

Chapter 20

COASTAL EROSION HAZARD AREA

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This Local Law was adopted by the Village of Saltaire to facilitate local government assumption of authority and responsibility for enforcing and administering the Coastal Erosion Hazard Areas Act of 1981, codified as Article 34 of the New York State Environmental Conservation Law. This Local Law is intended to meet the Coastal Erosion Management Regulations, 6 NYCRR Part 505, adopted by the Commissioner of Environmental Conservation on March 18, 1983 and subsequently amended to incorporate legislative mandates of 1985.]

[HISTROY: Adopted by the Board of Trustees of the Village of Saltaire 3-10-99 as L.L. No. 2, 1999]

**ARTICLE I
INTRODUCTION**

§20-1. Enactment

Pursuant to the provisions of Article 34 of the New York State Environmental Conservation Law and Section 10 of the Municipal Home Rule Law, the Village of Saltaire, County of Suffolk, State of New York, hereby enacts by local law #2 of 1999, this local law.

§20-2. Title

This local law shall be known and may be cited as the Village of Saltaire Coastal Erosion Hazard Area Law.

§20-3. Effective Date

This local law shall take effect twenty (20) calendar days from March 10, 1999, which is the date of this local law's adoption and filing pursuant to Section 27 of the Municipal Home Rule Law, or the date of filing the official maps, whichever is later.

§20-4. Purpose

The Village of Saltaire hereby assumes the responsibility and authority to implement and administer a coastal erosion management program within its jurisdiction pursuant to Article 34 of New York State Environmental Conservation Law. In addition, it is the purpose of this local law to:

- a. 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.
- b. 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.
- c. 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.

- d. Restrict public investment in services, facilities, or activities which are likely to encourage new permanent development in erosion hazard areas.
- e. 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.

§20-5. Findings

The Village of Saltaire finds that the coastal erosion hazard area:

- a. Is prone to erosion from action of the Atlantic Ocean. 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 of rain water along the surface of the land, or groundwater seepage, as well as by human activities such as construction, navigation and certain forms of recreation.
- b. 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 businesses suffer significant economic losses, as do the Village of Saltaire and the 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.
- c. Experiences erosion-related problems that may be 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 or nearby property, and by water action produced by wakes from boats.

§20-6. Definitions:

The following terms used in this local law have the meanings ascribed to them in 6NYCRR Part 505 promulgated by the New York State Department of Environmental Conservation, unless the context clearly requires otherwise.

- a. ADMINISTRATOR -- The local official responsible for administering and enforcing this local law. The powers and duties of this position are more fully described in §20-55.3.
- b. BEACH -- The zone of unconsolidated earth that extends landward from the mean low water line to the waterward toe of a dune. Where no dune exists landward of a beach, the landward limit of a beach is 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 overwash or inundation are considered to be beaches.

c. COASTAL EROSION HAZARD AREA MAP -- The final map and any amendments thereof 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 Article 34 of the Environmental Conservation Law and this law.

d. COASTLINE AND COASTAL WATERS -- The lands adjacent to the Village's coastal waters of the Atlantic Ocean is the coastline, including its connecting water bodies, bays, harbors, shallows, and marshes.

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

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

g. EROSION -- The loss or displacement of land along the coastline due to the 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.

h. EROSION HAZARD AREA -- An area of the coastline which is a structural hazard area, or a natural protective feature area.

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

j. 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 local law.

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

l. MAJOR ADDITION -- An addition to a structure resulting in a 25 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.

- m. MEAN LOW WATER -- 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.
- n. MEAN HIGH WATER MARK -- The approximate average high 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.
- o. 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 and not having a permanent foundation are examples of movable structures. Structures built on piles pursuant to the Village Code are not deemed movable structures.
- p. NATURAL PROTECTIVE FEATURE -- A nearshore area, beach, primary dune, secondary dune, or marsh, and their vegetation.
- q. 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.
- r. 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 15 feet, or to a horizontal distance of 1,000 feet from the mean low water line, whichever is greater.
- s. 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 that normal maintenance is scheduled to begin. Normal maintenance of a structure does not require a Coastal Erosion Management Permit.
- t. 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.
- u. PRIMARY DUNE -- The most waterward major dune where there are two or more parallel dunes within a coastal area. Where there is only one dune present, it is the primary one. Occasionally one or more relatively small dune formations exist waterward of the primary dune. These smaller formations will be considered to be part of the primary dune for the purposes of this local law. The waterward limit of a primary dune is the landward limit of its fronting beach. The landward limit of the primary dune is 25 feet landward of its landward toe.
- v. 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.

w. **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, artificial beach nourishment, dumping, mining, dredging, filling, or other disturbance of soil.

x **RESTORATION** -- The reconstruction without modification of a structure, the cost of which equals or exceeds 50 percent of the estimated full replacement cost of the structure at the time of restoration. Modifications, however, may be allowed if they do not exceed pre-existing size limits and are intended to mitigate impacts to natural protective features and other natural resources.

y **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 25 feet landward of its landward toe.

aa. **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.

bb. **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 above-ground pool; garage; road; public service distribution, transmission, or collection system; tanks; docks; piers; wharf; groins; jetties; seawalls; bulkheads; breakwaters; revetments; artificial beach nourishment; or any addition to or alteration of the same.

cc. **UNREGULATED ACTIVITY** -- Excepted activities which are not regulated by this local law 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 non-commercial 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 200 square feet, or which are removed in the fall of each year; normal beach grooming or clean-up; 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; (provided any construction activity shall be performed in conformity with any other applicable provision of this code.)

dd. **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.

ee. **TOE** -- The lowest surface point on a slope face of a dune.

ff. TRUSTEES -- The Board of Trustees of the Village of Saltaire.

§20-7. Areas

The Coastal Erosion Hazard Area is hereby established to classify land and water areas within the Village of Saltaire, based upon shoreline recession rates or the location of natural protective features, follows:

a. The boundaries of the Area are established on the final map prepared by the New York State Department of Environmental Conservation under Section 34-0104 of the New York State Environmental Conservation Law and entitled, "Coastal Erosion Hazard Area Map of the Village of Saltaire", including all amendments made thereto by the Commissioner of the New York State Department of Environmental Conservation pursuant to Section 34-0104 of the New York State Environmental Conservation Law.

b. The coastal erosion hazard area, as established and classified on said Map, is based upon the location of certain natural protective features. The landward boundary of the coastal erosion hazard area, as established and classified on said Map, constitutes the landward limit of the primary dune (a type of natural protective feature).

c. Said map does not establish or classify any structural hazard area. Therefore, the provisions of §20-10. (Structural Hazard Area Restrictions) shall not be applicable unless said Map is hereafter amended so as to establish and/or classify a structural hazard area.

d. Said Map does not establish or classify any secondary dune area (a type of natural protective feature). Therefore, the provisions of subsection b. of §20-13. (Dune Area Restrictions) shall not be applicable unless said Map is hereafter amended so as to establish and/or classify a secondary dune area.

§20-8. Requirements

No person may engage in any regulated activity in an Erosion Hazard Area as depicted on the Coastal Erosion Hazard Areas Map of the Village of Saltaire, as amended, without first obtaining a Coastal Erosion Management Permit. No Coastal Erosion Management Permit is required for unregulated activities.

§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 at 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.

§20-10. Structural Hazard Area Restrictions

The following restrictions shall apply to regulated activities within any Structural Hazard Areas that may in the future be included on an amendment of the said Map:

- a. A Coastal Erosion Management Permit is required for the installation of public service distribution, transmission, or collection systems for gas, electricity, water, or wastewater. Systems installed along the shoreline must be located landward of the shoreline structures.
- b. The construction new non-movable structures or placement of major non-movable additions to an existing structure is prohibited.
- c. Restoration of existing structures may be permitted in accordance with sub-divisions (9) and (10) §20.2.7(b)
- d. 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.
- e. 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 10 feet of the receding edge. The last owner of record, as shown on the latest assessment roll, is responsible for removing 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.

- f. Debris from structural damage which may occur as a result of sudden unanticipated dune migration, or wave or ice action must be removed within sixty (60) days of the damaging event.

§20-11. Nearshore Area Restrictions

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 shorelines 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.

The following restrictions apply to regulated activities in nearshore areas:

- a. Excavating, grading, mining, or dredging which diminishes the erosion protection afforded by nearshore area 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.
- b. 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.
- c. All development is prohibited in nearshore areas unless specifically provided for by this local law.

§20-12. Beach Area Restrictions

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 or narrow. Beaches also act as reservoirs of sand or other unconsolidated material for longshore littoral transport and offshore and bar and shoal formation.

The following restrictions apply to regulated activities in beach areas:

- a. Excavating, grading or mining which diminishes the erosion protection afforded by beaches is prohibited.
- b. 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 or stabilization of beaches.
- c. 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 NYS Department of Environmental Conservation.
- d. All development is prohibited on beaches unless specifically provided for by this local law.

e. Restoration of existing structures, on beaches, that are damaged or destroyed by events not related to coastal flooding or erosion or flooding related causes, without a permit, is prohibited.

§20-13. Dune Area Restrictions

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 beach grass or other vegetation on the dunes and assurance of a supply of nourishment sand to the dunes.

The following restrictions apply to regulated activities in dune areas:

a. In primary dune areas:

- (1) Excavating, grading or mining of primary dunes is prohibited.
- (2) Clean sand of a compatible type and size is the only material which may be deposited. Any deposition requires a Coastal Erosion Management Permit.
- (3) All depositions must be vegetatively stabilized using species tolerant of the conditions at the site and must be placed so as to increase the size of, or restore a dune or dune area.
- (4) 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 NYS Department of Environmental Conservation.
- (5) Non-major 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.
- (6) 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.
- (7) The construction or placement of a structure (other than an erosion protection structure or a non-major addition to an existing structure) is prohibited in primary dune areas.
- (8) The construction or placement of a major addition to an existing structure (other than an erosion protection structure) is prohibited in primary dune areas.
- (9) The restoration of an existing structure (other than an erosion protection structure) is prohibited in primary dune areas, other than pursuant to the succeeding subdivisions (10) and (11)

(10) The restoration of existing structures, in primary dune areas, that are damaged or destroyed by events not related to coastal flooding or erosion or flooding related causes may be undertaken without a coastal erosion management permit and inspection, irrespective the cost of such restoration. No such restoration however may be undertaken without a permit issued under Chapter 18 & 55 of the Saltaire Code.

(11) The reconstruction of an existing structure, without modification, is allowed in primary dune areas pursuant to a coastal erosion management permit (subject to the provisions of §20-13.), provided that the cost of the reconstruction is less than fifty percent (50%) of the estimated full replacement cost of the existing structure at the time of reconstruction. The reconstruction of an existing structure, with modifications, is allowed in primary dune areas pursuant to a coastal erosion management permit (subject to the provisions of § 20.13), provided that the modifications do not exceed preexisting size limits and are intended to mitigate impacts to natural protective features and other natural resources, and provided that the cost of the reconstruction (including the modifications) is less than fifty percent (50%) of the estimated full replacement cost of the existing structure at the time of reconstruction.

b. In secondary dune areas:

(1) 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.

(2) Excavating, grading, or mining must not diminish the erosion protection afforded by them.

(3) Non-major additions to existing structures are allowed on secondary dunes pursuant to a coastal erosion management permit.

(4) Permitted construction, reconstruction, restoration, or modifications must be built on adequately anchored pilings such that at least 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.

c. All other activities and development in dune areas are prohibited unless specifically provided for by this local law.

d. The restrictions of §20-15, Traffic Control, apply to dune areas.

e. The restoration of existing structures, in primary dune areas, that are damaged or destroyed by events not related to coastal flooding or erosion or flooding related causes may be undertaken without a coastal erosion management permit and inspection, irrespective of the cost of such restoration. No such restoration however may be undertaken without a permit issued under Chapter 18 & 55 of the Saltaire Code.

§20-14. 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 at 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 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 30 years. Individual component materials may have a working life of less than 30 years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required 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.

§20-15. Traffic Control

Motorized and non-motorized traffic must comply with the following restrictions:

- 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.
- b. Motor vehicle traffic is prohibited on primary dunes, except for officially designated crossing areas.
- c. Pedestrian passage across primary dunes must utilize elevated walkways and stairways or other specially designed dune crossing structures.

ARTICLE II EMERGENCY ACTIVITIES

§20-16. Applicability

Emergency Activities must comply with the following restrictions:

- a. Emergency activities may be undertaken without first obtaining a coastal erosion management permit, provided that such activities are undertaken pursuant to an emergency permit in accordance with the requirements of this article (§ 29-3.2).
- b. As used in this article, emergency means a natural or an accidental human-made event which represents an immediate threat to life, health, safety, property or the environment.
- c. As used in this article, emergency activity means a regulated activity which by reason of an emergency requires immediate action and cannot await the normal processing of an application for a coastal erosion management permit, which is necessary to provide temporary protection against the immediate threat presented by the emergency, and which is designed to be of temporary duration. Emergency activities do not include regulated activities which are considered long-term engineered solutions, such as hard erosion protection structures or semi-hard erosion protection structures.
- d. Whenever emergency activities are undertaken, damage to natural protective features and other natural resources must be prevented, if possible, or minimized.
- e. Notification of Administrator. The administrator must be notified by the person responsible for the emergency measures within 2 working days from the commencement of an emergency measure and a description of the problems and activities provided. The description must be in written form outlined in §20-17.(b)

§20-17. Emergency Permit

Emergency permits must comply with the following restrictions:

- a. Each application for an emergency permit shall be made by written form of communication to the Mayor. Each application for an emergency permit shall be reviewed by a committee of the Board of Trustees of the Village of Saltaire, consisting of the Mayor, and at least one Trustee, with technical support provided by the Village's coastal erosion management administrator. Such committee may grant an emergency permit if such committee makes the findings required by subsection (c) of this section. If such committee grants such permit, such permit shall constitute an emergency permit obtained from the Board of Trustees.
- b. An application for an emergency permit shall include the following information:
 - (1) A description of the proposed action and the manner in which it is to be undertaken.
 - (2) Location map and plan of the proposed action.
 - (3) Reasons why the situation is an emergency.

(4) Any additional information the Mayor, Trustee, or Village's coastal erosion management administrator may deem necessary to properly evaluate the proposed activity.

c. An emergency permit shall not be granted unless the following findings are made:

(1) a finding of emergency stating why immediate action is needed and the consequences if the action is not immediately taken.

(2) a finding that the proposed activity constitutes an emergency activity.

(3) a finding that the project will be carried out in a manner that will cause the least change, modification or adverse impact to life, health, property and natural protective features or other natural resources.

d. An emergency permit shall be signed by the Mayor and at least one Trustee and shall specify the following:

(1) Activity for which the emergency permit is issued.

(2) Address and location where the activity is to be conducted.

(3) Name and address of the authorized person.

(4) Period of validity of the emergency permit.

(5) Terms and conditions of the emergency permit.

e. Conditions may be imposed incident to granting an emergency permit, including but not limited to:

(1) Removal of damaged structures and/or buildings or portions thereof that have failed and are unsafe and/or likely to become air- or water-borne debris tending to exacerbate erosion and/or cause damage to other buildings, structures and/or natural protective features.

(2) Removal of any material or structure being constructed or placed without a coastal erosion management permit.

(3) Restoration of any natural protective feature that was, may be, or is in fact disturbed by the emergency activities.

(4) The posting of a bond, undertaking or other security in a form and an amount determined by the committee of the Board of Trustees as sufficient to ensure compliance, restoration and completion of activities provided under the emergency permit.

f. An emergency permit may be issued for a term not to exceed thirty (30) calendar days. Such authorization may be renewed for one (1) term not to exceed thirty (30) calendar days,

provided that the authorized person requests such renewal in writing at least five (5) days prior to the expiration date. All renewal requests shall be made to the Mayor and include reasons why the situation remains an emergency. On or before the expiration date, the emergency activity must be concluded or the authorized person must file with the Administrator a complete application for a coastal erosion management permit and be subject to all requirements of this chapter.

§20-18. Cessation of Unjustified Activities; Remedies

Any emergency permit issued hereunder is subject to termination, suspension, revocation and/or modification by the Board of Trustees upon its determination of any of the following:

- a. that the activity does not or no longer constitutes an emergency activity; or
- b. that the activity violates the terms and/or conditions of the emergency permit; or
- c. that the activity is undertaken in a manner that does not minimize or prevent damage to natural resources or natural protective features; or
- d. that material changes in conditions at the site have occurred that alter the basis upon which the emergency permit was originally issued; or
- e. that the applicant has failed to obtain any other approval or permit from other agencies prior to commencement of the emergency activity. In such an event, the Board of Trustees shall issue an order notifying the authorized person to cease the activity. In addition, the Board of Trustees may require:
 - (1) Removal of any structure(s) that was constructed or placed without a coastal erosion management permit.
 - (2) The return to former conditions of any natural protective feature that was excavated, mined, or otherwise disturbed without a coastal erosion management permit.

ARTICLE III VARIANCES AND APPEALS

§20-19. Variances from Standards and Restrictions

Strict application of the standards and restrictions of this local law 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.

§20-20. 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 §20-19 of this local law. The burden of demonstrating that the requested variance meets those criteria rests entirely with the applicant.

§20-21. Fees

Each variance request must be accompanied by the required fee or fees pursuant to regulations established by the Village Board of Trustees under separate resolution.

§20-22. Expiration

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

§20-23. Coastal Erosion Hazard Board of Review

The Saltaire Board of Zoning Appeals 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 forms of relief from the requirements of this local law.

b. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrator in the enforcement of this local law, including any order requiring an alleged violator to stop, cease and desist.

§20-24. Appeal

The Coastal Erosion Hazard Board of Review may, in conformity with the provisions of this local law, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Administrator, including stop or cease 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 Saltaire Clerk within 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 local law involved, specify the alleged errors, the interpretation thereof that is claimed to be correct and the relief which the appellant claims.

§20-25. Appeal to the Court

Any person or persons, jointly or severally aggrieved by a decision by 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.

ARTICLE IV ADMINISTRATION AND ENFORCEMENT

§20-26. Coastal Erosion Management Permits

A Coastal Erosion Management Permit will be issued for regulated activities which comply with the General Standards (§ 29-2.3), restrictions, and requirements of the applicable sections of this local law, providing 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 a scale no smaller than 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 pursuant to regulation established by the Board of Trustees.

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 permittee.
- (4) Permit number and date of issuance.
- (5) Period of permit validity. If not otherwise specified a permit will expire 1 year from the date of issuance.
- (6) The terms and conditions of the approval.

d. When more than one Coastal Erosion Management Permit is required for the same property or premises under this local law, a single permit may be issued listing all 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 local law, and such activity is subject to other permit, variance, hearing, or application procedures required by another federal, state or local regulatory agency pursuant to any federal, state, or local law or ordinance, the Administrator 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.

§20-27. 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.

§20-28. Administrator

The authority for administering and enforcing this local law is hereby conferred upon the Administrator. The Administrator has the powers and duties to:

- a. Apply the regulations, restrictions, and standards or other provisions of this local law.
- b. Explain to applicants the map which designates the land and water areas subject to regulation and advise applicants of the standards, restrictions and requirements of this local law.
- 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 local law 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 local law.

k. Have, in addition, powers and duties as are established in, or reasonably implied from this local law as are necessary to achieve its stated purpose.

§20-29. Interpretation

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

§20-30. Conflicts

The provisions of this local law will take precedence over any other laws, ordinances, or codes in effect in the Village to the extent that the provisions of this local law are more stringent than such other laws, ordinances, or codes. A Coastal Erosion Management Permit issued pursuant to this local law 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.

§20-31. Severability

The provisions of this local law are severable. If any clause, sentence, paragraph, subdivision, section or part is adjudged invalid by a court of competent jurisdiction, the effect of such order or judgment does not affect or invalidate any other provisions of this local law or their application to other persons and circumstances.

§20-32. Environmental Review

All regulated activities are subject to the review procedures required by the 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 local law.

§20-33. Violations and Penalties

A violation of this local law is hereby declared to be an offense punishable by a fine not exceeding \$250.00 or imprisonment for a period not to exceed 6 months or both. Each day's continued violation of this local law will constitute a separate additional violation. Nothing herein will prevent the proper local authorities of the Village from taking such other lawful actions or proceedings as may be necessary to restrain, correct, or abate any violation of this local law.

ARTICLE V AMENDMENTS

§20-34. Procedure

The Village Board of Trustees may, on its motion or on petition, or on recommendation from the Planning Board, amend, supplement or repeal the provisions, regulations, procedures or standards of this local law.

When an amendment is duly proposed, the Village Board of Trustees must:

- a. Notify the Commissioner of the 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.
- b. Issue public notice and conduct a hearing on all proposed amendments. The Village Board of Trustees, by resolution, must cause notice of such hearing's time, date, and place to be published in the official newspaper not less than 5 days prior to the date of the hearing.
- c. Refer to the proposed amendment at least 30 days prior to the public hearing, in writing to:
 - (1) The Planning Board, unless initiated thereby, for its review of the amendment and its report to the Village legislative body of recommendations thereon, including a full statement of reasons for such recommendations.
 - (2) The County Planning Board for its review and recommendations if required pursuant to Article 12-B, Section 239 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 local law: 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 Board of Trustees; and been certified by the Commissioner; the Village Clerk will as prescribed by Section 27 of the Municipal Home Rule Law:

- a. Record the amended local law in the Municipal Clerk's Minute Book and in the Recorded Book of Local Laws.
- b. File the amended local law within 5 days after adoption as follows:
 - (1) 1 copy in the Clerk's office.
 - (2) 1 copy in the Office of the State Comptroller.

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- (3) 3 copies in the Office of the Secretary of State.
- (4) 1 copy with the Commissioner of the New York State Department of Environmental Conservation.

Villages and Cities are required to advertise 5 days prior to hearings. Towns are required to advertise 10 days prior to hearings.