



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.