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.

- <u>PROCEDURES TO REVIEW STATE ACTIONS FOR CONSISTENCY WITH THE LWRP</u>

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 (NYSDOS), 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

• *Haven's Beach Renovation*	$ 300,000
• *Rysam/Bay Street Drainage Project*	$ 250,000
• *Village Boat Ramp Restorations*	$ 100,000
• *Windmill Park Renovations*	$ 25,000
• *Sewage Treatment Plant*	$ 2,500,000

B. Proposed Environmental/Planning Studies

• *Long Wharf Design Study*	$ 10,000
• *Traffic Calming Study*	$ 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

	POLICY											
IMPLEMENTED OR ENFORCED BY:	1	2	3	4	5	6	7	8	9	10	11	12
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).