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**New York Rising Community Reconstruction  
Program  
Conceptual Plan**

*Village of Bayville*



**November 2013**

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## Preface

This document was developed by the Village of Bayville Planning Committee as part of the NY Rising Community Reconstruction (NYRCR) Program within the Governor's Office of Storm Recovery. The NYRCR Program is supported by NYS Homes and Community Renewal, NYS Department of State, and NYS Department of Transportation. Assistance was provided by the following consulting firms: AKRF, Inc.; CDM Smith; Sasaki Associates, Inc.



## **FOREWORD**

The New York Rising Community Reconstruction (NYRCR) program was established by Governor Andrew M. Cuomo to provide additional rebuilding and revitalization assistance to communities damaged by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. This program empowers communities to prepare locally-driven recovery plans to identify innovative reconstruction projects and other needed actions to allow each community not only to survive, but also to thrive in an era when natural risks will become increasingly common.

The NYRCR program is managed by the Governor's Office of Storm Recovery in conjunction with New York State Homes and Community Renewal and the Department of State. The NYRCR program consists of both planning and implementation phases, to assist communities in making informed recovery decisions.

The development of this conceptual plan is the result of innumerable hours of effort from volunteer planning committee members, members of the public, municipal employees, elected officials, state employees, and planning consultants. Across the state, over 102 communities are working together to build back better and stronger.

This conceptual plan is a snapshot of the current thoughts of the community and planning committee. The plans will evolve as communities analyze the risk to their assets, their needs and opportunities, the potential costs and benefits of projects and actions, and their priorities. As projects are more fully defined, the potential impact on neighboring municipalities or the region as a whole may lead to further modifications.

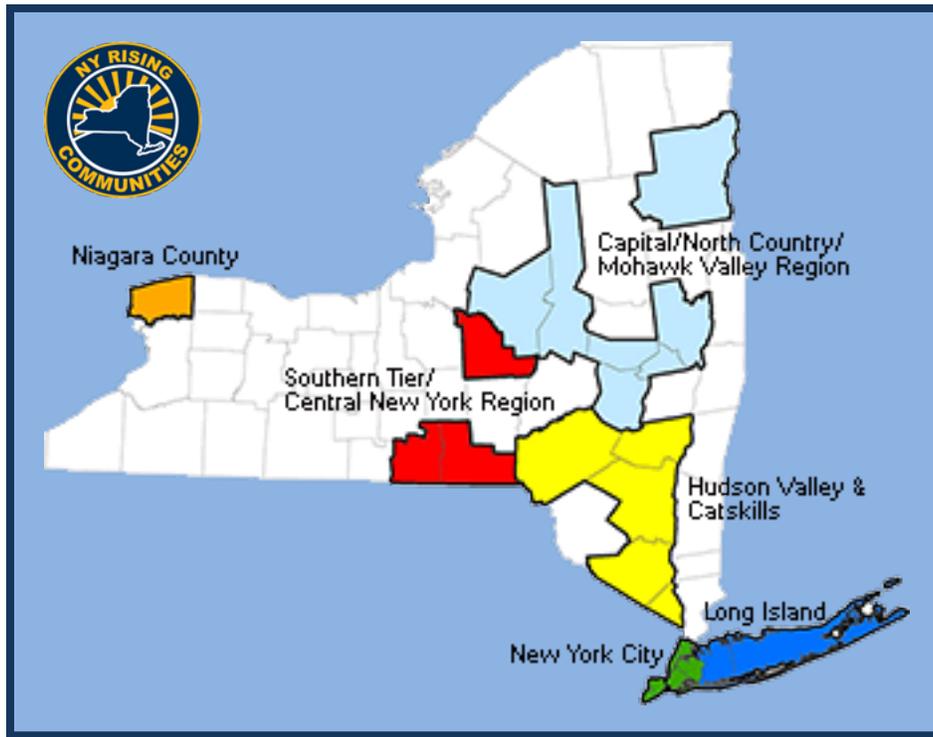
In the months ahead, communities will develop ways to implement additional strategies for economic revitalization, human services, housing, infrastructure, natural and cultural resources, and the community's capacity to implement changes.

Implementation of the proposed projects and actions found in this conceptual plan is subject to applicable federal, state, and local laws and regulations. Inclusion of a project or action in this conceptual plan does not guarantee that a particular project or action will be eligible for Community Development Block Grant – Disaster Recovery (CDBG-DR) funding. Proposed projects or actions may be eligible for other state or federal funding, or could be accomplished with municipal, nonprofit or private investment.

Each NYRCR Community will continue to engage the public as they develop a final plan for community reconstruction. Events will be held to receive feedback on the conceptual plan, to provide an understanding of risk to assets, and to gather additional ideas for strategies, projects and actions.

October 31, 2013

# New York Rising Communities



Find out more at:

[StormRecovery.ny.gov/Community-Reconstruction-Program](http://StormRecovery.ny.gov/Community-Reconstruction-Program)



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## 1.0 Overview

### 1.1 Purpose

The NY Rising Community Reconstruction Program has been initiated by New York State to help communities impacted by Hurricane Irene, Tropical Storm Lee and Superstorm Sandy by providing them with the steps to rebuild better and safer through community-tailored plans that consider current damage, future threats to community assets, and the community's economic future.

The NYRCR planning process is intended to be a collaborative effort between NYS and the local community selected, i.e. the Village of Bayville, to participate in this program. NYS has designated the New York State Department of State (NYS DOS) as the lead agency for the program. New York State Homes and Community Renewal (NYSHCR) is the contracting agency overseeing contracting and project reimbursements.

The NYRCR Program created a Planning Team, which includes 1) NYS DOS Rising Community Staff, 2) AKRF/CDM Smith, supported by Sasaki Associates; collectively referred to as the Planning Firm, 3) the Village of Bayville's Co-Chairs and 4) the Village of Bayville's Planning Committee, which will use the planning process to:

- Assess each community's vulnerabilities to natural disasters and extreme natural events and its needs for economic development;
- Identify where funds should be used to increase the resiliency of critical facilities and essential public assets damaged or destroyed by Hurricane Irene, Tropical Storm Lee and Superstorm Sandy; and
- Identify projects and actions that will increase resilience, protect vulnerable populations and promote sound economic development.

The outcome of this program is to develop a plan that will guide the community in becoming more resilient to extreme natural events. Another outcome will be a specific list of short, medium and long-term strategies, programs and actions that can be funded by the NYRCR program, FEMA hazard mitigation funding or other sources.

This Conceptual Plan (CP) reflects the current status of the Village of Bayville plan within the NYRCR process. The CP focuses on the relationship of assets, risks, needs and opportunities, strategies, projects and actions to the six Recovery Support Functions. The six functions are:

- Community Planning and Capacity Building
- Economic
- Health and Social Services
- Housing
- Infrastructure



- Natural and Cultural Resources

This CP builds on existing plans, planning committee input and contributions from the first public involvement meeting. It includes potential projects ranging from short to long term, and highlights those that may be able to move forward on the fast track toward implementation. Over the next several months the plan will be refined and developed into the Final NYRCR Plan that will be completed by March 2014.

## **1.2 Community Overview**

The Village of Bayville is situated between Long Island Sound and Oyster Bay on the north shore of Long Island, NY (see Figure 1). This attractive coastal location provides the benefits of a secure, close-knit community, high property values, quality education, as well as opportunities for boating, beach access and other water-based recreational activities. As shown on Figure 3 Asset Mapping, natural assets within the Village that provide aesthetic value and/or opportunities for recreational activities such as swimming, boating and bird watching, include:

- Village Woods Park – approximately 14 acres , adjacent to School Street in the center of the Village
- Village Marina – located within Mill Neck Bay, on the south of the Village Center
- Bridge Marina and boat launch –located adjacent to the west side of the Bayville Bridge, toward the Village’s eastern end
- Mill Neck Preserve – approximately 61 acres, located in Village’s far west end
- Mill Neck Creek & Mill Neck Bay – the creek flows through the preserve and into the bay
- Long Island Sound – borders the Village to the north
- Ransom/Stehli Beach -- owned by the Town of Oyster Bay and located on the Sound-side of the Village’s west end
- Sound Beach –owned by the Village and located on the Sound-side of the Village’s east end
- West Harbor Beach -- owned by the Town of Oyster Bay and located on the bay side of the Village’s east end
- Oyster Bay National Wildlife Refuge –approximately 3,405 acres in size and located on the bay side of the Village’s east end

Long Island is located within the Atlantic flyway. Mill Creek Preserve and the Oyster Bay National Wildlife Refuge are known to be used by migratory birds.

The Village is unique in that there are only two points of egress: West Shore Road/ Bayville Bridge and Bayville Road. Both routes are under the jurisdiction of Nassau



County and are located in the FEMA-designated 100-year floodplain (see Figure 2 Flood Inundation). These two routes are rendered impassable during extreme weather events, leaving the community isolated from necessary services.

The Village's east end, which extends from Adams Avenue to the western terminus of the municipal boundary, is within the 100-year floodplain (Zone AE; FEMA FIRM Panels 36059C0041G and 36059C0043G, revised September 11, 2009). During extreme weather events, overland flow of water into Mill Creek combines with elevated water level in Oyster Bay and surges on to the Village's east end. The water pools and floods homes in the neighborhoods of the Presidents Streets, the Numbered Streets and the Pine Lane, as well as businesses in the Ludlam Avenue/Bayville Avenue area.

The Village of Bayville is focused on improving community resilience to storm flooding through the NYRCR Program. Priorities that have been identified include protecting residents, assets and the natural environment from extreme weather events and natural disasters to enhance economic stability, maintain water quality of surrounding waterways and preserve community character. Maintaining accessibility to emergency responders and services, e.g. police, fire, EMT, hospital, before, during and after extreme weather events is imperative.

The residents of the Village of Bayville are working together to build back better by identifying/implementing hazard mitigation actions that will reduce flood risk and increase resiliency. This will be achieved through a combination of efforts including construction of 'soft' and 'hard' flood mitigation measures, preservation of natural flood prevention systems, encouraging new and existing economic development, and focusing on the continued improvement of water quality.

The Village of Bayville's preliminary needs, expectations and vision were communicated to the NYS Rising Community Staff and the Planning Firm by two volunteer Co-Chairs and a 11 member Planning Committee that has been approved by NYS Rising Community Staff.

The Village of Bayville Co-Chairs are:

- Vincent Moscato
- Daniel Antonetti

The Village of Bayville Planning Committee members are:

- Richie Valicenti
- Jed DioGuardi
- Robert Edwins
- Jean Mansuteo
- Fred Uhl
- Richie Riso



- Bill Charon
- Tim Charon

The Planning Committee solicits verbal input from Doug Watson, the Village Mayor and Ken Arnold, Nassau County Assistant to Commissioner of Public Works. The Village Mayor and the County Assistant to Commissioner of Public Works are ex-officio members of the Committee, i.e. members of a committee, council, etc. who are part of it by virtue of holding another office and typically abstain from voting.

### 1.3 Summary of Storm Impacts

As indicated in Table 1 below, two types of storms have historically impacted the New York coastal region: 1) Hurricanes, which can occur from July to October and 2) northeasters, which typically occur during the winter season (November to March). During both storm types, coastal areas experience elevated water levels and intense wave conditions, followed by flooding and flood-related damage(s). (USACE NY District, 1995 and <http://hurricanes.noaa.gov/pdf/hurricanebook.pdf>)

Hurricanes are low pressure systems with thunderstorms and winds ranging from 74 miles per hour (mph) for Category 1, i.e. the storm strength, to greater than 155 mph for Category 5 storms. Since the speed and path of a hurricane depends upon its interaction with oceanic and atmospheric conditions, it is possible for a lower category storm to result in more damage than a higher category storm (<http://hurricanes.noaa.gov/pdf/hurricanebook.pdf>).

Northeasters are generally less intense than hurricanes, longer in duration and may have localized winds that reach hurricane strength. Therefore, damages from a northeaster can meet or exceed that of a hurricane (USACE NY District, 1995).

According to United States Army Corps of Engineers (USACE NY District, 1995), 65 moderate to severe northeasters have impacted the NY coastal region from 1865 to 1965. Hurricane Bob (August 1991), was followed by northeasters in October 1991, December 1992 and March 1993.

**Table 1. Historical Storms that have Impacted the New York Coast**

<b>Hurricanes</b>		<b>Northeasters</b>	
<b>Date</b>	<b>Name</b>	<b>Date</b>	<b>Name</b>
09-14-1904		03-03-1931	
09-08-1934		11-17-1935	
09-21-1938		11-25-1950	
09-14-1944		11-06-1953	



08-31-1954	Carol	03-06-1962	
09-12-1960	Donna	02-06-1978	
08-06-1976	Belle	03-28-1984	
09-27-1985	Gloria	10-30-1991	
08-19-1991	Bob	12-11-1992	Great Nor'easter of '92
		03-06-1993	Storm of the Century

The Great Nor'easter of December 1992 damaged coastal areas from New Jersey to Massachusetts; storm formation began December 10, and landfall occurred on December 11<sup>th</sup> during astronomical high tides. A stationary area of high pressure over southeastern Canada extended the duration of the storm's presence in the region. Ambrose Light Station, which is southeast of New York City, recorded sustained winds of 80 mph and gusts up to 93 mph. Transportation in and around NYC was halted as the subway shut down for three hours due to a flooding and a power outage at a Con Edison Station, LaGuardia International Airport was closed due to flooding by tides three to four feet above normal levels, and cars were stranded on roadways due to heavy snow and rainfall. Worcester, MA recorded 32.1 inches of snow. The storm moved out to sea on December 12, was the cause of six deaths, and an estimated half billion dollars in damage (<http://www.hurricanes-blizzards-noreasters.com/1992noreaster.html>).

The Great Nor'easter of December 1992 is clearly recalled by Village residents due to the severity of its damage to the area. Following the storm 19,000 Long Island residents were without power and the homes of 3,000 Village residents were standing in up to 8 feet of water (McQuiston, December 14, 1992, The New York Times; <http://www.nytimes.com/1992/12/14/nyregion/after-the-storm-long-island-almost-3000-homeless-in-a-north-shore-town.html>). Federal and state disaster officials touring damaged areas, including Long Island, noted thousands of battered homes, miles of eroded beaches, downed trees and power lines, and shattered boats. After a helicopter survey of collapsed homes on Long Island and coastal areas of Queens and Brooklyn, NY Governor Mario Cuomo is reported to have seen "...huge chunks torn out of seawalls..." (McFadden, December 14, 1992, The New York Times; <http://www.nytimes.com/1992/12/14/nyregion/after-the-storm-the-overview-weakening-storm-leaves-northeast-with-huge-damage.html?pagewanted=all&src=pm>). President Bush declared NY a disaster area on December 21, 1992 to entitle residents to apply for federal assistance, grants and loan programs (<http://www.fema.gov/disaster/974>).



Three months after the Great Nor'easter of '92 struck, the Storm of the Century struck in mid-March 1993. The storm's massive size, record cold temperatures snow and wind effected areas as far south as central Alabama and Georgia, which received 6 to 8 inches of snow. The storm's rapid snow accumulations and widespread white out conditions (zero visibility) resulted in New York and 6 New England States declaring disaster emergencies during the height of the storm. High winds combined with heavy wet snow downed thousands of miles of power lines and caused over \$1.5 billion in damage. (<http://eo.ucar.edu/webweather/blizzardstory.html>).

During storm events, including Hurricane Irene, overflow from Mill Creek floods homes and businesses within a several block span of the Presidents Streets, e.g. Adams, Madison, etc. area and extends to Bayville Avenue, making road travel difficult or not possible.

During Superstorm Sandy, the above referenced occurrences combined with high winds, an astronomical high tide, and storm surge from Long Island Sound flooded the Pine Lane neighborhood and contributed to the flooding of the Village's entire east end, which includes the Presidents Streets area (See Figure 2 Flood Inundation and 3 Asset Mapping), and necessitated the emergency shutdown of gas service in this area. Flooding along Bayville Avenue made the road impassable, resulted in stalled vehicles, and the convergence of emergency personnel and utility trucks.

The Village estimates approximately 300 homes were affected by Superstorm Sandy. Flooding of streets south of Bayville Avenue that lead to Mill Neck Creek and Oyster Bay and the April 2013 re-opening of the Bayville Bridge were the focus of local newspapers articles in Newsday on October 31, 2013 (<http://www.newsday.com/long-island/towns/partial-flooding-remains-on-bayville-streets-1.4178549>) and March 28, 2013 (<http://www.newsday.com/long-island/towns/long-island-now-1.1732330/bayville-bridge-due-to-open-april-17-1.4928467>), respectively.

Winds from the storm caused trees to down electrical power lines and telephone, resulting in a regional and local loss of electrical power and land-line telephone service. Loss of electrical power and phone service, combined with street flooding and closures due to debris created public safety hazards and severely limited communication within the Village during and immediately after the storm.

West Shore Road contains the Bayville Bridge, which spans Oyster Bay, and connects the Village of Bayville and Center Island to the Town of Oyster Bay. According to an August 23, 2013 article published in Roads & Bridges (<http://www.roadsbridges.com/bayville%E2%80%94oyster-bay-ny-rebuilds-west-shore-road-after-hurricane-sandy>), three days of storm surge from Superstorm Sandy resulted in approximately 30 years of erosion damage to West Shore Road. The damage made the road impassable and disrupted the local economy. Reconstruction of the road began in December 2012 and was completed in mid-June 2013.



## 1.4 Community Vision

The Planning Firm conducted visioning sessions at the September 24, October 1, 2013 and October 8, 2013 Committee meetings. A draft vision statement was developed using input from the Committee and information from existing local and regional planning documents. The draft vision was then revised to include public input obtained during the October 15, 2013 public engagement meeting. The resulting draft Community Vision is as follows:

“The Village of Bayville is a unique community focused on building back better by protecting our assets and natural environment from extreme weather events and natural disasters. Our goals are to enhance economic stability, maintain and improve our water quality, preserve community character, and maintain access to emergency services.”

### Goals and Objectives

- Reduce threats from future storm and sea level rise to both the community and our natural resources
- Protect and improve groundwater and surface water quality
- Improve stormwater management
- Provide emergency communication system(s)
- Maintain access to emergency responders and services,
- Encourage new and existing economic development

The Community Vision will continue to be refined to reflect information obtained at future Committee and public engagement meetings. A final version of the vision will be included in the Final Community Reconstruction Plan.

## 1.5 Geographic Scope

As stated on page 10 of the Guidance for New York Rising Community Reconstruction Plans, “A community may define the geographic scope of the plan to include the areas where assets are most at risk, where reconstruction or future construction should be encouraged, and where key investments to improve local economy can be made” ([http://stormrecovery.ny.gov/sites/default/files/documents/Guidance\\_for\\_Community\\_Reconstruction\\_Plans.pdf](http://stormrecovery.ny.gov/sites/default/files/documents/Guidance_for_Community_Reconstruction_Plans.pdf)).

The Village of Bayville’s geographic scope of the Community Reconstruction Plan is coterminous with the Village’s municipal boundary (see Figure 1 Geographic Scope) and considers important assets outside of the boundary that relate to the Village’s ability to recover from future flood events, e.g. the Bayville Bridge and Locust Valley High School, which is the nearest American Red Cross-designated shelter.



The Village has a Zoning Code and a Local Waterfront Revitalization Plan that addresses future development and re-development within the Village. The most pertinent sections of the Village Code are included as Attachment 1 of this document. At this time, the Village does not have a Comprehensive Plan. The Planning Firm utilized data from the sources listed below create maps showing the limits of the geographic scope, important assets outside the municipal boundary, assets impacted by flooding, a designated buffer, and the 100-year and 500-year flood plain. The Planning Firm also created maps of impacted areas during Superstorm Sandy (See Figure 2 Flood Inundation). The map was available for viewing at Planning Committee meetings and at the Public Engagement meetings, e.g. October 15, 2013. The sources used are as follows:

- ESRI Geographic Information Systems (GIS) data for roads, railroads and water bodies  
<http://www.esri.com/data/find-data>
- National Oceanic and Atmospheric Administration (NOAA) coastline information  
<http://www.nhc.noaa.gov/gis/>
- Federal Emergency Management Agency (FEMA) Hurricane Sandy Inundation information  
<http://fema-services2.esri.com/arcgis/services>
- US Census—information on towns, places, and counties  
<http://www.census.gov/geo/maps-data/>

## 1.6 Summary of Relevant Existing Plans and Studies

Table 2 contains a list of available local and regional planning documents and data that have been reviewed for their relevance to the Plan. Review of these documents avoided duplication of existing planning studies and projects while meeting the goals of the NYRCR Program and provided the basis for assessing local and regional issues to be incorporated into the Village of Bayville NYRCR.

**Table 2. Existing Planning Documents and Data Collection Summary**

<i>Local Resources</i>	<i>Relevance</i>
Village of Bayville, Flood Mitigation Plan, Mayor of Bayville (January 2013)	Contains information on damage sustained during Irene and Sandy and presents projects that would increase public safety and decrease property damage.
Local Waterfront Revitalization Plan (2002)	Detailed information on areas prone to flooding and erosion, and existing flood prevention methods that have been implemented or remain to be implemented; data and project list are outdated, but still of some use.



Village Code (1978+updates)	Contains existing codes relevant to the project, i.e. areas prone to flooding and erosion, protection of water quality, stormwater management, etc. The most pertinent sections are included as Attachment 1 of this document.
North Shore of Long Island, New York Storm Damage Protection and Beach Erosion Control Reconnaissance Study (1995+)	The ACOE will proceed with a partially complete feasibility study addressing beach erosion and flooding along the south shore area of the Village of Bayville. Federal funding has been procured. Expected completion in early 2016.
GIS data	Data available in many areas. Using FEMA, ESRI a private developer of GIS data, used here for roads, waterbodies), NOAA (coastlines) and US Census on current planning maps. Other data sets will be used as appropriate.
National Oceanic and Atmospheric Administration (NOAA) coastline information <a href="http://www.nhc.noaa.gov/gis/">http://www.nhc.noaa.gov/gis/</a>	Contains historic aerial imagery, coastal flooding information, and aerial imagery showing Hurricane Sandy impacts to the Village of Bayville.
ACOE Near Shore Investigation (2005)	Analysis of local marine fauna in Bayville's surrounding waters; while not focused on water quality, the study notes that levels of pesticides and VOCs in the water bodies surrounding Bayville were below the level of laboratory detection.
<b><i>Regional Resources</i></b>	
Draft Nassau County Hazard Mitigation Study Plan (in development)	Extensive analysis of hazards to the county: risk assessment, capabilities/resources, and mitigation goals. Significant risks identified in Bayville include coastal erosion, flooding/storm surge, tropical and winter storms. Includes summary of historic storm damages in Bayville



<p>Hurricane Sandy Rapid Assessment Final Report created by the Atlantic Flyway Shorebird Business Strategy Planning Team (no date)</p>	<p>Contains relevant information on Hurricane Sandy’s impact on migratory birds; Long Island is within Atlantic flyway and vegetated wetland habitats , e.g. Mill Creek Preserve, known to be used by migratory birds are adjacent to the Village of Bayville.</p>
<p>Cleaner Greener Long Island Regional Sustainability Plan (2013)</p>	<p>Regional context, goals, aspirations. Limited discussion of flooding/natural hazards. No specific discussion of Bayville. The plan contains a list of sea-level rise adaptation strategies which could be useful in Bayville.</p>
<p>Nassau County Capital Improvement Plan 2013-2016 (2013)</p>	<p>Full list of capital projects with budgets for all county projects. Useful for information on relevant projects, such as West Shore Road. several general disaster resiliency projects including hardening water treatment infrastructure and creating a disaster recovery plan for the county data center, and a project to design a sewage collection system to prevent pollution of the Mill Neck Preserve.</p>
<p>Strong Island: The Strategic Economic Development Plan for Nassau and Suffolk Counties (2013 Update)</p>	<p>Regional context, goals, aspirations. Some discussion of flooding/natural hazards in the context of effects to regional economy. No specific discussion of Bayville.</p>
<p>Long Island Comprehensive Economic Development Strategy (2012)</p>	<p>Regional context, goals, aspirations; limited discussion of flooding/natural hazards. Primarily a list of economic development projects throughout Long Island. No specific discussion of Bayville.</p>
<p>Sound Vision: An Action Plan for Long Island Sound 2011-2020 (2011)</p>	<p>Ecosystem plan for the Sound; provides context, goals, and aspirations. No discussion of flooding/natural hazards. No specific discussion of Bayville or sea level rise.</p>
<p>Long Island Regional Economic Council</p>	<p>Regional context, goals, aspirations; limited discussion of flooding/natural</p>



Strategic Plan (2011)	hazards. No specific discussion of Bayville. Focus on tourism may be relevant.
Long Island Sound Waterborne Transportation Plan (2010)	Regional mobility plan; provides regional context. Bayville briefly mentioned as a potential “long list” ferry location.
Nassau County Master Plan Draft (2010)	Long-term vision for the County: its assets, challenges and priorities, with a focus on the economy and adapting to demographic change. No specific discussion of Bayville.
Nassau Five Year Plan 2010-2014 (2010)	Spending report for the HUD programs in the county. Several mentions (but no discussion) of housing and community development needs and projects in Bayville.
Long Island 2035 Regional Visioning Initiative (2009)	Regional context, goals, aspirations. Limited discussion of flooding/natural hazards. No specific discussion of Bayville.
Long Island Non-Motorized Transportation Study (2007)	This regional mobility plan is not fully available online. Appears to be of limited relevance in regard to flooding/natural hazards.
Nassau County Capital Improvement Plan 2007-2010 (2007)	Full list of capital projects with budgets for all county projects. While outdated, could be useful for information on relevant past projects, including rehabilitation of West Shore Road and the Bayville Bridge.
LI Sound Stewardship Initiative (2006)	Ecosystem planning for the Sound; provides context, goals, aspirations. No discussion of flooding/natural hazards. Mill Neck Creek is a focus area. The plan makes no mention of priority resources/ impairments to the Creek, focusing instead on its ecological significance.
New York Metropolitan Transportation Council Regional Freight Plan (2005)	Regional context regarding freight mobility. Very limited discussion of flooding/natural hazards. No specific



	discussion of Bayville.
North Shore Heritage Area Management Plan (2005)	Study and inventory of the heritage area's natural and cultural resources, with components of a comprehensive plan, since this is such a large area. No mention of impacts of flooding or natural hazards on historic resources. Numerous mentions of Bayville in inventory, but limited discussion of the village.
Nassau County Economic Development Plan (2002)	Contains information on industries to support/promote, areas to target for development and types of infrastructure investments; could serve as secondary information.

A list of Reconstruction Plan deliverables and the existing planning documents that have information which may support their development follow. Input provided by the Committee at the September 24, 2013 October 1, 2013 and October 8, 2013 meetings, and the October 15, 2013 Public Engagement meeting, as well as future planning and public engagement meetings, have been and will be used to develop and refine plan deliverables.

#### Community Vision

- Local Waterfront Revitalization Plan (2002)
- Long Island Regional Economic Council Strategic Plan (2011)
- Long Island Regional Economic Development Council The Strategic Economic Development Plan for Nassau and Suffolk Counties 2013 Update

#### Community Asset Inventory

- Local Waterfront Revitalization Plan (2002)
- Local, Regional and National GIS resources
- North Shore Heritage Management Area Plan (2005)

#### Risk Assessment

- Nassau County Hazard Mitigation Study (currently under development)
- Local, Regional and National GIS resources
- Hurricane Sandy Rapid Assessment (2013)
- Sound Vision: An Action Plan for Long Island Sound 2011-2020 (2011)
- Long Island Regional Economic Council Strategic Plan (2011)



## Economic Needs and Opportunities Assessment

- Village of Bayville, Flood Mitigation Plan, Mayor of Bayville
- Long Island Comprehensive Economic Development Strategy (2012)
- Long Island regional Economic Council Strategic Plan (2011)
- Nassau County Master Plan Draft (2010)
- Nassau County Five Year Plan 2010-2014 (2010)
- Nassau County Capital Improvement Plan 2010-2013 (2010)
- Long Island 2035 Visioning Initiative (2006)
- Nassau County Economic Development Plan (2002)
- Regional Freight Plan (2005)

## **2.0 Identification of Assets, Risk and Need**

The Planning Committee identified assets at the September 24, 2013 meeting and grouped them according to the six resource classes at the October 1, 2013 and October 8, 2013 meetings, and the October 15, 2013 Public Engagement meeting.

### **2.1 Identification of Assets**

The Conceptual Plan focuses on the relationship of assets, risks, needs and opportunities, strategies, projects and actions with regard to the six Recovery Support Functions. The six functions are:

- Community Planning and Capacity Building
- Economic
- Health and Social Services
- Housing
- Infrastructure
- Natural and Cultural Resources

The Village identified assets in each of the six Recovery Support Functions during the September 24, 2013, October 1, 2013 and October 8, 2013 Planning Committee meetings. The Infrastructure Sub-Committee also identified assets during field reconnaissance and reported the results to the Planning Committee at the October 8, 2013 Planning Committee meeting. Additionally, the public identified assets at the October 15, 2013 public engagement meeting. Table 3 lists the identified assets according to Recovery Support Function.



**Table 3. Recovery Support Functions and Identified Assets**

<b>Recovery Support Function</b>	<b>Identified Assets</b>
Community Planning and Capacity Building	Jones Manor Senior Housing, United Cerebral Palsy, Nassau County AHRC
Economic	Village Marina, Bridge Marina and boat launch, Ludlam/Bayville Ave shopping center, Merritt Lane Shopping Center, school bus depot @ Merritts Lane, "The Stands", i.e. the Village's west end business area, Rod and Gun Club
Health and Social Services	Village Hall, Primary and Intermediate Schools, Ambulance, Post Office, Community Center, American Legion, Police Booth, Fire Station, Centre Island Police Department*, Bayville Road access to Red Cross Shelter & North Shore/LIJ Hospital at Glen Cove*
Housing	Jones Manor Senior Housing; President Streets neighborhood; Pine Lane homes, Numbered streets neighborhood
Infrastructure	Gas station, water tower and pump station, water well, West Shore Road & Bayville Bridge*, water pump station*, Village and County stormwater collection system, above ground electrical and telephone lines
Natural and Cultural Resources	The Village and St. Gertrude's Churches, Village Woods Park, Village Marina, Bridge Marina and boat launch, Mill Neck Preserve, Creek & Bay, Long Island Sound, Ransom/Stehli Beach (TOB)*, Sound Beach (Village), West Harbor Beach (Village), Center Island Beach (TOB)* & Community Sports Centers*, Village of Bayville Coastal Erosion Hazard Area (CEHA), and the Oyster Bay National Wildlife Refuge

Assets in Table 3 with asterisks \* near them are outside of the Village's municipal boundary, but they are important in that they relate to the Village's ability to recover from future flood events, e.g. the Bayville Bridge and Locust Valley High School, which is the nearest American Red Cross-designated shelter.



## **2.2 Identification of Risk**

During the September 24, 2013, October 1, 2013 and October 8, 2013 Planning Committee meetings, the Committee mark-ed up an aerial image of the Village to identify areas where flooding typically occurs during extreme weather events. During the October 15, 2013 public engagement meeting, the community also mark-ed up an aerial image of the Village to identify where additional flooding occurred during Hurricane Sandy. As a result, the Planning Firm now has defined areas of risk shown on aerial images of the Village that are overlain with FEMA flood zones and coastal risk area maps (see Figure 4 Risk Areas with Flood Zones). Correlating the various flood mapping and reports of historic events will be performed moving forward. Risk areas will be identified in a figure that clearly overlays the risk areas and the assets.

Risk assessment will be performed with the Risk Assessment tool. Scenario planning showing the protection of assets with and without proposed management measures and will be performed and will be reported in the Final Plan.

## **2.3 Identification of Needs and Opportunities**

During the October 8, 2013 Planning Committee meeting, the Committee identified areas within the Village that typically flood and need resiliency measures and discussed opportunities available to implement the needed resiliency measures.

The Planning Committee is in the process of developing details regarding the following needs and opportunities that have been identified to date, which includes:

- Improve resiliency of flood-prone areas, e.g. the neighborhoods in the Village's east end
- Upgrading existing systems, e.g. relocating power lines below ground
- Potential benefits of identified actions
- Potential redevelopment or adaptation areas

# **3.0 Potential Strategies, Projects and Implementation Actions**

## **3.1 Introduction**

The Village of Bayville Planning Committee is inventorying community assets, conducting a risk assessment based on damages identified during past storms and new coastal flood mapping, and has begun identifying opportunities to create a more resilient village. Input from the Planning Committee and the public shows a need for a general strategy to reduce flooding from lower intensity storm events in the short terms, while the Village works to create more resilient infrastructure, particularly as related to the



transportation and communication systems, to protect the Village from large storms and sea level rise. There is strong interest in conserving the natural environment, and enhancing natural features, such as wetlands and near shore areas, that help create buffers against storm events. Last, but not least, the Planning Committee and public have indicated that emergency and protective management systems should be strengthened in the future to provide for more comprehensive adaptive measures and long term resiliency.

The Planning Committee has developed a preliminary list of 21 potential projects and actions as part of their Community Reconstruction Plan. These projects have been tentatively organized by strategy type in subsection 3.3, below; however, identification of additional projects and actions, and development of strategies will be developed further in upcoming weeks. A summary of the potential projects, the plan for developing strategies, and the plan for developing implementation actions is further described below.

### **3.2 Potential Projects**

The Community Reconstruction and Resiliency Guidance document defines a range of potential strategies that should be considered in developing a Reconstruction and Resiliency Plan:

- Community Planning and Capacity Building
- Economic Development
- Health & Social Services
- Housing
- Infrastructure
- Natural & Cultural Resources.

These six categories of strategic action are directly related to the six Reconstruction Support Functions. Toward the identification of reconstruction and resiliency actions, the Planning Committee and community has created a preliminary list of projects and actions that relate to the six areas of Strategic Action above; however, because the list of projects and actions is still being developed, they are at present only loosely organized into Strategies (see subsection 3.3). The refinement of the Strategies and further development of the component projects and actions will occur over the next month. A general description of each project and action is provided in Table 4. The location of the potential projects and actions is presented in Figure 5 Potential Project Locations.



**Table 4: Potential Projects and Actions and Project Descriptions**

<b>Project/Action Name</b>	<b>Project Description(s)</b>	<b>Potential Implementation Timing</b>
West Harbor Road Sand Bar Preservation	Stabilize sand bar along south side of wetlands adjacent to West Harbor Road near Bayville Gun and Rod Club	Mid to Long Term
Building Code Modifications	Modify building code to include the use of green infrastructure for stormwater management. Also, include flood proofing requirements. May include re-establishing the position of Village Building Code Enforcer Officer. This officer would check the public road access to be sure no tree limbs are about to fall onto power lines.	Short to Mid Term
Pine Lane Dune Reconstruction	Reconstruct and vegetate dune to prevent tidal surge from flooding streets/homes	Short to Mid Term
1 <sup>st</sup> Street and Bayville Avenue Dune Reconstruction	Reconstruct and vegetate dune to prevent tidal surge from flooding streets and homes	Short to Mid Term
Barrier Construction from Bayville Bridge to Shore Road	Construct new barrier between Bayville Bridge and Shore Road to prevent tidal surge to streets, homes, and businesses	Long Term
Centre Island Sound Beach Dune Replenishment	Dune replenishment along Centre Island Sound Beach; (this beach is located outside Village municipal boundaries)	Short to Mid Term
Centre Island Jetties	Repair and reinforcement of Centre Island jetties (various locations)	Long Term
Stormwater Management through Green Infrastructure	Installation of green infrastructure for management of stormwater in higher elevation areas to reduce stormwater runoff directed to low-lying areas	Mid to Long Term
Public Education	Circulate flood preparation material twice per year, develop and circulate evacuation plans to specifically vulnerable residents	Short Term



Citizens Auxiliary Group	Organization and formalization of a group of residents that would provide post-extreme weather event assistance and support to the community	Short Term
Stormwater Pump Stations	Pump stations for low lying areas to facilitate pump out operations following flooding	Mid to Long Term
1 <sup>st</sup> Avenue Drainage Project Study	Investigate and correct issues with existing drainage infrastructure	Short Term
Village Hall Generator	Install permanent dual fuel generator at “command central” location of Village Hall. The Village is pursuing the installation of a GENERAC Auto Standby Generator, Liq, NG 120/240V.	Short to Mid Term
Mobile Water Pump Procurement	Procure large capacity truck or trailer mounted mobile pumps for pump out operations following extreme weather events. The Village currently owns one portable water pump. Additional pumps would be used by the Citizens Auxiliary Group.	Short Term
Bayville Promotion and Advertisement Campaign	Local news spots and advertising to promote Bayville and attract business	Short to Mid Term
Egress Study	Study egress options during emergency conditions including vulnerable populations	Short Term
Long Island Sound Coastline Rebuilding and Stabilization Study**	Evaluate options for rebuilding and stabilization of Bayville coastline along Long Island Sounds	Short to Mid Term
Sanitary Sewer Installation	Transition of septic systems to new sanitary sewer system	Long Term
Relocation of Services Outside of Flood Zone	Relocate fire station to higher elevations or allow temporary relocation	Mid to Long Term
Utility Connection Elevation at Vital Service Locations	Elevate utility connections at vital service location such as Village Hall	Mid to Long Term
Bayville Bridge Mechanical/Electrical Equipment Protection**	Flood proof and/or raise mechanical and electrical equipment of Bayville Bridge	Mid to Long Term



Overhead Utility Protection/Relocate Underground	Develop short, middle, and long term measures to protect overhead utilities and improve communications during and following storms.	Short, Mid, and Long Term
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Toward the goal of creating a comprehensive and integrated plan to achieve recovery and resiliency, this Plan seeks to identify all possible actions, both natural and structural, applying both management and new construction, and enhancing operational response to emergency conditions. After a complete set of effective and feasible future projects and actions is identified, the Planning Committee will work with regional, state, and federal agencies to leverage all possible implementation programs and funding, and to combine such support programs to realize, to the greatest extent, the goals of this Plan.

The committee has identified projects that may be include in other funding programs. These projects and other potential projects will be further investigated to avoid a duplication of benefits. Projects that may be include in other funding programs have been denoted with asterisks \*\* in Table 4 specifically: 1) movement of the electrical/mechanical equipment for the Bayville Bridge outside of the floodplain appears to be a project that Nassau County has applied for to be funded through the New York State Office of Emergency Management Hazard Mitigation Grant Program and 2) the Long Island Sound Coastline Rebuilding and Stabilization Study may be work that will be included under the US Army Corps of Engineer’s North Shore of Long Island – Bayville Storm Damage Protection and Beach Erosion Control Study.

Additionally, the Planning Committee has expressed interest in learning about the National Flood Insurance Program (NFIP) Community Rating System Program. This program aims to reduce flood damage to insurable property by providing incentives in the form of premium discounts for communities that implement floodplain management measures above the minimum NFIP requirements. The Planning Team will obtain the eligibility requirements for the National Flood Insurance Program (NFIP) Community Rating System and provide the rating system requirements to the Planning Committee. The Planning Committee will then be able to review and discuss the requirements and determine how this could be integrated into the Village’s reconstruction plan.

In order to present the information for each project in a uniform manner, a project summary template has been prepared that includes, at a minimum, the content elements specified in the *Guidance for Conceptual Plan Project Descriptions*. This template is included as Attachment 2 and has been filled out for one representative project with the limited information currently available. Moving forward, information for each capital project will be collected and documented using this template. Non-capital projects/actions will be defined more generally.

To prepare the project summaries, the Planning Firm will work with the Planning Committee to fill out the template and will provide the draft project summaries to the



Committee for review and final approval. The below items summarize the general workflow that will be followed for finalizing the project list and project summaries:

- The initial step in this process will include ensuring that the project names and descriptions are thorough and representative of the Planning Committee’s vision and intent for these projects.
- Following the initial step, the Planning Firm will investigate whether there is any overlap of the preliminary list of projects with other local and/or regional plans and if there are applicable synergies, the potential projects will be reviewed in detail so they can be appropriately coordinated with those other plans. Where the overlap is such that the potential project would be entirely duplicative of work through other plans and it would be inefficient and unnecessary for the Community to expend energy or funding on the project, then the project will be removed from the list.
- Following this initial screening, the preliminary list will be augmented through further coordination with the Planning Committee and the Public Engagement meetings. The process of cross checking these additional projects with local and/or regional projects will then be repeated.
- Once the project list is finalized and the projects appropriately articulated, the Planning Firm will assess the initial feasibility of the projects and will rank the projects from highest initial feasibility to lowest initial feasibility. The Planning Firm may develop a process for assigning a weighting to the feasibility ranking of projects based on the Planning Committee’s valuation of the need for the project. This ranking will dictate the order in which the remaining project information is collected for each project.
- Following the final prioritization ordering of projects, the remaining project summary information will be collected for projects in their order of priority.

### **3.3 Strategies (Management Measures)**

The preliminary list of potential projects and actions are grouped below according to the six classes of management measures described in Appendix 4 of the *Guidance for New York Rising Community Reconstruction Plans* (Guidance). An additional class called “Other” has also been included for those projects or actions that were not applicable to the six classes discussed in the Guidance. The classes of management measures and their corresponding projects and actions are further described below.

Based on input from the Planning Committee and public, current recommendations principally involve strategies that provide better protection from flooding for structures and infrastructure, maintain the operational status of protective and emergency response



and public safety systems, and reduce risk to all community assets. Because the major impacts to the Village during previous storms occurred as a result of coastal flooding and high winds, the reconstruction and resiliency strategies focus on protecting the Village assets by evaluating better barriers (both constructed and natural) that improve protection from coastal storm events, improved hazard management operations, and improved local planning and land use management.

The association between projects/actions, and Strategies is preliminary at present as the Planning Committee works to create more comprehensive strategies that distinguish between community-wide approaches and individual localized actions. Those actions marked with an asterisk below are related to community planning and management actions, which other projects are more localized in effect.

#### *CONSERVE, RESTORE, AND ENHANCE NATURAL PROTECTIVE FEATURES*

- West Harbor Road Sand Bar Preservation

#### *RESILIENT CONSTRUCTION*

- Building Code Modifications

#### *STRUCTURAL DEFENSES*

- Pine Lane Dune Reconstruction
- 1<sup>st</sup> Street and Bayville Avenue Dune Reconstruction
- Barrier Construction from Bayville Bridge to Shore Road
- Centre Island Sound Beach Dune Replenishment
- Centre Island Jetties

#### *LAND USE PLANNING AND REGULATION*

- Stormwater Management through Green Infrastructure

#### *MARKET-BASED METHODS*

- Not applicable

#### *INCREASED AWARENESS AND INFORMATION*

- Public Education

#### *OTHER*

- Civilian Emergency Operations Team
- Stormwater Pump Stations
- 1<sup>st</sup> Avenue Drainage Project Study
- Village Hall Generator
- Mobile Water Pump Procurement
- Bayville Promotion and Advertisement Campaign
- Egress Study
- Long Island Sound Coastline Rebuilding and Stabilization Study\*\*



- Sanitary Sewer Installation
- Relocation of Services Outside of Flood Zone
- Utility Connection Elevation at Vital Service Locations
- Bayville Bridge Mechanical/Electrical Equipment Protection\*\*
- Overhead Utility Protection

As in subsection 3.2, Table 4, projects listed above that are denoted with \*\*asterisks are included in other funding programs. These projects will be further investigated as will other potential projects to avoid a duplication of benefits.

Moving forward, further coordination with the Planning Committee will be performed in order to further aggregate projects and frame them under the 6 Recovery Support Functions from the Guidance Document.

### **3.4 Implementation Actions**

Implementation actions will be derived directly from the process of completing the project summaries for each project by expanding on the implementation timeline, funding, and coordination aspects of each project. Actions will be reviewed as appropriate for funding consideration under various funding program sources such as HUD CDBG-DR. Prior to implementation actions will need to go through the applicable environmental review process, as well as permitting on the federal, state and local level.

## **4.0 Regional Perspective**

At the present time, sewage within the Village is treated in leaching rings, electrical and land-line telephone service are transmitted through overhead power lines, respectively owned and provided by Long Island Power Authority (LIPA) and AT&T and Verizon. During Hurricane Sandy the confluence of flood waters, elevated groundwater levels and astronomical tides resulted in leaching ring failure. Strong winds knocked down trees which pulled down power lines and resulted in power outages as well as phone and internet outages.

The Village realizes that resiliency can be enhanced by connecting to the municipal sewer, which may be available through a connection to an interceptor that provides a connection to the City of Glen Cove wastewater treatment plant, and by re-locating power lines underground. The Public Service Commission and the Village (as well as other regional municipalities) can work together to increasing communication system resiliency by working with providers such as AT & T and Verizon.

The Bayville Bridge, which is a County-owned drawbridge located outside the Village municipal boundary, is important to the Village's ability to enhance resiliency as it is one of the Village's two egress routes. West Shore Road which connects to the bridge also provides a major access route to the Village of Mill Neck. The electrical equipment that is used to raise and lower the bridge was damaged by flood waters during Hurricane



Sandy. The equipment has since been replaced, but is located in the 100-year floodplain under the bridge. The County is in the process of preparing an application for Hazard Mitigation Grant Funding that would be used to move the equipment out of the 100-year floodplain and avoid operational failure during the next extreme weather event.

The Village has also contributed information for use in the development of the County's updated Hazard Mitigation Plan, which is in the process of being drafted. The Planning Committee and Village intend to create a long term resiliency process that will involve submitting relevant hazard mitigation projects for funding consideration, as this Plan is finalized as a plan for action.

## 5.0 Public Engagement

Public engagement is a critical component to the success and transparency of each project and of the overall process. The Planning Firm works with the Planning Committee and the Village to develop and deploy a Community-specific public engagement strategy that meets community priorities. This strategy and the specific innovative outreach tools to be implemented throughout the planning process will be further developed in coordination with the Regional Lead, the DOS Planner and the Village. This includes:

- Location, type and format for public meetings and engagement
- Media options for advertising meetings, agenda, content and outcomes
- Prepare content describing the program and/or management measures, and outcomes
- Collect information and/or recommendations from the public and the Planning Committee
- Collaborate with the Planning Committee to amalgamate collected information and/or recommendations

The present guidance provided by the NYSDOS Public Engagement Working Group requires that the Village to have two public outreach events prior to November 20<sup>th</sup>, 2013 and an additional two meetings prior to February 16<sup>th</sup>, 2014. The content to be covered in these meetings includes:

- Input to shape the planning process (vision, needs and opportunities, projects)
- Reactions to conceptual plan, strategy and implementation ideas
- Review Risk Assessment
- Implementation strategies and projects

### 5.1 Public Engagement Approach and Schedule

The schedule provided below considers the following as key dates for Planning Committee meetings and submission of the Village of Bayville deliverables:



Draft Work Plan: September 27, 2013  
Draft Work Plan Revised to include NYSDOS comments: October 11, 2013  
Committee Meeting #1: September 24, 2013  
Committee Meeting #2: October 1, 2013  
Committee Meeting #3: October 8, 2013  
    Public Engagement Meeting #1: October 15, 2013  
Committee Meeting #4: October 22, 2013  
Draft Conceptual Plan: October 28, 2013  
Committee Meetings in November 2013  
    Public Engagement Meeting #2: prior to November 20, 2013  
Risk Assessment: mid-November to mid-December 2013  
Committee Meetings in December 2013  
    Public Engagement Meeting #3: December 2013  
Draft Priority Projects: December 30, 2013  
Committee Meetings in January 2014  
    Public Engagement Meeting #3: January 2014  
Committee Meetings February 2014  
Committee Meetings March 2014  
Final Plan: March 31, 2014

The nature of the four public meetings will be formalized by the Planning Firm/ NYSDOS Planners/Regional Lead and the Village's Planning Committee. Each public meeting will involve a presentation followed by an opportunity for the public to ask questions and provide feedback. The first public engagement meeting was held on October 15, 2013. The first public engagement used an open house style format, which was successful.

Based directly on resident suggestions received at the first public engagement the Planning Committee is preparing to launch a Facebook page to assist in providing timely updates to the community. In addition the Planning Committee will use the Village's e-mail system to notify residents that have signed up on the timing of upcoming meetings.

## 6.0 Next Steps

- The Planning Firm will utilize the analytical model provided by NYSDOS to perform a risk analysis of the identified assets and the proposed reconstruction, resiliency, and management measures, so as to best identify the most effective and feasible actions. By integrating the analysis of benefit, geographic extent, and functioning of the range of strategic projects and actions, it will be possible to identify whether synergistic benefit accrues from specific grouping of actions, thereby improving cost-effectiveness, and resiliency outcomes.
- The Planning Firm will utilize the tool provided by NYSDOS to perform a risk analysis of the identified assets and of the proposed management measures.



- Planning Firm and Planning Committee will continue to meet to develop the list of potential projects for inclusion in the Reconstruction Plan
- Continue to investigate projects that address storm hazards and community improvement opportunities, including the identification of potential funding sources
- Planning Committee has already identified a tentative date for 2<sup>nd</sup> Public Engagement meeting and is working on procuring a location
- Additional methods to ‘notice’ future public engagement meetings will be explored including the use of a “Save the Date” notice, e.g. posting on Village website, and social media page(s) maintained by a Village resident.



## **FIGURES**

**Figure 1: Geographic Scope**

**Figure 2: Flood Inundation**

**Figure 3: Asset Mapping**

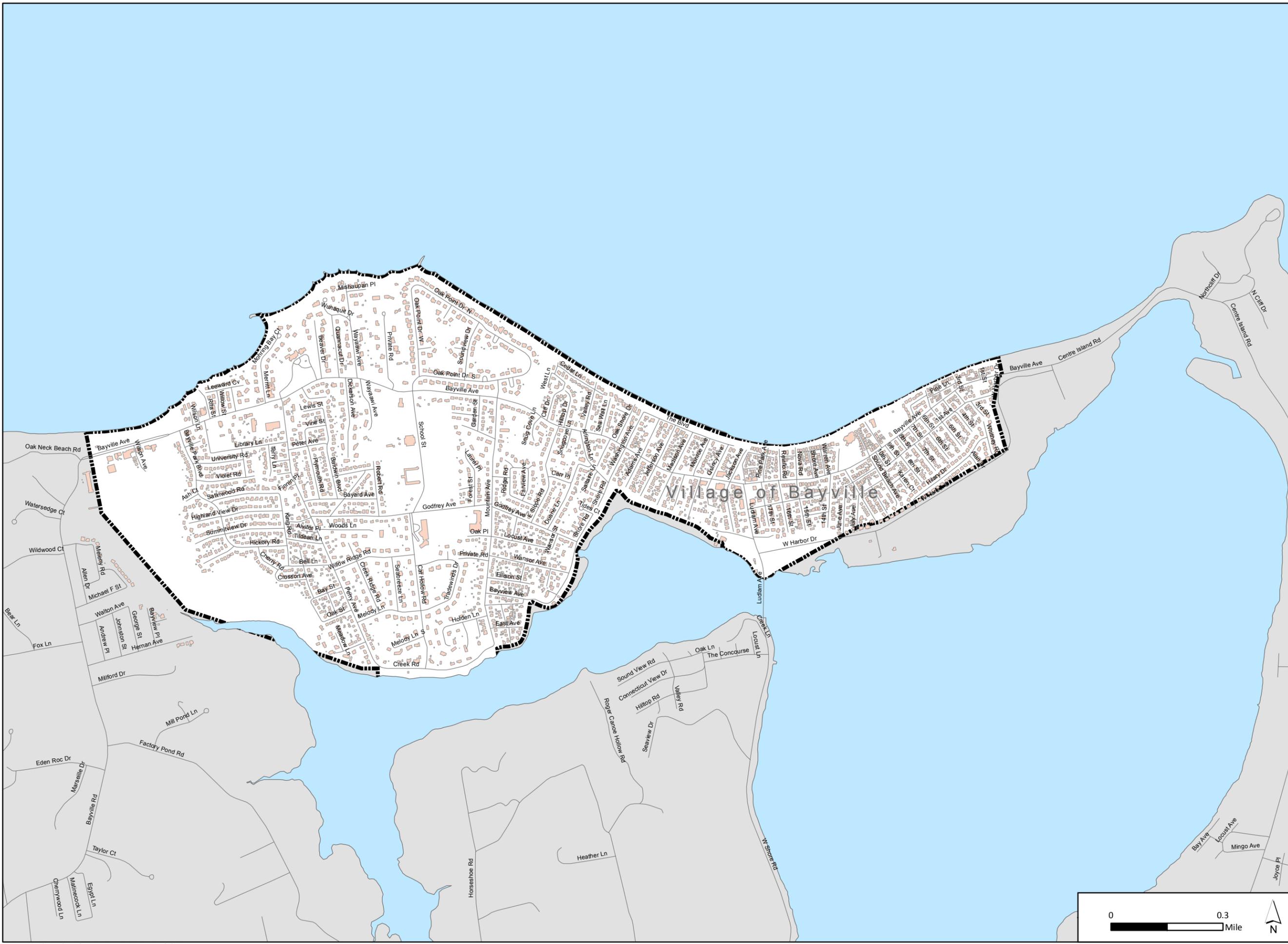
**Figure 4: Risk Areas with Flood Zones**

**Figure 5: Potential Project Locations**

Nassau County  
 Village of Bayville  
 Geographic  
 Scope

October 2013

-  Bayville Buildings
-  Village Boundary
-  NY Roads



ESRI - roads, railroads, water bodies  
 NOAA - coastline  
 FEMA - Sandy Inundation  
 US Census - towns, places, counties



Nassau County  
 Village of Bayville  
 Sandy Storm  
 Inundation

October 2013

Final High Resolution  
 Surge Area - Field-Verified  
 February 14, 2013

-  NY Roads
-  Bayville Buildings
-  Village Boundary



ESRI - roads, railroads, water bodies  
 NOAA - coastline  
 FEMA - Sandy Inundation  
 US Census - towns, places, counties



# Nassau County Village of Bayville Flood Zones

October 2013

## FEMA Flood Zone Areas

### ZONE

A - Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage.

AE - Areas with a 1% chance of flooding (inside the 100-year floodplain) and a 26% chance of flooding over the life of a 30-year mortgage. In most instances, base flood elevations may be available.

VE - Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves.

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ESRI - roads, railroads, water bodies  
NOAA - coastline  
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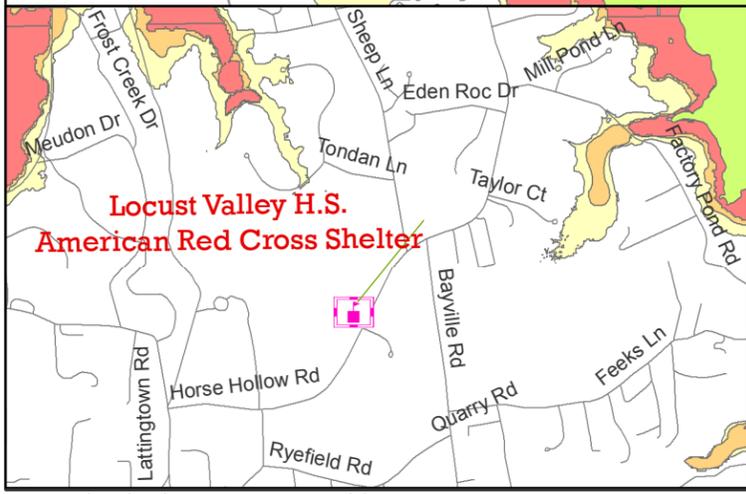
# Nassau County Village of Bayville Risk Areas

October 2013

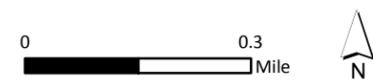


- Extreme Hazard Zone
- High Hazard Zone
- Moderate Hazard Zone

- Ambulance
- Athletic Facility
- Beach
- Bridge
- Church
- Community Center
- Emergency Shelter
- Fire Station
- Gas Station
- Hospital
- Housing
- Marina
- Park
- Police Station
- Post Office
- Recreation
- Restaurant
- School
- Sea Wall
- Shopping
- Wetland Symbol
- Village Hall
- Water Pump Station
- Water Tower
- Water Well
- Wildlife Refuge



ESRI - roads, railroads, water bodies  
NOAA - coastline  
FEMA - Sandy Inundation  
US Census - towns, places, counties



Nassau County  
Village of Bayville  
Potential Projects  
Approximate Location Map

October 2013

Extent of  
Potential  
Project

Aerial Photo Image - November 2, 2012  
Source: National Oceanic and Atmospheric Administration (NOAA),  
National Geodetic Survey (NGS), Remote Sensing Division  
<http://storms.ngs.noaa.gov/storms/sandy/>  
Hurricane Sandy Response Imagery Viewer



ESRI - roads, railroads, water bodies  
NOAA - coastline  
FEMA - Sandy Inundation  
US Census - towns, places, counties



Image courtesy of



## **ATTACHMENTS**

**Attachment 1: Relevant sections of the Village of Bayville Municipal Code**

**Attachment 2: Project Description Template**

Village of Bayville, NY  
Friday, October 25, 2013

## Chapter 20. COASTAL EROSION HAZARD AREA

**[HISTORY: Adopted by the Board of Trustees of the Incorporated Village of Bayville 5-11-1992 as L.L. No. 3-1992. Amendments noted where applicable.]**

### GENERAL REFERENCES

Environmental Conservation Commission — See Ch. **24**.

Flood damage prevention — See Ch. **27**.

Freshwater protection — See Ch. **28**.

### § 20-1. Enactment.

Pursuant to the provisions of Article 34 of the New York State Environmental Conservation Law and § 10 of the Municipal Home Rule Law, the Incorporated Village of Bayville, County of Nassau, State of New York, hereby enacts by Local Law No. 3 of 1992, this chapter.

### § 20-2. Title.

This chapter shall be known and may be cited as "The Incorporated Village of Bayville Coastal Erosion Hazard Area Law."

### § 20-3. When effective.

This chapter shall take effect on the date of this chapter's adoption and filing pursuant to § 27 of the Municipal Home Rule Law, or the date of filing of the official maps, whichever is later.

### § 20-4. Purpose.

- A. The Incorporated Village of Bayville hereby assumes the responsibility and authority to implement and administer a coastal erosion management program within its jurisdiction pursuant to Article 34 of the New York State Environmental Conservation Law. In addition, it is the purpose of this chapter to:
- (1) Establish standards and procedures for minimizing and preventing damage to structures from coastal flooding and erosion and to protect natural protective features and other natural resources.
  - (2) Regulate in coastal areas subject to coastal flooding and erosion, land use and development activities so as to minimize or prevent damage or destruction to man-made property, natural protective features, other natural resources, and to protect human life.
  - (3) Regulate new construction or placement of structures in order to place them a safe

distance from areas of active erosion and the impacts of coastal storms to ensure that these structures are not prematurely destroyed or damaged due to improper siting, as well as to prevent damage to natural protective features and other natural resources.

- (4) Restrict public investment in services, facilities or activities which are likely to encourage new permanent development in erosion hazard areas.
- (5) Regulate the construction of erosion protection structures in coastal areas subject to serious erosion to assure that when the construction of erosion protection structures is justified, their construction and operation will minimize or prevent damage or destruction to man-made property, private and public property, natural protective features and other natural resources.

B. Natural protective features include tidal wetlands. Tidal wetlands are protective beaches covered with marsh grass which are protected by 6 NYCRR Part 661. The marsh grasses on these intertidal beaches protect the shoreline from wave erosive action during storm flood conditions, by dissipating the energy of the waves.

## § 20-5. Findings.

A. The Incorporated Village of Bayville finds that the coastal erosion hazard area:

- (1) Is prone to erosion from the action of the Long Island Sound. Such erosion may be caused by the action of waves, currents running along the shore and wind-driven water and ice. Such areas are also prone to erosion caused by the wind, runoff and rainwater along the surface of the land, or groundwater seepage, as well as by human activities such as construction, navigation and certain forms of recreations.
- (2) Experiences coastal erosion which causes extensive damage to publicly and privately owned property and to natural resources as well as endangering human lives. When this occurs, individuals and private business suffer significant economic losses, as do village and state economies, either directly through property damage or indirectly through loss of economic return. Large public expenditures may also be necessitated for the removal of debris and damaged structures and replacement of essential public facilities and services.
- (3) Experiences erosion-related problems that are often contributed to by man's building without considering the potential for damage to property, by undertaking activities which destroy natural protective features such as dunes or vegetation, by building structures intended for erosion prevention which may exacerbate erosion conditions on adjacent property and by water action produced by wakes from boats and waves from storms.
- (4) Is the subject of programs which foster erosion protection structures, either with public or private funds, which are costly, often only partially effective over time and may even be harmful to adjacent or nearby properties. In some sections of the village, major erosion protection structures of great length would be required to effectively reduce future damage due to erosion.

B. The village further finds that:

- (1) Severe erosion requiring repair has occurred on the Long Island Sound shore of Bayville, especially at Oak Neck Buffs, and along the bay shore, especially at and near where public roads reach the shore. At these locations stormwater runoff from streets, combined with wave action and flooding during storms, has produced erosion damage requiring repairs. Erosion not only destroys usable shorefront lands, but furthermore, eroded soil deposited as siltation in the bay significantly impairs the viability of the intertidal wetlands and nearshore area habitats, upon which fish and particularly shellfish depend. Thus, erosion onto tidal wetlands buries some species of shellfish and plants, and needs to be minimized or eliminated.
- (2) Therefore, development practices which exacerbate erosion or runoff problems in the bay drainage basin, as well as in the delineated area along the Long Island Sound shore, are to be discouraged or prohibited.
- (3) Gabion structures to prevent or reduce shorefront erosion are not effective in the long term and have shown that they endure only about four (4) years. They are designed to break up in order to dissipate the energy of the most severe waves, and therefore they do not survive severe storms. They are expensive to maintain and replace, and not economical or adequate as seawalls.
- (4) Tidal wetlands are erosion-protective beaches covered with marsh grass which needs to be maintained and protected. The marsh grasses on these intertidal beaches protect the shoreline from wave erosive action during storm flood conditions, by damping, that is, dissipating the energy and attenuating the amplitude of the waves. Erosion onto the tidal wetlands buries plants, as well as some species of shellfish. This damages the wetland plants, thus diminishing their effectiveness in damping waves. Thereby erosion onto tidal wetlands helps lead to more habitat-damaging erosion, and it especially needs to be minimized. Development practices which exacerbate erosion or runoff problems are to be discouraged or prohibited.
- (5) Steepening of slopes leads to increased erosion. When developers have significantly steepened slopes during land clearing prior to construction, to provide space for more houses on the adjacent flattened land, it has helped cause or exacerbate erosion.
- (6) Loosening or removal of stones along the slope of the water's edge for casual purposes, such as throwing into the water to make a splash, severely contributes to erosion of finer materials during subsequent storm events.

## § 20-6. Definitions.

The following terms used in this chapter have meaning indicated unless the context clearly requires otherwise:

### **ADMINISTRATOR**

The local official responsible for administering and enforcing this chapter. The powers and duties of this position are more fully described in § 20-29.

### **BEACH**

The zone of unconsolidated earth that extends landward from the mean low water line to the

waterward toe of a dune or bluff, whichever is the most waterward. When no dune or bluff exists landward of a beach, the landward limit of the beach is one hundred (100) feet landward from the place where there is a marked change in material or physiographic form or from the line of permanent vegetation, whichever is most waterward. Shorelands subject to seasonal or more frequent outwash or inundation are considered to be beaches.

## **BLUFF**

Any bank or cliff with a precipitous or steeply sloped face adjoining a beach or body of water. The waterward limit of a bluff is the landward limit of its waterward natural protective feature. Where no beach is present, the waterward limit of a bluff is mean low water. The landward limit is twenty-five (25) feet landward of the receding edge or, in those cases where there is no discernible line of active erosion, twenty-five (25) feet landward of the point of inflection on the top of the bluff. (The point of inflection is that point along the top of the bluff where the trend of the land slope changes to begin its descent to the shoreline).

## **CASUAL PURPOSES**

Purposes other than clamming, digging for bait worms, research or engineering, or erosion control or correction efforts; especially for throwing into the water to make a splash.

## **COASTAL EROSION HAZARD AREA MAP**

The final map and any amendments thereto issued by the Commissioner of the New York State Department of Environmental Conservation, which delineates boundaries of coastal erosion hazard areas subject to regulation under this law.

## **COASTLINE AND COASTAL WATERS**

The land adjacent to the village's coastal waters is the coastline. Coastal waters are Long Island Sound, Oyster Bay, Mill Neck Bay and Creek, Oak Neck Creek and connecting water bodies, bays, harbors, shallows and marshes.

## **DEBRIS LINE**

A linear accumulation of waterborne debris deposited on a beach by storm-induced high water or by wave action.

## **DUNE**

A ridge or hill of loose, windblown or artificially placed earth the principal component of which is sand.

## **EROSION**

The loss or displacement of land along the coastline due to action of waves, currents, wind-driven water, waterborne ice or other impacts of storms. It also means the loss or displacement of land due to the action of wind, runoff of surface waters or groundwaters or groundwater seepage.

## **EROSION HAZARD AREA**

An area of the coastline which is a structural hazard area or a natural protective feature area.

## **EROSION PROTECTION STRUCTURE**

A structure specifically designed to reduce or prevent erosion such as a groin, jetty, revetment, breakwater or artificial beach nourishment project.

**EXISTING STRUCTURE**

A structure and appurtenances in existence, or one where construction has commenced, or one where construction has not begun but for which a building permit has been issued prior to the effective date of this chapter.

**GRADING**

A redistribution of sand or other unconsolidated earth to effect a change in profile.

**HIGH MARSH AREA**

From neap tide mark to highest spring tide zone, usually containing *Spartina patens*, *Distichlis spicata* and *Juncus Gerardi*.

**LOOSENING OF STONES**

Removal of rocks or stones or other material from the compacted surface or sediment strata of the shoreline soil, especially so as to leave a void or hole in the surface.

**LOW MARSH AREA**

The intertidal region from mean sea level to upper neap tide, usually containing *Spartina alterniflora*.

**MAJOR ADDITION**

An addition to a structure resulting in a twenty-five-percent or greater increase in the ground area coverage of the structure other than an erosion protection structure or a pier, dock or wharf. The increase will be calculated as the ground area coverage to be added, including any additions previously constructed under a coastal erosion management permit, divided by the ground area coverage of the existing structure as defined in "Existing structure."

**MEAN LOW WATER MARK**

The approximate average low water level for a given body of water at a given location, determined by reference to hydrological information concerning water levels or other appropriate tests.

**MODIFICATION**

A change in size, design or function.

**MOVABLE STRUCTURE**

A structure designed and constructed to be readily relocated with minimum disruption of the intended use. Mobile homes and structures built on skids or piles and not having a permanent foundation are examples of movable structures.

**NATURAL PROTECTIVE FEATURE**

A nearshore area, beach, bluff, primary dune, secondary dune or marsh and their vegetation, including wetlands.

**NATURAL PROTECTIVE FEATURE AREA**

A land and/or water area containing natural protective features, the alteration of which might reduce or destroy the protection afforded other lands against erosion or high water or lower the reserve of sand or other natural materials available to replenish storm losses through natural processes.

**NEARSHORE AREA**

Those lands under water beginning at the mean low water line and extending waterward in a direction perpendicular to the shoreline to a point where mean low water depth is fifteen (15) feet or to a horizontal distance of one thousand (1,000) feet from the mean low water line, whichever is greater.

**NORMAL MAINTENANCE**

Periodic replacement or repair of same-kind structural elements or protective coatings which do not change the size, design or function of a functioning structure. A functioning structure is one which is fully performing as originally designed at the time normal maintenance is scheduled to begin. Normal maintenance of a structure does not require a coastal erosion management permit.

**PERSON**

Any individual, public or private corporation, political subdivision, government agency, public improvement district, partnership, association, firm, trust, estate or any other legal entity whatsoever.

**PRIMARY DUNE**

The most waterward major dune where there are two (2) or more parallel dunes within a coastal area. Where there is only one (1) dune present, it is the primary one. Occasionally one (1) or more relatively small dune formations exist waterward of the primary dune. These smaller formations will be considered to be a part of the primary dune for the purposes of this chapter. The waterward limit of a primary dune is the landward limit of its fronting beach. The landward limit of the primary dune is twenty-five (25) feet landward of its landward toe.

**RECEDING EDGE**

The most landward line of active erosion, or, in cases where there is no discernible line of active erosion, it is the most waterward line of permanent vegetation.

**RECESSION RATE**

The rate, expressed in feet per year, at which an eroding shoreline moves landward.

**REGULATED ACTIVITY**

The construction, modification, restoration or placement of a structure or major addition to a structure or any action or use of land which materially alters the condition of land, including grading, excavating, dumping, mining, dredging, filling or other disturbance of soil.

**RESTORATION**

The reconstruction without modification of a structure; the cost of which equals or exceeds fifty percent (50%) of the estimated full replacement cost of the structure at the time of restoration. Modifications, however, may be allowed if they do not exceed preexisting size limits and are intended to mitigate impacts to natural protective features and other natural resources.

**SECONDARY DUNE**

The major dune immediately landward of the primary dune. The waterward limit of a secondary dune is the landward limit of its fronting primary dune. The landward limit of a secondary dune is twenty-five (25) feet landward of its landward toe.

**SHORING UP**

Emplacing stone riprap or concrete or wooden or other cribbing material along the shoreline to combat erosion.

**SIGNIFICANT FISH AND WILDLIFE HABITAT**

Those habitats which are essential to the survival of a large portion of a particular fish or wildlife population; support rare or endangered species; are found at a very low frequency within a geographic area; support fish or wildlife populations having significant commercial or recreational value; or that would be difficult or impossible to replace or are listed by the NYS Department of State and Environmental Conservation as significant fish and wildlife habitat.

**STEEPENING**

Increasing the gradient or slope significantly or by thirty percent (30%) or more.

**STRUCTURAL HAZARD AREA**

Those shorelands located landward of natural protective features and having shorelines receding at a long-term average recession rate of one (1) foot or more per year. The inland boundary of a structural hazard area is calculated by starting at the landward limit of the fronting natural protective feature and measuring along a line perpendicular to the shoreline a horizontal distance landward which is forty (40) times the long-term average annual recession rate.

**STRUCTURE**

Any object constructed, installed or placed in, on or under land or water, including but not limited to a building; permanent shed; deck; in-ground and aboveground pool; garage; mobile home; road; public service distribution, transmission or collection system; tanks; docks; piers; wharves; groins; jetties; seawalls; bulkheads; breakwaters; revetments; artificial beach nourishment; or any addition to or alteration of the same.

**TOE**

The lowest surface point on a slope face of a dune or bluff.

**UNREGULATED ACTIVITY**

Excepted activities which are not regulated by this chapter include but are not limited to elevated walkways or stairways constructed solely for pedestrian use and built by an individual property owner for the limited purpose of providing noncommercial access to the beach; docks, piers, wharves or structures built on floats, columns, open timber piles or other similar openwork supports with a top surface area of less than two hundred (200) square feet or which are removed in the fall of each year; normal beach grooming or cleanup; maintenance of structures when normal and customary and/or in compliance with an approved maintenance program; planting vegetation and sand fencing so as to stabilize or entrap sand in primary dune and secondary dune areas, in order to maintain or increase the height and width of dunes; routine agricultural operations, including cultivation or harvesting and the implementation of practices recommended in a soil and water conservation plan as defined in § 3(12) of the Soil and Water Conservation Districts Law, provided, however, that agricultural operations and implementation of practices will not be construed to include any activity that involves the construction or placement of a structure.

**VEGETATION**

Plant life capable of surviving and successfully reproducing in the area or region and which is compatible with the environment of the coastal erosion hazard area.

## **WETLANDS**

Defined by 6 NYCRR Part 661.4(hh).

### **§ 20-7. Areas described.**

The coastal erosion hazard area is hereby established to classify land and water areas within the Incorporated Village of Bayville, based upon the shoreline recession rates of the location of natural protective features. The boundaries of the area are established on the final map prepared by the New York State Department of Environmental Conservation under § 34-0104 of the New York State Environmental Conservation Law and entitled, "Coastal Erosion Hazard Area Map of the Incorporated Village of Bayville," including all amendments made thereto by the Commissioner of the New York State Department of Environmental Conservation pursuant to § 34-0104 of the New York State Environmental Conservation Law and on the Supplementary Map of Erosion Control on Bayville's Bay Shorefront, adopted by the village, showing regulated lands lying between mean high water and the indicated and here defined inland limit. Such bayside inland limit shall be fifty (50) feet inland from mean high water or from the landward edge of any intertidal wetlands as defined under 6 NYCRR Part 661, whichever is more landward, but shall not extend inland beyond the ten-foot elevation above mean sea level or beyond building structures or rights-of-way improved by grading or paving. Sea walls, bulkheads, riprap or any other erosion protection structures shall be within the regulated area, and their presence shall not define or establish the landward limit of the regulated erosion control area.

### **§ 20-8. Requirements.**

No person may engage in any regulated activity, defined in § 20-6, in an erosion hazard area as depicted on the Coastal Erosion Hazard Areas Map of the Incorporated Village of Bayville, as amended, and within the bayside erosion control area designated in § 20-7 above and shown on the Supplementary Map of Erosion Control Areas of Bayville's Bay Shore Front without first obtaining a coastal erosion management permit. No coastal erosion management permit is required for unregulated activities defined in § 20-6 of this chapter.

### **§ 20-9. General standards.**

A coastal erosion management permit will be issued only with a finding by the administrator that the proposed regulated activity:

- A. Is reasonable and necessary, considering reasonable alternatives to the proposed activity and the extent to which the proposed activity requires a shoreline location.
- B. Is not likely to cause a measurable increase in erosion at the proposed site and in other locations.
- C. Prevents, if possible, or minimizes adverse effects on natural protective features and their functions and protective values, existing erosion protection structures and natural resources.
- D. Does not cause or exacerbate erosion onto the adjacent tidal wetland beaches.

- E. Provides adequate measures to mitigate the effects of erosion produced in the course of any development or construction adjacent or proximate to tidal wetlands, particularly those areas containing low marsh or high marsh vegetation in a bay.
- F. Provides plantings and other nonstructural devices to combat erosion.
- G. Does not increase the gradient of slopes exceeding twenty percent (20%), along the shore, by more than thirty percent (30%) or beyond the angle of repose, for development or construction purposes. This provision does not prohibit slope changes involved in the emplacement of seawalls at developed sites.

## § 20-10. Structural hazard area restrictions.

The following restrictions will apply to regulated activities within structural hazard areas, if any such areas are identified or defined within Bayville.

- A. A coastal erosion management permit is required for the installation of public service distribution, transmission or collection system for gas, electricity, water or wastewater. Systems installed along the shoreline must be located landward of the shoreline structures.
- B. The construction of nonmovable structures or placement of major nonmovable additions to an existing structure is prohibited.
- C. Permanent foundations may not be attached to movable structures, and any temporary foundations are to be removed at the time the structure is moved. Below-grade footings will be allowed if satisfactory provisions are made for their removal.
- D. No movable structure may be located closer to the landward limit of a bluff than twenty-five (25) feet.
- E. No movable structure may be placed or constructed such that, according to accepted engineering practice, its weight places excessive groundloading on a bluff.
- F. Plans for landward relocation of movable structures must be included with each application for a permit. Movable structures which have been located within a structural hazard area pursuant to a coastal erosion management permit must be removed before any part of the structure is within ten (10) feet of the receding edge. The last owner of record, as shown on the latest assessment roll, is responsible for moving that structure and its foundation, unless a removal agreement was attached to the original coastal erosion management permit. With the attachment of a removal agreement to the coastal erosion management permit, the landowner or the signatory is responsible for the landward relocation of movable structures. Removal agreements may be made when the last owner of record and the owner of the structure are different with the approval of the village at the time the permit is issued.
- G. Debris from structural damage which might occur as a result of sudden unanticipated bluff edge failure, dune migration or wave or ice action must be removed within sixty (60) days of the damaging event.
- H. Any grading, excavation or other soil disturbance conducted within a structural hazard area must not direct surface water runoff over a bluff face.

## § 20-11. Nearshore area restrictions.

- A. Nearshore areas dissipate a substantial amount of wave energy before it is expended on beaches, bluffs or dunes by causing waves to collapse or break. Nearshore areas also function as reservoirs of sand, gravel and other unconsolidated material for beaches. Sandbars, which are located in nearshore areas, control the orientation of incoming waves and promote the development of ice cap formations which help protect shore lines during winter storms. The roots of aquatic vegetation in nearshore areas bind fine-grained silts, clays and organic matter to form a fairly cohesive bottom that resists erosion, especially by wave action.
- B. The following restrictions apply to regulated activities in nearshore areas:
- (1) Excavating, grading, mining or dredging which diminishes the erosion protection afforded by nearshore areas is prohibited, except construction or maintenance of navigation channels, bypassing sand around natural and man-made obstructions and artificial beach nourishment, all of which require a coastal erosion management permit.
  - (2) Clean sand or gravel of an equivalent or slightly larger grain size is the only material which may be deposited within nearshore areas. Any deposition will require a coastal erosion management permit.
  - (3) All development is prohibited in nearshore areas unless specifically provided for by this chapter.
  - (4) Any debris which might effect erosion and deposition patterns is to be removed for proper disposal, if the owner can be identified.
  - (5) Shoring up of the shoreline to combat erosion will require a coastal erosion hazard area permit.
  - (6) Actions defined as unregulated activities under § 20-6 shall not be regulated under this section.

## § 20-12. Beach area restrictions.

- A. Beaches buffer shorelands from erosion by absorbing wave energy that otherwise would be expended on the toes of bluffs or dunes. Beaches that are high and wide protect shorelands from erosion more effectively than beaches that are low and narrow. Beaches also act as reservoirs of sand or other unconsolidated material for longshore littoral transport and offshore sandbar and shoal formation.
- B. The following restrictions apply to regulated activities in beach areas:
- (1) Excavating, grading or mining which diminishes the erosion protection afforded by beaches is prohibited.
  - (2) Clean sand or gravel of an equivalent or slightly larger grain size is the only material which may be deposited within beach areas. Any deposition will require a coastal erosion management permit which may be issued only for expansion and stabilization of beaches.

- (3) Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved, in writing, by the Department of Environmental Conservation.
- (4) All development is prohibited on beaches unless specifically provided for by this chapter.
- (5) Steepening of bluffs and other slopes along the shore for construction or development purposes shall not increase, by more than twenty percent (20%) or beyond the angle of repose, the gradient of slopes presently exceeding twenty percent (20%). This provision does not prohibit slope changes involved in the emplacement of seawalls at developed sites.
- (6) Seawall repairs or improvements shall be approved by permit from the administrator. Wood, concrete or large stone stabilizing structures shall be employed as sea walls to control erosion. Gabion sea walls are not permitted. Emplacement of slope and beach stabilizing cribbing timbers of wood or concrete are permitted. Nonstructural plantings to stabilize the bluffs will also be used.
- (7) Adequate mitigating measures to combat the effects of erosion are required when permitting any development or construction adjacent or proximate to the tidal wetlands, particularly when spartina is in the bay. Shoring up of eroding shorelines will be employed to protect tidal wetlands.
- (8) Loosening or removal of stones along the slope of the beach, which results in subsequent erosion onto the wetlands, is prohibited.
- (9) Use of motorized recreational vehicles, including trail bikes and four-wheel-drive vehicles, is prohibited on beaches.
- (10) New permanent or temporary buildings or sheds will not be permitted to be constructed or erected on the water's edge side of existing waterfront roads or rights-of-way, except when they are to be installed for public purposes for beach and adjacent water body uses by government agencies.
- (11) Actions defined as unregulated activities under § 20-6 shall not be regulated under this section.

## § 20-13. Dune area restrictions.

- A. Dunes prevent overtopping and store sand for coastal processes. High, vegetated dunes provide a greater degree of protection than low, unvegetated ones. Dunes are of the greatest protective value during conditions of storm-induced high water. Because dunes often protect some of the most biologically productive areas as well as developed coastal areas, their protective value is especially great. The key to maintaining a stable dune system is the establishment and maintenance of beachgrass or other vegetation on the dunes and assurance of a supply of nourishment sand to the dunes.
- B. The following restrictions apply to regulated activities in dune areas:

## (1) In primary dune areas:

- (a) Excavating, grading or mining of primary dunes is prohibited.
- (b) Clean sand of a compatible type and size is the only material which may be deposited. Any deposition requires a coastal erosion management permit.
- (c) All depositions must be vegetatively stabilized using species tolerant of the conditions of the site and must be placed so as to increase the size of or restore a dune or dune area.
- (d) Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved, in writing, by the Department of Environmental Conservation.
- (e) Nonmajor additions to existing structures are allowed on primary dunes pursuant to a coastal erosion management permit and subject to permit conditions concerning the location, design and potential impacts of the structure on the primary dune.
- (f) Stone revetments or other erosion protection structures compatible with primary dunes will only be allowed at the waterward toe of primary dunes and must not interfere with the exchange of sand between primary dunes and their fronting beaches.

## (2) In secondary dune areas:

- (a) All depositions must be of clean sand of a compatible type and size, and all grading must be performed so as to increase the size of, or restore, a dune or former dune area.
  - (b) Excavating, grading or mining must not diminish the erosion protection afforded by them.
  - (c) Nonmajor additions to existing structures are allowed on secondary dunes pursuant to a coastal erosion management permit.
  - (d) Permitted construction, reconstruction, restoration or modifications must be built on adequately anchored pilings such that at least three (3) feet of open space exists between the floor joists and the surface of the secondary dune; and the permitted activity must leave the space below the lowest horizontal structural members free of obstructions.
- (3) All other activities and development in dune areas are prohibited unless specifically provided for by this chapter.
- (4) The restrictions of § **20-16**, Traffic control, apply to dune areas.
- (5) Actions defined as unregulated activities under § **20-6** shall not be regulated under this section.

## § 20-14. Bluff area restrictions.

Bluffs protect shorelands and coastal developments by absorbing the often destructive energy of open water. Bluffs are a source of depositional material for beaches and other unconsolidated natural protective features.

A. The following activities are prohibited on bluffs:

- (1) Excavating or mining except when in conjunction with conditions stated in a coastal erosion management permit issued for minor alterations in construction of an erosion protection structure or for provision of shoreline access.
- (2) The restrictions of § **20-16**, Traffic control, apply to bluffs.
- (3) All development unless specifically allowed by Subsection **B** of this section.
- (4) Disturbance of active bird nesting and breeding areas unless such disturbance is pursuant to a specific wildlife management activity approved, in writing, by the Department of Environmental Conservation.
- (5) Soil disturbance that directs surface water runoff over a bluff face.
- (6) Steepening of bluffs and other slopes along the shore for construction or development purposes shall not increase, by more than twenty percent (20%) or beyond the angle of repose, the gradient of slopes presently exceeding twenty percent (20%). This provision does not prohibit slope changes involved in the emplacement of seawalls at developed sites.
- (7) Use of motorized recreation vehicles, including trail bikes and four-wheel drive vehicles.

B. Activities specifically allowed on bluffs shall be as follows:

- (1) Minor alteration on a bluff done in accordance with conditions stated in a coastal erosion management permit issued for new construction, modification or restoration of an erosion protection structure.
- (2) Bluff cuts done in accordance with conditions stated in a coastal erosion management permit issued for the provision of shoreline access, where:
  - (a) The cut is made in a direction perpendicular to the shoreline.
  - (b) Ramp slope may not exceed one to six (1:6).
  - (c) Side slopes may not exceed one to three (1:3) unless terraced or otherwise structurally stabilized.
  - (d) Side slopes and other disturbed nonroadway areas must be stabilized with vegetation or other approved physical means.
  - (e) The complete roadway must be stabilized and drainage provided for.

C. Actions defined as unregulated activities under § 20-6 shall not be regulated under this section.

## § 20-15. Erosion protection structure requirements.

The following requirements apply to the construction, modification or restoration of erosion protection structures:

A. The construction, modification or restoration of erosion protection structures must:

- (1) Not be likely to cause a measurable increase in erosion at the development site or other locations.
- (2) Minimize and, if possible, prevent adverse effects upon natural protective features, existing erosion protection structures and natural resources such as significant fish and wildlife habitats.

B. All erosion protection structures must be designed and constructed according to generally accepted engineering principles which have demonstrated success or where sufficient data is not currently available, a likelihood of success in controlling long-term erosion. The protective measures must have a reasonable probability of controlling erosion on the immediate site for at least thirty (30) years.

C. All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering and other effects of storm conditions for a minimum of thirty (30) years. Individual working components may have a working life of less than thirty (30) years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required thirty (30) years of erosion protection.

D. A long-term maintenance program must be included with every permit application of construction, modification or restoration of an erosion protection structure. The maintenance program must include specifications for normal maintenance of degradable materials. To assure compliance with the proposed maintenance programs, a bond may be required.

E. Gabion construction is not to be employed in permitted seawalls.

## § 20-16. Traffic control.

A. Motor vehicles must not travel on vegetation, must operate waterward of the debris line and, when no debris line exists, must operate waterward of the waterward toe of the primary dune or bluff.

B. Motor vehicle traffic is prohibited on primary dunes, except for officially designated crossing areas and on bluffs.

C. Pedestrian passage across primary dunes must utilize elevated walkways and stairways or other specially designed dune crossing structures.

## § 20-17. Applicability.

The requirements of this chapter do not apply to emergency activities that are necessary to protect public health, safety or welfare, including preventing damage to natural resources. Whenever emergency activities are undertaken, damage to natural protective features and other natural resources must be prevented, if possible, or minimized.

### **§ 20-18. Notification to administrator.**

The administrator must be notified by the person responsible for taking the emergency measures within two (2) working days from the commencement of an emergency measure and a description of the problem and activities provided. The description must be in written form, outline the public health or safety or resource for which protection was sought and relate the measures which were taken to secure the protection.

### **§ 20-19. Improper or insufficient notification.**

If the administrator determines that a regulated activity has been undertaken without a coastal erosion management permit and does not meet the emergency activity criteria, then the administrator will order the immediate cessation of the activity. In addition, the administrator may require:

- A. Removal of any structure that was constructed or placed without a coastal erosion management permit.
- B. The return to former conditions of any natural protective feature that was excavated, mined or otherwise disturbed without a coastal erosion management permit.

### **§ 20-20. Variances from standards and restrictions.**

Strict application of the standards and restrictions of this chapter may cause practical difficulty or unnecessary hardship. When this can be shown, such standards and restrictions may be varied or modified, provided that the following criteria are met:

- A. No reasonable, prudent, alternative site is available.
- B. All responsible means and measures to mitigate adverse impacts on natural systems and their functions and values have been incorporated into the activity's design at the property owner's expense.
- C. The development will be reasonably safe from flood and erosion damage.
- D. The variance requested is the minimum necessary to overcome the practical difficulty or hardship which was the basis for the requested variance.
- E. Where public funds are utilized, the public benefits must clearly outweigh the long-term adverse effects.

### **§ 20-21. Format and procedure.**

Any request for a variance must be in writing and specify the standard, restriction or requirement to be varied and how the requested variance meets the criteria of § 20-20 of this chapter. The burden of demonstrating that the requested variance meets those criteria rests

entirely with the applicant.

## § 20-22. Fees.

Each variance requested must be accompanied by the required fee or fees as established by the village's legislative body under separate resolution.

## § 20-23. Expiration.

Any construction activity allowed by a variance granted by the Coastal Erosion Hazard Board of Review must be completed within one (1) year from the date of approval or approval with modifications or conditions. Variances expire at the end of this one-year period without further hearing or action by the Coastal Erosion Hazard Board of Review.

## § 20-24. Coastal Erosion Hazard Board of Review.

The Bayville Environmental Conservation Commission is hereby designated as the Coastal Erosion Hazard Board of Review and has the authority to:

- A. Hear, approve, approve with modification or deny requests for variances or other form of relief from the requirements of this chapter.
- B. Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the administrator in the enforcement of this chapter, including any order requiring an alleged violator to stop, cease and desist.

## § 20-25. Appeals.

The Coastal Erosion Hazard Board of Review may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the administrator, including stop and desist orders. Notice of such decision will forthwith be given to all parties in interest. The rules and procedures for filing appeals are as follows:

- A. Appeals must be filed with the Village Clerk-Treasurer within thirty (30) days of the date of the adverse decision.
- B. All appeals made to the Coastal Erosion Hazard Board of Review must be in writing on standard forms prescribed by the Board. The Board will transmit a copy to the Commissioner of the New York State Department of Environmental Conservation for his information.
- C. All appeals must refer to the specific provisions of this chapter involved, specify the alleged errors, the interpretation thereof that is claimed to be correct and the relief which the appellant claims.

## § 20-26. Appeals to court.

Any person or persons jointly or severally aggrieved by a decision of the Coastal Erosion Hazard Board of Review or any officer, department, Board or Bureau of the village may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

## § 20-27. Coastal erosion management permits.

A coastal erosion management permit will be issued for regulated activities which comply with the general standards (§ 20-9), restrictions and requirements of the applicable sections of this chapter, provided that the following is adhered to:

- A. The application for a coastal erosion management permit must be made upon the form provided by the administrator and must include the following minimum information:
  - (1) A description of the proposed activity.
  - (2) A map drawn to scale no smaller than one to twenty-four thousand (1:24,000), showing the location of the proposed activity.
  - (3) Any additional information the administrator may require to properly evaluate the proposed activity.
- B. Each application for a coastal erosion management permit must be accompanied by the required fee or fees as established by the village's legislative body under separate resolution.
- C. Permits will be issued by and bear the name and signature of the administrator and will specify the:
  - (1) Activity or operation for which the permit is issued.
  - (2) Address or location where the activity or operation is to be conducted.
  - (3) Name and address of the permittee.
  - (4) Permit number and date of issuance.
  - (5) Period of permit validity. If not otherwise specified, the permit will expire one (1) year from the date of issuance.
  - (6) The terms and conditions of the approval.
- D. When more than one (1) coastal erosion management permit is required for the same property or premises under this chapter, a single permit may be issued listing all the activities permitted and any conditions, restrictions or bonding requirements. Revocation of a portion or portions of such consolidated permits will not invalidate the remainder.
- E. A coastal erosion management permit may be issued with such terms and conditions as are necessary to ensure compliance with the policies and provisions of Article 34 of the Environmental Conservation Law, the Coastal Erosion Management Regulations implementing Article 34 (6 NYCRR Part 505) and the laws and policies of the village.
- F. When an application is made for a coastal erosion management permit, variance thereto or other form of approval required by this chapter and such activity is subject to other permit, variance, hearing or application procedures required by another federal, state or local law or ordinance, the Zoning Enforcement Officer shall, at the request of the applicant, consolidate and coordinate the application, permit, variance and hearing procedures as required by each

regulatory agency into a single, comprehensive hearing and review procedure. However, nothing contained in this section shall be deemed to limit or restrict any regulatory agencies, which are properly a party to such a consolidated review proceeding, from the independent exercise of such discretionary authority with respect to the issuance, denial or modification of such permits, variances or other forms of approval as they may have been granted by law.

## **§ 20-28. Bonds.**

The village may require a bond or other form of financial security. Such bond or security must be in an amount, with such surety and conditions as are satisfactory to the village so as to ensure compliance with the terms and conditions stated in the coastal erosion management permit.

## **§ 20-29. Administrator.**

The authority for administering this chapter is hereby conferred upon the Village Building Inspector as administrator. The authority for enforcing this chapter is hereby conferred upon the Village Building Inspector as administrator, assisted by the Village Environmental Enforcement Officer. The administrator has the powers and duties to:

- A. Apply the regulations, restrictions and standards or other provisions of this chapter.
- B. Explain to the applicant the map which designates the land and water areas subject to regulation and advise applicants of the standards, restrictions and requirements of this chapter.
- C. Review and take appropriate actions on completed applications.
- D. Issue and sign all approved permits.
- E. Transmit written notice of violations to property owners or to other responsible persons.
- F. Prepare and submit reports.
- G. Perform compliance inspections.
- H. Serve as the primary liaison with the New York State Department of Environmental Conservation.
- I. Keep official records of all permits, inspections, inspection reports, recommendations, actions of the Coastal Erosion Hazard Board of Review and any other reports or communications relative to this chapter or request for information from the New York State Department of Environmental Conservation.
- J. Perform normal and customary administrative functions required by the village relative to the Coastal Erosion Hazard Areas Act, Article 34 of the New York State Environmental Conservation Law (6 NYCRR Part 505) and this chapter.
- K. Have, in addition, powers and duties as are established in or reasonably implied from this chapter as are necessary to achieve its stated purpose.

## § 20-30. Interpretation.

The provisions, regulations, procedures and standards of this chapter will be held to be the minimum requirements necessary to carry out the purposes of this chapter.

## § 20-31. Conflicts with other provisions.

The provisions of this chapter will take precedence over any other laws, ordinances or codes in effect in the village to the extent that the provisions of this chapter are more stringent than such other local laws, ordinances or codes. A coastal erosion management permit issued pursuant to this chapter does not relieve the permit applicant from the responsibility of obtaining other permits or approvals as may be necessary, nor does it convey any rights or interest in real property.

## § 20-32. Environmental review.

All regulated activities are subject to the review procedures required by New York State Environmental Quality Review Act (SEQR), Article 8 of the New York State Environmental Conservation Law. The applicant may be required to submit information necessary for compliance with SEQR in addition to information required under this chapter.

## § 20-33. Penalties for offenses.

A violation of this chapter is hereby declared to be an offense punishable by a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment for a period not to exceed six (6) months, or both. Each day's continued violation of this chapter will constitute a separate additional violation. Nothing herein will prevent the proper local authorities of the Village of Bayville from taking such other lawful actions or proceedings as may be necessary to restrain, correct or abate any violation of this chapter.

## § 20-34. Amendment procedure.

- A. The village's legislative body may, on its motion or on petition or on recommendation from the Bayville Environmental Conservation Commission or the Planning Board, amend or repeal the provisions, regulations, procedures or standards of this chapter.
- B. When an amendment is duly proposed, the village's legislative body must:
  - (1) Notify the Commissioner of New York State Department of Environmental Conservation, in writing, of all proposed amendments and request his advice as to whether such amendment is subject to his approval and, if so, whether such amendment conforms to the minimum standards of a certified program.
  - (2) Issue public notice and conduct a hearing on all proposed amendments. The village's legislative body, by resolution, must cause notice of such hearing's time, date and place to be published in the official newspaper not less than five (5) days prior to the date of the hearing.
  - (3) Refer the proposed amendment at least thirty (30) days prior to the public hearing, in writing, to:

- (a) The Bayville Environmental Conservation Commission and the Planning Board, unless initiated by either of those bodies, for its review of the amendment and its report to the village's legislative body of recommendations thereon, including a full statement of reasons for such recommendations.
- (b) The County Planning Board for its review and recommendations pursuant to Article 12-B, § 239-m of the New York State General Municipal Law.

## **§ 20-35. Commissioner approval.**

After enactment, the amendment must be sent to the Commissioner of Environmental Conservation for certification.

## **§ 20-36. Recording.**

After an amendment to this chapter has been initially reviewed and found to be in conformance by the Commissioner of the New York State Department of Environmental Conservation; completed the public hearing process and intergovernmental review; been finally approved and adopted by the village's legislative body; and been certified by the Commissioner, the Village Clerk will, as prescribed by § 27 of the Municipal Home Rule Law:

- A. Record the amended local law in the Village Clerk's Minute Book and in the Recorded Book of Local Laws.
- B. File the amended local law within five (5) days after adoption as follows:
  - (1) One (1) copy in the Village Clerk's office.
  - (2) One (1) copy in the Office of the State Comptroller.
  - (3) Three (3) copies in the Office of the Secretary of State.
  - (4) One (1) copy with the Commissioner of the New York State Department of Environmental Conservation.

Village of Bayville, NY  
Friday, October 25, 2013

## Chapter 27. FLOOD DAMAGE PREVENTION

**[HISTORY: Adopted by the Board of Trustees of the Incorporated Village of Bayville 6-22-2009 by L.L. No. 3-2009. Editor's Note: This chapter also repealed former Ch. 27, Flood Damage Prevention, adopted 11-16-1987 by L. L. No. 9-1987, as amended. Amendments noted where applicable.]**

### GENERAL REFERENCES

Building construction — See Ch. **12**.  
Building construction administration — See Ch. **13**.  
Coastal erosion hazard area — See Ch. **20**.  
Freshwater protection — See Ch. **28**.  
Storm sewers — See Ch. **63A**.  
Stormwater control — See Ch. **63B**.  
Subdivision of land — See Ch. **66**.  
Zoning — See Ch. **80**.

## Article I. Statutory Authorization and Purpose

### § 27-1. Findings.

The Board of Trustees of the Incorporated Village of Bayville of the County of Nassau finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Incorporated Village of Bayville and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

### § 27-2. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers

which are involved in the accommodation of floodwaters;

- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- F. Qualify for and maintain for participation in the National Flood Insurance Program.

## § 27-3. Objectives.

The objectives of this chapter are to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, and sewer lines, streets and bridges, located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Provide that developers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

## Article II. Definitions

### § 27-4. Word usage; terms defined.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

**APPEAL**

A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

**AREA OF MODERATE WAVE ACTION**

The portion of the SFHA landward of a V Zone or landward of an open coast without mapped V Zones, in which the principal sources of flooding are astronomical tides, storm

surges, seiches, or tsunamis, not riverine sources. Areas of moderate wave action may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces and are treated as V Zones. The area of moderate wave action is an area within a Zone AE that is bounded by a line labeled "limit of moderate wave action."

### **AREA OF SHALLOW FLOODING**

A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average annual depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

### **AREA OF SPECIAL FLOOD HAZARD**

The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "100-year floodplain." For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

### **BASE FLOOD**

The flood having a one-percent chance of being equaled or exceeded in any given year.

### **BASEMENT**

That portion of a building having its floor subgrade (below ground level) on all sides.

### **BREAKAWAY WALL**

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

### **BUILDING**

See "structure."

### **CELLAR**

Has the same meaning as "basement."

### **COASTAL HIGH-HAZARD AREA**

An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone VI-V30, VE, VO or V. The coastal high-hazard area shall also include areas on a FIRM within a Zone AE that is bounded by a line labeled "limit of moderate wave action."

### **CRAWL SPACE**

An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

### **CRITICAL FACILITIES**

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- (2) Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
- (3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and

after a flood; and

- (4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

### **CUMULATIVE SUBSTANTIAL IMPROVEMENT**

Any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50% of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

### **DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

### **ELEVATED BUILDING**

- (1) A nonbasement building.
- (a) Built, in the case of a building in Zone A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zone V1-30, VE, or V, or area of moderate wave action, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and
  - (b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.
- (2) In the case of Zone A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.
- (3) In the case of Zone V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

### **FEDERAL EMERGENCY MANAGEMENT AGENCY**

The Federal agency that administers the National Flood Insurance Program.

### **FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)**

An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

### **FLOOD ELEVATION STUDY**

An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

### **FLOOD HAZARD BOUNDARY MAP (FHBM)**

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

### **FLOOD INSURANCE RATE MAP (FIRM)**

An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

### **FLOOD INSURANCE STUDY**

See "Flood Elevation Study."

### **FLOOD or FLOODING**

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (a) The overflow of inland or tidal waters;
  - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) above.

### **FLOODPLAIN or FLOOD-PRONE AREA**

Any land area susceptible to being inundated by water from any source. (See definition of "flooding.")

### **FLOODPROOFING**

Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

### **FLOODWAY**

Has the same meaning as "regulatory floodway."

### **FUNCTIONALLY DEPENDENT USE**

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

### **HIGHEST ADJACENT GRADE**

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

### **HISTORIC STRUCTURE**

Any structure that is:

- (1) Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

### **LOCAL ADMINISTRATOR**

The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is

often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

**LOWEST FLOOR**

Lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

**MANUFACTURED HOME**

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "recreational vehicle."

**MANUFACTURED HOME PARK OR SUBDIVISION**

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL**

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MOBILE HOME**

Has the same meaning as "manufactured home."

**NEW CONSTRUCTION**

Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

**ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD**

Has the same meaning as "base flood."

**PRIMARY FRONTAL DUNE**

A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

**PRINCIPALLY ABOVE GROUND**

At least 51% of the actual cash value of the structure, excluding land value, is above ground.

**RECREATIONAL VEHICLE**

A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOODWAY**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency

Management Agency in a Flood Insurance Study or by other agencies as provided in § 27-14B of this chapter.

### **SAND DUNES**

Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

### **START OF CONSTRUCTION**

The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual "start of construction" means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

### **STRUCTURE**

A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

### **SUBSTANTIAL DAMAGE**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

### **SUBSTANTIAL IMPROVEMENT**

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. Substantial improvement also means cumulative substantial improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

### **VARIANCE**

A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

## Article III. General Provisions

## § 27-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Incorporated Village of Bayville, Nassau County.

## § 27-6. Basis for establishing areas of special flood hazard.

- A. The areas of special flood hazard for the Village of Bayville, Community Number 360988, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
- (1) Flood Insurance Rate Map Panel Numbers 36059Coo37G, 36059Coo39G, 36059Coo41G, 36059Coo43G, the effective date of which is September 11, 2009, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
  - (2) A scientific and engineering report entitled "Flood Insurance Study, Nassau County, New York, All Jurisdictions," dated September 11, 2009.
- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the Incorporated Village of Bayville, Village Hall, 34 School Street, Bayville, New York 11709.

## § 27-7. Interpretation; conflict with other provisions.

- A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

## § 27-8. Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

## § 27-9. Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Incorporated Village of Bayville from taking such other lawful action as

necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

### **§ 27-10. Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Incorporated Village of Bayville, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

## **Article IV. Administration**

### **§ 27-11. Designation of local administrator.**

The Building Inspector is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

### **§ 27-12. Floodplain development permit.**

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 27-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee of \$250. In addition, the applicant shall be responsible for reimbursing the Incorporated Village of Bayville for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

### **§ 27-13. Application for permit.**

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zone A1-A30, AE or

AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

- B. The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zone V1-V30 or VE, or Zone V if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- C. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- D. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § **27-16C**, Utilities.
- E. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § **27-19**, Nonresidential structures (except costal high-hazard areas).
- F. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § **27-6**, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- G. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- H. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.
- I. In Zones V1-V30 and VE, and also Zone V if base flood elevation data are available, or in an area of moderate wave action, designs and specifications, certified by a licensed professional engineer or architect, for any breakaway walls in a proposed structure with design strengths in excess of 20 pounds per square foot.
- J. In Zones V1-V30 and VE, and also Zone V if base flood elevation data are available, or in an area of moderate wave action, for all new and substantial improvements to structures, floodplain development permit applications shall be accompanied by design plans and specifications,

prepared in sufficient detail to enable independent review of the foundation support and connection components. Said plans and specifications shall be developed or reviewed by a licensed professional engineer or architect, and shall be accompanied by a statement, bearing the signature of the architect or engineer, certifying that the design and methods of construction to be used are in accordance with accepted standards of practice and with all applicable provisions of this chapter.

## § 27-14. Duties and responsibilities of local administrator.

Duties of the local administrator shall include, but not be limited to the following:

A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of § **27-13**, Application for permit, and for compliance with the provisions and standards of this chapter.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § **27-15B**, Subdivision proposals.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § **27-13G** as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
- (2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

C. Alteration of watercourses. The local administrator shall:

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, the local administrator shall obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) In Zones V1-V30 and VE, and also Zone V if base flood elevation data are available, or in an area of moderate wave action, upon placement of the lowest floor of a new or substantially improved structure, the permit holder shall submit to the local administrator a certificate of elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns). The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. An elevation certificate must also be submitted for a recreational vehicle if it remains on a site 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (3) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

- (1) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-

work order shall subject the violator to the penalties described in § **27-9** of this chapter.

- (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § **27-9** of this chapter.

#### G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § **27-6**, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection **E**, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

#### H. Information to be retained. The local administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to Subsection **D(1)** and **(2)**, and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to Subsection **D(1)**, and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Article VI, Variance Procedures; and
- (5) Notices required under Subsection **C**, Alteration of watercourses.

## Article V. Construction Standards

### § 27-15. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § **27-6**.

#### A. Coastal high-hazard areas. The following requirements apply within Zones V1-V3o, VE and V or in an area of moderate wave action.

- (1) All new construction, including manufactured homes and recreational vehicles on site 180 days or longer and not fully licensed for highway use, shall be located landward of the reach of high tide.
- (2) The use of fill for structural support of buildings, manufactured homes or recreational vehicles on site 180 days or longer is prohibited.
- (3) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

B. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed so as to minimize flood damage; and
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

C. Encroachments.

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
  - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
  - (b) The Incorporated Village of Bayville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Incorporated Village of Bayville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Incorporated Village of Bayville for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 27-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
  - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or
  - (b) The Incorporated Village of Bayville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA

approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Incorporated Village of Bayville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Incorporated Village of Bayville for all costs related to the final map revisions.

## § 27-16. Standards for all structures.

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
  - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
  - (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
    - (a) Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
      - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
      - [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
    - (b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.
  - (4) Within Zones V1-V30 and VE, and also within Zone V if base flood elevation are available, or in an area of moderate wave action, new construction and substantial improvements shall have the space below the lowest floor either free from obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The enclosed space below the lowest floor shall be used only for parking vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The

construction of stairs, stairwells and elevator shafts are subject to the design requirements for breakaway walls.

### C. Utilities.

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

## § 27-17. Residential structures (except coastal high-hazard areas).

A. Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 27-15B, Subdivision proposals, and § 27-15C, Encroachments, and § 27-16, Standards for all structures.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 27-6 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

## § 27-18. Residential structures (coastal high-hazard areas).

The following standards, in addition to the standards in § 27-15A, Coastal high-hazard areas, and § 27-15B, Subdivision proposals, and § 27-16, Standards for all structures, apply to new and substantially improved residential structures located in areas of special flood hazard shown as Zones V1-V30, VE or V, or in an area of moderate wave action, on the community's Flood Insurance Rate Map designated in § 27-6.

- A. Elevation. New construction and substantial improvements shall be elevated on pilings, columns or shear walls such that the bottom of the lowest horizontal structural member supporting the lowest elevated floor (excluding columns, piles, diagonal bracing attached to the piles or columns, grade beams, pile caps and other members designed to either withstand storm action or break away without imparting damaging loads to the structure) is elevated to or above two feet above base flood elevation so as not to impede the flow of water.
- B. Determination of loading forces. Structural design shall consider the effects of wind and water loads acting simultaneously during the base flood on all building components.
- (1) The structural design shall be adequate to resist water forces that would occur during the base flood. Horizontal water loads considered shall include inertial and drag forces of waves, current drag forces, and impact forces from waterborne storm debris. Dynamic uplift loads shall also be considered if bulkheads, walls, or other natural or man-made flow obstructions could cause wave runup beyond the elevation of the base flood.
  - (2) Buildings shall be designed and constructed to resist the forces due to wind pressure. Wind forces on the superstructure include windward and leeward forces on vertical walls, uplift on the roof, internal forces when openings allow wind to enter the house, and upward force on the underside of the house when it is exposed. In the design, the wind should be assumed to blow potentially from any lateral direction relative to the house.
  - (3) Wind loading values used shall be those required by the Building Code.
- C. Foundation standards.
- (1) The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse or lateral movement due to the effects of wind and water pressures acting simultaneously on all building components. Foundations must be designed to transfer safely to the underlying soil all loads due to wind, water, dead load, live load and other loads (including uplift due to wind and water).
  - (2) Spread footings and fill material shall not be used for structural support of a new building or substantial improvement of an existing structure.
- D. Pile foundation design.
- (1) The design ratio of pile spacing to pile diameter shall not be less than 8:1 for individual piles. (This shall not apply to pile clusters located below the design grade.) The maximum center-to-center spacing of wood piles shall not be more than 12 feet on center under load-bearing sills, beams, or girders.

- (2) Pilings shall have adequate soil penetration (bearing capacity) to resist the combined wave and wind loads (lateral and uplift) associated with the base flood acting simultaneously with typical structure (live and dead) loads, and shall include consideration of decreased resistance capacity caused by erosion of soil strata surrounding the piles. The minimum penetration for foundation piles is to an elevation of five feet below mean sea level (msl) datum if the BFE is +10 msl or less, or to be at least 10 feet below msl if the BFE is greater than +10 msl.
- (3) Pile foundation analysis shall also include consideration of piles in column action from the bottom of the structure to the stable soil elevation of the site. Pilings may be horizontally or diagonally braced to withstand wind and water forces.
- (4) The minimum acceptable sizes for timber piles are a tip diameter of eight inches for round timber piles and eight inches by eight inches for square timber piles. All wood piles must be treated in accordance with requirements of EPEE-C3 to minimize decay and damage from fungus.
- (5) Reinforced concrete piles shall be cast of concrete having a twenty-eight-day ultimate compressive strength of not less than 5,000 pounds per square inch, and shall be reinforced with a minimum of four longitudinal steel bars having a combined area of not less than 1% nor more than 4% of the gross concrete area. Reinforcing for precast piles shall have a concrete cover of not less than 1 1/4 inches for No. 5 bars and smaller and not less than 1 1/2 inches for No. 6 through No. 11 bars. Reinforcement for piles cast in the field shall have a concrete cover of not less than two inches.
- (6) Piles shall be driven by means of a pile driver or drop hammer, jetted, or augered into place.
- (7) Additional support for piles in the form of bracing may include lateral or diagonal bracing between piles.
- (8) When necessary, piles shall be braced at the ground line in both directions by a wood timber grade beam or a reinforced concrete grade beam. These at-grade supports should be securely attached to the piles to provide support even if scoured from beneath.
- (9) Diagonal bracing between piles, consisting of two-inch by eight-inch (minimum) members bolted to the piles, shall be limited in location to below the lowest supporting structural member and above the stable soil elevation, and aligned in the vertical plane along pile rows perpendicular to the shoreline. Galvanized steel rods (minimum diameter 1/2 inch) or cable-type bracing is permitted in any plane.
- (10) Knee braces, which stiffen both the upper portion of a pile and the beam-to-pile connection, may be used along pile rows perpendicular and parallel to the shoreline. Knee braces shall be two-by-eight lumber bolted to the sides of the pile/beam, or four-by-four or larger braces framed into the pile/beam. Bolting shall consist of two five-eighths-inch galvanized steel bolts (each end) for two-by-eight members, or one five-eighths-inch lag bolt (each end) for square members. Knee braces shall not extend more than three feet below the elevation of the base flood.

- E. Column foundation design. Masonry piers or poured-in-place concrete piers shall be internally reinforced to resist vertical and lateral loads, and be connected with a movement-resisting connection to a pile cap or pile shaft.
- F. Connectors and fasteners. Galvanized metal connectors, wood connectors, or bolts of size and number adequate for the calculated loads must be used to connect adjoining components of a structure. Toe nailing as a principal method of connection is not permitted. All metal connectors and fasteners used in exposed locations shall be steel, hot-dipped galvanized after fabrication. Connectors in protected interior locations shall be fabricated from galvanized sheet.
- G. Beam to pile connections. The primary floor beams or girders shall span the supports in the direction parallel to the flow of potential floodwater and wave action and shall be fastened to the columns or pilings by bolting, with or without cover plates. Concrete members shall be connected by reinforcement, if cast in place, or (if precast) shall be securely connected by bolting and welding. If sills, beams, or girders are attached to wood piling at a notch, a minimum of two five-eighths-inch galvanized steel bolts or two hot-dipped galvanized straps 3/16 inch by four inches by 18 inches, each bolted with two one-half-inch lag bolts per beam member, shall be used. Notching of pile tops shall be the minimum sufficient to provide ledge support for beam members without unduly weakening pile connections. Piling shall not be notched so that the cross section is reduced below 50%.
- H. Floor and deck connections.
- (1) Wood two-by-four-inch (minimum) connectors or metal joist anchors shall be used to tie floor joists to floor beams/girders. These should be installed on alternate floor joists, at a minimum. Cross bridging of all floor joists shall be provided. Such cross bridging may be one-by-three-inch members, placed eight feet on center maximum, or solid bridging of same depth as joist at same spacing.
  - (2) Plywood should be used for subflooring and attic flooring to provide good torsional resistance in the horizontal plane of the structure. The plywood should not be less than 3/4 inch total thickness, and should be exterior grade and fastened to beams or joists with 8d annular or spiral thread galvanized nails. Such fastening shall be supplemented by the application of waterproof industrial adhesive applied to all bearing surfaces.
- I. Exterior wall connections. All bottom plates shall have any required breaks under a wall stud or an anchor bolt. Approved anchors will be used to secure rafters or joists and top and bottom plates to studs in exterior and bearing walls to form a continuous tie. Continuous fifteen-thirty-seconds-inch or thicker plywood sheathing, overlapping the top wall plate and continuing down to the sill, beam, or girder, may be used to provide the continuous tie. If the sheets of plywood are not vertically continuous, then two-by-four nailer blocking shall be provided at all horizontal joints. In lieu of the plywood, galvanized steel rods of 1/2 inch diameter or galvanized steel straps not less than one inch wide by 1/16 inch thick may be used to connect from the top wall plate to the sill, beam, or girder. Washers with a minimum diameter of three inches shall be used at each end of the 1/2-inch round rods. These anchors shall be installed no more than two feet from each corner rod, no more than four feet on center.

J. Ceiling joist/rafter connections.

- (1) All ceiling joists or rafters shall be installed in such a manner that the joists provide a continuous tie across the rafters. Ceiling joists and rafters shall be securely fastened at their intersections. A metal or wood connector shall be used at alternate ceiling joist/rafter connections to the wall top plate.
- (2) Gable roofs shall be additionally stabilized by installing two-by-four blocking on two-foot centers between the rafters at each gable end. Blocking shall be installed a minimum of eight feet toward the house interior from each gable end.

K. Projecting members. All cantilevers and other projecting members must be adequately supported and braced to withstand wind and water uplift forces. Roof eave overhangs shall be limited to a maximum of two feet and joist overhangs to a maximum of one foot. Larger overhangs and porches will be permitted if designed or reviewed and certified by a registered professional engineer or architect.

L. Roof sheathing.

- (1) Plywood, or other wood material, when used as roof sheathing, shall not be less than 15/32 inch in thickness, and shall be of exterior sheathing grade or equivalent. All attaching devices for sheathing and roof coverings shall be galvanized or be of other suitable corrosion resistant material.
- (2) All corners, gable ends, and roof overhangs exceeding six inches shall be reinforced by the application of waterproof industrial adhesive applied to all bearing surfaces of any plywood sheet used in the sheathing of such corner, gable end, or roof overhang.
- (3) In addition, roofs should be sloped as steeply as practicable to reduce uplift pressures, and special care should be used in securing ridges, hips, valleys, eaves, vents, chimneys, and other points of discontinuity in the roofing surface.

M. Protection of openings. All exterior glass panels, windows, and doors shall be designed, detailed, and constructed to withstand loads due to the design wind speed of 75 miles per hour. Connections for these elements must be designed to transfer safely the design loads to the supporting structure. Panel widths of multiple panel sliding glass doors shall not exceed three feet.

N. Breakaway wall design standards.

- (1) The breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot, with the criterion that the safety of the overall structure at the point of wall failure be confirmed using established procedures. Grade beams shall be installed in both directions for all piles considered to carry the breakaway wall load. Knee braces are required for front row piles that support breakaway walls.
- (2) Use of breakaway wall strengths in excess of 20 pounds per square foot shall not be permitted unless a registered professional engineer or architect has developed or reviewed the structural design and specifications for the building foundation and

breakaway wall components, and certifies that the breakaway walls will fail under water loads less than those that would occur during the base flood; and the elevated portion of the building and supporting foundation system will not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by the Building Code.

## § 27-19. Nonresidential structures (except in coastal high-hazard areas).

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 27-15B, Subdivision proposals, and § 27-15C, Encroachments, and § 27-16, Standards for all structures.

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
- (1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
  - (2) Be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood elevation must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
- (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
  - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in § 27-16C.
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection **A(2)**, including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including

basement) shall be elevated at least three feet above the highest adjacent grade.

## § 27-20. Nonresidential structures (in coastal high-hazard areas).

In Zones V1-V30, VE and also Zone V if base flood elevations are available, or in an area of moderate wave action, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall have the bottom of the lowest member of the lowest floor elevated to or above two feet above the base flood elevation. Floodproofing of structures is not an allowable alternative to elevating the lowest floor to two feet above the base flood elevation in Zones V1-V30, VE and V.

## § 27-21. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in § 27-15, General standards, and § 27-16, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- A. Recreational vehicles placed on sites within Zones A1-A30, AE, AH, V1-V30, V, and VE shall either: be on site fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the requirements for manufactured homes in Subsections **B**, **C**, and **D**. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH, V1-V30, V, and VE shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- C. Within Zones A or V, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 27-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

## § 27-22. Critical facilities.

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical facility shall be located within any area of special flood hazard, or within any five-hundred-year flood zone shown as a B Zone or a Shaded X Zone on the community's Flood Insurance Rate Maps.

## Article VI. Variance Procedure

### § 27-23. Appeals board.

- A. The Zoning Board of Appeals as established by the Incorporated Village of Bayville shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- E. Upon consideration of the factors of Subsection **D** and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

## § 27-24. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, provided that the provisions of § **27-23D(1)** through **(12)** have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
  - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure; and
  - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
  - (1) The criteria of Subsections **A**, **D**, **E** and **F** of this section are met; and
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
  - (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause

fraud on or victimization of the public or conflict with existing local laws or ordinances.

- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Village of Bayville, NY  
Friday, October 25, 2013

## Chapter 63B. STORMWATER CONTROL

**[HISTORY: Adopted by the Board of Trustees of the Incorporation Village of Bayville 10-22-2007 by L.L. No. 1-2007. Editor's Note: This local law was originally specified to be added as Chs. 82 and 83 but was redesignated to maintain the organization of the Code. Amendments noted where applicable.]**

### GENERAL REFERENCES

Coastal erosion hazard area — See Ch. **20**.

Flood damage prevention — See Ch. **27**.

Freshwater protection — See Ch. **28**.

Storm sewers — See Ch. **63A**.

Subdivision of land — See Ch. **66**.

Zoning — See Ch. **80**.

## Article I. Stormwater Management and Erosion and Sediment Control

### § 63B-1. Findings of fact.

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality;

- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

## § 63B-2. Purpose.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in § 63B-1 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, or as amended or revised;
- B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01, or as amended or revised;
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

## § 63B-3. Statutory authority.

In accordance with § 10 of the Municipal Home Rule Law of the State of New York, the Board of Trustees of the Incorporated Village of Bayville has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Village of Bayville and for the protection and enhancement of its physical environment. The Board of Trustees may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local

law.

## § 63B-4. Applicability.

- A. This chapter shall be applicable to all land development activities as defined in § **63B-6**.
- B. The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may:
- (1) Review the plans;
  - (2) Upon approval by the Village Board of Trustees of the Village of Bayville, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board; or
  - (3) Accept the certification of a licensed professional that the plans conform to the requirements of this chapter.
- C. All land development activities subject to review and approval by the Board of Trustees, including in its function as the Village Planning Board, under the Zoning Ordinance regulations shall be reviewed subject to the standards contained in this chapter.
- D. All land development activities not subject to review as stated in Subsection **C** shall be required to submit a stormwater pollution prevention plan (SWPPP) to the Stormwater Management Officer, who shall approve the SWPPP if it complies with the requirements of this chapter.

## § 63B-5. Exemptions.

The following activities may be exempt from review under this chapter.

- A. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- B. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- C. Any part of a subdivision if a plat for the subdivision has been approved by the Village of Bayville on or before the effective date of this chapter.
- D. Land development activities for which a building permit has been approved on or before the effective date of this chapter.
- E. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- F. Emergency activity immediately necessary to protect life, property or natural resources.
- G. Activities of an individual engaging in home gardening by growing flowers, vegetable and other

plants primarily for use by that person and his or her family.

H. Landscaping and horticultural activities in connection with an existing structure.

## § 63B-6. Definitions.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meaning as set forth in this section:

### **APPLICANT**

A property owner or agent of a property owner who has filed an application for a land development activity.

### **BUILDING**

Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

### **CHANNEL**

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

### **CLEARING**

Any activity that removes the vegetative surface cover.

### **DEDICATION**

The deliberate appropriation of property by its owner for general public use.

### **DEPARTMENT**

The New York State Department of Environmental Conservation

### **DESIGN MANUAL**

The New York State Stormwater Management Design Manual, most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

### **DEVELOPER**

A person who undertakes land development activities.

### **EROSION CONTROL MANUAL**

The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

### **GRADING**

Excavation or fill of material, including the resulting conditions thereof.

### **IMPERVIOUS COVER**

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

### **INDUSTRIAL STORMWATER PERMIT**

A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**INFILTRATION**

The process of percolating stormwater into the subsoil.

**JURISDICTIONAL WETLAND**

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

**LAND DEVELOPMENT ACTIVITY**

Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than 5,000 square feet with an exemption of the amount of impervious cover created does not exceed 1,000 square feet, or activities disturbing less than 5,000 square feet of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**LANDOWNER**

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**MAINTENANCE AGREEMENT**

A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**NONPOINT SOURCE POLLUTION**

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include but not be limited to pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**PHASING**

Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**POLLUTANT OF CONCERN**

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**PROJECT**

Land development activity.

**RECHARGE**

The replenishment of underground water reserves.

**SEDIMENT CONTROL**

Measures that prevent eroded sediment from leaving the site.

### **SENSITIVE AREAS**

Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

### **SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01**

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land

### **SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02**

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

### **STABILIZATION**

The use of practices that prevent exposed soil from eroding.

### **STOP-WORK ORDER**

An order issued which requires that all construction activity on a site be stopped.

### **STORMWATER**

Rainwater, surface runoff, snowmelt and drainage.

### **STORMWATER HOTSPOT**

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

### **STORMWATER MANAGEMENT**

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

### **STORMWATER MANAGEMENT FACILITY**

One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

### **STORMWATER MANAGEMENT OFFICER**

An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

### **STORMWATER MANAGEMENT PRACTICES (SMPS)**

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

### **STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**STORMWATER RUNOFF**

Flow on the surface of the ground resulting from precipitation.

**SURFACE WATERS OF THE STATE OF NEW YORK**

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**WATERCOURSE**

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**WATERWAY**

A channel that directs surface runoff to a watercourse or to the public storm drain.

**§ 63B-7. Stormwater pollution prevention plans.**

- A. Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this chapter.
- B. Contents of stormwater pollution prevention plans.
- (1) All SWPPPs shall provide the following background information and erosion and sediment controls:
    - (a) Background information about the scope of the project, including location, type and size of project.
    - (b) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s). Site map will be on a scale no smaller than one inch equals 100 feet (e.g., one inch equals 500 feet is smaller than 1 inch equals 100 feet);
    - (c) Description of the soil(s) present at the site;
    - (d) Construction phasing plan describing the intended sequence of construction activities,

including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than two acres shall be disturbed at any one time unless pursuant to an approved SWPPP.

- (e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
  - (f) Description of construction and waste materials expected to be stored on site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill-prevention and response;
  - (g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land clearing and grubbing to project closeout;
  - (h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
  - (i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
  - (j) Temporary practices that will be converted to permanent control measures;
  - (k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
  - (l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
  - (m) Name(s) of the receiving water(s);
  - (n) Delineation of SWPPP implementation responsibilities for each part of the site;
  - (o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
  - (p) Any existing data that describes the stormwater runoff at the site.
- (2) Land development activities as defined in § 69B-6 and meeting Condition A, B or C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in Subsection **B(3)** below as applicable:
- (a) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's

303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

- (b) Condition B: stormwater runoff from land development activities disturbing five or more acres.
- (c) Condition C: stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

(3) SWPPP Requirements for Conditions A, B and C:

- (a) All information in Subsection **B(1)** of this section;
- (b) Description of each postconstruction stormwater management practice;
- (c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;
- (d) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
- (e) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;
- (f) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;
- (g) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;
- (h) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
- (i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § **63B-9** of this chapter.

C. Plan certification. The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this chapter.

D. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

#### E. Contractor certification.

- (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
- (2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- (3) The certification statement(s) shall become part of the SWPPP for the land development activity.

F. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

### § 63B-8. Performance and design criteria.

All land development activities shall be subject to the following performance and design criteria:

A. Technical standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this chapter:

- (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual");
- (2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").

B. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

### § 63B-9. Maintenance and repair of stormwater facilities.

A. Maintenance during construction.

- (1) The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment

traps or sediment ponds whenever their design capacity has been reduced by 50%.

- (2) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site logbook.

- B. Maintenance easements. Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village of Bayville to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Village of Bayville.
- C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall operate and maintain the stormwater management practices to achieve the goals of this chapter. Proper operation and maintenance also includes, as a minimum, the following:
- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter.
  - (2) Written procedures for operation and maintenance and training new maintenance personnel.
  - (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § **63B-8B**.
- D. Maintenance agreements. The Village of Bayville shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this chapter, entitled "Sample Stormwater Control Facility Maintenance Agreement." *Editor's Note: Said schedule is on file in the Village offices.* The Village of Bayville, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

## Article II. Administration and Enforcement

### § 63B-10. Definitions.

The terms in this article shall have the same meanings as set forth in Article I of this chapter.

## § 63B-11. Stormwater pollution prevention plan.

A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Article I of this chapter shall be required. The approved erosion control permit shall be consistent with the provisions of this chapter. A stormwater pollution prevention plan consistent with the requirements of Article I of this chapter shall be required. The SWPPP shall meet the performance and design criteria and standards in Article I of this chapter. The approved erosion control permit shall be consistent with the provisions of this chapter.

## § 63B-12. Construction inspection.

### A. Erosion and sediment control inspection.

(1) The Village of Bayville Stormwater Management Officer may require such inspections as necessary to determine compliance with Article I of this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Village of Bayville enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- (a) Start of construction;
- (b) Installation of sediment and erosion control measures;
- (c) Completion of site clearing;
- (d) Completion of rough grading;
- (e) Completion of final grading;
- (f) Close of the construction season;
- (g) Completion of final landscaping;
- (h) Successful establishment of landscaping in public areas.

(2) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

B. Stormwater management practice inspections. The Village of Bayville Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

C. Inspection of stormwater facilities after project completion. Inspection programs shall be

established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

- D. Submission of reports. The Village of Bayville Stormwater Management Officer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- E. Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Village of Bayville the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in this section.

## **§ 63B-13. Performance guarantee; maintenance guarantee; recordkeeping.**

- A. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village of Bayville in its approval of the stormwater pollution prevention plan, the Village of Bayville may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Bayville as the beneficiary. The security shall be in an amount to be determined by the Village of Bayville based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village of Bayville, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Village of Bayville. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
- B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Bayville with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and

until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Village of Bayville may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

- C. Recordkeeping. The Village of Bayville may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

## § 63B-14. Enforcement; penalties for offenses.

- A. Notice of violation. When the Village of Bayville determines that a land development activity is not being carried out in accordance with the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
- (1) The name and address of the landowner, developer or applicant;
  - (2) The address, when available, or a description of the building, structure or upon which the violation is occurring;
  - (3) A statement specifying the nature of the violation;
  - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action;
  - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
  - (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.
- B. Stop-work orders. The Village of Bayville may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Village of Bayville confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.
- C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.
- D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years,

punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose, only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

- E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Stormwater Management Officer may prevent the occupancy of said building or land.
- F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Village of Bayville may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

### **§ 63B-15. Fees for services.**

The Village of Bayville may require any person undertaking land development activities regulated by this chapter to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village of Bayville or performed by a third party for the Village of Bayville.

Village of Bayville, NY  
Friday, October 25, 2013

## Chapter 77A. WATERFRONT CONSISTENCY REVIEW

**[HISTORY: Adopted by the Board of Trustees of the Village of Bayville 10-28-2002 by L.L. No. 7-2002. Amendments noted where applicable.]**

### GENERAL REFERENCES

Boats and docks — See Ch. **9**.  
Coastal erosion hazard area — See Ch. **20**.  
Environmental Conservation Commission — See Ch. **24**.  
Flood damage prevention — See Ch. **27**.  
Freshwater protection — See Ch. **28**.  
Open space preservation — See Ch. **43**.  
Subdivision of land — See Ch. **66**.  
Waterfront Revitalization Committee — See Ch. **78**.  
Zoning — See Ch. **80**.

### § 77A-1. Title.

This chapter will be known as the “Village of Bayville Waterfront Consistency Review Law.”

### § 77A-2. Authority, purpose and intent.

- A. This chapter 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 chapter is to provide a framework for agencies of the Village of Bayville 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 said policies and purposes.
- C. It is the intention of the Village of Bayville that the preservation, enhancement and utilization of the natural and man-made 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 chapter 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 chapter shall apply only while there is in existence a Village Local Waterfront Revitalization Program which has been adopted by the Village and approved by the Secretary of State.

## § 77A-3. Definitions.

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

### **ACTIONS**

A. 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, such 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 planing 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 combination of the above.

B. This chapter 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 chapter:

- (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 tender service in approved subdivisions or in connection with any actions 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, clearcutting 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 soil 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 6NYCRR 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 historic districts.

(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 Bayville.

## **APPLICANT**

Any person, other than the agency, who proposes an action located in the Village's coastal

area.

## **BUILDING INSPECTOR**

The Building Inspector of the Village of Bayville.

## **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 Bayville, as shown on the Coastal Area Map on file in the office of the Secretary of State and as delineated in the Village of Bayville Local Waterfront Revitalization Program.

## **COASTAL ASSESSMENT FORM (CAF)**

The form contained in Appendix A, *Editor's Note: Appendix A is included at the end of this chapter.* completed by an agency to assist it in assuring that the action being proposed is consistent with the policy and purposes of the LWRP.

## **CONSISTENT**

The action will fully comply With the LWRP policies and purposes and, whenever practicable, will advance one or more of them.

## **DIRECT ACTIONS**

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

## **LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)**

The Local Waterfront Revitalization Program of the Village of Bayville, 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 Bayville.

## **WATERFRONT REVITALIZATION COMMITTEE**

The Waterfront Revitalization Committee of the Village of Bayville, as established by Chapter 78 of the Village Code.

## **§ 77A-4. Waterfront Revitalization Committee.**

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

## **§ 77A-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 recommendations, 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 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 chapter.
- G. Actions to be undertaken within the Bayville 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 Bayville 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 Long Island Sound coastal area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location, and minimizes adverse effects of development.
    - (a) Policy 1.1: Concentrate development and redevelopment in or adjacent to the Village of Bayville.

- (b) Policy 1.2: Ensure that development or uses take appropriate advantage of their coastal location.
  - (c) Policy 1.3: Protect stable residential areas.
  - (d) Policy 1.4: Maintain and enhance natural areas, recreation, and open space.
  - (e) Policy 1.5: Minimize adverse impacts of new development and redevelopment.
  - (f) Policy 1.6: Undertake redevelopment in a manner that maintains a mix of recreational and working waterfront uses and other compatible uses.
  - (g) Policy 1.7: Undertake redevelopment consistent with environmental and physical conditions, particularly with respect to surface water drainage.
  - (h) Policy 1.8: Formulate appropriate measures to mitigate flood-prone roads and low-lying areas through interagency cooperation.
  - (i) Policy 1.9: Eliminate the presence of nonconforming commercial uses in residential zoning districts, where such uses create conflicts with existing residential development.
  - (j) Policy 1.10: Explore the feasibility of consolidating Village land holdings to create larger areas of contiguous public property.
- (2) Policy 2: Preserve historic resources of the Long Island Sound coastal area.
- (a) Policy 2.1: Maximize preservation and retention of historic resources.
  - (b) Policy 2.2: Protect and preserve archaeological resources.
  - (c) Policy 2.3: Protect and enhance resources that are significant to the coastal culture of the Village of Bayville.
  - (d) Policy 2.4: Increase public awareness of the historical resources of the Village.
- (3) Policy 3: Enhance visual quality and protect scenic resources throughout Long Island Sound.
- (a) Policy 3.1: Protect and improve visual quality throughout the Bayville local waterfront area.
- (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 and erosion hazards.
  - (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 when siting and designing projects involving substantial public expenditures.
  - (g) Policy 4.7: Minimize adverse impacts associated with existing flooding and erosion.
- (5) Policy 5: Protect and improve water quality and supply in the Long Island Sound coastal area.
- (a) Policy 5.1: Prohibit direct or indirect discharges that would cause or contribute to contravention of water quality standards.
  - (b) Policy 5.2: Manage land use activities and use best management practices to minimize nonpoint pollution of coastal waters.
  - (c) Policy 5.3: Protect and enhance the quality of coastal waters.
  - (d) Policy 5.4: Limit the potential for adverse impacts of watershed development on water quality and quantity.
  - (e) Policy 5.5: Protect and conserve the quality and quantity of potable water.
  - (f) Policy 5.6: Where feasible, and as budgetary considerations allow, mitigate existing stormwater-derived sources of contamination to the Mill Neck/Oak Neck Creek System and Oyster Bay Harbor.
- (6) Policy 6: Protect and restore the quality and function of the Long Island Sound ecosystem.
- (a) Policy 6.1: Protect and restore ecological quality in the Village of Bayville.
  - (b) Policy 6.2: Protect and restore the Mill Neck Creek Wetlands and Oyster Bay Harbor Significant Coastal Fish and Wildlife Habitats.
  - (c) Policy 6.3: Protect and restore tidal wetlands.
  - (d) Policy 6.4: Protect vulnerable fish, wildlife and plant species and rare ecological communities.
  - (e) Policy 6.5: Restore tidal wetlands along the shores of Oyster Bay Harbor and the Mill Neck/Oak Neck Creek system.
  - (f) Policy 6.6: Protect natural resources and associated values in the Oyster Bay-Cold Spring Harbor Regionally Important Natural Area.
- (7) Policy 7: Protect and improve air quality in the Long Island Sound coastal area.

- (a) Policy 7.1: Control or abate existing and prevent new air pollution in the Village of Bayville.
- (b) Policy 7.2: Limit sources of atmospheric deposition of pollutants to the Sound and all waters surrounding the Village of Bayville, particularly from nitrogen sources.
- (8) Policy 8: Minimize environmental degradation in the Long Island Sound coastal area from solid waste and hazardous substances and wastes.
  - (a) Policy 8.1: Manage solid waste to protect public health and control pollution.
  - (b) Policy 8.2: Manage hazardous wastes to protect public health and control pollution.
  - (c) Policy 8.3: Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.
  - (d) Policy 8.4: Prevent and remediate discharges of petroleum products.
  - (e) Policy 8.5: Transport solid waste, and hazardous substances and waste, in a manner that protects the safety, well-being, and general welfare of the public; the environmental resources of the state; and the continued use of transportation facilities.
- (9) Policy 9: Provide for public access to, and recreational use of, coastal waters, public lands, and public resources of the Long Island Sound coastal area.
  - (a) Policy 9.1: Promote appropriate and adequate physical public access and recreation throughout the Village of Bayville.
  - (b) Policy 9.2: Preserve visual access from public lands to coastal lands and water and, where physically appropriate and feasible, enhance existing public facilities to provide new opportunities for the viewing of the scenic resources within the Village of Bayville.
  - (c) Policy 9.3: Preserve the public interest in and use of lands and water held in public trust by the Village of Bayville, Town of Oyster Bay, State of New York and federal government.
  - (d) Policy 9.4: Assure public access to public trust lands and navigable waters.
  - (e) Policy 9.5: Ensure that the form of new or enhanced public access at any given location is based on site-specific environmental, infrastructural, and social constraints.
  - (f) Policy 9.6: Enhance the Mill Neck Preserve for passive recreational uses in association with habitat restoration.
  - (g) Policy 9.7: Ensure that vessel operations do not significantly impair the use of established bathing beaches.
  - (h) Policy 9.8: Retain existing public lands in public ownership in perpetuity, so as to ensure

that adequate facilities are available for public access and recreation.

- (10) Policy 10: Protect Long Island Sound's water-dependent uses and promote siting of new water-dependent uses in suitable locations.
  - (a) Policy 10.1: Protect existing water-dependent uses in the Village of Bayville.
  - (b) Policy 10.2: Improve the economic viability of water-dependent uses by allowing for non-water-dependent accessory and multiple uses in the Village, particularly water-enhanced and maritime support services.
  - (c) Policy 10.3: Minimize adverse impacts of new and expanding water-dependent uses, and provide for their safe operation.
  - (d) Policy 10.4: Provide sufficient infrastructure for water-dependent uses.
  - (e) Policy 10.5: Promote efficient harbor operation.
  - (f) Policy 10.6: Optimize surface water uses for various user groups, while minimizing adverse effects on natural resources and the human environment.
  - (g) Policy 10.7: Facilitate timely public dredging projects.
  - (h) Policy 10.8: Seek to establish a cooperative mechanism among the adjacent municipalities sharing jurisdiction over the water surface area in the Bayville LWRA, in order to ensure effective oversight of in-water activities.
- (11) Policy 11: Promote sustainable use of living marine resources in Long Island Sound.
  - (a) Policy 11.1: Ensure the long-term maintenance and health of living marine resources.
  - (b) Policy 11.2: Provide for commercial and recreational use of the Bayville LWRA's finfish, shellfish, crustaceans, and marine plants.
  - (c) Policy 11.3: Maintain and strengthen a stable commercial fishing fleet in the Village of Bayville.
  - (d) Policy 11.4: Promote recreational use of marine resources.
  - (e) Policy 11.5: Promote managed harvest of shellfish originating from uncertified waters.
  - (f) Policy 11.6: Promote aquaculture.
- (12) Policy 12: Protect agricultural lands in the eastern Suffolk County portion of Long Island Sound's coastal area.
- (13) Policy 13: Promote appropriate use and development of energy and mineral resources.
  - (a) Policy 13.1: Conserve energy resources.
  - (b) Policy 13.2: Promote alternative energy sources that are self-sustaining, including solar-

and wind-powered energy generation.

- (c) Policy 13.3: Minimize adverse impacts associated with mineral extraction and subaqueous sand and gravel extraction.

H. Actions not consistent with LWRP policy standards and conditions.

- (1) If the Village 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 Village 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 will 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; and
  - (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 Village agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Waterfront Revitalization Committee. Such files shall be made available for public inspection upon request.

## § 77A-6. Enforcement.

The Village Building Inspector shall be responsible for enforcing this chapter. No work or activity on a project in the coastal area which is subject to review under this chapter shall be commenced or undertaken until the Village Building Inspector has been presented with a written determination from a Village agency that the action is consistent with the Village's LWRP policy standards and conditions.

## § 77A-7. Penalties for offenses.

- A. A person who violates any of the provisions of or who fails to comply with any conditions imposed by this chapter 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 chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty. The Village may also enforce this chapter by injunction or

other civil proceeding.

### **Appendix A Coastal Assessment Form**

A. INSTRUCTIONS (Please print or type answers)

1. Applicants, or in the case of direct actions Village agencies, shall complete this CAF for proposed actions which are subject to the Consistency Review Law. This assessment is intended to supplement other information used by a Village agency in making a determination of consistency.
2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policies contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Village Clerk’s office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.
3. If any question in Section C, on this form, is answered “yes,” then the proposed action may affect the achievement of the LWRP policy standards and conditions contained in the Consistency Review Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent to the maximum extent practicable with the LWRP policy standards and conditions. If an action cannot be certified as consistent with the LWRP policy standards and conditions, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Type of Village agency action (check appropriate response):
  - (a) Directly undertaken (e.g., capital construction, planning activity, agency regulation, land transaction)
  - (b) Financial assistance (e.g., grant, loan, subsidy)
  - (c) Permit, approval license, certification
  - (d) Agency undertaking action:
2. Describe nature and extent of action:
 

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3. Location of action:
 

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4. Size of site:
5. Present land use:

- 6. Present zoning classification:
- 7. Describe any unique or unusual land forms on the project site (i.e., bluffs, dunes, swales, ground depressions, other geological formations):

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- 8. Percentage of site which contains slopes of 15% or greater:
- 9. Streams, ponds or wetlands existing within or contiguous to the project area?

- (a) Name:
- (b) Size (in acres):

- 10. If an application for the proposed action has been filed with the Village agency, the following information shall be provided:

- (a) Name of applicant:
- (b) Mailing address:
- (c) Telephone number: Area Code ( )
- (d) Application number, if any:

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- 11. Will the action be directly undertaken, require funding, or approval by a state or federal agency?

Yes      No      If yes, which state or federal agency?

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C. COASTAL ASSESSMENT (Check either "Yes" or "No" for each of the following questions)

- 1. Will the proposed action be located in or contiguous to or have a potentially adverse effect upon any of the resource areas identified on the coastal area map:

	<b>YES</b>	<b>NO</b>
(a) Significant fish or wildlife habitats?	_____	_____
(b) Scenic resources of local or statewide significance?	_____	_____
(c) Important agricultural lands?	_____	_____

(d) Natural protective features in an erosion hazard area?

If the answer to any question above is "yes," please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

2. Will the proposed action have a significant effect upon:

- |  | <b>YES</b>               | <b>NO</b>                |
|--|--------------------------|--------------------------|
| (a) Commercial or recreational use of fish and wildlife resources?   | <input type="checkbox"/> | <input type="checkbox"/> |
| (b) Scenic quality of the coastal environment?   | <input type="checkbox"/> | <input type="checkbox"/> |
| (c) Development of future or existing water dependent uses?  | <input type="checkbox"/> | <input type="checkbox"/> |
| (d) Operation of the state's major ports?  | <input type="checkbox"/> | <input type="checkbox"/> |
| (e) Land or water uses within a small harbor area?   | <input type="checkbox"/> | <input type="checkbox"/> |
| (f) Stability of the shoreline?  | <input type="checkbox"/> | <input type="checkbox"/> |
| (g) Surface or groundwater quality?  | <input type="checkbox"/> | <input type="checkbox"/> |
| (h) Existing or potential public recreation opportunities?   | <input type="checkbox"/> | <input type="checkbox"/> |
| (i) Structure, sites or districts of historic, archeological or cultural significance to the Village, town, county, state or nation? | <input type="checkbox"/> | <input type="checkbox"/> |

3. Will the proposed action involve or result in any of the following:

- |  | <b>YES</b>               | <b>NO</b>                |
|--|--------------------------|--------------------------|
| (a) Physical alteration of land along the shoreline, land under water or coastal waters?                             | <input type="checkbox"/> | <input type="checkbox"/> |
| (b) Physical alteration of two acres or more of land located elsewhere in the coastal area?                          | <input type="checkbox"/> | <input type="checkbox"/> |
| (c) Expansion of existing public services or infrastructure in undeveloped or low-density areas of the coastal area? | <input type="checkbox"/> | <input type="checkbox"/> |
| (d) Energy facility not subject to Article VII or VIII of the Public Service Law?                                    | <input type="checkbox"/> | <input type="checkbox"/> |
| (e) Mining, excavation, filling or dredging in coastal waters?   | <input type="checkbox"/> | <input type="checkbox"/> |
| (f) Reduction of existing or potential public access to or along the shore?  | <input type="checkbox"/> | <input type="checkbox"/> |

- (g) Sale or change in use of publicly owned lands located on the shoreline or under water?
- (h) Development within a designated flood or erosion hazard area? If so where?
- (i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?
- (j) Construction or reconstruction of erosion protective structures?
- (k) Diminished surface or groundwater quality?
- (l) Removal of ground cover from the site?

4. PROJECT

(a) If a project is to be located adjacent to shore:

**YES NO**

- (1) Will water-related recreation be provided?
- (2) Will public access to the foreshore be provided?
- (3) Does the project require a waterfront site?
- (4) Will it supplant a recreational or maritime use?
- (5) Do essential public services and facilities presently exist at or near the site?
- (6) Is it located in a flood-prone area?
- (7) Is it located in an area of high erosion?

(b) If the project site is publicly owned:

**YES NO**

- (1) Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?
- (2) If located in the foreshore, will access to those and adjacent lands be provided?
- (3) Will it involve the siting and construction of major

energy facilities?

- |     |  |   |   |
|-----|--|---|---|
| (4) | Will it involve the discharge of effluents from major steam electric-generating and industrial facilities into coastal facilities?         | — | — |
| (c) | Is the project site presently used by the community neighborhood as an open space or recreation area?                                      | — | — |
| (d) | Does the present site offer or include scenic views or vistas known to be important to the community?                                      | — | — |
| (e) | Is the project site used for commercial fishing or fish processing?  | — | — |
| (f) | Will the surface area of any waterways or wetland areas be increased or decreased by the proposal?   | — | — |
| (g) | Does any mature forest (over 100 years old) or other locally important vegetation exist on this site which will be removed by the project? | — | — |
| (h) | Will the project involve any waste discharges into coastal waters?   | — | — |
| (i) | Does the project involve surface or subsurface liquid waste disposal?  | — | — |
| (j) | Does the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?                                  | — | — |
| (k) | Does the project involve shipment or storage of petroleum products?  | — | — |
| (l) | Does the project involve discharge of toxins, hazardous substances or other pollutants into coastal waters?                                | — | — |
| (m) | Does the project involve or change existing ice management practices?  | — | — |
| (n) | Will the project affect any area designated as a tidal or freshwater wetland?  | — | — |
| (o) | Will the project alter drainage flow, patterns or surface water runoff on or from the site?  | — | — |
| (p) | Will best management practices be utilized to control stormwater runoff into coastal waters?   | — | — |
| (q) | Will the project utilize or affect the quality or quantity of sole   | — | — |

source or surface water supplies?

- (r) Will the project cause emissions which exceed federal or state air quality standards or generate significant amounts of nitrates or sulfates? \_\_\_\_\_

D. REMARKS OR ADDITIONAL INFORMATION: (Add any additional sheets to complete this form.)

If assistance or further information is needed to complete this form, please contact the Village Clerk at 34 School Street, Bayville, New York, 11109

Preparer's Name:

Telephone Number: ( )

Title: \_\_\_\_\_ Agency:

Date:

Village of Bayville, NY  
Friday, October 25, 2013

## Chapter 78. WATERFRONT REVITALIZATION COMMITTEE

**[HISTORY: Adopted by the Board of Trustees of the Village of Bayville 5-13-2002 by L.L. No. 6-2002. Amendments noted where applicable.]**

### GENERAL REFERENCES

Beaches — See Ch. 7.

Boats and docks — See Ch. 9.

Coastal erosion hazard areas — See Ch. 20.

Freshwater protection — See Ch. 28.

### § 78-1. Findings and purposes.

The Board of Trustees finds that the waterfront, the harbor and adjacent local waters are a most vital financial asset to the Village and of extreme importance to the social, economic and cultural well-being of Village residents and visitors alike and that the quality of all local waters must be protected and preserved to the maximum practical extent to ensure continuation and enhancement of the benefits derived therefrom both for now and for future generations. It is the intent of this chapter to establish procedures which will provide assurance that the Village administration is made aware of all ongoing and pending activities which may have an adverse impact on the quality of local waters and of all opportunities for improvement of the quality of these waters so that proper, adequate and timely action may be taken to preserve the water quality and, thereby, the quality of life in the area.

### § 78-2. Committee established; membership.

- A. A Waterfront Revitalization Committee is hereby established, consisting of five members to be appointed by the Mayor subject to the approval of the Board of Trustees. The first appointments shall be for terms so fixed that two will expire at the end of the current official year, two will expire at the end of the next succeeding official year, and one will expire at the end of the next succeeding official year. Succeeding appointments shall be for three-year terms. All members shall be residents of the Village.
- B. Residents of other communities bordering on the local waters may be designated adjunct members by the Mayor, subject to the approval of the Board of Trustees, when it is deemed advisable to add special expertise or an area of interest to the Committee. Such designations shall be for a term of one official year and shall expire at the end of each official year. Adjunct members may participate in Committee discussions but shall not have a vote.
- C. The Mayor, with the consent of the Board of Trustees, may remove any member with cause after a public hearing.

- D. If a vacancy shall occur other than by expiration of a member's term, it shall be filled by an interim appointment by the Mayor for the remainder of the former member's unexpired term.
- E. The Mayor shall designate a Chairman of the Committee. Such designation shall be for a term of one official year and shall expire at the end of each official year. The Committee shall designate a Vice-Chairman and a Secretary for terms as specified above for the Chairman. The Secretary may or may not be a member of the Committee but shall not have a vote if not a member.
- F. Alternate members.
- (1) The Mayor, subject to the approval of the Board of Trustees, may appoint up to two alternate members to the Committee for the purpose of substituting for a member when such member is unable to participate due to conflict of interest, illness or unavailability. The alternate members shall serve for a term of one year.
  - (2) The Chairperson of the Committee may designate an alternate member to substitute for a member when such member is unable to participate because of conflict of interest, illness or unavailability. When so designated, the alternate member shall possess the powers and responsibilities of such member of the Committee. The designation shall be entered into the minutes of the initial Committee meeting at which such designation is made.

### **§ 78-3. Meetings; powers and duties.**

- A. The Committee shall normally meet monthly. Such date and time shall be determined by the Waterfront Revitalization Committee. Additional special meetings may be held when necessary at the call of the Chairman or of any three Committee members. All meetings of the Committee shall be open to the public.
- B. The Committee shall adopt rules of procedure, as it may deem necessary for performance of its duties.
- C. All decisions of the Committee shall require an affirmative vote of a majority of the full Committee. A quorum shall consist of three members.
- D. The duties and responsibilities of the Committee shall include:
- (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 an 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 moneys 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.

**Project: (project name )**

<p><b>A. PROJECT SPONSOR</b> <i>(Local contact and/or agency information for the organization sponsoring the project)</i></p> <p>Sponsor Name:          Sponsor Address:          Sponsor Contact:              Name:              Email:              Phone:</p>	<p><b>F. COMMUNITY BENEFITS</b> <i>(Co-benefits that apply to the project)</i></p> <p>Sustainability factors detailed in regional sustainability plan</p> <p><input type="checkbox"/> Not applicable  <input type="checkbox"/> Include:</p> <p>Economic Impacts</p> <p><input type="checkbox"/> Not applicable  <input type="checkbox"/> Include:</p> <p>Environmental Benefits</p> <p><input type="checkbox"/> Not applicable  <input type="checkbox"/> Include:</p> <p>Health and Social Benefits</p> <p><input type="checkbox"/> Not applicable  <input type="checkbox"/> Include:</p> <p>Other</p> <p><input type="checkbox"/> Not applicable  <input type="checkbox"/> Includes:</p>
<p><b>B. PROJECT NAME AND LOCATION</b></p> <p>Project Name:          Project Location:</p>	<p><b>G. SUPPORT FOR PROJECT</b> <i>(Level of support expressed for project through public outreach process)</i></p> <p><input type="checkbox"/> High (indicates strong support with consensus to move forward)  <input type="checkbox"/> Medium (indicates general support but some issues to resolve)  <input type="checkbox"/> Minimal (indicates action is not presently supported but bears additional study and evaluation)</p>
<p><b>C. NATURAL DISASTER</b> <i>(Event the proposed project is related to)</i></p> <p><input type="checkbox"/> Sandy  <input type="checkbox"/> Irene  <input type="checkbox"/> Lee  <input type="checkbox"/> Other event (describe)  <input type="checkbox"/> Not applicable</p>	<p><b>H. ESTIMATED PROJECT COST</b></p> <p>Estimated Cost (if known):     \$</p> <p>Estimated Cost (if unknown):</p> <p><input type="checkbox"/> Low, under \$1 million  <input type="checkbox"/> Medium, \$1 to \$5 million  <input type="checkbox"/> High, over \$5 million</p>
<p><b>D. PRIMARY PROJECT CATEGORY</b> <i>(Recovery Support Function the project falls into)</i></p> <p><input type="checkbox"/> Community Planning and Capacity Building  <input type="checkbox"/> Economic  <input type="checkbox"/> Health and Social Services  <input type="checkbox"/> Housing  <input type="checkbox"/> Infrastructure  <input type="checkbox"/> Natural and Cultural Resources</p>	
<p><b>E. BRIEF PROJECT DESCRIPTION</b></p>	

**Project: (project name )**

<p><b>I. COMMITTED FUNDING</b></p> <p><input type="checkbox"/> Not applicable</p> <p><input type="checkbox"/> Applicable and includes the following:</p> <p style="padding-left: 40px;">Funding: \$</p> <p style="padding-left: 40px;">Source:</p>	<p><b>M. IMPLEMENTATION TIMELINE</b></p> <p><input type="checkbox"/> Immediate (less than 2 years)</p> <p><input type="checkbox"/> Intermediate (within 2-5 years)</p> <p><input type="checkbox"/> Long-range (more than 5 years)</p>																				
<p><b>J. POTENTIAL SOURCES OF FUNDING</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 30%;">Amount</th> <th style="width: 60%;">Name of Program or Entity</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/></td> <td>Federal: \$</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>State: \$</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Local: \$</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Private: \$</td> <td></td> </tr> <tr> <td><input type="checkbox"/></td> <td>Other: \$</td> <td></td> </tr> </tbody> </table>		Amount	Name of Program or Entity	<input type="checkbox"/>	Federal: \$		<input type="checkbox"/>	State: \$		<input type="checkbox"/>	Local: \$		<input type="checkbox"/>	Private: \$		<input type="checkbox"/>	Other: \$		<p><b>N. REGIONAL COORDINATION</b> <i>(If project is linked to other NYRCR projects in adjacent communities or regions)</i></p> <p><input type="checkbox"/> Not applicable</p> <p><input type="checkbox"/> Yes, project involves regional coordination and is linked to the following project(s) and communities:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Project</td> <td>Community</td> </tr> </table>	Project	Community
	Amount	Name of Program or Entity																			
<input type="checkbox"/>	Federal: \$																				
<input type="checkbox"/>	State: \$																				
<input type="checkbox"/>	Local: \$																				
<input type="checkbox"/>	Private: \$																				
<input type="checkbox"/>	Other: \$																				
Project	Community																				
<p><b>K. INITIAL FEASIBILITY ASSESSMENT</b> <i>(Factors present that indicate project feasibility)</i></p> <p><input type="checkbox"/> Organizational capacity <i>(i.e. project sponsor is capable of applying for funds and administering the project)</i></p> <p><input type="checkbox"/> Technical feasibility <i>(i.e. project uses known or suitable technology for application, or the method of construction technology is practical for the proposed location)</i></p> <p><input type="checkbox"/> Ability to permit or approve <i>(i.e. project is more likely to be approved or permitted because it does not require coverage or fill of open water, does not degrade or eliminate current wetland features, or does not impact habitat)</i></p> <p><input type="checkbox"/> Availability of property <i>(i.e. property has been acquired or is available for the project without constraint)</i></p>	<p><b>O. COORDINATION WITH OUTSIDE AGENCIES</b> <i>(If coordination with outside agencies is required and what permits/approvals are required)</i></p> <p><input type="checkbox"/> Not applicable</p> <p><input type="checkbox"/> Yes, project requires coordination with outside agencies and may require the following permits/approvals:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Agency</td> <td>Potential Permit/Approval</td> </tr> </table>	Agency	Potential Permit/Approval																		
Agency	Potential Permit/Approval																				
<p><b>L. STATUS OF IMPLEMENTATION</b></p> <p><input type="checkbox"/> Idea/Concept Stage</p> <p><input type="checkbox"/> Planning</p> <p><input type="checkbox"/> Preliminary Design</p> <p><input type="checkbox"/> Final Design</p> <p><input type="checkbox"/> Permitting</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/></p>	<p><b>P. PROJECT IMPACT</b> <i>(If project impacts more than one municipality)</i></p> <p><input type="checkbox"/> Not applicable</p> <p><input type="checkbox"/> Yes, project would impact the following other municipalities:</p> <p><input type="checkbox"/> Municipality</p> <p><b>Q. ALTERNATIVES</b> <i>(Potential alternatives to project)</i></p> <p><input type="checkbox"/> Not applicable</p> <p><input type="checkbox"/> Potential alternatives include:</p> <p><input type="checkbox"/> Alternative(s):</p>																				

<p>R. <b>CONTEXT MAP</b></p> <div data-bbox="130 207 1537 1071" style="border: 1px solid black; padding: 20px; text-align: center;"><p><i>(Insert context map here)</i></p></div>	<p><b>PHOTOS</b></p> <div data-bbox="1621 207 1957 474" style="border: 1px solid black; padding: 10px; text-align: center;"><p><i>(Detail photo 1)</i></p></div> <div data-bbox="1621 506 1957 773" style="border: 1px solid black; padding: 10px; text-align: center;"><p><i>(Detail photo 2)</i></p></div> <div data-bbox="1621 805 1957 1071" style="border: 1px solid black; padding: 10px; text-align: center;"><p><i>(Detail photo 3)</i></p></div>
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# Project: West Harbor Road Sand Bar Preservation

<p><b>A. PROJECT SPONSOR</b> <i>(Local contact and/or agency information for the organization sponsoring the project)</i></p> <p>Sponsor Name:          Sponsor Address:          Sponsor Contact:              Name:              Email:              Phone:</p>	<p><b>F. COMMUNITY BENEFITS</b> <i>(Co-benefits that apply to the project)</i></p> <p>Sustainability factors detailed in regional sustainability plan</p> <p><input type="checkbox"/> Not applicable  <input type="checkbox"/> Include:</p> <p>Economic Impacts</p> <p><input type="checkbox"/> Not applicable  <input type="checkbox"/> Include:</p> <p>Environmental Benefits</p> <p><input type="checkbox"/> Not applicable  <input checked="" type="checkbox"/> Include:      Prevents deposition of sand in wetlands.</p> <p>Health and Social Benefits</p> <p><input type="checkbox"/> Not applicable  <input type="checkbox"/> Include:</p> <p>Other</p> <p><input type="checkbox"/> Not applicable  <input type="checkbox"/> Includes:</p>
<p><b>B. PROJECT NAME AND LOCATION</b></p> <p>Project Name:            West Harbor Road Sand Bar Preservation          Project Location:      South of wetlands along W. Harbor Rd. See context map (Section R).</p>	<p><b>G. SUPPORT FOR PROJECT</b> <i>(Level of support expressed for project through public outreach process)</i></p> <p><input type="checkbox"/> High (indicates strong support with consensus to move forward)  <input type="checkbox"/> Medium (indicates general support but some issues to resolve)  <input type="checkbox"/> Minimal (indicates action is not presently supported but bears additional study and evaluation)</p>
<p><b>C. NATURAL DISASTER</b> <i>(Event the proposed project is related to)</i></p> <p><input checked="" type="checkbox"/> Sandy  <input type="checkbox"/> Irene  <input type="checkbox"/> Lee  <input type="checkbox"/> Other event (describe)  <input type="checkbox"/> Not applicable</p>	<p><b>H. ESTIMATED PROJECT COST</b></p> <p>Estimated Cost (if known):      \$</p> <p>Estimated Cost (if unknown):</p> <p><input checked="" type="checkbox"/> Low, under \$1 million  <input type="checkbox"/> Medium, \$1 to \$5 million  <input type="checkbox"/> High, over \$5 million</p>
<p><b>D. PRIMARY PROJECT CATEGORY</b> <i>(Recovery Support Function the project falls into)</i></p> <p><input type="checkbox"/> Community Planning and Capacity Building  <input type="checkbox"/> Economic  <input type="checkbox"/> Health and Social Services  <input type="checkbox"/> Housing  <input type="checkbox"/> Infrastructure  <input checked="" type="checkbox"/> Natural and Cultural Resources</p>	
<p><b>E. BRIEF PROJECT DESCRIPTION</b></p> <p>Project involves stabilizing the sand bar along the south side of the wetlands adjacent to West Harbor Road in order to preserve sand bar and prevent further erosion. Stabilization will prevent migration and deposition of sand into the wetlands and onto West Harbor Road as occurred during Sandy.</p>	



# Project: West Harbor Road Sand Bar Preservation

## R. CONTEXT MAP



## PHOTOS

