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<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	Village of Port Chester
<b>Year (adopted, written, etc.):</b>	2003
<b>Community Type - applicable to:</b>	Suburban; Rural
<b>Title:</b>	Village of Port Chester Waterfront Consistency Review Law
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### ***Abstract***

The purpose of Port Chester's Waterfront Consistency Review Law is to provide consistent review procedures in the coastal area. It creates a waterfront commission, the duties of which include reviewing Coastal Assessment Forms (CAF) to determine whether proposed actions are consistent with the Local Waterfront Revitalization Program (LWRP) by incorporating environmental factors and consideration of coastal resources into the village planning and decision-making processes.

### ***Resource***

Village of Port Chester NY Waterfront Consistency Review  
Code of the Village of Port Chester NY  
Chapter 332 Waterfront Consistency Review

#### **§ 332-1. Title.**

This chapter will be known as the Village of Port Chester "Waterfront Consistency Review Law."

#### **§ 332-2. Authority and purpose.**

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 (Article 42 of the Executive Law).

B. The purpose of this chapter is to promote the health, safety and general welfare of the people of the Village of Port Chester by providing consistency review procedures for implementation of the Village of Port Chester Local Waterfront Revitalization Program by incorporating environmental factors and consideration of coastal resources into Village planning and decision-making processes.

### **§ 332-3. Applicability.**

All boards, departments, offices, other bodies or officers of the Village of Port Chester to which the provisions of this chapter are applicable, prior to carrying out, approving or funding any action other than Type II, Exempt or Excluded actions, as those terms are defined in Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

### **§ 332-4. Definitions.**

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

**ACTIONS** — Either Type I or unlisted actions as defined in the State Environmental Quality Review Act (SEQR), 6 NYCRR Part 617, which are undertaken by an agency and which are:

A. Projects or physical activities, such as construction or other activities, which change the use or appearance of any natural resource or structure, which:

(1) Are directly undertaken by an agency;

(2) Involve funding by an agency; or

(3) Require one or more permits or approvals from an agency or agencies.

B. Agency planning and policymaking activities that commit the agency to a course of future decisions.

C. Adoption of agency rules, regulations and procedures including local laws and resolutions.

D. Combinations of the above.

**AGENCY** — Any board, agency, department, office, other body or officer of the Village of Port Chester.

**COASTAL AREA** — The New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law. The boundaries of the Village's Coastal Area are coincident with the Village's municipal boundary as shown on the Coastal Area Map on file in the office of the Secretary of State and as delineated in the Village of Port Chester Local Waterfront Revitalization Program.

**COASTAL ASSESSMENT FORM (CAF)** — The form used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.

CONSISTENT — The action will be fully in compliance with and not hinder any of the Village of Port Chester LWRP policy standards and conditions.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) — The Local Waterfront Revitalization Program of the Village of Port Chester, as approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law Article 42), a copy of which is on file in the office of the Clerk of the Village of Port Chester.

**§ 332-5. Waterfront Commission.**

A. A Commission is created and shall be hereafter known as the "Waterfront Commission of the Village of Port Chester" (hereinafter "Commission").

B. The Commission shall consist of five members, all residents of the village and who shall be appointed by the Board of Trustees. Commission members shall serve for terms of four years with the exception of the original appointive members of the Commission, who shall serve as follows: two members shall hold office for terms of one year, two members for terms of two years, two members for terms of three years and one member for a term of four years. Vacancies shall be filled by the Board of Trustees by appointment for the unexpired term. The position of Chairperson shall be appointed by the Board of Trustees. In addition, there shall be an alternate member who shall be appointed for a term of four years and who shall sit in the place of any absent member, and while so doing shall have all of the rights, powers and duties of such member. **[Amended 6-2-1993 by L.L. No. 7-1993; 10-20-2003 by L.L. No. 8-2003]**

C. Each appointed member shall be chosen for their demonstrated knowledge, ability and readiness to serve on the Commission in the functions described in this chapter and with due regard for maintaining among the membership a range of special aptitudes, expertise and viewpoints in areas relevant to the work of the Commission. **[Amended 10-20-2003 by L.L. No. 8-2003]**

D. The Commission may employ such persons as may be needed and as authorized by the Village Board and pursuant to law. This Commission shall have the power to adopt rules of procedure for the conduct of all business within its jurisdiction.

E. Following adoption of the LWRP, the Commission shall develop a set of regulations and review standards for waterfront operations and pier, wharf, dock or other construction on or in the waters of the Village coastal area for submission to the Village Board for approval. Upon approval, these shall become a part of Chapter 148, Boating and Watercraft, of the Village Code and will be binding upon property owners and developers who have applied for building permits for waterfront property.

F. The Commission shall serve without compensation and shall be charged with the duties as set forth in this chapter.

### **§ 332-6. 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 of this section.

B. Actions identified as Type II, Excluded or Exempt, pursuant to SEQR, 6 NYCRR Part 617, are deemed consistent and require no further review under this chapter.

C. 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 Village's 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.

D. The Coastal Assessment Form and all other plans, details, specifications or other material necessary to make a full and complete consistency review shall be immediately forwarded, upon receipt by the agency, to the Waterfront Commission for consideration at their next regular scheduled meeting.

E. After referral from an agency, the Waterfront Commission shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Subsection H of this section.

F. Referrals to the Waterfront Commission shall be made at least 10 days prior to the Commission's regularly scheduled meeting. Referrals received after the ten-day submission period will be placed on the following month's agenda.

G. Recommendation of Commission.

(1) The Waterfront Commission shall render its written recommendation to the agency within 15 business days following the regularly scheduled meeting. The recommendation shall indicate whether, in the opinion of the Commission, the proposed action is consistent or inconsistent with one or more of the LWRP policy standards or conditions. The recommendation shall state the manner and extent to which any inconsistency affects the LWRP policy and standards and conditions.

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

(3) Failure by the Waterfront Commission to make a recommendation upon a referral within the five-day time period shall not preclude the agency from making its consistency determination for the action.

H. The agency shall make the determination of consistency based on the CAF, the recommendation of the Commission and such other information as is deemed to be necessary in its determination. The agency shall issue its determination at its next scheduled meeting following the receipt of the Waterfront Commission's recommendation. If the Commission's recommendation is that the action would be inconsistent and the agency determines that it is consistent, the agency must make a detailed written account describing why its determination disagrees with the recommendation.

I. Actions to be undertaken within the Village's 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 Port Chester 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 the policy to:

(1) Restore, revitalize and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, public access and other compatible uses (Policies 1, 1A, 1B, 1C, 1D and 1E).

(2) Retain, encourage and prioritize the development of water dependent uses on or near coastal waters (Policy 2).

(3) Encourage the protection and reestablishment of traditional uses and activities which once gave the Village a unique maritime identity (Policy 4).

(4) Ensure that development occurs where adequate public infrastructure is available (Policy 5).

(5) Streamline development permit procedures (Policy 6).

(6) Protect fish and wildlife resources from chemical contamination (Policy 8).

(7) Maintain and expand the recreational use of existing fish and wildlife resources and use of the commercial fishing resources (Policy 9).

(8) Maintain and expand commercial fishing resources to promote commercial fishing opportunities (Policy 10).

(9) Minimize flooding and erosion hazards through proper siting of buildings and structures; protection of natural protective features; construction of carefully selected, long-term structural measures; and the use of appropriate nonstructural means (Policies 11, 12, 13, 14, 15 and 17).

(10) Public funds shall be used for erosion protection structures only where necessary and in an appropriate manner (Policy 16).

(11) Safeguard vital economic, social and environmental interests in the coastal area when major actions are undertaken (Policy 18).

(12) Maintain and improve public access to the shoreline and to water-related recreational resources, while protecting natural and historic resources and adjacent land uses (Policies 19, 20 and 20A).

(13) Encourage, facilitate and prioritize water-dependent and water-enhanced recreational resources and facilities near coastal waters (Policy 21).

(14) Encourage the development of water-related recreational resources and facilities, as multiple uses, in appropriate locations within the shore zone (Policy 22).

(15) Protect, restore and enhance historic resources (Policy 23).

(16) Protect and enhance scenic and aesthetic resources (Policy 25).

(17) Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a shorefront location and in such a manner as to avoid adverse environmental impacts when in operation (Policies 27 and 40).

(18) Protect coastal waters from direct and indirect discharge of pollutants (Policies 30, 31, 33, 34, 35, 36 and 37).

(19) Ensure that dredging and dredge spoil disposal are undertaken in a manner protective of natural resources (Policies 15 and 35).

(20) Ensure that any transportation, handling or disposal of hazardous wastes and effluent is undertaken in a manner which will not adversely affect the environment (Policy 39).

(21) Protect air quality (Policies 41 and 42).

(22) Preserve and protect tidal and freshwater wetlands (Policy 44).

J. Exceptions to standards.

(1) If the agency determines that the action would cause a substantial hindrance to the achievement of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency determines with respect to the proposed action that:

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

(b) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions to the maximum extent practicable.

- (c) The action will advance one or more of the other coastal policies.
- (d) The action will result in an overriding Village, regional or statewide public benefit.

(2) Such finding shall constitute a determination that the action is consistent.

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

**§ 332-7. Coordinated review required.**

Where there is a conflict or discrepancy in the application, interpretation or effect of the provisions of this chapter with any other law, rule or regulation of the Village, the provisions of this chapter shall govern.