



PUBLIC HEARING MEETING AGENDA

Monday, December 19, 2022 6:00pm
Common Council Chambers

City of Poughkeepsie Common Council Public Hearing;

Pursuant to the Charter and Codes of the City of Poughkeepsie, Administrative Code, Section 14.04, a Common Council Public Hearing will be held on Monday, December 19, 2022 at 6:00pm and will be held in the Common Council Chambers, for the purpose of receiving comments on the introductory Local Law Amending Section 18 ½ of the City of Poughkeepsie Code of Ordinances Entitled “Waterfront Consistency Review”.

- I. Welcome**
- II. Roll Call**
- III. Public Participation:**
- IV. Adjournment:**



**THE CITY OF POUGHKEEPSIE
NEW YORK
PLANNING DEPARTMENT
62 CIVIC CENTER PLAZA, 2ND FLOOR
POUGHKEEPSIE, NY 12601
Phone: (845) 451-4055 Fax: (845) 451-4006**

MEMORANDUM OF TRANSMITTAL

To: Common Council of the City of Poughkeepsie
From: Natalie Quinn, Development Director
Date: November 14, 2022
Re: Local Waterfront Redevelopment Program (LWRP)

Dear Common Council,

Prior to your meeting on November 21, 2022, a revised draft of the Local Waterfront Revitalization Program will be posted to city's website at the following location:

Local Waterfront Revitalization Program draft November 18, 2022

<https://www.cityofpoughkeepsie.com/392/Project-Documents>

The November 18, 2022 draft has been updated to reflect comments received by staff including:

- Public comments made at the January 18, 2022 public hearing, and follow-up hearing on February 22, 2022.
- Recommended revisions submitted by the Common Council and their consultant, Emily Svenson, in March 2022. Summary posted on website [here](#).
- Comments and revisions received by the NYS Department of State following their review of the [July 6, 2022 draft](#), which incorporated changes from the two bullets above.

As requested at the November 7th meeting, attached is a brief overview of the LWRP Update process thus far and table summarizing comments and revisions received by the NYS Department of State following their review of July 6th draft. All recommended revisions are incorporated and shown via tracked changes in the Word version of the document posted on the city's website.

The next step in the process is to hold a public hearing on the revised Local Law amending Chapter 18 1/2 titled "Waterfront Consistency Review." We encourage the Common Council to set the public hearing for December 5, 2022.

CC:
Marc Nelson, City Administrator
Rebecca Valk, Corporation Counsel
Emily Svenson, Consultant to Council



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from NYS DOS on November 7, 2019. These included comments from the NYS DOS planner and legal counsel. Based on those comments, a complete draft of the LWRP was produced that responded to all of the NYS DOS comments. This full draft was posted online on November 26, 2019.

A revised December 10, 2021 draft was posted on the City website when city staff and councilmembers sought to move the stalled document forward. A minor series of additional revisions was made to the November 26, 2019 draft to produce the December 10, 2021 version. None of these new revisions were substantive—rather, they amount to fixing typos, revising word choice to improve clarity, and improving some transitions between sections for readability.

The Common Council then set a public hearing for January 18, 2022, and follow-up hearing on February 22, 2022. The Common Council and their consultant, Emily Svenson, submitted recommended revisions following the close of the public hearing. All public comments and recommended revisions were incorporated and shown via tracked changes in the July 6, 2022 draft posted on the City's website. A summary of the Common Council's recommended changes is also posted on the city's website.

The July 6, 2022 draft included substantive changes, and was therefore re-circulated to the NYS DOS for review. On August 17, 2022 the City received comments back from NYS DOS legal counsel, LWRP coordinator, consistency reviewer and the project manager. A summary list of those comments is included on the pages below.

The next step in the process is for the City to hold a second public hearing on the Waterfront Consistency Review law. Following the public hearing, the City can conclude the SEQRA process with a negative declaration (indicating that adoption of the Waterfront Consistency Review Law and the LWRP will not result in any significant adverse impacts on the environment). Once the SEQRA process has concluded, the Common Council may adopt the revised Waterfront Consistency Review Law and the LWRP and adopt a resolution stating that the LWRP is ready to be sent to NYS DOS for 60-day review.

60-day review is a process by which the NY Secretary of State circulates a draft LWRP to State and Federal agencies for comment. Agencies have 60-days to respond. NYS DOS circulates letters to interested agencies, posts the draft document on the NYS DOS website, and sends any comments to the municipality. Following 60-day review, the City will be able to prepare a final version of the document. If there are any changes required at this point, the Common Council will adopt the LWRP as revised by comments received during 60-day review.

Benefits of an approved LWRP

An LWRP is a locally prepared planning and policy document with three key objectives:

1. Tool for the Waterfront Advisory Committee (WAC) to conduct consistency review of proposed actions in the Waterfront Revitalization Area.
2. An LWRP that has been approved by NYS DOS revises the NYS Coastal Management Program; therefore, local, State, and Federal actions must be consistent with the local LWRP.
3. Increases the likelihood of receiving grant funding from NYS for projects identified in the plan.



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SECTION II

- II-37 Describe the presence or absence of any known or potential shipwrecks or historic dry docks in WRA
- II-37 In response to Barbara's comments, be sure that the LWRP PDF version currently includes all 10 items listed in Appendix VIII - they need to be there for 60-day review.
- II-38 and II-42. Clarify designation of Hoffman House and Reynolds House
- II-44 Add reference to any "underutilized, vacant, or deteriorated sites," specifically brownfield sites, within the Northern Waterfront Area of the WRA. Central Hudson site?
- II-47. Add additional information regarding urban agriculture within and outside of the WRA
- II-54. Add language regarding if/where any water-dependent uses (kayak launch or fishing) can be added to One Dutchess. Maybe exploration of this possibility can be added to a project, then that project can be reference in Section II here.
- II-55. Add discussion of wildlife viewing and education as further justification of adding the fall kill to the WRA
- II-55. Describe any existing commercial and recreational fishing opportunities in the WRA, including known recreational fishing access points, such as Waryas for striped bass, and the status of the commercial fisheries, esp. the Shad fishery
 - Direct reader to consumption advisories
- II-56. Josh is asking about impacts of the Central Hudson clean up to the WRA. Probably need to totally re-do this section based on current cleanup plans
- II-57. Review USACE info to see if any new dredging projects to improve navigable waters have been scheduled since 2019
- II-57. Add language regarding how potable water intakes are protected regarding mooring and anchorage
- II-64. Barbara's comment about contradictory language regarding the flood hazard area not being extensive
- II-64. Add specific base flood elevation for One Dutchess
- II-65. Add key to Figure II-13 to identify tan, light blue, and medium blue areas.
- II-74. Add list of soil types found in Fall Kill area based on findings in city's NRI
- II-74 Add discussion on Air Quality within the WRA – Europa's text
- II-75 Add discussion on previous and future flooding and resiliency planning in WRA
- II-83 and II-84. Add discussion of subtidal shallows and competition/conflict between boating access and ecological habitat. Reference NRI and Significant Habitat Report (appendix)
- II-87 and 88 – ensure all challenges and opportunities in the summary are discussed elsewhere in Part II. Remove or define red lining. Add narrative on urban renewal and or concentration of poverty. Add narrative regarding Scenic Hudson headquarters, or remove.
- II-49. Maps: Update Figure II-9 to include "Intersection of Pine Street and Rinaldi Boulevard"



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SECTION IV	• Add DOS, LWRP, and zoning or code section to "Regulatory Requirements" sidebar for all relevant projects • A land use map depicting proposed uses is required for Section 4. Can be one map at the beginning, or a separate locator map for each project. • IV-1. Add Figure # for harbor management area • IV-2. Add overview of the proposed future land uses that are included in the project descriptions • IV-2. Add overview of the proposed future water uses that are included in the project descriptions • IV-4. Create table of all projects. Table should have columns for all the project titles, location, costs, timeframe, policies implemented, funding and regulatory as necessary • IV-12. Either change project to creation of Parks Master Plan, or add a project 2a that would create a master plan before proceeding with project 2b park improvements. • Change project regarding landscaping plan to a more broad project regarding resiliency planning in response to climate change and flooding
SECTION V	• V-6. Add text outlining the process of review of state and federal actions • V-2. Add summary of noise ordinance • V-3. Add summary of site plan development and natural resources • V-4. Add summary of private actions needed to implement LWRP
SECTION VI	• VI-18. Add additional federal and state agencies recommended by Josh
SECTION VIII	• VIII-6 add 1-2 sentences on 2021/2022 review

**LOCAL LAW AMENDING CHAPTER 18 ½ , OF
THE CITY OF POUGHKEEPSIE CODE OF ORDINANCES
ENTITLED “WATERFRONT CONSISTENCY REVIEW”**

(L-22-XX)

INTRODUCED BY COUNCILMEMBER _____ :

BE IT ENACTED, by the Common Council of the City of Poughkeepsie as follows:

Section 1. LEGISLATIVE INTENT

It is the intent of this local law to amend Section 18 ½ of the City of Poughkeepsie Code of Ordinances entitled “Waterfront Consistency Review” to provide an update of the Local Waterfront Revitalization Program first enacted in 1999. The proposed amendments reflect changes that have occurred in the Waterfront Revitalization Area since its adoption, incorporates recommendations of recent planning efforts, and addresses resilience to flooding and sea level rise, principles of sustainable planning and smart growth, and strategies to boost economic development for the City.

Section 2. AUTHORITY

This local law is adopted pursuant to provisions of the Municipal Home Rule Law and Title 19 of NYCRR Part 600, 601, 602, and 603.

Section 3. Chapter 18 ½ of the Code of Ordinances of the City of Poughkeepsie entitled “Waterfront Consistency Review” shall be amended as follows:

This chapter will be known as the "City of Poughkeepsie Waterfront Consistency Review Law."

**Section 18 1/2-2 Authority and purpose.
[L.L. No. 10-1999, § 1]**

- (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) This chapter is intended to provide a framework for agencies of the City of Poughkeepsie to consider the policies and purposes contained in the Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions located in the coastal area; and to assure that such actions and direct actions are consistent with the [said] LWRP policies and purposes.
- (c) It is the intention of the City of Poughkeepsie that the preservation, enhancement and utilization of the unique coastal area of the City of Poughkeepsie [~~natural and manmade resources and water-dependent uses of the city's unique coastal area take place~~] occur in a coordinated and comprehensive manner to [~~accommodate population growth and economic development and to~~] ensure a proper balance between protection of natural resources and the need to accommodate growth. Accordingly, it is the purpose of this chapter to achieve such a balance, permitting the beneficial use of coastal resources

while preventing degradation or loss of living [~~estuarine~~] coastal resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural waterfront processes [~~erosion of shoreline~~]; impairment of scenic or historical resources [~~beauty~~]; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

- (d) The substantive provisions of this chapter shall apply only while there is in existence a City of Poughkeepsie local waterfront revitalization program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

Section 18 1/2-3 Applicability.
[L.L. No. 10-1999, § 1]

All boards, departments, offices, other bodies or officers of the City of Poughkeepsie are responsible for the implementation of the LWRP within the bounds of their jurisdiction and must comply with this chapter, to the extent applicable, prior to carrying out, approving or funding any action.

Section 18 1/2-4 Definitions.
[L.L. No. 10-1999, § 1]

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

ACTIONS

Include all of the following except minor actions [~~Either Type I or unlisted actions as defined in the S.E.Q.R.A. regulations (6 N.Y.C.R.R. Part 617) which are undertaken by an agency and which include~~]:

- (a) Projects or physical activities, such as construction or other activities that may affect **natural, manmade, or other resources in the coastal area, or** the environment by changing the use, appearance or condition of any [~~natural~~] resource or structure, that:
- (1) Are directly undertaken by an agency; or
 - (2) Involve funding by an agency; or
 - (3) Require one or more new or modified approvals, **permits, or review** from an agency or agencies[-];
- (b) Agency planning and policy making activities that may affect the environment and commit the agency to a **definite** course of future decisions[-];
- (c) Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect **coastal resources or** the environment[-]; **and**
- (d) Any combinations of the above.

AGENCY

Any board, agency, department, office, other body or officer of the City of Poughkeepsie.

COASTAL AREA

The portion of New York State Coastal waters and adjacent shorelines as defined in

Article 42 of the Executive Law which is located within the boundaries of the City of Poughkeepsie as shown on the coastal area map on file in the office of the Secretary of State and as delineated and described in the City of Poughkeepsie Local Waterfront Revitalization Program (LWRP).

COASTAL ASSESSMENT FORM (CAF)

The form[~~at~~], a sample of which is appended to this local law, used by an agency to assist [~~it~~] in determining the consistency of an action with the City of Poughkeepsie Local Waterfront Revitalization Program.

CONSISTENT

That the action will fully comply [~~be in compliance to the maximum extent practicable~~] with the City of Poughkeepsie's LWRP policy[ies] standards, conditions and objectives and, whenever practicable, will advance one or more of them.

DIRECT ACTIONS

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

ENVIRONMENT

All conditions, circumstances, and influences surrounding and affecting the development of living organisms or other resources in the coastal area.

[LOCAL WATERFRONT 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 City of Poughkeepsie, as shown on the Coastal Area Map on file in the office of the Secretary of State and as delineated in the City of Poughkeepsie Local Waterfront Revitalization Program.]~~

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)

The Local Waterfront Revitalization Program of the City of Poughkeepsie, as approved by the Secretary of State pursuant to the Waterfront Revitalization [~~and~~] of Coastal Areas and Inland Waterways [~~Resources~~] Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the City of Poughkeepsie.

MINOR ACTIONS

Minor actions include the following actions, which are not subject to review under this law:

- (1) maintenance or repair involving no substantial changes in an existing structure or facility;
- (2) replacement, rehabilitation, or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by local law where structures may not be replaced, rehabilitated or reconstructed without a permit;
- (3) repaving of existing paved 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, except where threatened or endangered species of plants or animals are affected, and in Nature Preserves;

(6) granting of individual setback and lot line variances, except in relation to a regulated natural feature;

(7) minor temporary uses of land having negligible or no permanent impact on coastal resources or the environment;

(8) installation of traffic control devices on existing streets, roads and highways;

(9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;

(10) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action;

(11) 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);

(12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;

(13) 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 those activities do not commit the agency to commence, engage in or approve such action;

(14) collective bargaining activities;

(15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;

(16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;

(17) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials;

(18) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;

(19) 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 this Part have been fulfilled;

(20) 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;

(21) adoption of a moratorium on land development or construction;

(22) interpreting an existing code, rule or regulation;

(23) designation of local landmarks or their inclusion within historic districts;

(24) 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 coastal resources or 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 this Part;

(25) local legislative decisions such as rezoning where the City determines the action will not be approved.

PLANNING BOARD

The Planning Board of the City of Poughkeepsie as created by General City Law Section 27 and City of Poughkeepsie Code Section 2-17.

WATERFRONT ADVISORY COMMITTEE

The Waterfront Advisory Committee of the City of Poughkeepsie, as created pursuant to this chapter. The Committee may review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the LWRP policies.

ZONING ADMINISTRATOR

The Zoning Administrator of the City of Poughkeepsie or his/her duly authorized representative.

ZONING BOARD OF APPEALS

The Zoning Board of Appeals of the City of Poughkeepsie as created by General City Law Section 81 and City of Poughkeepsie Code Section 19-8.1.

Section 18 1/2-5 **Waterfront Advisory Committee.**

[L.L. No. 10-1999, § 1; L.L. No. 1-2013, 2-19-2013, § 1]

- (a) A Committee is created and shall be hereafter known as the "Waterfront Advisory Committee of the City of Poughkeepsie" (hereafter "Committee"). The Committee is charged with the functions, powers and duties set forth in this chapter and may also perform other functions regarding the coastal area as the Common Council may assign to it from time to time.
- (b) The Committee shall consist of seven members who are City of Poughkeepsie residents and who have a longstanding interest in the waterfront. Three committee members shall be appointed by a majority vote of the Common Council. The Mayor shall appoint the four other committee members.
- (1) Committee members shall serve for terms of two years with the exception of the original appointed members of the Committee who shall serve as follows:
 - a. Three members appointed by the Council shall hold office for a term of two years.
 - b. Two members appointed by the Mayor shall hold office for a term of one year.
 - c. Two members appointed by the Mayor shall hold office for a term of two years.
- (2) Vacancies shall be filled by the Mayor for mayoral appointees and Common Council for Council appointees by appointment for the unexpired term.
- (3) Members may be removed by the Mayor for mayoral appointees and by the Common Council for

Council appointees, for cause.

- (c) Members of the Committee shall serve without compensation but shall be entitled to reimbursement for necessary expenditures in the performance of their work, subject to budget limitations established by the City.
- (d) The Common Council shall annually appoint one Committee member to serve as Chairperson of the Committee. Upon failure of the Common Council to appoint a Chairperson, the members of the Committee shall elect a Chairperson.
- (e) The Committee may employ such persons as may be needed as authorized by the resolution of the Common Council and pursuant to law. This Committee shall have the power to adopt rules of procedure for the conduct of all business within its jurisdiction. Such rules shall become effective upon approval of the Common Council.
- (f) The Committee will make its own rules of procedure subject to applicable law.
- (g) The Committee shall appoint a Secretary who shall be responsible for keeping the minutes of the committee's meetings as required by the Opening Meetings Law of New York State. The Secretary shall file a copy of such minutes to ~~[the Building Inspector and]~~ the City **Clerk's office** ~~[Chamberlain]~~. No less than quarterly, the Committee shall provide a report of its activity to the Common Council.
- (h) The Committee shall meet~~[ing]~~ **as needed but in any event, no less frequently than** ~~[at least]~~ quarterly.

Section 18 1/2-6 Functions, powers and duties of Committee.
[L.L. No. 10-1999, § 1]

The Committee shall be responsible for overall management and coordination of the LWRP and will fully participate with and advise and assist other city agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program. In pursuance of this task the Committee will:

- (a) Advise the Mayor and Common Council on implementation, priorities, work assignments, timetables and budgetary requirements of the LWRP.
- (b) As described in § 18 1/2-8. of this chapter, review direct actions of the city and funding and permitting actions, including applications for site plans, zone changes, subdivisions and public works projects in the ~~[Local Waterfront]~~ **Coastal** Area as are referred to it, and advise the appropriate agency as to their consistency with the LWRP.
- (c) Subject to approval by Common Council resolution, make applications for funding from state, federal or other sources to finance projects under the LWRP.
- (d) **Coordinate and oversee** ~~[Maintain]~~ liaison with related city **agencies and departments** ~~bodies~~, including but not limited to the Planning Board and Zoning Board of Appeals, and with other nongovernmental bodies, in order to further the implementation of the LWRP.
- (e) Upon the request of the Mayor and/or Common Council, evaluate in timely fashion proposed actions of

state agencies within the ~~[Local Waterfront]~~ **Coastal** Area in order to assure consistency of such actions with the LWRP, advise Mayor and Common Council of any conflicts and participate in discussion to resolve such conflicts.

- (f) Assist the Mayor and Common Council in the review of proposed federal actions referred by the Department of State and provide an opinion concerning the consistency of the action within 30 days of receipt of the request from the Mayor and/or Common Council.
- (g) Prepare an annual report on progress achieved and problems encountered during the year and recommend such actions as the Committee considers necessary for the further implementation of the LWRP to the appropriate body.
- (h) Perform other functions regarding the ~~[Local Waterfront]~~ **Coastal** Area as are necessary and as the Mayor and/or Common Council may assign to it from time to time, **to implement the LWRP.**

Section 18 1/2-7 **Review of actions.**

[L.L. No. 10-1999, § 1]

- (a) Whenever a proposed action is located in the ~~[Local Waterfront]~~ **Coastal** Area, ~~[an]~~ **each City** agency shall, prior to approving, funding or undertaking the action, make a consistency determination. To move forward with such proposed action, that determination should find that the proposed action is inconsistent with the LWRP ~~[policies]~~ **policy standards summarized in section I. below** ~~[set forth in Subsection (g) herein]~~. No action in the ~~[Local Waterfront]~~ **Coastal** Area shall be approved, funded or undertaken without such a determination.
- (b) **The Committee shall be responsible for coordinating review of actions in the City's waterfront area for consistency with the LWRP, and will advise, assist and make consistency recommendations for other City agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative, and other actions included in the program. The Committee will also coordinate with NYS Department of State regarding consistency review for actions by State or Federal agencies.** ~~[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 Local Waterfront Area, the applicant, or in the case of a direct action, the agency, shall prepare a coastal assessment (CA) to assist with the consistency review.]~~
- (c) **The Committee will assist each agency with preliminary evaluation of actions in the Coastal Area, and with preparation of a CAF. 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 agency shall refer, within 10 days of receipt, to the Committee for preparation of a CAF, a sample of which is appended to this local law. The Committee will coordinate their preliminary evaluation with permitting or other review by each agency or the agencies considering an action.** ~~[Prior to making its determination of environmental significance under SEQR, the agency shall solicit and consider the recommendation of the Waterfront Advisory Committee with reference to the consistency of the proposed action by referring a copy of the completed application, CA, environmental assessment form (EAF) and all other relevant information to the Committee within 10 days of its receipt.]~~

- (d) The Committee shall require the applicant to submit to the Committee all completed applications, EAFs, and any other information deemed necessary to its consistency recommendation. The Committee shall render a written recommendation to the appropriate agency within 30 days following referral of the CAF, unless extended by mutual agreement of the Committee and the applicant or, in the case of direct action, the agency, or if further information is needed that has not been submitted. 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 and objectives and shall elaborate in writing the basis for its opinion. The Committee shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards and objectives or to greater advance them. [After referral from an agency, the Committee shall consider whether the proposed action is consistent with the LWRP policies set forth in Subsection (g) herein to the maximum extent practicable. The Committee shall require the applicant to submit all completed applications, CA's, EAF's and any other information deemed to be necessary to its consistency recommendations.]
- (e) If an action requires approval of more than one agency, decision making will be coordinated between agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency. Only one CAF per action will be prepared. If the agencies cannot agree, the Planning Director shall designate the consistency review agency.
- (f) Upon recommendation of the Committee, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in section I. herein. Prior to making its determination of consistency, the agency shall consider the consistency recommendation of the Committee. The agency shall render a written determination of consistency based on the CAF, the Committee recommendation and such other information as is deemed necessary to its determination. No approval or decision shall be rendered for an action in the Coastal Area without a determination of consistency. The designated agency will make the final determination of consistency. (g) Where an EIS is being prepared or required, the draft and final EIS must identify applicable LWRP policy standards and include a discussion of the effects of the proposed action on such policy standards. No agency may make a final decision on an action that has been the subject of a final EIS and is located in the Coastal Area until the agency has made a written finding regarding the consistency of the action with the local policy standards referred to in Section I. herein.
- (h) In the event the Committee's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and explain the manner and extent to which the action is consistent with the LWRP policy standards.

~~[(e) Recommendation.]~~

~~[(1) The Committee shall render its written recommendation to the agency within 30 days following referral of the required information 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; consistent, with~~

recommended modifications; or inconsistent with the LWRP policies. The recommendation shall elaborate in writing the basis for its opinion and state the manner and extent to which any inconsistency affects the LWRP policies.]

~~[(2) The Committee shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action to make it consistent with LWRP policies or to greater advance them.]~~

~~[(3) Failure by the Committee to make a recommendation upon a referral within the thirty-day time period or any agreed-to extension shall not preclude the agency from making its consistency determination for the action.]~~

~~[(f) *Determination.*]~~

~~[(1) The agency shall make the determination of consistency based on the CA, the EAF, the recommendation of the Committee and such other information as is deemed to be necessary in its determination. Where it is determined that the action may have a significant effect upon the environment, the draft environmental impact statement (DEIS) and the environmental impact statement (EIS) each must contain a discussion of the effects of the action on and its consistency with the LWRP policies identified as applicable.~~

~~(2) Where it is determined that the action will not have a significant effect upon the environment, the agency shall nonetheless make a written determination of consistency within 14 days of receipt of the Committee's recommendation or, if none is received, within 30 days.~~

~~(3) If the Committee's recommendation is that the action would be inconsistent and the agency determines that it is consistent, the agency must provide a written account describing why its determination disagrees with the recommendation.~~

~~(4) The agency shall issue its determination within 30 days following receipt of the Committee's recommendation and submission by the applicant of any additional information. No determination shall be made before the end of the time period permitted the Committee for recommendations unless the Committee recommendation is received prior to the expiration of the permitted time period. The agency shall have the authority, in its finding of consistency, to impose practicable and reasonable conditions on an action to ensure that it is carried out in accordance with this chapter.]~~

~~[(g)]~~ **i)** Actions to be undertaken within the ~~[Local Waterfront]~~ **Coastal** Area shall be evaluated for consistency in accordance with the following LWRP policies, which are derived from and further explained and described in ~~[Section III of]~~ the City of Poughkeepsie LWRP, a copy of which is on file in the City Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall consult with Section IV: **Proposed Land and Water Uses and Projects** of the LWRP in making their consistency determination. The action shall be consistent with the ~~[policy]~~ **policies** to:

(1) ~~[Restore,]~~ **Revitalize** ~~[and redevelop]~~ deteriorated and underutilized waterfront areas ~~[for commercial, cultural, recreational and other compatible uses]~~ (Policy 1).

- (2) Develop city-owned waterfront properties, including [~~Northern Waryas,~~] the **former** DeLaval property [~~and the former sewage treatment plant, for mixed uses, including recreational, cultural, tourism, residential and compatible commercial~~] for compatible uses **that facilitate water dependent and water enhanced uses, with a priority for water dependent uses.** (Policy 1).
- (3) **Retain and promote recreational water dependent uses** [~~Facilitate the siting of water dependent uses and facilities on or adjacent to coastal waters~~] (Policy 2).
- (4) Strengthen the economic base of small harbor areas by encouraging **traditional** uses and activities [~~which develop and enhance traditional uses and activities which have provided such areas with their unique maritime identity~~] (Policy 4).
- (5) Ensure [~~the location of~~] development in areas where **adequate** public **infrastructure is available to reduce health and pollution hazards** [~~services and facilities essential to such development are adequate~~] (Policy 5).
- (6) Evaluate proposed **waterfront developments for the potential to complement downtown Poughkeepsie development, particularly by creating linkages to the downtown area of Main and Market Streets** [~~development within the waterfront area for traffic impact, particularly along North Water Street and Pine Street, and evaluate the possibility of expanding carrying capacity of these roadways, if necessary~~](Policy 5).
- ~~{(7) Improve vehicular access to the industrial areas in the northerly and southerly portions of the city's waterfront to enable vehicles to gain access to private industries directly from Route 9 (Policy 5B).}~~
- ~~{(8) Encourage greater utilization of mass transit and evaluate proposed development relative to its need for access to mass transit (Policy 5C).}~~
- ~~{(9) Evaluate proposed waterfront development for its potential to complement downtown Poughkeepsie development, particularly the Main Mall (Policy 5D).}~~
- ~~{(10)}~~⁷ [~~Expedite permit procedures in order to facilitate the siting of development activities at suitable locations~~] **Streamline development permit procedures** (Policy 6).
- ~~{(11)}~~⁸ Protect [~~preserve and restore~~] significant **and locally important** [~~coastal~~] fish and wildlife **habitats from human disruption and chemical contamination** [~~resources including, but not limited to, the Poughkeepsie Deepwater Habitat~~] (Policies 7, 8, 40).
- ~~{(12) Perform a risk assessment for any proposed expansion of existing waterfront industries in order to protect, preserve and restore the Poughkeepsie Deepwater Habitat (Policy 7B).}~~
- ~~{(13) Avoid the introduction of hazardous materials in or near the waterfront area and the Poughkeepsie Deepwater Habitat by, among other measures, prohibiting the introduction of new industries or technologies which would in the presence of hazardous materials and by encouraging existing industries to utilize the most current methods of containment (Policies 8A, 8B).}~~
- ~~{(14)}~~⁹ **Maintain, promote and expand** [~~Expand the recreational use of fish and wildlife resources by~~

~~expanding access to these resources and develop~~] commercial fishing opportunities (Policies 9 and 10).

~~([15]~~**10**~~)~~ Minimize flooding and erosion hazards through nonstructural means; carefully selected, long-term structural measures; and appropriate siting of structures (Policies 11, **12**, 13, 14, 15, **16, and 17**~~[, 17A- and 17B]~~).

~~([16]~~**11**~~)~~ Protect the Fallkill Creek from encroachment and preserve a linear open space **whenever possible** along the length of the creek for purposes of flood protection, aesthetics and recreation (Policy 11).

~~[(17)Public funds shall be used for erosion protection structures only where necessary and in an appropriate manner (Policy 16).]~~

~~([18]~~**12**~~)~~ Safeguard economic, social and environmental interests in the coastal area when major actions are undertaken ~~[, especially with respect to new or expanded bridges or roads]~~ (Policy 18 ~~and 18B~~)).

~~([19]~~**13**~~)~~ Maintain and improve public access to the shoreline and **to** water-related recreational ~~[resources- and]~~ facilities while protecting the environment (Policies 1, , 2, ~~[2A, 9,]~~ 19, 20, **21 and 22** ~~[and 34B]~~).

~~([20]~~**14**~~)~~ Encourage the use of public transportation to link destinations along the waterfront and to the ~~[Central Business]~~ **Poughkeepsie Innovation** District (Policy 19).

~~([21]~~**15**~~)~~ Increase access to the Mid-Hudson Bridge ~~[walkways]~~ **and the Walkway Over the Hudson** (Policy 19).

~~([22]~~**16**~~)~~ Encourage tour boats which bring large groups of people to the Poughkeepsie waterfront (Policy 19).

(17) The City of Poughkeepsie's public water-related recreational facilities should be linked via a linear trail along the waterfront. All new development along the Hudson River shall, where practical and appropriate, provide continuous pedestrian access along the water's edge and/or through the site to the waterfront. Water dependent and water enhanced uses shall be encouraged and the linear trail shall not preclude future construction of such uses (Policy 19).

~~[(23)Encourage, facilitate and prioritize water dependent and water enhanced recreational resources and facilities near coastal waters (Policy 21).]~~

~~[(24)Encourage boating facilities and activity, provided that it does not interfere with other recreational opportunities (Policy 21A).]~~

~~[(25)Encourage the development of water related recreational resources and facilities, as multiple uses, in appropriate locations along the shoreline (Policy 22).]~~

~~[(26)Recreational activities must be part of any use of the DeLaval property, the former sewage treatment plant and Northern Waryas (Policy 22A).]~~

~~([27]~~**18**~~)~~ Protect ~~[, enhance]~~ and restore historic ~~[architectural-cultural]~~ and archeological resources (Policies **23**, 24, and 25~~and 25B~~).

~~([28]~~**19)** Protect ~~[, restore]~~ and ~~[enhance]~~ **upgrade** scenic ~~[areas of statewide and local significance and viewsheds]~~ **resources** (Policies 24, and 25~~and 25B~~).

~~[(29)Assure that any new bridge crossing visible from the city's waterfront reflects the quality and motif of the Mid-Hudson Bridge (Policy 25C).]~~

(20) Protect Poughkeepsie's existing urban agricultural lands and provide new opportunities to expand community gardens, commercial farming, and educational gardens within the City (Policies 26 and 29).

~~[(30]~~**21)** Site~~[,]~~ **and** construct ~~[or expand]~~ energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27~~[, 27A]~~ and 40).

~~[(31]~~**22)** Prevent ice management practices which ~~[w]~~**could** damage significant fish and wildlife and their habitats (Policy 28).

~~[(32]~~**23)** Protect surface and groundwater~~[s]~~ from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 33, 34, ~~[34A,]~~ 35, 36, 37, 38~~and 40~~).

~~[(33)Provide and maintain public access along the waterfront at new marina sites; prohibit on-shore storage of boats on publicly owned waterfront lands; encourage marine toilet pumpout facilities that are hooked into the city's sewage system (Policy 34B).]~~

~~[(34]~~**24)** **Perform** ~~[Ensure that]~~ dredging and dredge spoil disposal ~~[are undertaken]~~ in a manner protective of **natural** resources (Policies 15, and 35).

~~[(35]~~**25)** **Handle and dispose of hazardous wastes and effluent in a manner which will not adversely affect the environment (Policies 8, 30, 36, and 39).** ~~[Ensure that any transportation, handling or disposal of solid and hazardous wastes and effluents is in a manner which will not adversely affect the environment (Policies 34, 34A, 36, 39 and 40).]~~

~~[(36]~~**26)** Protect the quality and quantity of surface and groundwater supplies (Policy 38).

~~[(37]~~**27)** Protect air quality (Policies 41, 42 and 43).

(28) Protect tidal and freshwater wetlands (Policy 44)

~~[(h)]~~**i)** If the agency determines that ~~[the]~~ **an** action **will be** ~~[is not]~~ **inconsistent** with **one or more** ~~[the achievement of the]~~ LWRP policy **standards**, such action shall not be authorized or funded unless **modified to be consistent with the LWRP policies.** ~~[the agency makes a written finding with respect to the proposed action that:]~~

~~[(1)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 policies.]~~

~~(2)The action taken will minimize all adverse effects on such policies to the maximum extent practicable.~~

~~(3) The action will advance one or more of the other LWRP policies.~~

~~(4) The action will result in an overriding city, regional or statewide public benefit.]~~

~~[Such a finding shall constitute a determination that the action is consistent with the LWRP policies.]~~

(~~f~~)**k** Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Committee. Such files shall be made available for public inspection upon request.

Section 18 1/2-8 Severability; conflict with other provisions.

[L.L. No. 10-1999, § 1]

- (a) The provisions of this chapter are severable. If any provision is found invalid, such finding shall not affect the validity of any part or provision hereof other than the provision so found to be invalid.
- (b) Where there is a conflict or discrepancy in the application or effect of the provisions of this chapter with any other law, ordinance, rule or regulation of the city, the provisions of this chapter shall govern.

Section 18 1/2-9 Enforcement.

[L.L. No. 10-1999, § 1]

The City Zoning Administrator shall be responsible for enforcing this chapter. No work or activity on a project in the Local Waterfront Area which is subject to review under this chapter shall be commenced or undertaken until the Zoning Administrator has been presented with a written determination from an agency that the action is consistent with the City's LWRP policies. In the event that an activity is not being performed in accordance with this chapter or any conditions imposed thereunder, the Zoning Administrator shall issue a stop-work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop-work order is in effect.

Section 18 1/2-10 Penalties for offenses.

[L.L. No. 10-1999, § 1]

- (a) A person who violates any of the provisions of, or who fails to comply with any conditions imposed by, this chapter shall have committed a violation, punishable by a fine not exceeding \$500 for a conviction of a first offense and punishable by a fine of \$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 violation.
- (b) The Corporation Counsel 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 prosecution and penalty.

Section 4. SEVERABILITY

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual,

corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. **EFFECTIVE DATE**

This local law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.