegetated marshes protect the adjacent upland from coastal erosion by dissipating the energy of incident waves. In general, maximum protection is provided by gradually sloping nearshore areas and wider, more gently sloped beaches; wave impacts are more forceful, and thus the degree of erosion susceptibility is greater, if these features have a steeper gradient. Wide, thickly vegetated marshes also provide the greatest level of protection against waves.

A large section of shoreline containing bluffs is located on Barcelona Neck, less than one mile to the northeast of the Village. As discussed more fully in Section 4.3.B below, these bluffs serve an important function in protecting the Village shoreline from coastal erosion

TABLE 6

ENDANGERED, THREATENED, OR SPECIAL CONCERN WILDLIFE SPECIES
FOUND IN OR AROUND SAG HARBOR

COMMON NAME	SCIENTIFIC NAME	STATUS	
		FEDL.	NY
<i>BIRDS</i>			
Bald Eagle	Haliaeetus leucocephalus	E	E
Northern Harrier	Circus cyaneus	--	T
Osprey	Pandion haliaetus	--	T
Least Tern	Sterna antillarum	--	E
Roseate Tern	Sterna dougllii	E	E
Common Tern	Sterna hirundo	--	T
Piping Plover	Charadrius melodus	T	E
Least Bittern	Ixobrychus exilis	--	E
Eastern Bluebird	Sialia sialis	--	SC
<i>REPTILES</i>			
Kemp's Ridley Sea Turtle	Lepidochelys kempü	E	E
Leatherback Sea Turtle	Dermochelys coriacea	E	E
Diamondback Terrapin	Malaclemys terrapin	--	SC
<i>AMPHIBIANS</i>			
Tiger Salamander	Ambystoma tigrinum	--	E
Spotted Salamander	Ambystoma maculatum	--	SC

KEY TO STATUS CODES:

- E = Endangered - Any native species in imminent danger of extirpation or extinction
T = Threatened - Any native species likely to become an endangered species within the foreseeable future
SC = Special Concern - Any native species for which a welfare concern or risk of endangerment has been documented
-- = Unlisted - Not currently listed as one of the above status codes

Sources: New York State Department of Environmental Conservation, State Listed Species, February 1993.
Okeanos Ocean Research Foundation, Inc., January 1995.
National Marine Fisheries Services, January 1995.
Sag Harbor Village Draft LWRP, 1995.

(particularly along the beachfront to the east of the breakwater) by providing a continuous natural supply of sand in the littoral drift system.

B. Erosion Hazard Areas

The Village shoreline does not contain any officially designated erosion hazard areas, and generally does not suffer from a significant erosion problem. Slight shoreline erosion was noted at several locations during a field survey conducted in January 1995; these included the bayfront at the extreme easterly end of the Village (near Little Northwest Creek), the area to the immediate east of Ship Ashore Marina, and the northwest corner of the Redwood peninsula.

The virtual absence of significant coastal erosion in the Village is attributable to a number of factors. The area to the west of the North Haven/State Route 114 bridge is sheltered from the most energetic waves originating in the open bays of the Peconic system. The two shoreline segments that were noted to have experienced minor erosion in the inner harbor, to the east of Ship Ashore Marina and at the northwest corner of the Redwood peninsula, are oriented perpendicular to the longest fetch lines in Outer and Inner Sag Harbor Cove, respectively (where "fetch" is the distance of continuous open water over which winds can blow to create waves). However, both of these two sites have suffered only minor slumping of the low embankment along the shore, and no structures are threatened. Consequently, neither site can be characterized as being an area of critical erosion.

The portion of the Village shorefront between the North Haven/Route 114 bridge and the breakwater is effectively sheltered from most waves by the breakwater. Additionally, almost this entire stretch of shoreline has been armored with bulkheads or revetments, providing artificial structural protection against potential erosion. However, it should be noted that the effectiveness of the breakwater has reportedly decreased dramatically over the years due to the gravitational settlement and wave-induced shifting of the rocks. As a result, even moderate storms, especially northeasters (which drive waves directly against the breakwater) can cause surging waves to overtop the breakwater. During a relatively modest storm in December 1994, waves that bypassed the breakwater caused substantial damage to the bulkhead at the Village sewage treatment plant.

The shoreline to the east of the breakwater has the greatest potential for coastal erosion damage, since this area is exposed to waves traversing the open waters of Sag Harbor Bay. However, erosion there is presently limited to minor slumping of the low embankment at the easterly end of the beach. This lack of a significant erosion problem is due largely to the virtual absence of artificial impediments to the natural supply of sand delivered via littoral drift. Sand derived from the erosion of the bluffs at Barcelona Point is carried to the southwest by littoral currents. The shoreline along the west side of Barcelona Neck is undeveloped (including State natural resource management lands and an expansive tidal marsh), and shoreline structures (e.g., groins, jetties, etc.) that could interfere with littoral drift are not present.

In the area to the east of Walker Avenue, which includes the area of minor erosion near Little Northwest Creek discussed earlier, the individual residential lots are generally more than 200 feet deep. The houses on these properties are situated close to the street, allowing a large buffer against potential future erosion along the shoreline. These properties do not have structural protection along the shoreline.

The housing lots between Walker Avenue and Havens Beach are generally 100 feet deep or less. The homes on these parcels, which are situated much closer to the water than the homes further to the east, are all protected with structural devices (i.e., a continuous wooden bulkhead for the properties on Terry Drive and a concrete rubble revetment for the properties between Beach Road and Havens Park).

C. Flood Hazard Areas

The Village contains flood zones that have been designated by the Federal Emergency Management Agency (FEMA). There are several categories of flood zones, as depicted on FEMA's Flood Insurance Rate Maps, based on the degree of susceptibility to flood damage. Four general flood zones exist within the Village, as summarized below:

- *V zone* (i.e., high velocity zone, also called the coastal high hazard area) - that area of land which would be subject to breaking waves of three feet or greater height, in addition to still water flooding, during the 100-year storm event
- *A zone* (also called the area of special flood hazard) - that area of land which would primarily experience still water flooding, without significant wave activity, during the 100-year storm
- *B zone* - areas between the limits of the 100-year flood and the 500-year flood; or certain areas subject to 100-year flooding with average water depths of less than one foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood
- *C zone* - areas of minimal flooding

Figure 17 depicts the 100-year floodplain (i.e., the V and A zones), which encompasses all or a portion of every waterfront property in the Village. The width of the floodplain depends on topography. To the east of Milton Avenue, the floodplain lies immediately adjacent to the beach due to the relatively steep gradient of the adjacent upland. Between Milton Avenue and the breakwater, where the land is flatter, the floodplain extends further inland (especially at Havens Beach). The low-lying areas to the west of Main Street also have a wider floodplain.

The V zone is located entirely to the east of the breakwater, and generally occurs as a narrow band along the shore. A zones extend landward of the V zone to the east of the breakwater, and occupy the entire 100-year floodplain in the inner harbor area. Small

areas of B zone are also present within the Village, and extend inland from the A zones. Most of the upland in the Village is designated as C zone.

D. Shoreline Protection Structures

As shown in [Figure 11](#), a large portion of the shoreline in the Village of Sag Harbor, particularly within the harbor district, has been developed with structural protection devices. The general design and function of the primary categories of structures found in the Village are described as follows.

- *Bulkheads* - These wall-like structures are usually composed of timber, but are sometimes constructed with steel, concrete, masonry, or other materials. Bulkheads are built along the shoreline and are intended primarily to retain upland material, but also provide a barrier against shoreline recession. Bulkheads are the most common coastal structures in the Village, particularly on the commercial properties between the breakwater and Ship Ashore Marina. Bulkheads are also present on numerous residential properties throughout the Village.
- *Revetments* - These devices are also built along the shoreline, but are composed of heavy rocks or concrete rubble that is intended strictly to provide "armoring" for protection against wave attack. Revetments are also fairly common in the Village, being found beneath the North Haven/State Route 114 bridge, at Sag Harbor Cove West Marina, between Havens Beach and Beach Road, and at several other locations.
- *Groins* - These structures, which are usually composed of rock or concrete rubble, but can also be constructed of timber or other materials, are installed perpendicular to the shoreline for the purpose of trapping sediment moving nearshore in the littoral drift. Groins are not present in the Village, except the finger of concrete and masonry rubble projecting perpendicular to the shore at the Cor Maria property, which functions somewhat like a groin.
- *Breakwaters* - These structures can consist of uncemented rocks or rubble, concrete, and a variety of other materials. Breakwaters are oriented perpendicular to the primary path of travel of waves, and are primarily designed to provide a sheltered harbor area on the lee side by intercepting or dissipating incoming wave energy.



SECTION FIVE

**SECTION 5
LAND AND WATER USE REGULATIONS**

5.1 Land and Beach Use

Chapter 27 of the Village of Sag Harbor Code regulates the main provision of Chapter 27 pertaining to this Harbor Management Plan is summarized as follows.

- A current parking permit is required for vehicles to park at the premises of Havens Beach. Permits are available to both residents (defined as Village taxpayers, permanent residents, temporary residents, and guests at lodging facilities within the Village) and non-residents, although the fee structure differs between these two categories of beach users.

5.2 Recreational Motor Vehicle Control (Chapter 41)

The main provision of Chapter 41 pertaining to this Harbor Management Plan is summarized as follows.

- The operation of a recreational motor vehicle is prohibited on: (a) the private property of another person, unless the operator has the express written consent of the land owner; and (b) any public grounds or property, including Village-owned land, except in areas dedicated to or commonly used by motor vehicles.

Although not expressly stated, the above restrictions effectively prohibit general vehicular traffic along beaches throughout the Village, which applies particularly along the shoreline to the east of the breakwater. Vehicular traffic along the shoreline in other portions of the Village is precluded by the presence of wetlands and structures (i.e., docks and bulkheads).

5.3 Sewers (Chapter 43)

The main provisions of Chapter 43 pertaining to this Harbor Management Plan are summarized as follows.

- The entire Village is designated as single "sewerage system". All properties within the Village are assigned to one of three categories: (a) "service areas", in which the sewer system is in actual use; (b) "construction areas", in which construction of the sewer system has commenced, but is not in actual use; and (c) "deferred areas", which includes all portions of the Village not designated as service areas or construction areas.
- The boundary encompassing each of the seven individual service areas is delineated by street. No areas are presently included in the "construction areas" category; therefore, all properties that are not located within the boundaries of one of the services areas are classified as "deferred".

- All premises situated within any of the service areas and which are used for human occupancy, employment or recreation, are required to be connected to the Village sanitary sewer system.
- A general sewer use permit is required for most uses that are connected to the system. A special sewer use permit is required for certain uses, including a major contributing industry, which is defined as having: (a) an average sewage flow in excess of 50,000 gallons per day (GPD), or (b) a flow that exceeds five percent of the total daily flow of the entire system, or (c) a discharge containing toxic substances (as defined under applicable regulations), or (d) a significant impact to the sewer system, either singly or in combination with other contributing industries, either on the treatment plant itself or upon the quality of the effluent from the discharge pipe. A special sewer use permit is also needed for any facility that requires a variance due to the generation of wastes that fail to meet certain specific criteria, or that requires ancillary equipment to mitigate the effect of a non-complying waste.
- The law establishes specific design and construction standards for physical connections to the sewer system and related appurtenances, and specifies a review procedure for ensuring that all such equipment conforms with these requirements.
- A general prohibition is established on discharges to the sewer system that would interfere with the operation of the system. The following specific discharges are prohibited: stormwater, surface water, groundwater, roof runoff, and subsurface drainage; unpolluted cooling water and unpolluted industrial process water; any excessive volume of discharge or excessive concentration of any material in the discharge; gasoline, benzene, naphtha, fuel oil, and any flammable or explosive substance; toxic substances; any substance not conforming to specified Ph limitations; solid or viscous substances that may obstruct the flow in sewers or otherwise interfere with system operation; noxious or malodorous substances; radioactive wastes; pathogenic wastes; substances that are not amenable to treatment by the processes employed; industrial wastes exceeding specified color criteria; wastes from gasoline and diesel engine cleaning operations; paints and associated wastes; plating bath wastes, formaldehyde and carbide wastes; wastewaters exceeding specified criteria for hydrogen sulfide, sulphur dioxide, nitrous oxide, or any halogen; any water added for the purpose of diluting wastes which would otherwise contravene applicable limitations; any wastewater exceeding specific criteria for biological oxygen demand, suspended solids, chlorine demand, dissolved solids, heavy metals, chloride, cyanide, fluoride, nitrogen, PCBs, phenols, phosphorus, sodium, and sulfide; and any wastewater exceeding the standards established under the Federal Water Pollution Control Act Amendments.
- For wastes that do not comply with the restrictions outlined above, mitigative action that can be taken by the Village includes the following, singly or in combination: (a) rejecting the wastes, (b) requiring the installation of suitable appurtenances to eliminate the prohibited matter, (c) requiring pre-treatment so as to render the wastes acceptable for introduction into the sewer system, and (d) requiring controls over the volume and rate of discharges to the system.

- A wastewater sampling schedule is established for industrial, commercial and institutional users, based on average annual flow and type of discharge. The Village is also provided with the right to require 24-hour composite sampling of any major contributing industry. Specific protocols are established for monitoring, analysis, reporting, and record-keeping.

5.4 Bulkheading, Dredging and Canals (Chapter 12)

The main provisions of Chapter 12 governing activities within or adjacent to Village waters are summarized as follows.

- A permit from the Village Board of Trustees is required for: the erection of any bulkheading, dock, wharf, or pier; the excavation of any canal, boat basin or boat ramp; the dredging or filling in the tidal wetlands of the Village (with the term “wetlands” corresponding to the State definition). All such permit applications are subject to a public hearing.
- A permit shall not be granted under Chapter 12 for any project that would have any of the following effects: (a) materially contribute to shoreline erosion in the Village; (b) cause salt water intrusion into the groundwater aquifer serving the Village; (c) create unreasonable waterway traffic; or (e) adversely affect marine life in wetland areas.
- If the Village Board determines that a given proposed project consists exclusively of maintenance dredging or maintenance bulkheading to restore conditions that previously existed, the Board may waive the requirement for public hearing.

5.5 Waterways (Chapter 53)

The Waterways Law applies to all waters of the Village and waters adjacent to the Village to a distance of 1,500 feet from the mean high tide line. The area covered by the Law generally coincides with the waterside boundary of the study area for this Harbor Management Plan (see [Figure 2](#)). The main provisions of Chapter 53 are summarized as follows.

- The dumping of petroleum products, refuse, garbage or waste, and the discharge of toilets is prohibited.
- A Village permit is required for each vessel mooring. Mooring locations are governed by a grid established and controlled by the Harbormaster and/or Village Police.
- No boat shall be anchored or moored in such a way that it, at any time, rests within the lines of any navigation channel.
- The mooring of floats requires a Village permit and is controlled by the Harbormaster and/or Village Police.
- All boats, other than those propelled by hand, are prohibited from operating within 50 feet of lifelines and bathing floats and 50 feet from any swimming area or beach regularly used for bathing.
- No person shall moor within 1,500 feet of the shoreline east of the breakwater except moorings that are accessory to waterfront residence within 500 feet of the shoreline. Vessels moored in this area shall not exceed 26 feet in length.

- No person shall moor or anchor a vessel or float that will endanger the safety of or cause damage to any vessel previously moored or anchored.
- Maximum vessel speed is 45 miles per hour (mph), unless otherwise posted. The speed limit within harbors, within 500 feet of the shoreline east of the breakwater, and other areas congested with boats is 5 mph.
- Waterskiing, windsurfing, and similar activities are prohibited within 200 feet of the shoreline and within 50 feet of any bather, except when commencing or ending a ride.
- Water scooters (e.g., jet skis) are prohibited within harbor areas and designated public bathing beaches. Such vessels are prohibited outside harbor areas to a distance of 250 feet of the shoreline or within 50 feet of any bather, except when commencing or ending a ride at a speed no greater than 10 mph.
- Skin diving, scuba, swimming, and related activities are prohibited within any channel.

5.6 **Shellfish Harvesting Restrictions**

The Village of Sag Harbor has no authority to regulate the taking of shellfish in the Sag Harbor Cove/Bay Complex. As discussed in Section 2.2.B, the State of New York and the Town of Southampton own the bottom lands underlying the waters of the harbor management area. The Town of Southampton has adopted its own set of regulations governing the use of this resource. In addition, the taking of shellfish in any waters in the State requires a permit from the NYSDEC. These regulations are discussed as follows.

A. Town of Southampton

In 1992, the Town of Southampton adopted by resolution the “Rules and Regulations for the Management and Products of the Waters of the Town of Southampton”. Article II, which pertains specifically to shellfish, contains the following provisions which pertain to that portion of the Village’s harbor management area within the Town of Southampton:

- establishes specific requirements for harvesting methods and limits applicable to the taking of oysters, scallops, hard clams, soft clams, and crabs;
- restricts the taking of shellfish to Town of Southampton residents and taxpayers who have obtained the required permit;
- restricts the taking of shellfish to certified waters;
- requires that fish and crustaceans taken unintentionally during shellfish harvesting be returned to the water at once without unnecessary injury; and
- prohibits the return of live starfish, drills, drum fish, and moonsnails to the waters of the Town of Southampton

B. New York State Department of Environmental Conservation

Pursuant to 6NYCRR, Part 41, NYSDEC regulates the harvesting of shellfish from all coastal waters in New York State and implements and enforces the provisions of the National Shellfish Sanitation Program (NSSP).

Perhaps NYSDEC's most important duty under the requirements of the NSSP is to classify all shellfish beds on the basis of regular water quality analyses (additional information on the NSSP is contained in Appendix A). NYSDEC's classification system consists of the following five categories (note that there is some degree of overlap among these categories):

- *certified (approved) area* - shellfish may be harvested for direct marketing throughout the year, except during a public health emergency (e.g., as may occur after a sewage treatment plant failure or a hurricane);
- *uncertified (closed) area* - shellfish harvesting is not permitted, either because water quality analyses indicate non-conformance with certification criteria, or because sampling is inadequate to satisfactorily demonstrate that the criteria are met;
- *seasonally certified area* - shellfish may be harvested for direct marketing during a specific portion of the year (typically during the winter months, when contaminant inputs are lower), except during a public health emergency, when all harvesting activities are prohibited;
- *conditionally certified (conditionally approved) area* - shellfish may be harvested for direct marketing only when certain specific criteria are met regarding rainfall and background coliform levels; and
- *restricted area* - an area that does not meet the water quality criteria for certification, but from which shellfish may be harvested (with NYSDEC permission and under NYSDEC supervision) for purification and transfer to certified areas.

There are three primary mechanisms by which NYSDEC can effect the closure of a shellfish bed that has been contaminated (or has the potential to be contaminated) to a level exceeding shellfish sanitation criteria. These mechanisms are described as follows:

- If an outbreak of shellfish-related illness can be definitively traced to a specific area in which boat mooring/anchoring is the only (or most apparent) potential source of fecal contamination, NYSDEC will implement an emergency closure within 24 hours.
- If a critical situation develops in a mooring/anchoring area, as determined through the application of the FDA dilution analysis based on the number of boats present, NYSDEC will effect closure through emergency rule-making. Closure typically occurs within several weeks of the initiation of this process.
- If NYSDEC determines that a definite, though non-critical problem exists, the standard rule-making process is followed, which typically takes four to six months.

If NYSDEC proceeds with rule-making, either through the emergency or regular process, the Village and adjoining towns will be notified of the problem early in the administrative proceedings. If an emergency closure is required, NYSDEC will attempt to notify the Village and adjoining towns in advance, but will not delay the closure if they are not successful in their initial efforts to alert the Village to the situation.

5.7 Zoning Regulations (Chapter 55)

Article XVI of the Village of Sag Harbor Zoning Code authorizes the Village Planning Board to establish a Site Plan Review procedure. Under these provisions, site plans must be reviewed for all proposed residential projects for three or more units, and for all nonresidential construction and land use projects. This review is aimed at implementing the intent of the Zoning Ordinance; assuring the adequacy of proposed site improvements such as grading, drainage, on-site stormwater recharge, erosion protection, sewage disposal, and site access; integrating other required review procedures; coordinating development proposals and development potential of adjacent lands; and assessing the impacts of the proposed development on adjacent lands, the availability of open space, visual access, and other general environmental and social factors. Site plans are required to show the location of the proposed development in relation to adjacent freshwater and tidal wetlands; first-floor flood elevations if located adjacent to tidal waters; the location of all natural resources such as dunes, streams, ponds, and lakes, as well as canals and bulkheads; the existing topography of the site and adjacent properties; and existing and proposed stormwater drainage facilities to ensure that surface runoff is and/or will be directed away from surface waters and wetlands and into suitable structure designed to entrap pollutants prior to discharge.

All of the zoning classifications contained in the Village Zoning Ordinance include provisions that require a minimum percentage of site area be retained as natural or landscaped open space. In most districts natural vegetation that exists within 25 feet of the mean high water line or upland edge of a wetland must be preserved and sewage disposal systems must be set back a distance of 100 feet from these resources. Furthermore, in the R-20, Moderate Income and Multi-family residential districts, no fertilized vegetation can be planted within 25 feet of wetlands, coastal waters or beach and dune habitats.

5.8 Wetlands Regulations

A. Village Tidal Wetlands Regulations

The Village of Sag Harbor does not have a separate wetlands law. Rather, tidal wetlands within the Village (located above mean high water) are regulated pursuant to Chapter 12 of the Village Code, entitled Bulkheading, Dredging and Canals. The provisions of Chapter 12 which apply to wetlands are summarized as follows:

- a permit is required from the Sag Harbor Village Trustees to dredge or fill tidal wetlands, as defined on NYSDEC inventory maps;

- permit applications are subject to a public hearing held within 30 days after filing;
- activities which would adversely affect marine life within the wetland are prohibited - the Village trustees may solicit and consider the technical opinions of NYSDEC in reaching decisions to grant permit approvals;
- establishes a fee and/or imprisonment sentence for each violation; and
- established a wetland restoration requirement for all violations.

B. Town of Southampton Wetlands Regulations

The Town Trustees regulate the bottomlands of all water bodies in the Village which lie within the corporate limits of the Town of Southampton. Although not specifically stated in their Rules and Regulations, the Southampton Town Trustees regulate any activities which might alter wetlands occurring below the mean high water line. This is implied in Article VII which regulates dredging, the construction of shoreline hardening structures, and the placement of moorings, tie-off poles or other obstructions. This section states that "No person shall dig, dredge or change the bottom of any waters in the Town of Southampton...unless authorized by a permit issued by the Trustees" (O'Gara, February 23, 1995; Rules and Regulations for the Management and Products of the Waters of the Town of Southampton, April 1992).

C. State Tidal Wetlands Regulations

NYSDEC regulates tidal wetlands pursuant to Article 25 of the NYS Environmental Conservation Law. The Tidal Wetlands regulations went into effect in August of 1977. The intent of this article is to ensure that uses of tidal wetlands and adjacent areas are compatible with the preservation, protection and enhancement of these lands. Article 25 includes the following provisions:

- Directs NYSDEC to inventory tidal wetlands.
- Defines a spectrum of land use activities from, compatible to incompatible, within the regulated area.
- Details the set-back requirements and minimum lot sizes for buildings and appurtenances.
- Mandates NYSDEC to administer a permit program for any use or alteration of tidal wetlands. The regulated area extends generally 300 feet landward of the designated wetland boundary; or up to the seaward edge of existing (as of August 20, 1977) man-made structures; or to the elevation contour of 10 feet above mean sea level; or the topographic crest of a bluff or cliff.

- Directs NYSDEC to establish a public hearing forum for actions proposed within the regulated area.
- Empowers NYSDEC with enforcement capability.

All proposed actions involving State-regulated tidal wetlands located within the jurisdictional boundaries of the Village of Sag Harbor must be consistent with the policies and objectives of the Sag Harbor LWRP, as discussed in Section 5.12 below.

D. State Freshwater Regulations

NYSDEC regulates freshwater wetlands pursuant to Article 24 of the NYS Environmental Conservation Law. Article 24 was enacted on September 1, 1975 to preserve, protect and conserve freshwater wetlands and the benefits derived from them. This article includes the following provisions:

- Directs NYSDEC to inventory freshwater wetlands.
- Empowers NYSDEC to regulate the development and use of wetlands which are 12.4 acres or greater in size, and wetlands smaller than 12.4 acres which are deemed by NYSDEC to be of unusual local importance. The regulated area extends to 100 feet beyond the designated wetland boundary.
- Regulated activities include dredging, draining, filling and potential polluting activities.
- Mandates NYSDEC to administer a permit program for any use or alteration of regulated freshwater wetlands.
- Defines those activities which are exempt from permit requirements, such as all agricultural activities which do not involve the filling of wetlands.

All proposed actions involving State-regulated freshwater wetlands located within the jurisdictional boundaries of the Village of Sag Harbor must be consistent with the policies and objectives of the Sag Harbor Village LWRP, as discussed in Section 5.12 below.

E. Federal Wetlands Regulations

The U.S. Army Corps of Engineers (ACE) regulates activities in all navigable waters pursuant to Section 404 of the Clean Water Act. This regulation authorizes the ACE as the protector of federal wetlands, and prohibits the discharge of dredge or fill materials into navigable waters without a permit from the ACE. Section 404 contains the following provisions:

- Authorizes the ACE to issue permits for filling navigable waters in accordance with EPA guidelines so that..."no discharge of dredged or fill material be permitted if a practicable alternative exists which would have less adverse impact on the aquatic

ecosystem...and...no discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of U.S. Waters."

- Empowers the EPA to veto a decision by the ACE to issue a permit to fill a wetland.
- Authorizes the ACE to issue General Permits on a statewide, regional or nationwide basis for certain activities in wetlands that are similar in nature and will cause only minimal adverse effect to the environment.
- Exempts certain activities from the permit requirements, including normal farming, forestry and ranching activities which are part of an established operation.

All Federal actions proposed within the jurisdictional boundaries of the Village of Sag Harbor must be consistent with the policies and objectives of the Sag Harbor Village LWRP, as outlined in Section 5.12 below.

5.9 Natural Resources Regulations

A. Village of Sag Harbor

The Subdivision regulations (Chapter 46 of the Village Code) contain a number of sections that act to preserve and protect the natural and historic resources of the Village of Sag Harbor. The main provisions of Chapter 46 that pertain to this Harbor Management Plan are summarized as follows.

Section 46-14 regulates *lot specifications* and requires that any lot arrangement shall be constructed so as to avoid any foreseeable difficulties for reasons of topography or other natural conditions. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy or for other such uses that may: increase the danger to health, life or property; aggravate flood hazards; or encourage the destruction of valuable wetlands through filling or pollution. Such land within the plat may be set aside for certain uses that would not be endangered by periodic or occasional inundation, or may be improved in a manner satisfactory to the Village, provided that such decisions are guided by the intent and purpose of Chapter 12 of the Village Code which regulates bulkheading, dredging and canals, and all other applicable wetlands legislation.

Section 15 of Chapter 46 authorizes the *preservation of the natural environment*. Section 46-15 contains the following restrictions:

- subdivision design shall preserve, to the greatest extent possible, the natural terrain and natural drainage pattern and endeavor to prevent the degradation or destruction of any pond, stream, tidal and ground waters found on the site or adjacent to it;
- all open watercourses and salt marshes beaches and shoreline shall be recognized as community assets and shall be protected and preserved in accordance with the intent of the Zoning Ordinance and other applicable legislation;

- if ponds, streams, unusual vegetative cover or other natural or historic locations are on the site, they shall be considered for park areas (as set forth in Section 46-13 of the Subdivision regulations which outlines park requirements);
- a conscious effort shall be made to preserve all worthwhile trees and shrubs existing on the site;
- the natural fertility of the soil shall be preserved by causing the least amount of disturbance as possible, and;
- all stormwater drainage shall be recharged into the subsurface groundwater reservoir by use of enclosed dry wells and leaching basins or open recharge basins. The appearance of all open recharge basins shall be enhanced by the use of screen plantings, including good natural vegetative cover where it exists. Natural drainage swales may be used for recharge provided that cover vegetation and subsoils permit appropriate water penetration and that such areas are offered for dedication to the municipality for such purposes.

In addition to Sections 46-14 and 46-15, Section 46-20 of the Subdivision regulations was designed to prevent any *threat to natural or historic assets*. Section 46-20 states that where the Village Planning Board finds that strict compliance with the subdivision regulations may cause conflict with the objectives and purposes of the Village Zoning Ordinance with regard to the preservation of both natural and historic lands or structures that are deemed important to the common welfare of the Village, the regulations may be varied so that the important resources are not threatened and so as to secure the public interest therein. Such variations may be permitted only when they will not have the effect of nullifying the intent and purpose of the Zoning Ordinance, the Official Map and the Master Plan (if such exists).

B. Suffolk County

The entire Peconic Bay system (including its tributaries and all lands extending 500 feet from the shoreline) has been designated by the Suffolk County Legislature as a *Critical Environmental Area (CEA)* pursuant to Local Law No. 29 of 1988. Therefore, in accordance with Part 617.12(b)(11) of the State Environmental Quality Review Act (SEQRA), any unlisted action occurring wholly or partially within or substantially contiguous to this CEA is automatically considered a Type I action and is subject to a coordinated SEQRA review. In each case, a Lead Agency must be designated, a Long Environmental Assessment Form (LEAF) must be completed and a "Determination of Significance" must be publicly filed. This determination must be based on the review of the LEAF wherein the Lead Agency must determine if the proposed action would potentially result in at least one large and/or important impact to the environment. In those cases where the Lead Agency makes a "Positive Declaration of Significance", the preparation of an environmental impact statement (EIS) is required. Neither the Village of Sag Harbor nor the Towns of East Hampton or Southampton have designated any additional areas along the shoreline of the Village as Critical Environmental Areas.

5.10 Floodplain Regulations

The Village has adopted the Tidal Flood Hazard Overlay District (Article XVII of the Zoning Law) law to minimize structural damages, threats to public safety, and other potential adverse impacts engendered by development in the coastal floodplain. This law establishes a Tidal Flood Hazard Overlay District (TFHO), and provides regulations that apply in addition to those regulations of the standard zoning districts enumerated in Section 5.7.

The boundaries of the TFHO District are derived from the Flood Insurance Rate Maps which have been developed by FEMA (see Section 4.3.C). Activities within the TFHO District that are subject to the requirements of Article XVII include: constructing, moving, altering, or extending any building or structure; occupying a building or structure; and using land for such activities as mining, dredging, filling, grading, excavation, and drilling.

Article XVII specifies minimum design and construction standards for buildings and other structures within the TFHO District, and establishes a review procedure for ensuring that all regulated structures conform with these requirements. The Village Building Inspector is the primary agent responsible for implementing the provisions of Article XVII.

A distinct set of standards applies to structures in the V zone (coastal high hazard area) versus the A zone (area of special flood hazard). In general, due to the potential for wave impact damage in the V zone, structures in these areas must adhere to more stringent requirements than are specified for the A zone. The V zone standards include: the structure must be elevated on pilings of adequate strength to withstand anticipated wave impacts, as certified by a registered professional engineer or architect; the space below the lowest habitable floor shall not be enclosed, unless qualifying breakaway walls are used; and the structure must be placed on the property in a manner and at a location that minimizes adverse impacts to natural protective features.

All construction in the 100-year floodplain (A and V zone) must include the following features, as certified by a registered professional engineer or architect: anchoring sufficient to prevent flotation caused by rising floodwaters; structural strength adequate to resist expected hydrostatic and hydrodynamic loads; utility placement and installation in a manner that minimizes or eliminates impairment due to flooding; for residential construction, elevation of the lowest enclosed floor surface (including the basement) above the base flood elevation (BFE), as specified on the Flood Insurance Rate Map; for non-residential construction, elevation of the lowest enclosed floor surface above the BFE, or floodproofing of that portion of the structure situated below BFE.

5.11 Historic Preservation and Architectural Review Board

Pursuant to Article XV of Chapter 55 of the Village Code, an Historic Preservation and Architectural Review Board was established. The Board of Historic Preservation and Architectural Review is responsible for maintaining the desirable character of the Village's Historic District and of designated historic and cultural landmarks. The review board is

charged with the duty of disapproving the construction, reconstruction and alteration of buildings, structures or signs that are designed without considering the relationship of the new or altered building or structure to the character of existing buildings or structures and the environment within which they are set. The board also has the responsibility of exercising sound judgment and of rejecting plans which, in its opinion, are not of harmonious character because of: the proposed style, materials, scale, form, rhythm, proportion, mass, line, color, or detail; the placement or proposed or altered buildings or structures upon the property; the relation of the proposed or altered buildings or structures to the spaces between existing buildings or the natural character of the landscape; or because the proposed plans do not provide for the location and design of structures and open spaces so as to create a balanced and harmonious composition as a whole and with regard to the relation among its several parts and features.

When reviewing plans relating to property in the Historic District or plans involving designated historic or cultural landmarks, the review board must utilize the criteria set forth in Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings established by the U.S. Secretary of the Interior. Development plans and proposals for structural improvement or change that are found to conform with these requirements will be issued a Certificate of Appropriateness by the review board.

In addition to the above, the Board of Historic Preservation and Architectural Review has the power to:

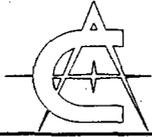
- conduct surveys of buildings for the purpose of determining those of historic and/or architectural significance and other pertinent facts;
- formulate recommendations concerning the preparation of maps, brochures and historic markers for selected historic and/or architectural sites and buildings;
- cooperate with and advise the Village Board of Trustees, Planning Board, and other municipal agencies in matters involving historic and/or architectural sites and buildings;
- advise owners of historic buildings on problems of preservation and restoration; and
- make recommendations to the Board of Trustees for amendments to the Zoning Map that would change the boundaries of the Historic District and/or include other properties or areas into this district.

5.12 Sag Harbor Village Consistency Law

As a part of the adoption of the Local Waterfront Revitalization Program in 1986, the Village amended Chapter 15 of the Village Code (the Environmental Quality Review Law), to include provisions for the review of actions for consistency with the LWRP. Section 15-2.6 of the Village Code requires that any action to be undertaken within the local waterfront revitalization area must be consistent with the policies and purposes of the LWRP. All boards, departments, offices and other bodies and officers of the Village are required to review actions for consistency where it is determined that an action may have a significant effect on the

environment. Where it is resolved that an action will not have a significant environmental impacts, consistency must be determined subsequent to the initial determination of nonsignificance. If it is concluded that any action would cause a substantial hinderance to the achievement of any policy or purpose of the LWRP, the proposed action shall not be undertaken unless it is found that:

- no reasonable alternatives exist that would permit the action to be undertaken without substantial hinderance to such policy or purpose;
- the action would be undertaken in a manner which will minimize all adverse effects on such policy or purpose to the maximum extent practicable; and/or
- the action will result in an overriding Village, regional or statewide public benefit.



SECTION SIX

SECTION 6
WATER USE PLAN: ISSUES AND OBJECTIVES

6.1 Local and Regional Issues, Opportunities and Objectives of Importance

When the Sag Harbor LWRP was adopted in 1986, it included the establishment of three *water use districts*. These include the harbor district, the limited-intensity district, and conservation district (see [Figure 4](#)). Although these districts were established, no use standards were developed to guide activities that occurred within the individual districts. Therefore, the following standards should be applied in all water use districts, many of these provisions are presently contained in Chapters 12 and 53 of the Village of Sag Harbor Code.

1. No structure erected below the mean high water line shall be permitted unless it is water-dependent in nature and used solely for the purpose of gaining access to a waterway for commerce, navigation, recreation and other public trust purposes, including the incidental right of public anchoring. Water-dependent uses include any activity which can only be conducted on, in over or adjacent to a water body because the activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.
2. Piers, docks, and catwalks are not permitted where the result would be unnecessary interference with the use of public trust lands. Interference with passage along the shoreline is limited to the minimum extent necessary to gain access from the upland to the water.
3. Obstruction of navigable waters is limited to the extent that it interferes with commercial navigation; to the minimum distance necessary to access navigable waters; by the extent and characteristics of the developable adjacent upland area and its ability to support in-water development for the water-dependent use; by potential adverse impacts on natural resources and their uses; and by potential adverse impacts on public safety.
4. No activity shall be permitted that would materially cause saltwater intrusion to the water table serving the Village of Sag Harbor.
5. No activity shall be permitted that would create unreasonable traffic and congestion upon the waters located within 1,500 feet of the Village shoreline.
6. No activity shall be permitted that would adversely affect marine life in wetland areas.
7. No boat shall be anchored or moored in such a way that it, at any time, rests within the lines of any channel.
8. All floats shall be anchored or moored in such a way as to be secure at all times and under all conditions.

9. No person shall operate a vessel at speeds greater than five (5) miles per hour within two hundred feet (200) of the shoreline west of the breakwater, within five hundred (500) feet of the shoreline of the breakwater, or within fifty (50) feet of swimmers, bathing floats, or lifelines.
10. No boat shall be operated within 1,500 feet of the shore at a speed in excess of that posted by speed markers.
11. No person shall ride on water skis or a surfboard or similar device or use or operate a boat to tow a person thereon in any marked channel, nor within 200 feet of any shoreline, nor within 50 feet of any bather or swimmer, except for the sole purpose of commencing or terminating the ride in an approach or departure that is perpendicular to the shoreline.
12. No person shall operate a personal watercraft or a specialty-prop craft within 500 feet of a designated swimming area.
13. No person shall skin-dive with any type of diving equipment within any channel, nor shall any person bathe or swim in any channel, except in the course of a rescue.
14. No person shall skin-dive with any type of diving equipment unless the diving area has been marked with the regulation red diving flag, nor shall any person allow or permit such diving flag to remain in any area unless such a person is actually skin diving in the area at the time. No boat shall operate within 50 feet of any area marked for skin diving by the placement of said regulation diving flag.
15. No person shall discharge any apparatus designed for use in spearfishing within 200 feet of any lifelines or bathing float, nor within 200 feet of any public or semi-public beach regularly used for bathing or swimming, nor within 50 feet of any person bathing or swimming.

The *harbor district* (Figure 12) is targeted as the appropriate location to foster most new water-dependent use and development. It is designated for the most intensive water uses, permitting activities that are customarily found in an active recreational boating harbor. This district is the most suitable location for the expansion or renovation of existing water-dependent uses. Only those uses that are incompatible to the safe operation of a harbor, or that are detrimental to the harbor environment, are prohibited. The harbor district includes the Sag Harbor and Outer Sag Harbor Cove areas, that are developed with, and contain concentrations of, water-dependent commercial and/or industrial uses and support facilities. The harbor and Outer Cove areas are the center for water-borne commerce, recreation, and other water-dependent business activity in the Village. Allowable surface water uses in the harbor district include secondary contact recreation, such as fishing, boating and shellfishing for market purposes (as permitted).

Within the harbor district, preference will be given to promoting and facilitating new water-dependent use and development in areas that have been previously developed and do not exhibit significant or high natural resource values. New water-dependent uses should be sited outside the harbor district only if the use has unique siting requirements that require a location outside of the district, and all potential significant impacts are mitigated. The following standards shall apply within the harbor district.

1. Existing shoreline stabilization and engineering structures, such as piers, wharfs, jetties, and bulkheads, shall be maintained and, where necessary, new shoreline stabilization and engineering structures may be constructed in accordance with the provisions of the WF Waterfront and MA Marine zoning districts.
2. Public and private navigation lanes, channels and basins shall be maintained to provide water depths consistent with requirements of existing water-dependent uses.
3. An increase in the use of surface waters in areas where such additional activity would pose safety hazards or obstruct navigation shall be prohibited.
4. Development shall be consistent with principal historic water-dependent harbor uses.
5. Development along the shoreline shall enhance or complement the harbor character in terms of scale, intensity of use, and architectural style.
6. Public access to the shore through provisions, such as including access from the upland, boat ramps and/or transient boat moorings, shall be encouraged, provided that such increased access does not pose safety hazards or create undue congestion.
7. Additional use of surface waters, where the resulting increase in traffic and congestion is likely to jeopardize public safety, is prohibited.
8. No boat shall be operated in any harbor or in any area where there is congestion of boats, either underway or at anchor, at a speed in excess of five miles per hour unless speed markers have been posted by the Village indicating otherwise.

The *low-intensity district* is a transition zone between the more permissible harbor district and the stringent conservation district. The purpose of this district is to accommodate the shoreline use associated with the historical pattern of development, which is predominantly residential, while encouraging public access and such water-dependent activities as fishing. General boating areas of Sag Harbor Bay and Outer Sag Harbor Cove are included in this district. Waters in the low-intensity district shall be used for activities involving primary contact recreation, including swimming, diving, water skiing and surfing, and secondary contact recreation, such as fishing, boating, and shellfishing for market purposes (as permitted).

Standards applicable to the low-intensity district include the following.

1. Water surface coverage shall be permitted only to accommodate water-dependent uses which require structures or activities in the water as a part of the use and to the minimum extent necessary to exercise littoral rights.
2. An increase in the use of surface waters in areas where such additional activity would pose safety hazards to swimming and public access or obstruct navigation shall be prohibited.
3. Hardening of the shoreline within the low-intensity district is discouraged. Hard structural erosion protection measures shall be used for control of erosion only where:
 - setback from the shoreline is not appropriate because a structure is functionally dependent on a location on or in coastal waters, located in an area of extensive public investment, or is otherwise not practicable;
 - vegetative approaches to controlling erosion would not be effective;
 - enhancement of natural protective features would not prove practical in providing erosion protection;
 - construction of a hard structure is the only practical design consideration and is essential to protecting the principal use;
 - the structure is necessary to mitigate the erosive effects of immediately adjacent structures;
 - the proposed hard structural erosion protection measures are limited to the minimum scale necessary and are based on sound engineering practices;
 - practical vegetative methods have been included in the project design and implementation; or
 - adequate mitigation is provided and maintained to ensure that there is no adverse impact to adjacent property, to natural coastal processes and natural resources, and if undertaken by a private property owner, does not incur significant direct or indirect public costs.

The *conservation district* is intended to support the sensitive environmental resources and habitats of the Village of Sag Harbor's waters. Low intensity use is necessary in some highly sensitive water areas to assure their preservation and enhancement, such as that in the coves where poor flushing action is prevalent. Waters in the conservation district shall be used for activities involving primary contact recreation, including swimming, diving, and surfing, and secondary contact recreation, such as fishing, boating, and shellfishing for market purposes (as permitted), and fishing and fish propagation.

Standards applicable to the conservation district include the following;

1. New bulkheading shall not be allowed. Use of vegetative non-structural measures which have a reasonable probability of managing flooding and erosion based on shoreline characteristics including exposure, geometry, and sediment composition.
2. The disturbance of natural shorelines shall be avoided.
3. The bottom condition of water bodies in the conservation district shall be enhanced and maintained at a level what would support shellfish propagation and harvesting.
4. The extent of surface water coverage shall be the minimum necessary for access to navigable waters.
5. The preservation of natural protective features shall be enhanced (beaches, nearshore, bars, spits, flats, wetlands, and all associated vegetation) and success of restoration efforts through relevant signage or other management measures which focus on presentation of educational, research or interpretive information.
6. Vegetative buffers between shoreline properties and surface waters within the conservation district shall be provided and maintained to achieve a high filtration efficiency of surface runoff. Avoid permanent or unnecessary disturbance within buffer areas. Such buffer areas shall be planted and maintained with indigenous vegetation.

As noted above, when the Sag Harbor LWRP was adopted in 1986, it established three harbor use districts for controlling the intensity of water uses within the Sag Harbor Cove/Bay Complex. In an effort to place a greater emphasis on environmental protection and resource preservation, a fourth district is proposed. The district, to be known as the "preservation district", would be more protective than the conservation district. Surface waters identified to be designated as preservation districts include Round Pond, Otter Pond, and the upper reaches of both Ligonee Brook and Little Northwest Creek. The only permitted activities in these areas would be passive in nature to avoid potential adverse environmental impacts. Access to these areas would be provided for passive recreational, educational, scientific, and interpretive uses of natural resources that would not result in adverse impacts. Motorized activities would not be permitted in these areas. Furthermore, the construction of shoreline structures or the hardening of the shoreline in these areas would be prohibited.

The following is a discussion of the issues of local and regional importance and opportunities exist for improvement in the harbor management area. The conditions and recommendations set forth below are illustrated on the [HMC](#) and [Fig. 12](#).

- 1. The character of Sag Harbor's waterfront is directly related to the dependency and intensity of water-related and enhanced uses**

Sag Harbor Village is one of two areas in the Peconic Bays region that supports a concentration of water-dependent uses. This is important from both a regional and local perspective. The uses and activities that occur along the Sag Harbor Village waterfront should benefit from this coastal location. In light of this, efforts should be taken to maintain Sag Harbor as a center for maritime uses. In all the water use districts, a pattern of development should be enhanced and encouraged that reflects a mix of appropriately located water-dependent commercial uses, recreational uses and open space, and residential uses. The Village's commercial maritime heritage should also be enhanced and maintained. In the Harbor District, priority should be given to establishment and maintenance of water-dependent uses over all other uses in this area. Sufficient infrastructure should be provided to support these efforts.

In the Low-intensity District and the Conservation District, efforts should be focused on the establishment of new, and the maintenance of existing, water-dependent recreational uses at appropriate locations. New development, however, should be avoided at sites in the Conservation District (as well as the Preservation District) that exhibit important natural resource value.

- 2. The viability of water-dependent uses and other uses that occur on the water surface is directly related to adequate dredging to protect the channels that provide access to the Harbor District**

Water-dependent uses in Sag Harbor rely upon the navigational access infrastructure that has been established. As discussed in Section 3.2.G and shown in [Figure D](#), there are a number of navigation channels located throughout the Sag Harbor Cove/Bay Complex. Some of these channels have not been dredged since they were first established. In addition, there are areas situated outside of the delineated channels that are in need of dredging to mitigate shoaling and water depth problems. The dredging guidelines set forth below should be utilized to direct future actions in Village waters. They should also provide the basis for seeking dredging assistance and funding from appropriate governmental agencies.

- Dredging is an important activity with costs and impacts that require it to be undertaken to meet the current and future needs of water-dependent uses in the Harbor District. Dredging activities undertaken east of the North Haven/Route 114 bridge should be continued to the ten-foot depths initiated by the Army Corps of Engineers. West of the bridge, access channels should be maintained at sufficient depths (four feet below mean low water) to meet the needs of existing water-dependent uses.
- In 1960, the Suffolk County Department of Public Works (SCDPW) constructed an extensive navigation channel through Outer Sag Harbor Cove. This channel extends west from the North Haven/State Route 114 bridge to the head of Paynes Creek. In 1965, this channel was extended south through Inner and Upper Sag Harbor Cove. The area in the vicinity of Marine Park was dredged in 1977 and the Village A and B Docks area was dredged in 1979. Through the analysis conducted as a part of this harbor management plan, it has been determined that the portion of the main channel that extends from the

North Haven/State Route 114 bridge west to the Big Narrows, including the spur for the Village docks and the spur to the Ship Ashore Marina and Redwood Boat Basin, should be maintained in the public interest. That portion of the main channel that extends into Paynes Creek and the Inner and Upper Cove areas should remain as a designated channel, but no longer be publicly maintained, except in extreme circumstances.

- The SCDPW has not conducted any maintenance dredging of the channels and basin areas in the Sag Harbor Cove/Bay Complex since they were originally established. The SCDPW has indicated that they have not received any formal requests for dredging from the Village through the Towns of East Hampton and Southampton and are unaware of localized shoaling conditions or current dredging needs. Furthermore, with the exception of permit applications that were filed in 1990 for the dredging of a spur from the main channel to the Redwood boat basin at the Ship Ashore Marina in Outer Sag Harbor Cove, all dredging permits for Sag Harbor projects have expired. The administrative process for initiating County-sponsored dredging in local waters is a lengthy one, which is exacerbated by the time constraints involved with securing the necessary state and federal permit approvals. Therefore, the Village should promptly advise the County of their dredging needs to commence the application process and facilitate dredging where required.
- There is a navigation channel and turning basin located within the Sag Harbor area that was originally dredged by the Army Corps of Engineers (ACE). This channel, which has not been dredged since it was constructed in 1937, was deauthorized by the ACE in 1992. The Village is responsible for the placement and maintenance of navigational aids in this area. However, although this channel has shoaled and requires dredging, the federal government is no longer responsible for the dredge maintenance of this channel. Therefore, the Village must either: 1) request that the ACE re-authorize this navigation channel; 2) request that the SCDPW add this channel to their list of dredging projects that are in the public interest; or 3) directly arrange for the private maintenance dredging of this channel.
- The ACE constructed a two-section, 3,180-foot breakwater to the east of the federal navigation channel and adjacent anchorage area. Shoaling is occurring along the western side of this structure, particularly near its intersection with the shoreline, and is impacting the full use of the anchorage area which is located between the channel and the breakwater. This has restricted the use of portions of the anchorage area to only shallow-draft vessels. Shoaling is also a problem in the small anchorage area located to the west of the Long Wharf. Bottom depths in this area have been reduced, making it accessible to only shallow-draft vessels. Dredging is required in these areas to re-establish the full extent of mooring activities and improve navigation. Since neither of these areas have been dredged in the past, they should also be added to the County's dredging list for the Sag Harbor area.
- NYSDEC is also taking a closer look at all new dredging projects (those areas that have not been dredged within the past 20 years are considered new projects). New projects are not likely to receive approval unless an overwhelming public need can be demonstrated and the issue of acceptable dredge spoil disposal methods and sites can be addressed. In the past, dredge spoils were disposed in upland areas in the vicinity of the

Redwood peninsula; Haven's Beach was utilized for the disposal of spoil materials from the Marine Park dredging site. However, disposal of dredge spoils in these areas is no longer feasible because these areas are residentially-developed, in close proximity to residential development, or (in the case of Haven's Beach) utilized for active public recreation. There are not upland areas suitable for dredge spoil disposal in the Village. Therefore, spoil materials generated from future dredging projects would have to be removed from the project site and disposed of at a suitable location outside of the Village.

- The expansion of water-dependent structures (i.e., docks and marinas) in the Harbor District is limited by the nearshore location of the navigation channels. Certain channels would have to be relocated further from shore to allow for such expansion. A channel relocation would result in a loss of navigable water depth of approximately two feet and a loss in anchorage space. The Village must access the alternatives for expansion of water-dependent structures and the relocation of channels required to permit such expansion.
- The breakwater in the Harbor District, that separates Sag Harbor from Sag Harbor Bay, was constructed in 1908. This structure acts to shelter the harbor from the open waters of the bay, reducing the impacts of wave action generated in the bay. The breakwater was rehabilitated in 1963 to restore it to its original height and structural integrity. The breakwater is once again in need of repair. In the past thirty years this structure has succumbed to gravitational settlement and wave-induced shifting of the rocks. Some of the supporting stones have fallen into the adjacent waters. Due to these changes, the effectiveness of the breakwater has been dramatically reduced. As a result, even moderate storms, especially northeasters (which drive waves directly against the breakwater) can cause surging waves to overtop the breakwater. During a relatively modest storm event in December of 1994, waves that bypassed the breakwater caused substantial damage to the bulkhead in front of the Village sewage treatment plant. The Village should issue requests to the Army Corps of Engineers for the repair of this structure.
- In the Low-Intensity District situated west of the North Haven/Route 114 bridge, water use activities have the inherent potential to conflict with navigation on the waters surface. Access through Outer Sag Harbor Cove is dependent on the maintenance of the existing navigation channel. Since the location of the channel in this area is fixed, the expansion of navigational access for private residential uses should not interfere or encroach on the navigation channel nor result in increased vessel congestion.

3. The use of surface waters depends on the size and nature of the waterbody

The Harbor District is best suited for accommodating the high concentrations of water-dependent uses found along the Sag Harbor waterfront. The characteristics of the surface waters establish a hierarchy for determining where water-dependent uses should locate. Uses with the highest degree of dependence on waterfront access for navigation include: commercial water-dependent activities that require adequate water depths to navigate, turning basins, docking facilities, and access for the public as users (these water-dependent uses are generally found in the vicinity of the Long Wharf); marinas and yacht clubs for sail boats and larger vessels that require adequate water depths for navigation, adequate clearance for masts, and

docking and anchorage facilities and facilities for dinghies (these uses are generally found to the east of the North Haven/Route 114 bridge); and marinas for motorized vessels and small sail boats that require docking facilities, boat launching and public access (these uses are generally found west of the North Haven/Route 114 bridge).

- A total of 155 acres of underwater lands in the Harbor District area (situated between the North Haven/State Route 114 bridge and the breakwater) are uncertified by NYSDEC and closed year-round to shellfish harvesting. These waters are classified by the State as "SA" which is the highest possible ranking for surface waters. SA waters are considered suitable for the harvesting of shellfish for market purposes and primary and secondary contact recreation.

The activities occurring inside the harbor area are not compatible with shellfish harvesting activities and are not predicted to change. The marinas and anchorage areas are a prosperous element in the economy of Sag Harbor and help to support significant tourist activity. This area has been specifically designated as a part of the harbor district by the Village, and is considered an appropriate area for such intensive uses. In accordance with the National Shellfish Sanitation Program (described in 5.6.B and Appendix A), a seasonal closure area must be maintained around marinas to mitigate potential contamination problems. In addition, the outfall for the STP is located in Sag Harbor, and a large area around this outfall is permanently closed to shellfish harvest. The location of the outfall is not subject to change. Relocation of this structure to an area outside the breakwater would be cost prohibitive and would require the closure of additional underwater lands to shellfish harvest.

Since the NYSDEC water quality standards that mandate the closure of the harbor area to shellfishing will continue to be maintained, the water quality classification for this area should be changed to SB to reflect actual conditions. SB waters are considered suitable for primary and secondary contact recreation and any other use except the taking of shellfish for market purposes. However, although the water quality conditions in the harbor that warrant the closure of these waters to shellfishing may not change, efforts to improve water quality in this area through the prohibition of vessel waste and other discharges and the implementation of best management practices in the adjacent upland areas should not be relaxed.

- Another area in the Sag Harbor Cove/Bay Complex that is suffering from degraded water quality is the southeastern corner of Upper Sag Harbor Cove (which is designated as a Conservation District). Since 1986, water samples collected in this area have failed to meet the standards for total and fecal coliform bacteria under both wet and dry weather conditions. NYSDEC has consequently closed this area to shellfish harvesting on a year-round basis. The causes of this water quality problem are not totally clear; however, it is suspected that the discharge from Otter Pond is a significant source of coliform bacteria. Otter Pond is known to support a large population of waterfowl, a prominent contributor of fecal matter to surface waters. Both Otter Pond and the upper reaches of Upper Sag Harbor Cove are surrounded by older homes that may have failing septic systems that are adding to the pollution problem in this area. In addition, poor mixing and flushing action in this area of Upper Sag Harbor Cove may also be a factor in elevated coliform levels.

In an attempt to address the water quality problems in the Upper Sag Harbor Cove area, a number of mitigative actions could be implemented at Otter Pond. The Village, in conjunction with the Town of Southampton is currently upgrading the stormwater drainage appurtenances in the vicinity of Otter Pond to improve the quality of runoff entering this water body. In addition to this, the Sage Foundation, the entity that owns the Otter Pond property, is proposing to undertake a wetland planting to restore the fringe of wetland grasses around the perimeter of the pond. This will aid in the filtration of pollutants entering the pond. Additional planting in the vicinity of the outlet stream to Upper Sag Harbor Cove would also help to reduce pollutant loading to the upper cove area. The Sage Foundation and the Village should also undertake a educational campaign to inform the public about the detrimental effects of feeding wildfowl.

Failing on-site sewage disposal systems (OSDS's) are another serious problem that is difficult to pinpoint through direct observation. In order to identify faulty OSDS's in the vicinity of Otter Pond and Upper Sag Harbor Cove, a die-testing program should be conducted. The Village should investigate sources of funding, possibly in conjunction with the Suffolk County Department of Health Services, to establish a die-testing program that would allow for the testing of systems in the area of concern and provide financial incentives to enable local homeowners to upgrade failing systems.

4. The nature of the existing use of the water's surface limits the extent of other uses

In addition to navigation and access for water-dependent uses, it is important that other principal public uses of surface waters, such as mooring fields and docking facilities, are not obstructed by active recreational use of surface waters. Water skiing, jet skiing, skin diving and swimming should be uses designated for specific areas that do not conflict with other public uses of surface waters throughout the harbor management area. Swimming primarily occurs within 500 feet of the shoreline. This use should not be obstructed by other active surface water uses, such as jet skiing, water skiing or diving. In the Conservation District, the principal and preferred use of surface waters is shellfishing and the protection of natural resources. All other uses of the waters should be subordinate to this primary objective. Other surface water use concerns include the following.

- During the summer boating season, the harbor district area is subject to extensive vessel traffic, particularly on weekends, as evidenced by data collected by the Village Harbormaster's office to estimate the average number of vessels entering the harbor and outer cove areas during peak mid-summer periods. According to the Village Harbormaster, vessel congestion occurs in a number of locations throughout the harbor district. At some of these locations, congestion problems are heightened by localized shoaling. The ballast that was dumped at the end of the Long Wharf complicates congestion problems that may arise in this area and has led to a number of boating accidents.

In Sag Harbor, the area under the bridge tends to get congested due to the fact that the channel narrows and there are generally a significant number of boats seeking egress from and ingress to the four marinas and docking facilities in Outer Sag Harbor Cove. The Outer Sag Harbor Cove area provides dockage for up to 385 vessels and supports

an extensive amount of boating activity. The fueling dock at Baron's Cove Marina is another location of congestion in the Outer Cove area.

There is a significant amount of vessel activity occurring at the head of Sag Harbor, in the vicinity of Marine Park. Combined, the marinas and boat yard in this area provide dockage for approximately 225 boats. The Village anchorage area and the boat launch ramp can also accommodate a large number of vessels. Therefore, at the height of the summer, the Sag Harbor area can become congested with vessels seeking to access shoreside dockage and services or egress to Sag Harbor Bay. Congestion also occurs in the Sag Harbor area, where the channels meet and an increased number of boaters attempt to enter or exit from the main channel to the harbor channel on the eastern side of the Long Wharf or the dockage and anchorage areas on the western side of the Long Wharf.

- As shown in [Fig. 11](#) and the [HMC](#), there are a number of docks located throughout the harbor management area. The construction of private docks has become a growing concern to the Village, particularly docks constructed in areas subject to heavy vessel activity and in areas that possess significant natural resources. The increasing size and number of docking structures in Village waters exacerbates harbor congestion and threatens interference with navigation channels. At present, the construction of a dock in the harbor management area requires a permit from the Village. Dock construction in Sag Harbor Village also requires a permit from the Town of Southampton or the State of New York because each of these entities has jurisdiction over a portion of the underwater lands in the study area. As discussed in Section 3.3.B, the underwater lands inside the cove complex are owned by the Town of Southampton; the underwater lands situated east the of the cove complex are owned by the State of New York.

In an effort to control the construction of docks, this activity should be directly connected with the character of the upland use. If the upland use is not water-dependent, then a dock should only be permitted to provide necessary access to reach navigable waters. This action would essentially contain excessive dock construction activity within the harbor district, where the water-dependent are primarily located.

5. The nature of shoreline hardening is directly related to upland use

Water-dependent development is the functional use within the Harbor District. Much of this area has been subject to extensive public investment that is exposed to flood hazards out of necessity. Therefore, the water-dependent uses in the waterfront and marine zoning districts have a priority for shore hardening to protect them against the erosive forces of storm events. Where the shoreline has been hardened to support a water-dependent use, the existing bulkhead should be replaced in-kind when deteriorated. Where a substantial portion of the water-dependent use in the Harbor District has been bulkheaded, it may be desirable to continue the bulkheading along the full length of the use.

In the Low-Intensity District, shoreline hardening should be limited to locations above the mean high water line and should only be utilized after all other non-structural alternative for erosion protection have been exhausted. In the Conservation District, shore hardening

structures should only be used when no other practical design consideration is suitable and when they are essentially required to protect principal upland structures. Practical non-structural vegetative measures should be initially utilized.

6. The use of surface waters is limited by potential adverse impacts on navigation and public interest in public lands underwater

For public safety purposes, surface water uses in the Harbor District should be limited based on their consistency with the public interest for navigation. Water-dependent uses are reliant upon the utilization of surface waters and offer the public the benefit of access to the waters of Sag Harbor and beyond. Such uses, however, must not unreasonably impede navigation, the use and ownership of underwater lands, or riparian interests. Other areas of concern include the following.

- At present the Town of Southampton is responsible for the patrol of surface waters and enforcement of waterways regulations in Southampton Town waters, which includes those portions of Outer and Inner Sag Harbor Cove lying outside of the Village's jurisdiction. Throughout the summer boating season, when recreational boating and other in-water recreational activities increase, the Town does not conduct regular patrols in this area due mainly to the fact that these waters are isolated from the main body of the Town's waters. To ensure that an appropriate level of enforcement is provided in this area, the Town of Southampton should consider granting authority to the Village of Sag Harbor to allow the Village Harbormaster the ability to act on violations that are presently outside Village jurisdiction. Presently, the Harbormaster can only issue warnings to boaters outside Village waters that are violating speed restrictions or other waterways regulation; the Village cannot issue citations or enforce Town law to any other extent unless authorized by the Town. The Town and the Village should jointly pass a resolution to establish a cooperative arrangement to allow the Village to assist with patrols in this area and to transfer authority so the Village can enforce existing Town regulations.
- There is a boat launching ramp located at the Marine Park boat basin (see [Figure 5](#)). This ramp receives heavy usage throughout the year, particularly in the summer season. As a result, the ramp is in need of repair. The concrete ramp is beginning to crack and subside and the culvert located to the immediate east of this ramp is caving in. The Village should continue to seek funding for the reconstruction of this amenity.
- The State of New York issued seven grants to various upland property owners for underwater lands in the Sag Harbor area. These grants were issued between 1845 and 1968, and in most of these cases these lands consist of upland properties or portions of the upland that were formerly underwater lands that have been filled in. Research into the status of these seven grants has revealed that all of the grants were issued with full interest given to the grantee. Unless the upland was sold to another party, the ownership of the underwater lands remains with the original grantee; otherwise, the lands belong to the current upland owner. With the exception of a grant issued to the East Long Island Pottery Company in 1882, which was never utilized, the underwater land grants in Sag Harbor are all accounted for.

- There are three waterfront properties that have been developed that do not have grants from the State Office of General Services. These include the underwater lands that contain the Waterfront Marina, owned by Malloy Enterprises; the former underwater lands that comprise the Marine Park property, which is owned by the Village of Sag Harbor; and the underwater lands and small upland area that comprises the Sag Harbor Yacht Club property. Grants for these lands should be obtained from the State through the appropriate application process. In addition, the Village of Sag Harbor was conveyed a portion of the underwater lands originally granted to the Long Island Rail Road (LIRR) in 1888 when the existing North Haven/State Route 114 bridge was constructed. The Village should seek to gain ownership of the remainder of the underwater lands that are still owned by the LIRR.

Natural Resources

- The Village contains a number of public recreation and open space areas, some of them quite large in size. These lands are currently zoned for either residential or waterfront use; the larger properties are all zoned for residential use. In an effort to insure that these lands will remain as public recreational and open space holdings, and to prevent the future possibility of these lands ever being residentially developed, it is recommended that the Village rezone these properties under an open space/recreation classification. The properties considered for rezoning include Otter Pond and Mashashimuet Park, Havens Beach, and the NYSDEC conservation area adjacent to Little Northwest Creek.
- The Village presently regulates development in wetland areas under Chapter 12, the Bulkhead, Dredging and Canals law. Although this law regulates, by permit, dredging and the construction canals, bulkheads and other shoreline structures that may impact tidal wetlands, this law is not comprehensive in its protection of wetland resources. In particular, the present law does not address impacts from upland development activities. The Village contains a significant number of freshwater wetland areas and extensive areas of tidal marsh throughout the Sag Harbor Cove Complex. These wetland resources warrant stronger protection, and the NYSDEC, under Articles 24 and 25 of the Environmental Conservation Law, cannot be fully reliant for this action. Therefore, the Village should adopt a separate wetlands and watercourses law that more specifically outlines provisions for activities that may impact both tidal and freshwater wetlands. This law should contain narrative that defines what tidal and freshwater wetlands are; outlines the significance of protecting these resources; and delineates where protected resources are found within the Village. This law should also outline the full realm of activities that should be regulated in order to protect wetland resources.

The wetlands and watercourses law would also contain the standards required to implement the provisions of the conservation and preservation districts. It would specify the necessary setback requirements and structural limitation applicable in these districts.

Water Quality

- Marinas can contribute significantly to the concentration of pollutants in the water column, bottom sediments, and tissues of benthic organisms living within the limits of the marina itself. Pollutants from marinas and recreational boating may enter the water through discharges from boats, spills, maintenance areas, stormwater runoff and vessel operation. The types of pollutants often associated with marinas and recreational boating activities include: organic materials discharges from recreational boats; toxic heavy metals associated with boat maintenance and repair operations at boat yards and marinas; petroleum hydrocarbons from refueling activities and bilge or fuel discharges from boats; fecal coliform bacteria; and disruption of sediments and habitat from boat operations and dredging.

Point sources of pollution from marinas are primarily handled through the NYSDEC general permit system for industrial activities, which includes marina activities. To receive a NYSDEC permit, marina operators are required to develop and implement comprehensive stormwater management plans and controls to minimize the potential impacts from polluted stormwater runoff. Marinas are also required to monitor runoff and the types of pollutants that are being discharges. The Village currently applies its site plan review procedures to marinas and other nonresidential land use and construction to regulate stormwater runoff and other off-site discharges. To strengthen the Village's commitment to protecting coastal water quality, standards should be included in the Site Plan Review Law that specifically apply to marinas and boat yards, and their associated upland activities.

- Vessel discharges, although not the only source of pollutants to the Sag Harbor Cove/Bay Complex, can cause localized water quality problems. The discharge of sanitary wastes from boats can degrade water quality by: introducing microbial pathogens into surface waters; and locally increasing biological oxygen demand. Due to the high concentration of marine vessel activity (three marinas, one boat yard and two anchorage areas) and the location of the sewage treatment outfall, the entire area located inside the breakwater (the Sag Harbor area) is closed to shellfish harvesting by NYSDEC on a year-round basis. In addition, NYSDEC has identified two specific areas in the harbor complex that are of concern with regard to the potential contamination of shellfish beds due to seasonal water quality degradation and/or vessel discharges. These include the easterly portion of Outer Sag Harbor Cove and the waters in the Redwood boat basin. NYSDEC has indicated that concentrated sewage discharges from vessels in these areas have the potential for the localized contamination of the underlying shellfish beds.

To address the impacts associated with vessel waste discharges, Shelter Island Sound or, at a minimum, the entire Sag Harbor Cove/Bay Complex should be designated by the USEPA as a vessel waste "no-discharge zone". The advantage of this designation would be to prohibit the discharge of vessel sewage within the bounds of the harbor complex. Furthermore, it would provide State and local officials with the authority to enforce the laws governing vessel waste discharges and vessel inspections (to ensure that onboard discharge devices are disabled). Although Federal law prohibits the discharge of untreated sewage within three miles of shore, treated sewage may be discharged inside this boundary and the U.S. Coast Guard has the sole responsibility for enforcement.

- Haven's Beach is bisected by a drainage ditch which outlets to Sag Harbor Bay. This ditch carries stormwater runoff collected along Bay Street and Hempstead Street. This runoff is conveyed into this ditch without pretreatment to remove pollutants. Stormwater runoff can contain a high degree of contaminants, particularly the "first flush" that is collected at the onset of a storm event.

The development of a wet detention system at Haven's Beach would be one way to provide the recommended mitigation. Surface flows in the ditch would be diverted through the created wetland system to allow for settlement and some pretreatment of stormwater prior to discharge into Sag Harbor Bay. This detention system is expected to significantly reduce the load of suspended solids, pathogens, dissolved nutrients (i.e., nitrogen and phosphorus compounds, especially ammonia), oxygen-demanding substances, and certain metals currently carried in the stormwater runoff flowing through the ditch. After passing through the wetland system, flows would be diverted back into the drainage ditch to outlet to Sag Harbor Bay.

- The culvert underneath Redwood Road that connects Upper Sag Harbor Cove with Outer Sag Harbor Cove has partially collapsed which restricts tidal flow. Some debate has occurred over whether the culvert should be closed completely or restored. Advocates of closure have cited the fact that the culvert connects to a marina basin which is a potential source of pollutant loadings to the Upper Cove. Proponents of restoring the culvert believe that such a project would improve tidal flushing of the Upper Cove. The analysis performed for this Harbor Management Plan support the latter position.
- The implementation of best management practices at marinas and the installation of additional vessel pump-out facilities throughout, especially in the Outer Sag Harbor Cove area, are also key elements for improving surface water quality. The Village should also consider upgrading the Sewage Treatment Plant process to accept marine waste effluent collected by the Village pump-out systems. This would eliminate the current need to utilize a private waste hauler to transport stored wastes outside the Village for disposal.
- There are two boat ramps that provide access to the Sag Harbor Cove Complex that require improvement to address water quality problems. The boat launch ramp located on the Redwood peninsula, at the terminus of Amherst Road, is undeveloped. Boaters maneuver their trailers down this moderate slope to the water. Through the years of use, this site has developed ruts and small swales that convey roadway runoff and sediment directly into Inner Sag Harbor Cove. The boat launch ramp located off John Street, at the southeastern end of Upper Sag Harbor Cove, is in a similar state. These problems can be remedied by upgrading the surface conditions of these ramps.

Both the Amherst Road and the John Street ramps should be regraded and a large-size gravel should be installed that will stabilize the ramps, preventing sediment from entering the bay, and retain a permeable surface to permit continued percolation. In addition, small berms should be constructed at the top of each ramp, near the roadway, to prevent surface runoff from traveling down the ramp. At Amherst Road, the runoff should be conveyed from the berm into a storm grate that is connected to a leaching pool. At John Street, the runoff should be directed into the John Street wetland to provide filtration, rather than conveying it directly into the adjacent outlet stream that connects the pond

to Upper Sag Harbor Cove. These upgrades could be instituted without significant cost to the Village. Nonetheless, the Village should investigate the potential availability of funding for this type of water quality improvement project.

APPENDIX

EXISTING AUTHORITIES

Political and Regulatory Jurisdiction

Jurisdiction over the Sag Harbor Cove/Bay Complex and its shoreline is divided among numerous entities at various levels of government. These include the Town of Southampton, the Town of East Hampton, and the Incorporated Village of North Haven, in addition to the Incorporated Village of Sag Harbor, the State of New York and various Federal government agencies. The current roles and responsibilities of the agencies and entities that effect the use, management and conservation of the Sag Harbor Cove/Bay Complex are shown in Table 1 in Section 2 of the Harbor Management Plan report.

The multiplicity of political jurisdictions which apply to the Sag Harbor Cove/Bay Complex complicates efforts to effectively manage this important resource. In many cases, more than one review, permit and/or approval is required to undertake a certain action. This can make it more difficult, as well as timely, when attempting to conduct dredging or other similar activities that are essential to the efficient operation of the harbor district. Furthermore, although tangible benefits can result from the initiatives undertaken by an individual municipality (e.g., the Village of Sag Harbor, in the case of this plan) or government agency, the cooperation of all involved political entities is necessary to achieve overall management goals such as the improvement of water quality and enhancement of ecological resources. The various political entities, and the extent of their regulatory jurisdiction, are discussed below.

A. Village of Sag Harbor

The Village of Sag Harbor exercises multi-faceted responsibilities with respect to activities within the Sag Harbor Cove/Bay Complex and the areas of the harbor complex watershed located within its jurisdiction. These responsibilities are summarized as follows.

- The Village has the exclusive authority to regulate land use activities within its boundaries.
- The Village has the exclusive authority to regulate the surface use of coastal waters extending for a distance of 1,500-feet from the mean high water line along the shoreline within its boundaries. This jurisdictional authority for the Village, which is derived from the State Navigation Law, does not affect the proprietary rights of the owner(s) of the underwater lands. Nor does the Village's water surface jurisdiction supersede the authority of the Town of Southampton or the State to regulate the use of underwater lands within their respective jurisdictions.

- The Village has the authority to control the placement of moorings on Town-owned underwater land, including those areas within the Village's 1,500-foot area of water surface jurisdiction.

These responsibilities extend to a variety of Village agencies and entities, as described below.

Village Board of Trustees - enacts ordinances which govern land and water use activities within the Village and approves modifications to same; makes final decisions on actions such as change of zone and special use permit applications, including SEQRA determinations; appoints the Village Planning Board and Zoning Board of Appeals; allocates and approves funding for projects and studies related to coastal management (as well as all other aspects of the Village budget).

Village Attorney - The Village Attorney drafts local ordinances and amendments to same; regulates the issuance of summonses for violations of the Village ordinances and enforces same; and aids in the prosecution of cases involving illicit dumping of hazardous materials into local waters, and other illegal activities.

Village Clerk - The Village Clerk processes administrative paperwork for the Board of Trustees, the Harbormaster, and all Village boards and committees. The Clerk also coordinates communications between these entities. In addition, the Village Clerk processes applications for docks and shoreline hardening structures or other activities pursuant to Chapters 12 of the Village Code, files sewer permits after they are processed by the Village Sewer Department in accordance with Chapter 43 of the Village Code, and presents information relevant to these permit applications to the Board of Trustees, as required, prior to public hearings.

Planning Board - The Planning Board is a five member board appointed by the Sag Harbor Village Board of Trustees. The Chairman is designated by the Board of Trustees in accordance with Section 179-g of the Village Law. The Planning Board is empowered and directed to undertake studies and make plans incorporating proposed legislation in the form of amendments to the Zoning Ordinance. The Planning Board must report to the Village Board of Trustees annually as to its progress and recommendations relative to the effectuation of foregoing studies and plans. The actions and objectives of the Planning Board must consider the following:

- the designation of those areas and structures which are of historic value and which warrant special action to ensure their preservation;
- the conservation and preservation of the natural shoreline and wetlands with special reference and attention to ecological relationship and needs;
- the proper use of those portions of the waterfront which are required and most suited for human activities, including both recreation and commerce; and

- appropriate changes to the Zoning Code which incorporate the results of foregoing studies as well as consider such other elements as business district requirements, traffic and parking, aesthetic and architectural review of new construction and alterations to existing structures, parks and recreation, and general land use development.

Zoning Board of Appeals - The Zoning Board of Appeals consists of five members appointed by the Sag Harbor Village Board of Trustees. Every decision made by the Board must be made by resolution and contain a record of full findings, after first holding a public hearing. The Zoning Board of Appeals is empowered to hear and decide:

- any matter where an applicant alleges that the Village Building Inspector was in error in refusing to issue a building permit or certificate of occupancy as a result of misinterpreting the meaning, intent or application of any section of the Zoning Code;
- any matter where the appellant alleges that the Building Inspector was in error in his determination as to the exact location of a district boundary line on the Zoning Map; and
- any matter which the Building Inspector appeals on grounds of doubt as to the meaning or intent of any provision of the Zoning Code or to the location of any district boundary on the Zoning Map.

The ZBA also has the power to authorize, upon appeal in specific cases and where not contrary to the public interest, a variance from the terms of the Zoning Code in special cases where an applicant is able to demonstrate that the strict application of certain aspects of the Zoning Code would result in undue hardship.

Harbor Committee - The five members of the Harbor Committee are appointed by the Mayor and are subject to approval by the Board of Trustees. Members must be Village residents, although residents from adjacent communities may be designated as adjunct members at the discretion of the Mayor, subject to Board of Trustees approval. All decisions are governed by a majority vote of the full Committee. Adjunct members may participate in all discussions, but have no vote.

The duties and responsibilities of the Harbor Committee include:

- monitoring all activities and reviewing all applications and proposals that may affect local waters;
- maintaining liaison with other appropriate government and civic bodies, to assure cooperation that is to the mutual benefit of all concerned parties;
- being alert for sources of funding to implement projects related to water quality improvement and the implementation of other Committee recommendations;

- making timely and appropriate comments and recommendations to the Mayor and Board of Trustees and other Village boards so that their actions protect and preserve local waters;
- promoting public education efforts regarding the role that individual citizens play in protecting and preserving local waters; and
- making recommendations to the Board of Trustees with respect to revising and updating the LWRP.

Harbormaster - The Harbormaster is responsible for the day-to-day operations of the Village of Sag Harbor marina facilities (Marine Park and boat basin, the Long Wharf marina, A dock and B dock) and mooring area. This involves a number of duties, including:

- inspecting the marina facilities daily and making recommendations for any necessary repairs to structures or appurtenances therein, overseeing all repairs, and cataloguing any winter damage and contracting for repairs of same;
- conducting regular patrols of the harbor and cove complex to insure that this area is kept clear of navigational hazards, assisting boaters in distress, and enforcing local marine ordinances, particularly during the boating season;
- assigning all boat berths and mooring locations on a seasonal basis, handling all transient boating activity and collecting transient docking fees, computing and mailing all bills for berths and mooring locations, and all requisite record keeping;
- assisting with the preparation of budget requests and all other dock-related correspondence;
- overseeing the management, operation, and maintenance of the vessel waste pump-out facilities;
- reviewing inspection reports for mooring ground tackle; and
- supervising the installation of the winter ice protection system in the marina area, and the relocation of boats to winter storage areas and back to regular berths at the end of the winter season.

The Harbormaster is also responsible for overseeing the dockmasters and other assistant waterways personnel. To undertake these tasks, the Harbormaster is required to have knowledge of basic seamanship, dock construction, local and State marine and navigation laws, public relations skills, basic fire and rescue and first-aid techniques, and basic business and accounting procedures.

Upon request, the Sag Harbor Village Police provide limited assistance to the Harbormaster with boating accidents, death and distress calls. Whereas the Harbormaster's authority is restricted as a Peace Officer, the Village Police will also assist with arrests along the waterfront (Salargo, February 24, 1995).

Board of Historic Preservation and Architectural Review - The Board of Historic Preservation and Architectural Review consists of five members appointed by the Sag Harbor Board of Trustees. All members must be residents of the Village of Sag Harbor. Every decision made by this board must be by resolution and contain a full record of findings. This board is responsible for maintaining the desirable character of the Village of Sag Harbor's Historic District and designated landmarks, and for disapproving plans and proposals that are designed without consideration of, or that would alter the character of, this district and the buildings and structures contained therein.

B. Village of North Haven

The primary authority of the Incorporated Village of North Haven, with respect to harbor management planning, is summarized below:

- North Haven Village has the exclusive authority to regulate land use activities within its respective boundaries. In general, the water-side boundary of the village lies along the mean high water line.
- The Village of North Haven has the exclusive right to regulate the surface use of coastal waters within 1,500 feet of its respective corporate boundary. In some areas the Village of North Haven's surface water jurisdiction overlaps with that of the Village of Sag Harbor. This, however, has not led to conflicts over the use of the harbor and cove complex, particularly with regard to the construction of docks and similar structures, and the placement of moorings.

C. Town of East Hampton

Harbormaster - Since the Village of Sag Harbor employs their own Harbormaster, many of the routine duties of the East Hampton Harbormaster are undertaken outside of the Village limits. The duties of the East Hampton Harbormaster within the Village limits consist primarily of mutual aid activities requested by the Village, including assistance with search and rescue efforts, vessel fires, drownings and other emergencies. Upon occasion, the East Hampton Harbormaster will assist with the more routine enforcement and peace keeping functions while patrolling the neighboring Northwest Creek and Harbor areas, and during busy holidays (e.g., Fourth of July) when water use is at its peak (Taylor, February 23, 1995).

D. Town of Southampton

Board of Trustees - acts as the steward of the public waters within the Town of Southampton; regulates all activities affecting the underwater land from the high water mark seaward, including the installation and repair of docks, bulkheads, and boat moorings; regulates alterations to bottom lands (i.e., dredging, filling, or other construction activities); regulates the harvesting of shellfish from coastal waters and finfish from freshwaters, and controls stocking programs; and maintains two public boat launch ramps located at the following road ends: Bayview Drive in Bay Point, near the narrows between

Outer and Inner Sag Harbor Cove; and Cove Road at The Little Narrows, near the mouth of Ligonee Brook on the western shoreline.

Bay Constables - The Southampton Bay Constables are responsible for the Town waters located within the Sag Harbor Cove complex, including Paynes Creek and portions of Outer and Inner Sag Harbor Cove and Ligonee Brook. During their patrol, they will assist with routine enforcement and peace keeping functions in these waters. The duties of the Southampton Bay Constables within the Village of Sag Harbor jurisdictional limits consist primarily of mutual aid activities requested by the Village, including assistance with search and rescue efforts, vessel fires, drownings and other emergencies. Since the Village of Sag Harbor employs their own Harbormaster, many of the routine duties of the Southampton Bay Constables are undertaken outside of the Village limits, within the Sag Harbor Cove complex. It has been indicated by the Village of Sag Harbor that the Southampton Bay Constables do not make regular patrols throughout the Sag Harbor Cove Complex. This is due to the excessive amount of time required to travel the length of the cove complex as the result of the five mile per hour speed limit. The possibility of the Town of Southampton ceding their jurisdiction in this area to the Village, allowing the Village Harbormaster to patrol these waters on the part of the Town, should be considered.

E. Suffolk County

Suffolk County Department of Health Services (SCDHS) - SCDHS is the primary local agency that administers regulatory programs for groundwater protection and management. SCDHS regulates potential pollutant sources through the authority of the Suffolk County Sanitary Codes, particularly Article 7 - Water Pollution Control and Article 12 - Toxic and Hazardous Materials Storage and Handling Controls. SCDHS also oversees a comprehensive groundwater monitoring program.

Serving at the technical coordinating Agency for the Peconic Estuary Program, SCDHS has conducted surface water quality monitoring within Sag Harbor and Outer Sag Harbor Cove. In addition, SCDHS, in conjunction with the New York State Department of Environmental Conservation (NYSDEC), monitors and regulates the quality of the effluent originating from the Village of Sag Harbor Wastewater Treatment Facility.

Suffolk County Department of Public Works (SCDPW) - SCDPW is the local agency coordinating and conducting public dredging and beach nourishment projects, as authorized pursuant to Suffolk County Code Article VIII which states "except as otherwise provided by law, have full care, custody and control of all waterways". SCDPW, in conjunction with the Suffolk County Sewer Agency, regulates sewage collection, treatment and disposal.

F. New York State Department of State

As the State's designated coastal management agency, the New York State Department of State (NYSDOS), through the Division of Coastal Resources and Waterfront Revitalization, is responsible for administering the New York State Coastal Management Program (CMP) as well as coordinating activities essential to the program's implementation. Major responsibilities of NYSDOS include the review and certification of proposed State or federal activities for consistency with the State's CMP. Actions that are deemed to be inconsistent with the State Program are not permitted to proceed. In addition, NYSDOS provides assistance to communities for the preparation of Local Waterfront Revitalization Programs (LWRP's) and Harbor Management Plans (HMP's). NYSDOS, in coordination with the New York State Department of Environmental Conservation, also administers the State's Significant Habitat Program.

G. New York State Department of Environmental Conservation

The New York State Department of Environmental Conservation (NYSDEC) has five primary regulatory responsibilities relative to important harbor management issues: (1) implementation and enforcement of the provisions of the National Shellfish Sanitation Program (NSSP), (2) administration of the permit program for activities undertaken within or adjacent to tidal wetlands, (3) administration of the permit program for wastewater discharges to surface waters (known as the State Pollution Discharge Elimination System, or SPDES), and (4) spill cleanup oversight, and (5) State law enforcement responsibilities. Each of these regulatory programs are described below.

Perhaps NYSDEC's most important duty under the requirements of the NSSP is to classify all shellfish beds on the basis of regular water quality analyses (additional information on the NSSP is contained in Sub-Section I below, and Section 5.6 of the Harbor Management Plan report). NYSDEC's classification system consists of the following five categories:

- *certified (approved) area;*
- *uncertified (closed) area;*
- *seasonally certified area;*
- *conditionally certified (conditionally approved) area; and*
- *restricted area.*

NYSDEC's shellfish harvesting regulations and closure classifications are described in further detail in Section 5.6 of the Harbor Management Plan report.

NYSDEC's other main obligations with respect to the NSSP's requirements for the sanitation of shellfish growing areas are to:

- administer the permit program for commercial shellfish harvesting;
- conduct shoreline surveys to identify pollution sources;

- enforce harvesting restrictions and prohibitions, with the assistance of local agencies (e.g., Town bay constables);
- prosecute violations of shellfish sanitation regulations; and
- provide access to shellfish growing areas.

NYSDEC's regulatory responsibilities with respect to activities conducted within or adjacent to tidal wetlands are established in Part 661 of Title 6 of the New York Code of Rules and Regulations (6NYCRR 661). See Section 5.7 of the Harbor Management Plan report for further discussion.

NYSDEC's regulatory responsibilities under the SPDES program entail oversight of major facilities that discharge wastewater to surface water bodies (large-scale discharges to the ground are also covered by SPDES). Facilities that are typically governed by the provisions of the SPDES regulations include sewage treatment plants, industrial outfalls, outfalls from groundwater remediation projects, and other high volume effluent sources. The Village of Sag Harbor sewage treatment plant (STP) effluent is the main point discharge to the Sag Harbor Cove/Bay Complex that is regulated under this program.

NYSDEC also has oversight responsibilities for the cleanup of hazardous material spills, including spills into the harbor complex and unauthorized upland discharges that can threaten harbor waters (e.g., into storm drains, tributary streams, wetlands, etc.). During an emergency situation, NYSDEC oversees the cleanup operation to ensure that the spill is effectively contained and environmental impacts are minimized. For chronic contamination problems (e.g., leaking underground tanks), NYSDEC may issue a consent order, which legally binds the responsible party to an agreed-upon program and schedule for remediation.

NYSDEC employs two Environmental Conservation Police (ENCON Police) officers whose patrol areas overlap in the vicinity of Sag Harbor. The duties of the ENCON Police include enforcement of the State criminal and penal laws as well as the provisions of the NYS Navigation Law, NYS Environmental Conservation Laws, NYCRR and NYS Parks and Recreation regulations. The jurisdictional area for the ENCON Police extends across the mainland to three miles offshore. Since the patrol area of each officer is so large, the ENCON Police typically respond first to complaint calls received from their NYSDEC Headquarters in Stony Brook, the local police precincts and harbormasters. Other routine patrol duties are prioritized on an as-need basis (e.g., priority patrol would include a seasonally certified shellfishing ground the first day of closure) (Officer Hodor, February 23, 1995).

H. New York State Department of Parks, Recreation and Historic Preservation

The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) administers both the National and State Registers of Historic Places. The National and State Registers of Historic Places are the official lists of buildings, structures, districts, objects and sites significant in the history, architecture, archeology and culture of New York and the nation. The same eligibility criteria are used for the National and State

Registers. All sites, structures, etc. within New York State that are listed on the National Register are also listed on the State Register.

Nominations for sites and/or structures to be listed on the State or National Register can be made by members of the general public, municipal officials, historic preservation boards, and the staff of the OPRHP. All official nominations are maintained in a State logbook and are reviewed by the State Historic Preservation Office. The Commissioner of the OPRHP serves as the State Historic Preservation Officer.

The State Board of Historic Preservation evaluates each nomination to determine if it satisfies the eligibility criteria. If it meets the criteria, the Board will then make a recommendation to the State Historic Preservation Officer for approval of the nomination. The State Historic Preservation Officer may then forward the proposal to the National Park Service for National designation.

The National Historic Preservation Act of 1966 (amended 1980 by public law 89-665) and the New York State Historic Preservation Act of 1980 (chapter 354, laws of 1980) are the legal bases for the National and State Register programs.

There are a number of benefits that can be derived if a property is listed on these Registers. These include the following.

- Registered properties and properties determined eligible for the State and National Registers receive a measure of protection from the effects of Federal and/or State agency sponsored or assisted projects through a notice, review and consultation process.
- Owners of depreciable, certified properties may take a 25 percent Federal income tax credit for the costs of certified, substantial rehabilitation as provided for under the Economic Recovery Tax Act of 1981 (P.L. 97-34).
- Registered properties also receive priority consideration from Federal and State agencies in space rental or leasing. (Public Buildings Cooperative Use Act of 1976 and New York State Historic Preservation Act of 1980, Section 4b.).
- Owners of registered properties may apply for 50 percent matching grants-in-aid for preservation work (subject to available funding).

There are no restrictions placed on private owners of registered properties. Private property owners may sell, alter or dispose of their property as they wish, although an owner who demolishes a certified registered property may not deduct the costs of demolition from his/her Federal income tax (Economic Recovery Tax Act, 1981).

Nearly one half of the Village of Sag Harbor is included within a National Historic District, and a significant portion of the waterfront is included within a local Historic District. The portion of the Harbor Management District which lies within the Historic District is shown on [Figure 6](#). The Village of Sag Harbor has established a Board of Historic Preservation and Architectural Review which is charged with protecting local landmarks and historic places. The duties of this local board are described in Sub-Section A above. The OPRHP, therefore, functions primarily as an advisory service to the Village. However, projects

which receive State or Federal funding require OPRHP review and approval under the State Environmental Quality Review Act (SEQRA).

I. U.S. Food and Drug Administration

The regulation of the shellfish industry, with regard to human health considerations, is overseen on a Federal level by the U.S. Food and Drug Administration (FDA), within the Public Health Service of the Department of Health and Human Services. The FDA's primary role is to conduct systematic surveys to ensure that each shellfish-producing state has implemented, and effectively enforces, a shellfish sanitation program which meets uniform minimal requirements.

Each state's shellfish sanitation program is reviewed annually by the FDA. The findings of FDA's review are reported to all states that are participating members of the National Shellfish Sanitation Program (NSSP). This reporting procedure has an important, positive influence on overall shellfish sanitation, since shellfish products from states that are less diligent in their implementation of program requirements will likely suffer a decrease in their out-of-state shellfish market. The New York State Department of Environmental Conservation (NYSDEC) is the regulatory agency within New York State which is charged with implementation and enforcement of the provisions of the NSSP. NYSDEC's local authority is described further in Sub-Section G above.

The FDA's authority includes oversight of the following aspects of shellfish resource utilization (see Sections 3.2.F and 5.6 of the Harbor Management Plan report for further discussion of specific items listed below as they pertain to New York State):

- state shellfish laws and regulations;
- data and files maintained by the states to demonstrate compliance with the administrative requirements of the NSSP;
- standardization and quality assurance for laboratory procedures for the measurement of bacteriological, toxicological, chemical, and physical parameters;
- surveys and classification of shellfish growing areas;
- controlled relaying programs;
- patrol of shellfish growing areas and enforcement of laws and regulations;
- shellfish harvesting permit programs;
- methods used to identify closed areas;
- educational methods; and
- operation, inspection, and certification of shellfish shippers, processors, and depuration facilities.

In addition to the responsibilities outlined above, the FDA (in cooperation with the Interstate Shellfish Sanitation Commission, which is composed of state shellfish regulatory officials, industry representatives, the FDA, and other Federal agencies) also updates the NSSP Manual of Operations as necessary. This manual sets forth the principles and requirements for the sanitary control of shellfish shipped in interstate commerce in the United States, and is used by the agency (or agencies) in each state that is charged with implementing the provisions of the NSSP.

J. National Oceanic and Atmospheric Administration

The National Oceanic and Atmospheric Administration (NOAA) has numerous responsibilities that impact on coastal and harbor management. Within NOAA, the Office of Ocean and Coastal Resources Management (OCRM) is responsible for administering the federal Coastal Zone Management Program; the National Weather Service (NWS) is responsible for issuing weather forecasts and coastal storm warnings; and the National Ocean Service (NOS) is responsible for conducting bathymetric surveys, preparing the nautical charts used by boaters for navigation, and determining changes in sea level and publishing tide tables.

Also within the NOAA, the National Marine Fisheries Service has jurisdiction over any endangered marine species that might utilize the waters within the Village harbor management area. As discussed in Section 4.2, endangered sea turtles have been documented as using the waters within Sag Harbor Bay for feeding and resting. Local municipal agencies are indirectly responsible for the protection of endangered species pursuant to Section 9 of the Endangered Species Act.

K. U.S. Department of the Interior

There are two agencies within the U.S. Department of Interior that are indirectly involved with coastal issues within the Village Harbor District; namely, the U.S. Fish and Wildlife Service (USFWS) and the National Park Service (NPS). The USFWS has regulatory jurisdiction over any federally endangered wildlife species which might breed on the upland areas or be affected by activities within the Village Harbor District.

Although no Federally-listed wildlife species are known to use the uplands within the Village Harbor District boundaries, least terns (listed as endangered by NYSDEC, unlisted by USFWS) have been reported as historically nesting on Long Beach, just west of the Village. This is important because Long Beach had been used in the past (and is likely to be used in the future) as a deposition area for dredged material removed from Sag Harbor Cove. Piping plovers (federally-listed as threatened and State-listed as endangered) commonly nest within least tern colonies or in similar suitable habitats on fresh sandy deposits and dredge spoils. The Village and SCDPW should coordinate all dredging operations with the USFWS to avoid potential conflicts concerning endangered species habitats.

The involvement of the NPS in the Village Harbor District is limited to those areas contained within the Historic District boundaries, as well as those properties which are likely to become nominated and accepted onto the National Register of Historic Places.

As discussed briefly in Sub-Sections A and H above, the OPRHP and the Village Board of Historic Preservation and Architectural Review have a more active, direct role in protecting local landmarks.

The following is a summary of the Sag Harbor Village Historic District, as provided by the NPS:

"The Sag Harbor Historic District includes the historic core of the Village and represents just under 50% of the total acreage. Freestanding frame residences on small plots of land with front, rear and side yards make up the bulk of the structures in the district, but there are four cemeteries, two large parks and the business district as well. The house lots vary widely in size and shape, from about twenty to one hundred twenty five feet wide and roughly one hundred to one hundred to one hundred fifty feet deep."

"The historic district is an expansion of the Sag Harbor Historic District, listed on the National Register in 1973. It was expanded based on new information and research uncovered during a comprehensive 1990 survey. This form supersedes the old form. The expanded district is about 35% larger in land area and has 305 more primary buildings, 136 more ancillary buildings, 1 more structure, 3 more sites and 2 more objects than the old district. The expansion is based on documentation in the 1991 Sag Harbor Survey undertaken by the Village under the guidance of the State Historic Preservation Office. The study area for this survey was larger than the new district and incorporated approximately 1200 primary structures and features."

"There are 698 contributing primary buildings, 7 sites, 2 structures, and 3 objects in the district and its expansion. There are 458 contributing primary buildings, 4 sites, 1 structure, and 3 objects in the old district and 240 contributing primary buildings, 3 sites and 1 structure in the expansion. There are 122 non-contributing primary buildings, 2 non-contributing objects and 1 non-contributing site in the district and its expansion, with 59 non-contributing buildings and 1 non-contributing site in the old district and 63 non-contributing and 2 non-contributing objects in the expansion. There are 172 contributing ancillary buildings, primarily garages and sheds, 62 of which are in the expansion. There are 195 non-contributing ancillary buildings, 76 of which are in the expansion. The few modern intrusions are primarily later twentieth century houses which are low rise frame structures similar to the historic buildings. Other non-contributing primary structures are older buildings which have been so extensively altered that they lack historical significance."

Boundaries

"The boundaries have been drawn to include as much as possible of the historic Village within the period of significance and as much of the waterfront as possible. Individual and groups of non-contributing structures have been excluded at the edges of the district. Beginning at the north, starting at the Long Wharf, the district takes in the Long Wharf and proceeds east along the water (Shelter Island Sound) to the end of the Sag Harbor Yacht Club building, approximately across from Rysam Street. Excluded are the modern and altered industrial structures east of the Yacht Club. There were industries connected with whaling and maritime trade in the nineteenth

century along Bay Road near the Long Wharf but major fires in the nineteenth century (the last in 1845 and 1877) destroyed the buildings. Included in the district on the south side of Bay Street is a mix of nineteenth and twentieth century commercial and industrial structures. They represent the last of the pre-World War II industrial structures along the waterfront."

L. U.S. Coast Guard

The U.S. Coast Guard is primarily charged with overseeing all waterborne activities in Federal waters, but their responsibilities overlap locally into all coastally connected navigable waterways. The U.S. Coast Guard places and maintains navigational aids situated outside of the Village breakwater in the waters of Sag Harbor Bay. They are also responsible for the placement and maintenance of navigation aids in the navigation channel located inside the breakwater, that was formerly authorized by the Army Corps of Engineers. The U.S. Coast Guard undertakes general law enforcement activities, such as imposing fines and/or penalties for reckless or negligent vessel operation, enforces the zero tolerance policy regarding the shipping of illegal contraband, and conducts marine inspections of recreational boat safety equipment. Other responsibilities of the U.S. Coast Guard include responding to search and rescue requests, and enforcing the provisions of the Federal Water Pollution Control Act.

M. U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (ACE) exercises regulatory authority over actions undertaken within the waters of the United States (e.g., dredging, and the placement of structures such as docks and bulkheads). Often, a separate permit is required from the Department of the Army for actions that also require a tidal wetlands permit from NYSDEC.

The breakwater that is situated in Sag Harbor Bay at the eastern end of the Village harbor management area was authorized for construction in 1902 and completed in 1908 by the ACE. By 1937, the ACE had also constructed a navigational channel 10 feet deep, and 100 feet wide running a length of approximately 0.4 miles, which terminated into a turning basin and channel anchorage area eight feet deep just east of the navigational channel. The ACE still maintains responsibility for the breakwater, which was last repaired in 1963, but all maintenance dredging is conducted by the Suffolk County Department of Public Works (Friedman, January 24, 1995). Channel and maintenance dredging is discussed further in Sub-Sections E above, and 3.2.G of the Harbor Management Plan report.

CHAPTER 53 WATERWAYS

[HISTORY: Adopted by the Board of Trustees of the Village of Sag Harbor 7-2-1996 as L.L. No. 2, 1996.

Editor's Note: This local law also provided for the repeal of former Ch. 53, Waterways, adopted 6-2-1992 as L.L. No. 2, 1992.

Amendments noted where applicable.]

GENERAL REFERENCES

Bulkheading, dredging and canals — See Ch. 12.

Harbor Committee — See Ch. 21.

Land and beach use — See Ch. 27.

ARTICLE I General Provisions (§ 53-1 — § 53-4)**§ 53-1 Title.**

This chapter shall be cited as the "Waterways Law of the Village of Sag Harbor."

§ 53-2 Findings and purpose.**A.**

Sag Harbor supports a wide range of public and private in-water uses, including recreational and commercial boating, anchorage and mooring areas, recreational fishing and swimming, marinas and yacht clubs, passenger ferry service, charter vessels and commercial and recreation shellfishing. The Village of Sag Harbor finds that in order to manage the efficient use of the harbor, ensure the safety of commercial and recreational navigation in the waters or waterways of the Village of Sag Harbor or waters adjacent to the Village of Sag Harbor, protect access to marketable shellfish and provide for equitable allocation of the water's surface for a variety of uses, Chapter 53 of the Code of the Village of Sag Harbor should be amended to implement a harbor management plan.

B.

The operation and mooring of vessels in Sag Harbor, the safe and efficient use of space within the harbor and the maintenance of available shellfish beds for human consumption being a matter affecting the public interest are and should be subject to the regulatory controls hereinafter set forth. The purpose of this chapter is to establish standards, requirements and procedures for the safe and sanitary operation of vessels; mooring of vessels; regulation of matters relevant to safety, sanitation and environmental conservation within waters bounding the Village of Sag Harbor; and to implement a harbor management plan for the use of surface waters and underwater lands within the harbor.

§ 53-3 Authority.**A.**

This chapter is adopted pursuant to § 46-a of the Navigation Law, § 10 of the Municipal Home Rule Law and Article IX of the State Constitution.

B.

The provisions of this chapter shall, except when prohibited by the laws of the United States, apply to all waters or waterways in the Village and to all waters or waterways bordering the Village to a distance of 1,500 feet from the shore, except as otherwise shown on the chart.

Editor's Note: Said chart is located in a pocket at the end of this Code.

C.

All provisions of the Navigation Law of this state, of the inland rules enacted by Congress and governing the navigation of the inland waters of the United States and the Pilot Rules for United States inland waters applicable to the channel systems relative to the rules for vessels passing each other as to lights on vessels and other matters consistent with the proper use of the channel systems shall be complied with by all persons operating or in control of a vessel navigating within the harbor management area.

§ 53-4 Definitions.

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

AIRCRAFT

A machine, heavier than air, used for navigation in the air that is supported by the dynamic reaction of the air against its surfaces. The term "aircraft" includes fixed wing airplanes that are driven by a propeller or by a high-velocity jet and helicopters whose support in the air is derived chiefly from the aerodynamic forces acting on one or more rotors turning about substantially vertical axes.

ANCHOR

To secure a vessel temporarily to the bottom of a waterbody by dropping an anchor or anchors or other ground tackle from a vessel for a period of no longer than 12 consecutive hours.

BUFFER AREA

An area 15 feet wide immediately adjacent to the outside lines of channels, basins and mooring areas; and, an area 25 feet wide immediately adjacent to public swimming areas, as shown on the chart.

Editor's Note: The Harbor Management Chart is located in a pocket at the end of this Code.

CHANNEL

Water areas specifically reserved for unobstructed movement of vessels and marked in the water by aids to navigation. Channels are depicted on the Village of Sag Harbor chart.

DISCHARGE

The disposal of sewage from a vessel by any method into the water.

Editor's Note: The former definition of "fairway," which immediately followed this definition, was repealed 4-28-2005 by L.L. No. 7-2005.

[Added 7-13-2004 by L.L. No. 4-2004]

FLOAT

A structure buoyant on the water's surface, anchored to the underwater land by cables or lines, which provides an offshore surface for swimmers, storage of small vessels or other purposes.

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 whatsoever 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.

HARBOR MANAGEMENT AREA

All surface waters, inlets, bays and coves, including the area between the mean high and mean low water mark, within or bounding the Village of Sag Harbor to a distance of 1,500 feet from the shore or less, as such waters are designated on the chart.

Editor's Note: The Harbor Management Chart is located in a pocket at the end of this chapter.

HARBOR MANAGEMENT CHART, VILLAGE OF SAG HARBOR

The map prepared by First Coastal Corp., dated April 14, 2005, for purposes of this chapter, and sometimes referred to as "the chart" in this chapter.

[Amended 4-28-2005 by L.L. No. 7-2005]

HARBOR MANAGEMENT PLAN

A plan comprised of the policies, goals, objectives, standards and the chart.

HARBOR MASTER

The harbor master appointed by the Village Board of Sag Harbor, who is a peace officer pursuant to § 2.10, Subdivision 19, of the New York State Criminal Procedure Law.

MARINE SANITATION DEVICE, MARINE TOILET OR MARINE HEAD

Any equipment on board a vessel or watercraft which is designed to receive, retain, treat or discharge sewage, and any process to treat such sewage; any such equipment that has been permanently sealed and made inoperable is exempted from this definition.

[Added 7-13-2004 by L.L. No. 4-2004]

MOOR

To attach a vessel to a pier or dock or other structure or to attach a vessel to the ground or lands underwater by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator.

MOORING AREA

The areas designated by the Village of Sag Harbor, as shown on the chart, that are reserved specifically for the mooring of vessels.

MOORING DEVICE

A permanent or semi-permanent vessel anchoring device and its associated tackle, such as chains, buoys and other equipment, other than a common anchor, manufactured and used specifically for the permanent or semi-permanent mooring of vessels.

PERSONAL WATERCRAFT

A vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing or kneeling on or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

PERSONS

Those, including individuals, partnerships, corporations, associations or any other legal entity, using the facilities and areas within the harbor management area and subject to the provisions of this chapter.

SEWAGE

All human body wastes.
[Added 7-13-2004 by L.L. No. 4-2004]

SHORELINE

The line of the shore depicted on the chart
Editor's Note: Said chart is located in a pocket at the end of this Code.
at mean high water.

SPECIALTY PROP-CRAFT

A vessel which is powered by an outboard motor or a propeller derive motor, which is designed to be operated by a person sitting, standing or kneeling on or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

SPEED

The speed of a vessel as measured in slack water in statute miles.

SWIMMING AREA

A water area designated on the Village of Sag Harbor chart set aside for swimming.

TURNING BASIN

An area in the harbor, other than a federally or locally designated channel, commonly used as an open accessway between marine structures, designated channels and mooring areas.
[Added 4-28-2005 by L.L. No. 7-2005]

VESSEL

Includes every description of vessel and watercraft or other contrivance used or capable of being used as a means of transportation in the water, including seaplanes and personal watercraft. Specifically excluded from this definition are floating homes.

VESSEL OWNER

Includes the person under whose name the vessel was last registered in accordance with the provisions of 46 U.S.C., Chapters 121-125, or the Motor Vehicle and Traffic Law and in any other case the last known owner or the person who claims lawful possession of such vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

VESSEL WASTE

Sewage from a marine toilet, marine sanitation device, marine head.

[Added 7-13-2004 by L.L. No. 4-2004]

VILLAGE BOARD

The Board of Trustees of the Village of Sag Harbor.

WATERWAY

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

ARTICLE II **Boundaries, Designated Areas and Standards for Harbor Use and Activities (§ 53-5 — § 53-12)**

§ 53-5 **Harbor Management Area boundaries and designated areas.**

[Amended 4-28-2005 by L.L. No. 7-2005]

The boundaries of the Sag Harbor Management Area include all waters and intertidal areas as described on the chart. Channels, buffer areas, mooring areas, and swimming areas are hereby established in Sag Harbor as shown on the chart.

§ 53-6 **Method of operation of vessels.**

A.

Dangerous operation prohibited. No person shall operate a vessel at a speed greater than is reasonable or prudent, including, without limitation, the throwing of its wake, so as not to:

(1)

Endanger the life or limb of another person using the harbor under the conditions and having regard to the actual and potential hazards then existing.

(2)

Disturb the reasonable comfort or endanger person on or operating another vessel or cause damage to another vessel, structure, shoreline property, the environment or interfere with the free and proper use of the waters of any channel.

B.

Use of power. No person shall operate any vessel having mechanical power without using such power while entering or leaving the harbor management area between the breakwater and 1,200 feet west of the eastern buttress of the State Highway 114 bridge.

C.

Speed of vessels.

[Amended 4-28-2005 by L.L. No. 7-2005]

(1)

No person shall operate any vessel at a speed in excess of that posted by speed markers. The Village Board of Trustees may, from time to time, by resolution, establish speed limits for any portion or portions of waters or waterways subject to this chapter and provide for the posting of speed markers.

(2)

No person shall operate a vessel at speeds greater than five miles per hour within 200 feet of the shoreline west of the breakwater and within 500 feet of the shoreline east of the breakwater to the eastern boundary of the Village of Sag Harbor or within 50 feet of swimmers, bathing floats or lifelines.

(3)

No person shall operate a vessel in any area where there is congestion of vessels, either underway or at anchor, at a speed in excess of five miles per hour.

(4)

The Village Board of Trustees may, by resolution, from time to time and for periods stated in such resolution, suspend the enforcement of this section with respect to any portion or portions of waters or waterways and designate such areas by the location of appropriate speed markers.

D.

Operation of vessels in proximity to swimmers. No boat propelled other than by hand shall cruise or be operated within 50 feet of any lifeline or bathing float or, if there is no lifeline or bathing float, within 50 feet of any swimming area. Any such boat shall not cruise or be operated in excess of five miles per hour within 50 feet of any person bathing or swimming or of an anchored or moored boat, except when being used to effect a rescue or to render assistance to prevent harm to a person or damage to property.

[Amended 4-28-2005 by L.L. No. 7-2005]

E.

Identification. Vessel operators shall, at all times, identify themselves and produce the vessel's registration to Village, state or federal law enforcement authorities upon request. Failure to produce such registration upon request shall be presumptive evidence of a violation of this section.

F.

Required equipment. No person shall operate a vessel which does not meet all duly adopted and published requirements of the Navigation Law with regard to safety equipment to be carried on or incorporated into vessels of its type.

§ 53-7 Operation of aircraft.

[Amended 9-7-1999 by L.L. No. 6-1999; 6-6-2000 by L.L. No. 3-2000]

A.

No person shall take off or land any aircraft within the harbor management area of the Village of Sag Harbor.

B.

No person shall taxi or otherwise operate an aircraft within the harbor management area, except by special permit issued by the Village Board.

C.

Special permit regulations.

(1)

The special permit issued by the Village shall not permit the establishment of any aircraft landing and takeoff area within the harbor management area.

(2)

Said special permit shall only allow an aircraft to taxi within the harbor management area within a sea-lane to a docking facility which is approved by the Village in the special permit.

(3)

The applicant for the special permit shall identify the channel and docking facility within the Village that would be used to dock the aircraft. Only said sea-lane and docking facility may be utilized by the aircraft.

(4)

The applicant shall possess an approval from the Federal Aviation Administration for a seaplane base. The takeoff and landing area for the seaplane base must be outside the harbor management area of the Village of Sag Harbor.

(5)

The docking facility for aircraft shall be located only within the Waterfront District or the Marine District on the Zoning Map of the Village.

(6)

A docking facility for aircraft must be open to the public at large. Private docking areas are prohibited.

(7)

All accessory uses for the docking facility, including but not limited to the sale of aviation fuel, repair shops and hangars, shall be prohibited.

(8)

In addition to the special permit required herein, the establishment of a docking facility for aircraft shall also

require site plan approval from the Planning Board.

(9)

The establishment of a docking facility for aircraft must comply with all provisions of the Sag Harbor Village Zoning Code.

Editor's Note: See Ch. 55, Zoning.

(10)

The special permit issued pursuant to this section shall be valid for one year and may be renewed upon the application to the Village Board of Trustees.

(11)

No special permit or renewal shall be issued until a public hearing has been held by the Village Board upon 10 days' notice to be published in the official newspaper of the Village. No special permit shall be issued or renewed until the Village Board of Trustees has received a report on the proposed application from the Harbor Master, the Harbor Committee and the Village Police Department.

(12)

An applicant for such special permit shall have the burden of proof to demonstrate that such aircraft can be operated within the harbor management area without threat to public safety.

§ 53-8 Wharfage fees at certain public docks.

No person shall tie up or berth a vessel at a Village-owned dock or bulkhead within the Village unless a slip rental or wharfage fee has been paid to the Village for use and occupancy of such space by such vessel. Any person who fails to move such vessel when ordered by the Village Police Department, harbor master or any lawful enforcing authority shall be in violation of this chapter. Each day that the violation continues shall constitute a separate additional violation.

§ 53-9 Skin diving within the Harbor Management Area.

A.

No person shall skin dive with any type of diving equipment within any channel nor shall any person bathe or swim in any channel designated on the chart, except in the course of a rescue or similar emergency.

B.

No person shall skin dive or use self contained underwater breathing apparatus (SCUBA) in the harbor management area unless a regulation red diving flag is displayed in accordance with the Navigation law nor shall any person allow or permit such diving flag to remain in any area unless a person is actually skin diving in the area while such flag is displayed.

C.

No person shall operate a vessel within 50 feet of any area marked for skin diving by the placement of a regulation red diving flag.

§ 53-10 Spearfishing.

No person shall discharge any apparatus designed for use in spearfishing within 200 feet of any lifelines or bathing float nor within 200 feet of any public or other beach regularly used for bathing or swimming nor within 50 feet of any person bathing or swimming.

§ 53-11 Prohibited discharges.

[Amended 4-28-2005 by L.L. No. 7-2005]

The dumping or discharge of petroleum products, refuse or garbage into Village waters is prohibited.

§ 53-11.1 Vessel Waste No-Discharge Zones.

[Added 7-13-2004 by L.L. No. 4-2004]

Editor's Note: This local law provided for the addition of this material as § 53-13. It was included in the Code as

§ 53-11.1, with the permission of the Village, to avoid duplicate numbering.

]

A.

The waters identified in the Sag Harbor Harbor Management Plan, adopted in 1996, are designated as "No-Discharge Zones."

B.

Securing of marine sanitation devices; use of pump-out station.

(1)

Any marine sanitation device on board a vessel being operated in waters designated as a Vessel Waste No-Discharge Zone must be secured to prevent any discharges to such waters. In accordance with federal regulations, the marine sanitation device shall be secured by closing the seacock and padlocking, using heavy nonresealable tape, using a nonreleasable wire-tie, removing the seacock handle or locking the door to the "head" while such vessel is being operated upon waters within Vessel Waste No-Discharge Zones. Use of a padlock, heavy nonresealable tape, wire-tie, or the removal of the valve handle are adequate methods of securing the device. The method chosen shall be one that presents a physical barrier to the use of the valve.

(2)

If a marine sanitation device on a vessel provides a means of discharging sewage directly to the water, the discharge valve must be secured in a readily visible manner and closed position while the vessel is being operated in a Vessel Waste No-Discharge Zone.

(3)

The provisions requiring marine sanitation devices to be secured and rendered inoperable in Vessel Waste No-Discharge Zones shall not apply while the wastes from the marine sanitation device are being lawfully disposed of in an approved marine sanitation device pump-out or dump station, or pump-out boat located within a Vessel Waste No-Discharge Zone.

C.

Inspections. Any vessel being operated upon a water body of the Village of Sag Harbor that has been designated as a Vessel Waste No-Discharge Zone may be boarded and inspected by the Village Harbor Master, Police Officer or any other lawfully designated agents acting pursuant to their special duties for the purposes of determining whether such vessel is being operated in compliance with this chapter.

§ 53-12 Special permits for aquatic events.

Nothing herein contained shall prohibit the Village Board of Trustees from issuing special permits for aquatic events or vessel races under proper supervision in limited areas and for limited periods of time.

ARTICLE III Mooring Areas (§ 53-13 — § 53-21)

§ 53-13 Location of mooring areas.

The location of mooring areas as indicated on the chart,

Editor's Note: Said chart is located in a pocket at the end of this Code.

the use thereof and the types of mooring permitted are subject to standards recommended by the harbor master and approved by the Village Board of Trustees. Location and use conditions for moorings will be stated on the mooring permit.

§ 53-14 Mooring permits.

A.

No person shall place a mooring or mooring tackle or moor a vessel without first obtaining a mooring permit from the Village Harbor Master. Such permit shall be applied for on forms to be supplied by the Village and shall be accompanied by an application fee as shall be fixed from time to time by resolution of the Board of Trustees. Upon receipt of a properly prepared application, the Village Harbor Master shall determine if the application is complete and, if so, shall process the application. No application shall be deemed complete until the permit fee is paid. The permit shall expire on October 31 in the year issued.

B.

The owners of all moorings, including moorings maintained by private boating and yacht clubs for use by members, guests and transient boaters, are required to obtain a permit from the Village Harbor Master.

C.

Permits for the use of individual private moorings shall be issued to the owner of the vessel to be moored.

§ 53-15 Mooring and anchoring within the Harbor Management Area.

[Amended 4-28-2005 by L.L. No. 7-2005]

A.

No person shall moor any vessel except in designated areas as shown on the Harbor Management Chart unless the vessel is secured to a dock, at a marina or yacht club or at a mooring accessory to a waterfront residential use. (One such mooring is allowed per property.)

B.

No person shall moor any vessel whether to mooring tackle or a pier or dock in such a manner that it lies within the lines of any channel, swimming area, buffer area, turning basin or within 50 feet of a channel marker or in a manner that interfaces with the full use of a channel, except in cases of emergency.

C.

No person shall moor any vessel within 1,500 feet of the shoreline east of the breakwater to the eastern boundary of the Village of Sag Harbor (as shown on the Harbor Management Chart), except at a mooring accessory to a waterfront residential use where such mooring lies within 500 feet of the shoreline. One mooring is allowed per property.

(1)

The location and number of moorings shall be set by the Harbormaster as permitted by the provisions of this chapter.

(2)

In assigning moorings, the Harbor Master shall give first priority to waterfront property owners; residents in waterfront communities or associations shall receive second priority.

(3)

The length of a boat at a mooring accessory to a waterfront residential use shall not exceed 26 feet long.

D.

The Harbor Master may, in his discretion, permit the temporary anchoring of vessels under 26 feet long for over 12 hours. The Harbor Master may also, in his discretion, restrict anchoring where necessary to preserve the health, safety and welfare of the public, environmental conservation and the continuation of traditional waterfront uses.

E.

No person shall anchor any vessel in such a manner that it lies within the lines of any channel, swimming area, turning basin, buffer area, mooring area, or within Upper Sag Harbor Cove or Morris Cove, and in no case shall any person anchor a vessel within 50 feet of a channel marker or in a manner that interferes with the full use of any channel, except in cases of emergency.

F.

Any vessel or float moored or anchored in violation of any part of this section shall be removed by the owner or person in charge thereof on written notice of the Harbor Master or the Village Police. If the vessel or float is not removed after the Harbor Master or Village Police Department provides written notice to the owner, that vessel or float may be removed at the direction of the Village Board of Trustees after a hearing upon five days' notice. The notice in either instance shall be served by mail upon the owner of the vessel or float at the last known address of the owner and shall also be attached to the vessel. All expenses incurred by the Village, including reasonable attorney's fees, shall be paid by the owner of the vessel or float, and the Village may enforce that obligation by civil action. Such expenses shall be in addition to, and not in lieu of, any penalties as may be prescribed by or imposed under this chapter or under any other law, ordinance, rule or regulation of the Village.

G.

No person shall moor or anchor a vessel or float that will endanger the safety of or cause damage to any vessel

previously moored or anchored. The Harbor Master shall have authority for reasons of safety to direct and order that the location or position of moorings within a mooring area be changed. The Harbor Master shall give notice to the owner or operator of the vessel using such mooring, and compliance shall be required within 10 days thereof. Failure to comply with such direction or order of the Harbor Master by any person shall be a violation of this section.

§ 53-16 **Floats.**

A.

No person shall anchor or moor any float without a permit obtained from the Village. Such permit shall be applied for on forms to be supplied by the Village and shall be accompanied by an application fee as shall be fixed from time to time by resolution of the Board of Trustees.

B.

All floats shall be anchored or moored in such a way as to be secure at all times and under all conditions, and such mooring shall be subject to approval and supervision by the harbor master.

§ 53-17 **Floating homes.**

No person shall live aboard a vessel or on any other floating structure over the water except on a vessel moored at a marina or in a designated mooring area between April 1 and October 31.

§ 53-18 **Hazards to navigation.**

[Amended 4-28-2005 by L.L. No. 7-2005]

Any vessel which becomes a menace to navigation or unseaworthy or sinks, grounds or otherwise becomes disabled shall be removed by the owner or person in charge thereof on written order of the Harbor Master or Village Police Department. If the vessel is not removed within 10 days after the order, the vessel may be removed at the direction of the Village Board of Trustees after a hearing upon five days' notice. The notice in either instance shall be served upon the owner of the vessel by mail at the last known address of the owner and shall also be attached to the vessel. All expenses incurred by the Village, including reasonable attorneys fees, shall be paid by the owner of the vessel, and the Village may enforce that obligation by civil action. Such expenses shall be in addition to, and not in lieu of, any penalties as may be prescribed by or imposed under this chapter or under any other law, ordinance, rule or regulation of the Village and the laws of the State of New York.

§ 53-19 **Enforcing authority.**

[Amended 4-28-2005 by L.L. No. 7-2005]

A.

The Village police officers and the Harbor Master are empowered to enforce the provisions of this chapter, and every person in charge of a boat navigating or using the waterways of the Village shall at all times obey the lawful orders of a police or peace officer and the Harbor Master.

B.

The Harbor Master is empowered to issue application forms, permit forms, mooring tackle standards and otherwise promulgate such forms and information as may be necessary for the administration of this chapter.

§ 53-20 **Penalties for offenses.**

[Amended 4-28-2005 by L.L. No. 7-2005]

Any person, firm or corporation violating any provision of this chapter shall be guilty of a violation and may, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment for not more than 15 days, or both. Each day that a violation under this chapter continues shall be deemed a separate offense.

§ 53-21 **Severability.**

The provisions of this chapter are hereby declared to be severable and, if any section, sentence, clause or phrase hereof shall for any reason be held to be invalid, ineffective, in conflict with regulations of the federal or state authorities or unconstitutional, such decision shall not affect the validity of the remaining portions hereof, but such portions shall remain in full force and effect.