SECTION III: WATERFRONT REVITALIZATION PROGRAM POLICIES

The Local Waterfront Revitalization Program for the Villages of Head-of-the-Harbor and Nissequogue addresses local conditions and needs within the context of consistency with the State program.

In the following section, New York State Policies are indicated, and are numbered from 1 through 44. Where a State policy is directly applicable to local conditions, no additional policy is indicated; particular local application of the State policy may be indicated, however, under Explanation of Policy. Where a State policy is not directly applicable to local conditions, and an additional policy has been formulated, this policy is numbered to conform with the State policy. Inapplicable State policies have been so indicated.

DEVELOPMENT POLICIES

POLICY 1 **RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDER-UTILIZED WATERFRONT AREAS FOR COMMERCIAL AND INDUSTRIAL, CULTURAL, RECREATIONAL, AND OTHER COMPATIBLE USES.**

Explanation of Why Policy Is Not Applicable

This policy is not applicable to the Villages of Nissequogue and Head-of-the-Harbor. As shown in the Inventory and Analysis, the Villages' waterfront on Stony Brook Harbor and on the Nissequogue River is an environmentally sensitive area characterized by open space, low density residential uses and recreational uses. Neither structures nor properties within the waterfront area are classified as deteriorated, underutilized or abandoned. In addition, future land use opportunities are confined to open space and low density residential uses by the local zoning ordinances. Land uses permitted in the coastal area of the Villages are those which are described in Part IV of this document. Part IV shall be adhered to in all consistency decisions.

POLICY 2 **FACILITATE THE SITING OF WATER-DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.**

POLICY 2A **WATER-DEPENDENT USES ON AND ADJACENT TO STONY BROOK HARBOR SHALL BE COMPATIBLE WITH THE CONSERVATION AND PRESERVATION OF STONY BROOK HARBOR AS AN UNSPOILED EMBAYMENT AND HABITAT AREA.**

POLICY 2B **WATER-DEPENDENT USES ON THE NISSEQUOGUE RIVER SHALL BE COMPATIBLE WITH THE CONSERVATION AND PRESERVATION OF THE NISSEQUOGUE RIVER AS AN IMPORTANT ESTUARINE SYSTEM AND A SCENIC AND RECREATIONAL RIVER.**

Explanation of Policy

Stony Brook Harbor: The confined area, poor flushing ability and shallow depth of Stony Brook Harbor limit the types of uses and the intensity of use appropriate to maintaining a good environmental balance.

The chief water-dependent uses of the harbor are recreational. Extensive facilities are owned, operated and maintained by the Town of Smithtown along Long Beach at the northern end of the harbor. The Long Beach facilities, sited on both the northern and southern shores of the spit include two beaches, a large picnic area, a 167 slip marina, a mooring basin for 110 boats, and two boat ramps. In addition, the Smithtown Bay Yacht Club, a private marina is located near the Town's Long Beach park facilities. A third small Town beach, Cordwood Path Beach, is located at the boundary between the Villages of Head-of-the-Harbor and Nissequogue on the western shore of the harbor.

Recreational facilities belonging to the Village of Nissequogue are also located on Long Beach, in the form of a Village park and wildlife protection area, which includes a sanctuary for nesting waterbirds and prime breeding ground for herons.

Another water-dependent recreational use occurring in the harbor is a limited amount of small-scale fishing and shellfishing not involving the use of large boats or mechanical equipment for harvesting. Waterfowl hunting is also a water-dependent use within the harbor.

The following water-dependent uses are compatible with the environmental limitations and the scenic qualities of Stony Brook Harbor:

1) existing (as of May, 1986) municipal active recreation areas and support facilities at Long Beach and Cordwood Path Beach;

2) existing (as of May, 1986) mooring basin and public and private marinas on Porpoise Channel; existing pumpout facilities will be maintained at these facilities;

3) passive recreation, as nature study in bird and wildlife preserves;

4) mariculture programs;

5) recreational fishing and commercial and recreational shellfishing provided that no mechanical means of harvesting are used;

6) small boat sailing.

7) Private docks are permitted if constructed and maintained in keeping with the following standards:

   a. docks shall be designed to reduce obstacles to navigation and public use of the waters;

   b. docks shall be constructed so they do not interfere with the movement of water within the harbor or with the functioning of the harbor as a habitat;

   c. new, expanded or reconstructed docks shall be constructed in a location and in a manner which avoids the necessity for dredging, and in no way interferes with navigability;

   d. docks shall provide a minimum clearance of four (4) feet above the soil surface of the marsh in vegetated intertidal areas;

   e. cooperative use of docks by neighboring landowners shall be encouraged and facilitated as a means of reducing the number of visual intrusions into the harbor and mitigating the adverse effects on habitats;

   f. access to a dock shall not disrupt a tidal wetland or marsh unless there is no practicable alternative; if access must be gained by traversing a tidal wetland or marsh, the access shall be constructed in the least damaging location and manner;

   g. pressure-treated wood is preferred for constructing of docks; creosote or other similar applied preservatives shall not be permitted.

   (See Policies 7,8,9,21,44)

The existing level of water-dependent active recreational development imposes some stress upon the environment in terms of habitat disruption, increased erosion and siltation and pollution of the poorly flushed Harbor waters in Stony Brook Harbor. Further development or expansion of existing recreational facilities should be undertaken only if a negligible impact to the environment, scenic qualities and traffic can be demonstrated.

As Map 7A and 7B in the Inventory shows, the immediate harbor shoreline of the Villages is composed primarily of tidal wetlands and prime wildlife areas. Consequently, the opportunity to create additional water-dependent recreation facilities is limited around Stony Brook Harbor.

The creation of new active water-dependent uses within or on the shore of Stony Brook Harbor is inconsistent with the preservation of this rich habitat area, maintenance of water quality, retention of scenic resources, and local land use regulations.

The enhancement of existing water-dependent recreational resources through installation, maintenance and use of pumpout facilities, landscaping, retention of stormwater runoff, and promotion of public transportation to reduce traffic impacts is encouraged. However, due to the fragile nature of the harbor, expansion of publicly-owned active recreational facilities is discouraged and creation of new private active recreational facilities is prohibited.

The Nissequogue River: The Nissequogue River is bounded by the Village of Nissequogue and the Town of Smithtown. The River is a significant estuarine habitat, and has been designated as a Scenic and Recreational River pursuant to the NYS Wild, Scenic and Recreational Rivers System Act (Article 15-Title 27 of the ECL). Within the Village of Nissequogue, the primary water dependent use is active and passive recreation. The Nature Conservancy owns a six acre parcel along the river which offers passive recreational enjoyment of the river, including birdwatching, nature study and walking. The Town of Smithtown operates a beach, a campground and a nature preserve at Short Beach, a peninsula stretching into the mouth of the Nissequogue River at its confluence with Long Island Sound. Short Beach also contains a significant least tern and piping plover colony.

Due to the significance of the estuarine environment and in keeping with the goals of scenic protection, the Village will permit the following water dependent uses to be located along the riverbank:

1) private docks, according to the standards outlined above for docks in Stony Brook Harbor;

2) mariculture programs;

3) fishing and shellfishing provided no mechanical devices for harvesting are used;

4) public and private nature preserves;

5) existing Town of Smithtown recreational facilities and support facilities.

POLICY 3 **FURTHER DEVELOP THE STATE'S MAJOR PORTS OF ALBANY, BUFFALO, NEW YORK, OGDENSBURG, AND OSWEGO AS CENTERS OF COMMERCE AND INDUSTRY, AND ENCOURAGE THE SITING IN THESE PORT AREAS, INCLUDING THOSE UNDER THE JURISDICTION OF STATE PUBLIC AUTHORITIES, OF LAND USE AND DEVELOPMENT WHICH IS ESSENTIAL TO OR IN SUPPORT OF THE WATERBORNE TRANSPORTATION OF CARGO AND PEOPLE.**

Explanation of Why Policy Is Not Applicable

No major port is located within or near the coastal area of the Villages of Head-of-the-Harbor and Nissequogue.

POLICY 4 **STRENGTHEN THE ECONOMIC BASE OF SMALLER HARBOR AREAS BY ENCOURAGING THE DEVELOPMENT AND ENHANCEMENT OF THOSE TRADITIONAL USES AND ACTIVITIES WHICH HAVE PROVIDED SUCH AREAS WITH THEIR UNIQUE MARITIME IDENTITY.**

Explanation of Why Policy Is Not Applicable

Unlike the small harbors of Port Jefferson, Greenport and Freeport, Stony Brook Harbor exhibits none of the mixed marine uses which are characteristic of traditional and historic harbors. In the mid-19th Century, Stony Brook Harbor reverted from a minor sailing ship building and transshipment area to its original non-commercial status. Since the harbors' development had been only slight before changes in the transportation of goods rendered its activities obsolete, its natural setting was little altered. Consequently, the harbor does not meet the intent of this policy.

POLICY 5 **ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES OR FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE, EXCEPT WHERE SUCH DEVELOPMENT HAS SPECIAL FUNCTIONAL REQUIREMENTS OR OTHER CHARACTERISTICS WHICH NECESSITATE ITS LOCATION IN OTHER COASTAL AREAS.**

Explanation of Policy

The Villages of Nissequogue and Head-of-the-Harbor traditionally have been low-density residential areas without commercial activities. The present generally-existing development pattern is of two-acre residential lots with structures set back from the road; this is supported by the zoning laws of both Villages. The low density pattern is not only traditional, it is necessitated by a lack of adequate infrastructure, including public sewerage, water supply, and collector roads. Soil conditions will not support more intensive placement of septic systems. In areas where depth to the seasonal high water table is less than three (3) feet, septic systems should not be permitted due to the high probability of failure. Spoil sites and wetlands along Stony Brook Harbor and the Nissequogue River are areas which shall not be developed because they provide significant habitat and flood control benefits and mitigate surface water and non-point source pollution.

Since there are no public sewers, and only a limited area of Head-of-the Harbor served by public water, development will be directed to areas where topography, geology and other environmental conditions are suitable for and able to accommodate development.

In addition, proposals for development involving six (6) or more acres shall include a habitat management plan for the planting and subsequent maintenance of indigenous vegetation. Vegetation selection shall give particular attention to the relationship of species to each other and to the surrounding plant community, to the quality of the soil, and to the invertebrate and vertebrate populations associated with and dependent upon the proposed plants. The objective of the habitat management plan is to maintain, reinforce and increase the diversity and stability of plant and animal populations that are characteristic of the area throughout the site and particularly within setbacks.

In order to reduce the potential for degradation of surface and groundwater through malfunctioning septic systems, the slumping and erosion of steep slopes and bluffs, and the loss of habitat, all development will occur following the standards outlined in Policies 2,7,11,12,13,14,17,26,32,33 and 44.

POLICY 6 **EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE LOCATIONS.**

Explanation of Policy

For specific types of development activities and in areas suitable for such development, State agencies and Village governments will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, with the Local Waterfront Revitalization Program, as long as the integrity of the regulations' objectives is not jeopardized. These procedures and programs will be coordinated within each agency. Also, efforts will be made to ensure that each agency's procedures and programs are synchronized with other agencies' procedures at each level of government. Finally, regulatory programs and procedures will be synchronized between levels of government, and if necessary, legislative and/or programmatic changes will be recommended.

When proposing new regulations, an agency will determine the feasibility of incorporating the regulations within existing procedures, if this reduces the burden on a particular type of development, and will not jeopardize the integrity of the regulations' objective.

FISH AND WILDLIFE POLICIES

POLICY 7 **SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS AS IDENTIFIED ON THE COASTAL AREA MAP, SHALL BE**

PROTECTED, PRESERVED, AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.

POLICY 7A **STONY BROOK HARBOR AND WEST MEADOW ARE COASTAL FISH AND WILDLIFE HABITATS OF STATEWIDE AND LOCAL SIGNIFICANCE AND SHALL BE PROTECTED, PRESERVED AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.**

POLICY 7B **THE NISSEQUOGUE RIVER IS A COASTAL FISH AND WILDLIFE HABITAT OF STATEWIDE AND LOCAL SIGNIFICANCE AND SHALL BE PROTECTED, PRESERVED, AND WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**

POLICY 7C **THE NISSEQUOGUE INLET BEACH IS A COASTAL FISH AND WILDLIFE HABITAT OF STATEWIDE AND LOCAL SIGNIFICANCE AND SHALL BE PROTECTED, PRESERVED AND WHERE PRACTICAL RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**

POLICY 7D **IF, FOR SOME OVERRIDING REGIONAL PUBLIC PURPOSE, IT IS NECESSARY TO REDUCE, ELIMINATE OR PERMANENTLY DISRUPT A HABITAT WITHIN SHORT BEACH, THE NISSEQUOGUE RIVER OR STONY BROOK HARBOR BECAUSE NO ALTERNATIVES EXIST, THE HABITAT AREA LOST SHALL BE OFFSET BY THE RECLAMATION OF DEGRADED AREAS OR THE CREATION OF NEW HABITAT AT A RATIO OF 2:1.**

Explanation of Policy

Stony Brook Harbor is a relatively shallow bay bounded by the two Villages. The northern shore of the harbor is formed by the Long Beach peninsula, a Town Park and two marinas; other sides are characterized by low density residential development and woodlands.

The harbor and West Meadow comprise one of the largest and most diverse coastal wetlands ecosystems on the north shore of Long Island. Threatened and endangered waterbirds nest at various locations around the harbor. It is also an important wintering area. The bay and creeks leading into it are productive fish and shellfish nursery and feeding areas.

The Nissequogue River forms the western boundary of the Village of Nissequogue. Jurisdiction below the mean high water line is held by the Town of Smithtown. The habitat encompasses the tidal portion of the river, which contains mud flats, salt marshes, and freshwater wetlands,

bordered by undeveloped woodlands, a Town beach and preserve, and low density residential development in the Village of Nissequogue. The Kings Park Psychiatric Center, and medium density residential development are found on the west bank in the Town of Smithtown. The Nissequogue River contains one of the largest coastal wetlands areas on the north shore of Long Island, and is important to a great diversity of fish and threatened and endangered wildlife species throughout the year. The river is also the only sea-run fishery tributary for brown trout to Long Island Sound.

The Nissequogue inlet beaches are sand peninsulas located at the mouth of the Nissequogue River. Short Beach Town Park is located on the eastern peninsula at the mouth of the Nissequogue River, within the Village of Nissequogue. Its undeveloped nature in close proximity to an inlet is generally rare on the north shore of Long Island. Despite heavy recreational use, Short Beach is a least tern nesting area of statewide significance. It is likely that the tern colonies moved to this area from Sunken Meadown State Park, to the west, because of significant human disturbance.

The Inventory and Analysis gives a detailed description of the three habitats and the species inhabiting each. Refer also to Maps 8A and 8B.

In order to protect and preserve these locally significant habitats, actions shall not be undertaken which would destroy or significantly impair the viability of any area as a habitat. The range of actions or classes of activities which have the potential to destroy or significantly impair fish and wildlife habitats in the Nissequogue River, Short Beach and Stony Brook Harbor areas include, but are not limited to, the following:

1) Any activity that would substantially degrade the water quality in the Nissequogue River and Stony Brook Harbor or which could adversely affect the biological productivity and viability of these areas.

2) Introduction of water-born pollutants into the Nissequogue River or Stony Brook Harbor such as chemical contaminants (affecting food chain effects), petrochemicals, excessive turbidity or sedimentation, sewage discharges, solid wastes, toxic materials and landfill leachates. All species of fish and wildlife may be affected by these pollutants. Water quality will be improved to permit shellfishing, specifically by reducing sewage discharges from upland sources and from recreational boats in the river and the harbor. (See Policies 8,30,33,34,35,36,37,40)

3) Alteration of tidal patterns by dredging or other means in the Nissequogue River and in Stony Brook Harbor which may have major impacts on fish and wildlife populations present. Although not within the jurisdiction of the Villages, projects should be designed to be compatible with existing tidal patterns or to cause minimal alteration of tidal flow. (See Policy 35)

4) Although not within the jurisdiction of the Villages, dredging to maintain existing boat channels should be minimized and should be undertaken only if the impact on the environment is minimal. Within Stony Brook Harbor any dredging should be scheduled in late summer and fall to minimize potential impacts on aquatic organisms and to allow for spoil disposal when wildlife populations are least sensitive to disturbance. Dredging in the Nissequogue River should be scheduled for late fall or winter to avoid disrupting habitats and to allow for sensitive spoil disposal. (See Policies 15,35)

5) Dredge spoil disposal methods shall, when practical, maintain or improve the habitat areas. (See Policies 10,15,18,22,35,44)

6) Excavation, filling or draining of salt marshes, tidal wetlands, tidal flats or beaches in Stony Brook Harbor and in the Nissequogue River will result in a direct loss of valuable habitat and are prohibited. In cases where no alternative is present and an overriding regional public purpose makes it necessary to excavate, fill or drain part of a habitat area, the acreage and habitat qualities of the lost habitat area shall be replaced by reclamation of a degraded habitat or creation of new habitat at a ratio of 2:1 (See Policy 44)

7) Nesting birds inhabiting Stony Brook Harbor, the Nissequogue River and Short Beach are highly vulnerable to disturbance by humans. On Short Beach, significant pedestrian traffic or recreational vehicle use of the uppermost beach and spoil area could eliminate nesting colonies. Recreational activities in or near bird nesting areas shall be minimized from mid-April through early September, through the use of fencing and/or annual posting. (See Policies 9,22)

8) Nesting terrapins on the sandy shorelines of the Nissequogue River and the inlet beaches are especially vulnerable to disturbance by humans from mid-April through early September. Significant pedestrian traffic, vehicular traffic or boat landings could eliminate the terrapin colonies in these areas. (See Policies 9,22)

9) Physical alteration of shore areas through channelization or construction and maintenance of shoreline structures, such as docks, piers, bulkheads, or revetments, in areas not previously disturbed by development (i.e., salt marsh, tidal flats or mudflats), may have a significant impact on fish and wildlife resources by changing the volume and rate of flow of water, increasing scouring or causing sedimentation. These activities shall be designed to minimize negative impacts. Introduction of structures, other than docks and piers, into undisturbed areas shall occur only where necessary to prevent loss of life or substantial damage to existing structures.

10) Clear-cutting and removal of ground cover increases the amount of surface water runoff, soil erosion and sediment deposition which can adversely effect wetlands and water quality. Within the principal drainage ways of the watersheds emptying into the Nissequogue River and Stony Brook Harbor clear-cutting or removal of groundcover which leaves bare soil exposed for any reason without appropriate stabilization and erosion control measures shall not be permitted. (See Policies 14 and 37)

11) Uncontrolled grading of land results in vegetation removal, increased surface runoff and/or soil erosion, and downstream sedimentation. Grading and regrading shall only occur in compliance with an approved grading plan which contains suitable erosion prevention, stabilization and revegetation measures.

(See Policies 14 and 37)

The range of physical, biological and chemical parameters which should be considered include, but are not limited to, the following:

a. physical parameters such as: living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (loss of littoral zone), morphology, substrate type, vegetation structure, erosion and sedimentation rates;

b. biological parameters such as: community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, behavioral patterns, and migratory patterns;

c. chemical parameters such as: dissolved oxygen, carbon dioxide, pH, dissolved solids, nutrients, organics, salinity, pollutants (heavy metals, toxic and hazardous materials).

When a proposed action is likely to alter any of the biological, physical or chemical parameters described above beyond the tolerance range of the organisms occupying the habitat, the viability of that habitat has been significantly impaired or destroyed. Such action, therefore, is inconsistent with this policy.

POLICY 8 **PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIOACCUMULATE IN THE FOOD CHAIN, OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECTS ON THOSE RESOURCES.**

Explanation of Policy

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive or toxic. More specifically, hazardous waste is defined in the Environmental Conservation Law (§27-0901 (3)) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, sorted, transported, disposed or otherwise managed." Hazardous wastes are identified in regulations adopted by DEC (See 6 NYCRR Part 371).

The handling, storage, transport, treatment and disposal of the identified hazardous materials are being strictly regulated in New York State to prevent their entry or introduction into the State's air, land, and waters. Such controls could effectively minimize possible contamination of and bio-accumulation in wildlife resources at levels that cause mortality or create physiological and behavioral disorders.

Other pollutants are those conventional wastes, generated from point and non-point sources, and not identified as hazardous wastes, but controlled through other State Laws.

(See Policies 33,34;36,37,39,40)

POLICY 9 **EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCK, AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILDLIFE RESOURCES, AND CONSIDERS OTHER ACTIVITIES DEPENDENT UPON THEM.**

POLICY 9A **INVESTIGATE AND ENCOURAGE ALL PRACTICABLE MEANS OF REPLENISHING THE SUPPLY OF SHELLFISH FOR RECREATIONAL AND SMALL-SCALE COMMERCIAL HARVESTING.**

Explanation of Policy

Recreational uses of coastal fish and wildlife resources in the Villages of Nissequogue and Head-of-the-Harbor include non-consumptive uses such as wildlife photography, birdwatching and nature study, and consumptive uses such as hunting, fishing, and trapping.

Opportunities for small-scale shellfishing must be improved through cooperative management of shellfish resources and continued investigation of means of replenishing stocks.

Any efforts to increase recreational use of these resources will be made in a manner which ensures the protection of fish and wildlife resources in marine and freshwater coastal areas and which takes into consideration other activities dependent on these resources. Such efforts must be done in accordance with existing State law and in keeping with sound resource management considerations. Such considerations include biology of the species, carrying capacity of the resource, public demand, costs and available technology.

The following additional guidelines should be considered by State, Federal and local agencies as they determine the consistency of their proposed action with the above policy:

1) Consideration should be given as to whether an action will impede existing or future utilization of the State's recreational fish and wildlife resources.

2) Efforts to increase access to recreational fish and wildlife resources should not lead to overutilization of that resource or cause impairment of the habitat. Sometimes such impairment or overutilization can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the habitat area. Overutilization can include circumstances where a newly stocked area can draw so many fisherman that a resident finfish or shellfish population is not able to establish itself, or where demand for support facilities can undermine the habitat qualities.

3) The impacts of increasing access to recreational fish and wildlife resources should be determined on a case-by-case basis, consulting the guidelines established in Policy 7 and/or conferring with a trained fish and wildlife biologist.

4) Any public or private sector initiatives to supplement existing stocks (e.g., stocking a stream with hatchery-bred fish) or develop new resources (e.g., creating private fee-hunting or fee-fishing facilities) must be done in accordance with existing State law.

(See Policies 2,7,21,34,44)

POLICY 10 **FURTHER DEVELOP COMMERCIAL FINFISH, SHELLFISH AND CRUSTACEAN RESOURCES IN THE COASTAL AREA BY: (I) ENCOURAGING THE CONSTRUCTION OF NEW, OR IMPROVEMENT OF EXISTING ON-SHORE COMMERCIAL FISHING FACILITIES; (II) INCREASING MARKETING OF THE STATE'S SEAFOOD PRODUCTS; AND (III) MAINTAINING ADEQUATE STOCKS AND EXPANDING AQUACULTURE FACILITIES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF SUCH RENEWABLE FISH RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.**

Explanation of Why Policy is not Applicable

Stony Brook Harbor and the Nissequogue River are important as finfish breeding, nursery, and wintering areas. Commercial finfishing in the harbor and the river is precluded by their shallow depths.

There is a small local shellfishing industry in Stony Brook Harbor conducted entirely by local baymen using hand harvesting equipment. Use of hydraulic or bottom-dragging dredges would irretrievably damage the shellfish beds, and should not be used. The Town of Smithtown controls shellfishing in Stony Brook Harbor and the Nissequogue River and prohibits the hydraulic and mechanical taking of shellfish. The New York State Environmental Conservation Law also prohibits the mechanical taking of shellfish from public underwater lands (Article13-0309). NYSDEC also regulates shellfishing in the harbor, river and bay.

This policy is not applicable because of lack of jurisdiction by the Villages over harvesting practices and physical characteristics which preclude commercial finfishing.

FLOODING AND EROSION POLICIES

POLICY 11 **BUILDINGS AND OTHER STRUCTURES WILL BE SITED IN THE COASTAL AREA SO AS TO MINIMIZE DAMAGE TO PROPERTY AND ENDANGERING OF HUMAN LIVES CAUSED BY FLOODING AND EROSION.**

POLICY 11A **RESIDENTIAL CONSTRUCTION IS PROHIBITED WITHIN THE COASTAL HIGH HAZARD AREAS (V-ZONES) AS DESIGNATED ON THE FLOOD INSURANCE RATE MAPS FOR THE VILLAGES OF NISSEQUOGUE AND HEAD-OF-THE-HARBOR.**

Explanation of Policy

The designated Flood Hazard Areas and Coastal High Hazard Areas (V-Zones) as identified on the Flood Insurance Rate Maps for the Villages of Nissequogue and Head-of-the-Harbor are described in detail in the Inventory and Analysis, and are shown on Maps 6A and 6B. The general area of flood hazard includes lands fronting on Smithtown Bay, Stony Brook Harbor and the Nissequogue River. High velocity wave areas are located on beaches and tidal wetlands along Porpoise Channel, inside Stony Brook Harbor and at the mouth of the Nissequogue River.

In order to provide the highest level of flood hazard protection to residents of the Villages of Nissequogue and Head-of-the-Harbor, no residential construction shall be permitted with the Coastal High Hazard Areas (V-Zone). High velocity waves and the general instability of these areas increases the potential for loss of life, severe property damage and ancillary damage to other structures and resources.

Within flood hazard areas (A Zones), the following standards for construction and siting of development shall apply:

1) For new construction and "substantial" additions:

   a. all buildings and structures shall be located two hundred (200) feet landward of the reach of the mean high tide;

   b. all buildings and structures shall be elevated so that the lowest portion of the structural members of the lowest floor is located a minimum of 13 feet above mean sea level, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls. These areas shall not be used for human habitation;

   c. all buildings or structures shall be securely anchored on pilings or columns used as structural support and shall be designed and anchored so as to withstand all applied loads of the base flood flow;

   d. building materials and utility equipment shall be resistent to flood damage.

2) For utilities:

   a. all new, replacement and expanded water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system;

   b. all new, replacement and expanded sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

   c. on-site sanitary sewage systems shall be located to avoid impairment to them or contamination from them during flooding;

   d. new, replacement or expanded gas and electrical service shall be located and constructed to reduce flood damage.

(See Policies 12,13,14,17)

POLICY 12 **ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION BY PROTECTING NATURAL PROTECTIVE FEATURES, INCLUDING BEACHES, DUNES, BARRIER ISLANDS AND BLUFFS. PRIMARY DUNES WILL BE PROTECTED FROM**

ALL ENCROACHMENTS THAT COULD IMPAIR THEIR NATURAL PROTECTIVE CAPACITY.

Explanation of Policy

Beaches, dunes, barrier islands, bluffs, and other natural protective features help safeguard coastal lands and property from damage, as well as reduce the danger to human life resulting from flooding and erosion. Excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize their fragile nature and high protective values, lead to the weakening or destruction of these landforms. Activities or development in, or in proximity to, natural protective features must ensure that all such adverse effects are mitigated. Primary dunes will be protected from all encroachments that could impair their natural productive capacity.

Within the ownership or jurisdiction of the Villages of Nissequogue and Head-of-the-Harbor, the following areas are specifically designated as important natural protective features which shall be protected from disturbance or encroachment by development or other incompatible land use activities:

Village of Nissequogue: (Map 5B)

- Long Beach peninsula including all beaches, dunes and bluffs;
- Bluffs and beaches along the Smithtown Bay shore of the Village;
- Isolated bluffs adjacent to Stony Brook Harbor, north and south of Smith Lane;
- Beaches adjacent to Stony Brook Harbor;
- Dunes and beaches at the mouth of the Nissequogue River (Short Beach Town Park).

Village of Head-of-the-Harbor: (Map 5A)

- Cordwood Path Beach (Town of Smithtown) on the western shore of Stony Brook Harbor at the boundary of the Villages of Nissequogue and Head-of-the-Harbor;
- Bluffs located adjacent to Stony Brook Harbor on the southern and eastern shore, extending to the confluence of the harbor and Stony Brook Creek at the grist mill in Stony Brook;
- Beaches adjacent to Stony Brook Harbor.

In order to ensure that the natural protective features which have been identified in the Villages will be protected, the following standards will be applied to all development and land use activities proposed for beaches, dunes and bluffs within the Villages:

Beaches

Beaches are unsuitable for development due to their constantly changing topography and width. Interference by man can accelerate these natural processes. On beaches, no development of permanent structures or activity requiring the excavation, grading or disruption of the natural slope of the beach shall be permitted.

Bluffs

Bluffs are particularly fragile areas which are susceptible to erosion, sloughing and weakening from improper development, runoff and groundwater seepage. Development which requires grading, removal of vegetation, siting of buildings, roads or parking lots, will contribute additional stormwater to the area susceptible to erosion at the edge of the face of the bluff. Excessive runoff will eventually cause the bluff to slump and collapse.

-- The impact upon a bluff due to site disturbance shall be minimized by siting all structures a minimum distance from the landward edge of the bluff to be determined by the erosional rate of the bluff and the amount of land needed for the structure to remain unaffected for a period of fifty (50) years. However, in no case shall any structure, including swimming pools, be located closer that one hundred (100) feet from the landward edge of the bluff. In addition, there shall be no land disturbance within the setback zone. Land disturbance includes removal of natural vegetation, alteration of surface soils or grade, placement of temporary structures, and the like. Natural vegetation shall be retained to trap stormwater and to stabilize soils.

-- Stormwater from developed parts of the property shall be directed so it does not flow across the surface of the land to the bluff face. If the natural slope of the land is away from the bluff face, the slope shall not be altered. In directing the overland flow of stormwater, no stormwater will be allowed to reach the bluff face of an adjacent property.

-- Stormwater shall not be recharged in a quantity or a location where surface runoff or subsurface or groundwater flow will undermine the bluff face.

-- Impermeable paving shall be minimized. Trap rock or native gravel shall be used for driveways and other outdoor surfaces shall be made of permeable paving. Brick, flagstone and Belgium block on sand are good alternative paving choices for slopes less than 2%.

- Roads and driveways shall be located in such a manner that no stormwater from the road or driveway will reach the bluff face or the beach below.

- Where ground cover has been disturbed, the area within one hundred (100) feet of the bluff face shall be replanted with native vegetation suitable for the bluff location.

Dunes

The dune areas in the Village of Nissequogue provide long-term stability to the shorefront by serving as protection for upland areas from waves, winds, storms, and by blowing sand.

- Primary dunes shall in no way be altered or subject to any activity which would impair their protective capability. This standard shall not be construed to prevent restoration of dunes damaged in a storm or by other means.

- Natural vegetation shall be maintained in dune areas.

- All access points to beaches which are possible only by crossing dune areas shall be kept to a minimum, shall use the least intrusive path which safeguards the vegetation and natural slope of the dune and shall be subject to the approval of the Village Planning Board. In dune areas, raised wooden footpaths shall be provided.

- Vehicles of any type, excluding emergency vehicles and those operated by a governmental body in the performance of its functions, are prohibited in any dune or beach area.

- Where a bluff is the sediment supply for a beach, toe stabilization of the bluff will be permitted only when the applicant has agreed to nourish the beach in front of the bluff with beach material of a similar type and magnitude as that which is presently eroded from the bluff. A deed covenant or similar legal document will be required to ensure that nourishment occurs throughout the life of the structure. All plans for stabilization must be approved by the proper permitting agencies.

POLICY 13 **THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN ONLY IF THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.**

POLICY 13A **EXISTING OR NEW EROSION PROTECTION STRUCTURES WITHIN AND ADJACENT TO THE NISSEQUOGUE RIVER, STONY BROOK HARBOR, AND SMITHTOWN BAY SHALL BE**

RECONSTRUCTED, MODIFIED OR CONSTRUCTED ONLY IF: 1) THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY (30) YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS; AND 2) THEY ARE DEMONSTRATED TO BE NECESSARY.

Explanation of Policy

Construction of erosion protection structures is expensive, often only partially effective over time, and may even be harmful to adjacent or nearby properties. However, in those instances where properly designed and constructed erosion protection structures will be likely to minimize or prevent damage or destruction to public or private property, natural protective features, and other natural resources, construction of erosion protection structures may be allowed. Coastal Erosion Hazard Area maps for the Village of Nissequogue were filed in December 1988, identifying Coastal Erosion Hazard Areas within the Village along the Smithtown Bay bluffs. In Coastal Erosion Hazard Areas, the construction, modification, or restoration of erosion protection structures is subject to the following requirements:

1) 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 of the immediate site for at least 30 years.

2) A long-term maintenance program must be provided, which includes specifications for normal maintenance of degradable materials and periodic replacement of removable materials.

3) If bulkheading is required adjacent to wetlands, bulkheading shall be located upland of the high marsh wetland boundary. Bulkheads or other erosion protection structures shall not block the surface and subsurface flow of freshwater to the wetland.

The following are definitions of terms used in the above:

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

b. "Erosion protection structure" means a structure specifically designed to reduce or prevent erosion such as a groin, jetty, seawall, revetment, bulkhead, breakwater, or artificial beach nourishment project.

c. "Modification" means a change in size or design.

d. "Reconstruction" means the reconstruction without modification of an erosion protection structure, the cost of which equals or exceeds fifty percent (50%) of the estimated full replacement cost of the structure at the time of reconstruction.

Although erosion protection structures are constructed according to best engineering practices to minimize impact and ensure a reasonable lifespan, they still induce changes in natural coastal processes. These changes can include erosion, shifts in tidal activity, impacts on habitats and the like. The fragile nature and significance of the habitats in the Nissequogue River and Stony Brook Harbor require that any adverse effects, including those caused by erosion protection structures, be minimized and mitigated. The use of erosion protection structures should be considered only after an evaluation of available non-structural measures in the context of an overall erosion management system for a site. (See Policy 17)

In particular, if bulkheading is considered in a location adjacent to a wetland, the bulkhead shall be located upland from the wetland, at or above the highest yearly tide level elevation. Bulkheads or other erosion protection structures should not block the surface and subsurface flow of fresh water to the wetland.

POLICY 14 **ACTIVITIES AND DEVELOPMENT, INCLUDING THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES, SHALL BE UNDERTAKEN SO THAT THERE WILL BE NO MEASURABLE INCREASE IN EROSION OR FLOODING AT THE SITE OF EACH ACTIVITY OR DEVELOPMENT, OR AT OTHER LOCATIONS.**

Explanation of Policy

Erosion and flooding are processes which occur naturally. However, human intervention can increase the severity and adverse effects of those processes, causing damage to, or loss of, property and endangering human lives. Those actions include the following: the use of erosion protection structures such as groins, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices thereby causing damage in otherwise hazard-free areas.

The tidal and freshwater wetlands and habitats of the Nissequogue River and Stony Brook Harbor are sensitive to sedimentation, and flooding can result from the destabilizing effect of disturbing steep slopes and natural drainageways. To maintain natural drainage functions, to reduce the volume of sedimentation and other pollutants entering the Nissequogue River and Stony Brook Harbor habitats, and to promote development in stable areas, the following standards will be applied to all development and land use activities within the Villages of Nissequogue and Head-of-the-Harbor:

1) Stream channels, natural flood plains, and major drainage swales shall not be altered in a manner which decreases their ability to accommodate and channel storm water runoff and flood waters. Disturbance of land includes activities such as alteration of slope, deposition of waste materials and removal of vegetation. If no practicable alternative to the location of driveways, pathways and similar surfaces within these areas exists, such facilities shall be sited and constructed to minimize and mitigate the amount and velocity of stormwater entering the swale.

2) No land having a slope equal to or greater than 25% shall be developed or disturbed except for conservation measures or measures intended to remove debris which inhibits the functioning of the swale. Natural vegetation and topography shall be retained to stabilize soils and reduce the volume of stormwater flow.

3) On lands having slopes of less than 25%, but composed of highly erodible soils, such as Carver soils, development proposals shall include consideration of the load bearing capacity of the soils. Unless it can be demonstrated that the soils can be stabilized with a minimum of on-site disturbance and no adverse impacts to the stability of neighboring properties, the development proposal shall not be approved as submitted.

4) Development shall preserve salient natural features of a site, minimize grading and cut and fill operations, ensure conformity with natural topography, and retain natural vegetation and trees to the maximum extent practicable in order to create the least erosion potential and handle adequately the volume and rate of velocity of surface water runoff.

5) Natural drainage patterns shall be protected and incorporated into site design. Where natural drainage patterns are demonstrated to be adversely affecting a natural protective feature, drainage patterns may be altered in a manner which reduces the threat of the natural protective feature and does not create other flooding or erosion problems.

6) Site preparation, including stripping of vegetative cover and grading, shall be undertaken so that no individual building site is stripped of its vegetation cover more than thirty (30) days prior to commencement of construction.

7) Disturbed soils shall be stabilized and revegetated or seeded as soon as practicable. During the interim, erosion protection measures such as temporary vegetation, retention ponds, recharge basins, berming, silt traps and mulching shall be used to ensure that sedimentation is minimized and mitigated.

8) In no case shall stormwater be diverted to another property either during site preparation or after development.

9) Fill shall not encroach on natural watercourses, constructed channels, wetlands, or floodway areas. All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.

10) A natural vegetative buffer of one hundred (100) feet shall be retained adjacent to surface waters and wetlands to absorb floodwaters and trap sediments.

11) Trails and walking paths along waterbodies shall be sited and constructed so they are not a source of sedimentation or erosion.

12) The amount and velocity of runoff from a site after development shall approximate its pre-development characteristics. However, if the site is adjacent to coastal waters, stormwater shall be contained on-site, to the maximum extent practicable, to prevent direct discharge of runoff into coastal waters.

(See Policy 17 in addition to the above standards 1-12)

13) Groins, jetties, bulkheads and other structural erosion protection measures shall be used only if no alternative is available. They shall be designed to minimize downdrift impacts and shall not increase on or off-site flooding and erosion. (See Policy 13, 13A)

POLICY 15 **MINING, EXCAVATION OR DREDGING IN COASTAL WATERS SHALL NOT SIGNIFICANTLY INTERFERE WITH THE NATURAL PROCESSES WHICH SUPPLY BEACH MATERIALS TO LAND ADJACENT TO SUCH WATERS, AND SHALL BE UNDERTAKEN IN A MANNER WHICH WILL NOT CAUSE AN INCREASE IN EROSION OF SUCH LAND.**

POLICY 15A **MINING OR EXCAVATION UNDER THE WATERS OF THE NISSEQUOGUE RIVER, OF STONY BROOK HARBOR, OR IN THE CONTIGUOUS WATERS AND WITHIN OWNERSHIP OR JURISDICTION OF THE VILLAGES IS PROHIBITED.**

Explanation of Policy

Sand or gravel mining in the coastal waters of the Villages of Head-of-the-Harbor and Nissequogue is unjustifiable in view of the inevitable destructive impact upon the natural environment, and the ample supply of sand and gravel from land-based mines, dredging operations and off-shore mines. Mining or excavation is, therefore, prohibited in the coastal waters within the ownership or jurisdiction of the Villages.

(See Policies 7,35,44)

POLICY 16 **PUBLIC FUNDS SHALL ONLY BE USED FOR EROSION PROTECTIVE STRUCTURES WHERE NECESSARY TO PROTECT HUMAN LIFE, AND NEW DEVELOPMENT WHICH REQUIRES A LOCATION WITHIN OR ADJACENT TO AN EROSION HAZARD AREA TO BE ABLE TO FUNCTION, OR EXISTING DEVELOPMENT; AND ONLY WHERE THE PUBLIC BENEFITS OUTWEIGH THE LONG TERM MONETARY AND OTHER COSTS INCLUDING THE POTENTIAL FOR INCREASING EROSION AND ADVERSE EFFECTS ON NATURAL PROTECTIVE FEATURES.**

Explanation of Policy

Public funds are used for a variety of purposes on the State's shorelines. This policy recognizes the public need for protection of human life and existing investment and development or new development which requires a location in proximity to the coastal area or in adjacent waters to be able to function. However, it also recognizes the adverse impacts of such activities and development on the rate of erosion and on natural protective features and requires that careful analysis be made of such benefits and long term costs prior to expending public funds.

POLICY 17 **WHEREVER POSSIBLE, USE NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION. SUCH MEASURES SHALL INCLUDE: (I) THE SET-BACK OF BUILDINGS AND STRUCTURES; (II) THE PLANTING OF VEGETATION AND THE INSTALLATION OF SAND FENCING AND DRAINING; (III) THE RESHAPING OF BLUFFS; AND (IV) THE FLOOD-PROOFING OF BUILDINGS ON THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.**

Explanation of Policy

Structural measures for protection from coastal flooding and erosion are costly. The most cost effective methods of reducing risk to lives and property from coastal flooding and erosion are

non-structural measures which are also more sensitive to the environmental and scenic qualities of the Nissequogue River and Stony Brook Harbor.

This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with the policy, it must be determined if any one, or a combination of, non-structural measures would afford the degree of protection appropriate both to the character and purpose of the activity or development and to the hazard. If non-structural measures are determined to offer sufficient protection, then consistency with this policy requires the use of such measures.

In determining whether or not non-structural measures to protect against erosion or flooding will afford the appropriate degree of protection, an analysis, and if necessary, other materials such as plans or sketches of the activity or development, of the site and of the alternative protection measures shall be prepared to allow an assessment to be made.

Non-structural measures of reducing the risk of coastal flooding and erosion which are to be employed within the Villages of Nissequogue and Head-of-the-Harbor include, but are not limited to, those contained in Policies 11,12,13B and 14.

GENERAL POLICY

POLICY 18 **TO SAFEGUARD THE VITAL ECONOMIC, SOCIAL AND ENVIRONMENTAL INTERESTS OF THE STATE AND OF ITS CITIZENS, PROPOSED MAJOR ACTIONS IN THE COASTAL AREA MUST GIVE FULL CONSIDERATION TO THOSE INTERESTS, AND TO THE SAFEGUARDS WHICH THE STATE HAS ESTABLISHED TO PROTECT VALUABLE COASTAL RESOURCE AREAS.**

Explanation of Policy

The size, location, existing development pattern and physical characteristics of the coastal area of the Villages of Head-of-the-Harbor and Nissequogue preclude major development proposals. The overriding Statewide, regional and local interest in the coastal area of the Villages is the conservation and protection of the cultural resources, significant habitats, marsh systems and scenic resources of the coastal area. For this reason, maintenance of low-density, carefully sited residential development will fulfill this goal.

PUBLIC ACCESS POLICIES

POLICY 19 **PROTECT, MAINTAIN, AND INCREASE THE LEVEL AND TYPES OF ACCESS TO PUBLIC WATER-RELATED**

RECREATIONAL RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES. IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS AND WATERFRONT PARKS.

POLICY 19A **ENCOURAGE AND FACILITATE ACCESS TO SITES SUITABLE FOR THE EDUCATIONAL AND RECREATIONAL PURSUIT OF NATURE STUDY, BIRD WATCHING, AND NATURE PHOTOGRAPHY IN A MANNER WHICH MINIMIZES DISTURBANCE OF HABITATS.**

Explanation of Policy

Stony Brook Harbor and the Nissequogue River are major recreational resources for the residents of the Villages and the Town of Smithtown. There are three Town beaches, a marina, a boat mooring basin, and a Village of Nissequogue nature area on the Long Beach spit on Stony Brook Harbor. In Head-of-the-Harbor, two natural areas for public use are maintained by the Nature Conservancy. A small shallow-water beach, Cordwood Path Beach, is located on Stony Brook Harbor at the boundary between the two Villages. This is part of the Town park system. Parking and support facilities are available at all Town facilities.

There are four rights-of-way giving access to Stony Brook Harbor as indicated on Maps 3A and 3B. The confined nature of these sites, all of which are bounded by embayments and tidal wetlands, makes expansion, or provision of parking, physically impossible, as well as potentially damaging to the harbor environment. This access shall not, however, be diminished.

On the Nissequogue River, the Town of Smithtown operates a beach at Short Beach, which includes a campground and a nature preserve. Parking and support facilities are available.

These areas are described in detail in the Inventory and Analysis. Poor public transportation limits access to the facilities within the Villages. Car and boat trailer traffic impacts the Villages.

Some present uses, especially those connected with boating--moorings, anchorages, and marina facilities--are beginning to impose an environmental stress which suggests that a limit is being approached beyond which resources such as clean water and habitats will sustain damage.

Though public enjoyment of the recreational resources of the Nissequogue River and Stony Brook Harbor is to be encouraged, the overriding concern is to ensure that these resources are not impaired through over-use or incompatible active uses. For this reason emphasis is placed

on developing and promoting more passive access opportunities which will be designed to minimize impact on water quality, habitats, and scenic resources. The Villages will not develop additional active recreational areas on Stony Brook Harbor or the Nissequogue River. The existing Village of Nissequogue nature preserve on Long Beach will continue to offer non-intensive access for nature study and non-consumptive enjoyment of the scenic and wildlife resources of the site.

Lands acquired by either Village in the future which are suitable for passive recreational use shall be developed for public access in the following manner to minimize disruption of habitats and scenic values:

1) Any accessory parking areas will be surfaced and graded to prevent direct runoff from the site into waterbodies or wetlands. Surfacing material shall allow for percolation of stormwater.

2) Pedestrian and bicycle access will be promoted over vehicular access.

3) All walkways and paths shall be sited and designed to minimize disruption of wildlife and vegetative resources.

4) Sites shall be posted and monitored during breeding and nesting seasons to prevent disruption of birds.

5) Dogs and other pets shall be permitted within an area designated as a nature preserve only when accompanied by the owner or other responsible person who is in charge and control of the animal in accordance with local leash laws. Horseback riding shall be permitted only in parts of such areas designated as suitable for bridle trail use.

(See Policies 7,14)

The following guidelines will be used in determining the consistency of a proposed action with this policy:

1) The existing access from adjacent or approximate public lands or facilities to public water-related recreation resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access or unless such actions are found to be necessary or beneficial by the public body having jurisdiction over such access as the result of a reasonable justification of the need to meet systematic objectives.

The following is an explanation of the terms used in the above guideline:

a. Access - the ability and right of the public to reach and use public coastal lands and waters.

b. Public water-related recreation resources or facilities - all public lands or facilities that are suitable for passive or active recreation that require either water or a waterfront location or are enhanced by a waterfront location.

c. Public lands or facilities - lands or facilities held by State or local government in fee simple or less-than-fee simple ownership and to which the public has access to or could have access to, including underwater lands and the foreshore.

d. A reduction in the existing level of public access-includes but is not limited, to the following:

   (1) the number of parking spaces at a public water-related recreation resource or facility is significantly reduced;

   (2) the service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting system-wide objectives;

   (3) pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.

   (4) There are substantial increases in the following: already existing special fares (not including regular fares in any instance) of public transportation to a public water-related recreation resource or facility, except where the public body having jurisdiction over such fares determines that such substantial fare increases are necessary; and/or admission fees to such a resource or facility, and an analysis shows that such increases will significantly reduce usage by individuals or families with incomes below the State established poverty level.

e. An elimination of the possibility of increasing public access in the future includes, but is not limited to the following:

(1) construction of public facilities which physically prevent the provision, except at great expense, or convenient public access to public water-related recreation resources and facilities;

(2) sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation resource or facility;

(3) construction of private facilities which physically prevent the provision of convenient public access to public water-related recreation resources or facilities from public lands and facilities.

2) Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:

a. the level of access to be provided shall be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with this policy;

b. the level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource of facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with this policy.

3) The State and local governments will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.

4) In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

POLICY 20 **ACCESS TO THE PUBLICLY OWNED FORESHORE AND TO LANDS IMMEDIATELY ADJACENT TO THE FORESHORE OR THE WATER'S EDGE THAT ARE PUBLICLY OWNED SHALL BE PROVIDED, AND IT SHOULD BE PROVIDED IN A MANNER COMPATIBLE WITH ADJOINING USES. SUCH LANDS SHALL BE RETAINED IN PUBLIC OWNERSHIP.**

Explanation of Policy

In the Villages of Head-of-the-Harbor and Nissequogue, public access to the foreshore is extensive, especially in the beach areas where the Town and Village parks are located. As more than one-fifth of the total land area of the two Villages is in public recreational use, including both active and passive types, access is ample. Town and Village beaches, parks, and preserves are located on the Long Beach peninsula, on Stony Brook Harbor, and on the Nissequogue River. There are also public access points adaptable for small-boat launching. Owing to the shallowness of the water and the limited parking area, these areas are not suited to boats of a size to require trailering, but suitable access for trailered boats is available at Long Beach. The following guidelines will be used to determine the consistency of a proposed action at any publicly owned site described above with this policy:

1) Existing access from adjacent or proximate public lands or facilities to existing public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrably of overriding statewide or regional public benefit, or estimates of future use of these lands and waters are too low to justify maintaining or providing increased access. A reduction in the existing level of public access includes, but is not limited to, the following:

   -- pedestrian access is diminished or eliminated because of hazardous crossing required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities;

   -- pedestrian access is diminished or blocked completely by public or private development.

An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:

   -- construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreational resources or facilities;

   -- sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters;

   -- construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.

2) The existing level of public access within public coastal lands or waters shall not be reduced or eliminated. A reduction in the existing level of public access includes, but is not limited to, the following:

-- access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities;

-- access is reduced or blocked completely by any public developments.

3) Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where (a) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources; (b) adequate access exists within one-half mile; or (c) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

4) The State and local government will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.

5) In their plans and programs for increasing public access, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside and defined Urban Area boundary but not served by public transportation.

6) Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:

-- the level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with this policy;

-- the level of access to be provided shall not cause a degree of use which would exceed the physical capability of the coastal land resource. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

The following is an explanation of the terms used in the above guidelines:

a. See definitions under Policy 19 of "access" and "public lands or facilities".

b. A reduction in the existing level of public access includes, but is not limited to, the following:

(1) pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities;

(2) pedestrian access is diminished or blocked completely by public or private development.

c. An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:

(1) construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities;

(2) sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters;

(3) construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.

POLICY 21 **WATER-DEPENDENT AND WATER-ENHANCED RECREATION SHALL BE ENCOURAGED AND FACILITATED AND SHALL BE GIVEN PRIORITY OVER NON-WATER-RELATED USES ALONG THE COAST, PROVIDED THAT IT IS CONSISTENT WITH THE PRESERVATION AND ENHANCEMENT OF OTHER COASTAL RESOURCES, AND TAKES INTO ACCOUNT THE DEMAND FOR SUCH FACILITIES. IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING PUBLIC TRANSPORTATION SERVICES, AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.**

Explanation of Policy

In balancing competing interests, long-term safeguarding of irreplaceable natural coastal resources takes precedence over recreational activities which may threaten these resources. Existing recreational facilities within the Villages are adequate and occupy approximately 20% of their total land area. Expansion of any active recreational use, including marina or mooring

activities, south of the Long Beach spit into Stony Brook Harbor, or upstream of Short Beach into the Nissequogue River, could be detrimental to the preservation of coastal resources and habitats, and shall be carefully evaluated in terms of environmental impact and navigational safety. (See Policies 2,7,44)

POLICY 22 **DEVELOPMENT, WHEN LOCATED ADJACENT TO THE SHORE, SHALL PROVIDE FOR WATER-RELATED RECREATION, AS A MULTIPLE USE, WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN THE LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES, AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.**

Explanation of Policy

In the Villages of Nissequogue and Head-of-the-Harbor, areas adjacent to the shore are zoned for low-density residential use; public and quasi-public institutional uses are allowed. Consequently, the types of allowed development which generally can provide water-related recreation as a multiple use are limited. If, as a result of development approval, there is the opportunity to provide water-related recreation, such water-related recreation shall be limited to passive recreation such as walking trails, nature observation areas and overlooks, in order to safeguard the habitat, scenic and environmental resources of the Nissequogue River and Stony Brook Harbor. In addition, approving agencies shall work with the developer to secure access to these sites for Village residents at large.

Appropriate recreational uses which do not require any substantial additional construction shall be provided at the expense of the project sponsor provided the cost does not exceed 2% of total project cost.

In determining whether there are compelling reasons which would make recreation as multiple use inadvisable, safety considerations should reflect a recognition that some risk is acceptable in the use of recreational facilities.

(See Policy 5)

HISTORIC AND SCENIC RESOURCES POLICIES

POLICY 23 **PROTECT, ENHANCE, AND RESTORE STRUCTURES, DISTRICTS, AREAS, OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHAEOLOGY, OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.**

Explanation of Policy

The Villages of Head-of-the-Harbor and Nissequogue are rich in structures, districts, areas and sites of significance in the history, architecture, archaeology and culture of the State, the local communities, and of the Nation.

The locality was settled in the mid-17th century; structures dating back as far as 1680 still exist, as well as numerous 18th and early 19th century houses, barns, and other farm buildings, some of which are recorded in the paintings of William Sidney Mount (1807-1868).

The following three National Register Districts along Route 25A have been certified in the Village of Head-of-the-Harbor: the North Country Road District, the Mills Pond District and the St. James District; Box Hill, located on Moriches Road, (the summer home of architect Stanford White), is listed as an individual landmark on the National and State Registers of Historic Places. Certification is expected for a thematic National Register District (Stony Brook Harbor Estate Houses (ca. 1689-1926)), which embraces the harborside of both Villages.

Lists of structures and sites of local significance, many of which are eligible for nomination to the National Register, have been compiled by Town and Village historians. There are 64 structures and sites in the Village of Nissequogue and over 100 in the Village of Head-of-the-Harbor. The Inventory and Analysis contains a listing of these National Register and locally significant architectural resources.

There are important archaeological sites in both Villages, showing substantial aboriginal population. In the Village of Head-of-the-Harbor, an Indian assembly area has been found at the extreme southern end of the Harbor. The Village of Nissequogue has the highest concentration of inhabited sites, stretching from the bluffs overlooking Smithtown Bay to James Creek Cove, the largest late archaic village complex on Long Island.

Given the high concentration of significant archaeological sites within the Villages of Nissequogue and Head-of-the-Harbor, public agencies shall contact the NYS Office of Parks, Recreation and Historic Preservation to determine appropriate protective measures to be incorporated into development decisions. These resources shall be protected to the greatest degree practicable.

Boards of Architectural Review have been established in both Villages to further the goal of preserving the rural character, natural beauty and significant architectural heritage of the Villages by ensuring that alterations, demolition, and new construction do not impair the visual and historic heritage of the Villages. Standards relating specifically to siting, design and construction of new structures or to alteration of structures not listed as being of local significance in the Inventory and Analysis are noted in Policy 25. Standards relating specifically to the alteration, demolition, removal, or relocation of structures within a National Register Historic District or considered of local historical significance and listed in the Inventory and Analysis are:

1) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose in keeping with the zoning regulations of each Village.

2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature shall be avoided when possible.

3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.

4) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and the significance shall be recognized and respected.

5) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.

6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

8) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

In undertaking direct actions or funding activities, public agencies must also use any techniques, measures or controls to prevent a significant adverse change to significant structures, districts, areas or sites. A significant adverse change includes, but is not limited to:

1) Alteration of, or addition to, one or more of the architectural,structural, ornamental, or functional features of a building, structure, or site that is a recognized historic, cultural, or archaeological resource, or component thereof.

Such features are defined as encompassing the style and general arrangement of the exterior of a structure or any original or historically significant interior features including type, color and texture of building materials; entry ways and doors; fenestration; lighting fixtures; roofing, sculpture and carving; steps; rails; fencing; windows; vents and other openings; grillwork; signs; canopies; and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topographical features, earthworks, paving and signs located on the designated resource property. (To the extent they are relevant, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be adhered to.)

2) Demolition or removal in full or part of a building, structure or earthworks that is a recognized historic, cultural, or archaeological resource or component thereof, to include all those features describe in (1) above plus any other appurtenant fixture associated with a building structure or earthwork.

3) All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archaeological resource and all actions within a historic district that would be incompatible with the objective of preserving the quality and integrity of the resource. Primary considerations to be used in making judgments about compatibility should focus on the visual and locational relationship between the proposed action and the special character of the historic, cultural, or archaeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design, material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping and related items of the proposed actions. Actions proposed for historic structures, districts, areas, and sites shall be undertaken in a manner that will result in the least destruction of visual amenities---with, for example, minimal removal of trees---and the greatest harmony with existing resources.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthwork, or component thereof, of a recognized historic, cultural, or archaeological resource which has been officially certified as being imminently dangerous to life or public health. Nor shall the policy be construed to prevent the ordinary maintenance, repair, or proper restoration, according to the U.S. Department of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, of any building, structure, site or earthwork, or component thereof of a recognized historic, cultural or archaeological resource which does not involve a significant adverse change to the resource, as defined above.

POLICY 24 **PREVENT IMPAIRMENT OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE, AS IDENTIFIED ON THE COASTAL AREA MAP. IMPAIRMENT SHALL INCLUDE: I) IRREVERSIBLE MODIFICATION OF GEOLOGIC FORMS, THE DESTRUCTION OR REMOVAL OF VEGETATION OR STRUCTURES WHENEVER THE GEOLOGICAL FORM, VEGETATION OR STRUCTURE ARE SIGNIFICANT TO THE SCENIC QUALITY OF AN IDENTIFIED RESOURCE; AND II) THE ADDITION OF STRUCTURES WHICH BECAUSE OF SITING OR SCALE WILL REDUCE IDENTIFIED VIEWS OR WHICH BECAUSE OF SCALE, FORM OR MATERIALS WILL DIMINISH THE SCENIC QUALITY OR AN IDENTIFIED RESOURCE.**

Explanation of Why Policy is Not Applicable

No scenic resources of statewide significance have as yet been identified and listed in the Villages of Head-of-the-Harbor or Nissequogue.

POLICY 25 **PROTECT, RESTORE, OR ENHANCE NATURAL OR MANMADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE BUT WHICH CONTRIBUTE TO THE OVERALL SCENIC QUALITY OF THE COASTAL AREA.**

Explanation of Policy

The coastal area of the Villages of Nissequogue and Head-of-the-Harbor includes natural and historic features which in total comprise a diverse scenic resource of high quality.

The topography of the coastal area creates not only opportunities for vistas but also provides backdrops of sloping, wooded hills which contrast with tidal flats, marshes and wetlands along Stony Brook Harbor and the Nissequogue River. On the northern boundary of the coastal area facing Smithtown Bay, the broad sweep of the Bay is fully visible from the Town beach on the Long Beach peninsula. Viewed from the beaches, the dramatic bluffs circling the Bay give it definition and create a vertical contrast to the flat expanses of beach and water. The bluffs along Smithtown Bay offer expansive vistas of the bay. Smithtown Bay is a protected area for swimming and boating. Porpoise Channel, the access to the Town and private marinas in Stony Brook Harbor, exits into Smithtown Bay. Consequently, views of the beaches and the bluffs from the water are important.

Stony Brook Harbor is framed on three sides by gentle, wooded slopes, beaches and wetland habitats. The mouth of the harbor is characterized by tidal flats, wetlands and Youngs Island-set in a somewhat meandering channel leading to Smithtown Bay. Marinas, a boat basin, and a 600 car parking lot are the principal man-made uses in this area. Viewed from the southern part of the harbor, this area is one of highly visible and intensive uses. While the marinas and boat

basin create some visual interest and color, the parking lot does detract from this scene. Small sailboats, windsurfers and other boats are active in the harbor and add not only color but movement to the scene. The views across the small enclosed area of Stony Brook Harbor from any point on its shoreline are unusual for tranquility, harmony, a blend of rural landscape background with a foreground of water and wetland marshes, and the unobtrusive but graceful presence of examples of architecture which are, in many cases, historic in nature as well as of high aesthetic quality.

The shoreline's irregular edges, marked by wetland vegetation, provides not only rich habitat areas, but also lends an ephemeral quality to the point where water blends into land. The tidal lands and wetland vegetation unifies the shoreline around the harbor.

The largely deciduous woodlands surrounding the harbor offer a sense of enclosure. The trees give strong vertical contrast to the horizontal plane of the water in the winter, and soften the topography when the leaves are out. The trees screen most of the structures around the harbor and soften the lines of those which are visible.

The residences surrounding the harbor, whether historic or more recent, are notable for their sensitive siting. There is a good relationship to topography, as well as subtle coloring, use of materials and shapes, which makes each contribute to the harmonious character of the harbor.

These attractive water views of Stony Brook Harbor are accessible from many points on Head-of-the-Harbor Village roads and landings, specifically Cordwood Path, Harbor Road and the four Village landings. Harbor views from the Village of Nissequogue include expansive views across Porpoise Channel toward the southern end of the Harbor.

The Nissequogue River corridor within the jurisdiction of the Village of Nissequogue offers a complex series of views ranging from isolated shady stretches to broad, quiet estuarine areas to dunes at its confluence with Long Island Sound. The lower reaches of the river are characterized by steep banks, broad floodplains and a high degree of vegetative cover. The river widens substantially to become a full fledged estuarine system. As the river widens, vegetative enclosure of views lessens. Steep slopes continue to occur and large tidal wetland areas predominate at the water's edge. At the mouth of the river, the visual characteristics are complex, with dunes, broad tidal marshes and high escarpments. The entire length of the river corridor in the Village is heavily wooded with few structures visible from the water. The area of most visible manmade intrusion is the parking area at Short Beach Town Park. The views of the river looking toward the Village are of a highly natural and undisturbed corridor. The Nissequogue River has been designated as a Scenic and Recreational River. Within the Village, the river is classified as a Recreational River.

Other landscape views, often including fine examples of historic architecture and gardens, are available from Village roads. In both Villages, roads can be characterized as narrow, winding country lanes. They are closely related to the topography. Wooded lands on both sides of the roads gives a sense of enclosure and opens up to more pastoral views of farm fields, open space

and garden settings for large historic houses. The Mill Pond and Grist Mill on Harbor Road are additional historic resources which add character to the scenic environment of Head-of-the-Harbor.

All these attributes are observable in any season, and the seasonal progression itself, in colors and emergent land shapes and wildlife population, is of great scenic interest. Stony Brook Harbor offers an overwhelming sense of naturalness, enclosure by woodlands, and diversity.

In order to preserve this rural character and the expansive views of Stony Brook Harbor, Smithtown Bay and the Mill Pond, the following siting and facility-related guidelines are to be used to achieve this policy. Specific development standards set forth in 6 NYCRR Part 666, Statewide Wild, Scenic and Recreational Rivers System Regulations, shall apply within the designated Recreational River boundary of the Village of Nissequogue.

Development guidelines pertaining to lands within the Villages of Head-of-the-Harbor and Nissequogue, outside of the designated Recreational River boundary, are as follows:

1) Structures, including roads, power lines and signs shall be sited back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore. In both Villages, all structures, other than docks, shall be located no closer to Stony Brook Harbor than one hundred (100) feet from mean high water or from the landward edge of a bluff. No structure, other than a dock, shall be located within one hundred (100) feet of the Stony Brook Mill Pond in the Village of Head-of-the-Harbor.

2) Structures shall be oriented to retain views, save open space and provide visual organization to a site.

3) Structures shall not exceed thirty-four (34) feet in height as measured from the finished grade to the highest point on the roof for flat roofs, to the deck line for mansard roofs, and to mean height between eaves and ridge for gable, hip and gambrel roofs. Accessory structures shall not exceed eighteen (18) feet in height.

   The overall site topography and vegetative density and type shall be retained and maintained to the maximum extent during and after site development.

4) The maximum ground floor area of a residential structure shall not exceed 2000 square feet per two (2) acres. The maximum ground floor area may be exceeded provided that for each five hundred (500) square feet of additional ground floor area, an additional one-half acre is added to the required minimum lot size.

5) No trees or other vegetation shall be removed from any public place unless the Board of Architectural Review has determined that the visual values of the area will not be adversely affected or that suitable mitigation shall be provided.

6) Removal or destruction of trees and other vegetative cover on private property shall not exceed twenty-five percent (25%) of the total vegetative cover on the property nor shall any tree or other vegetation be removed within twenty-five (25) feet of any property line without the review and expressed approval of the Village.

7) If open land without roadside trees is developed, trees at least two (2) inches in diameter and of a similar type to trees in the immediate vicinity, shall be planted along the Village road within ten (10) feet of the Village right-of-way to maintain the rural character of the Village.

8) The mass, shape, color, reflective qualities, and texture of materials to be used in a structure shall be a harmonious complement to adjacent properties, the overall site topography and vegetative composition from roads, water or opposite shoreline.

9) In the Long Beach Town Park, the Town of Smithtown is encouraged to provide native dune environment vegetation around the perimeter of parking lots to filter runoff and to screen cars.

10) In the Long Beach Town Park, the Town of Smithtown is encouraged to use natural materials for bollards, tire stops, lighting standards, trash receptacles and structure sidings. In addition, structures should be sensitively designed in terms of materials, colors and building mass and sited in relationship to the topography. Signage should be controlled and minimized in terms of size and number of signs. Use of natural materials and creative graphics is encouraged.

11) Wherever they occur, degrading or deteriorated elements, either man-made or vegetative, should be removed, screened or otherwise mitigated.

12) Historic structures and landscapes shall be retained, if practicable, as an important component of the visual environment.

In addition to the above guidelines, the following development standards, drawn from 6 NYCRR 666, shall apply within the designated Recreational River boundary of the Nissequogue River within the Village of Nissequogue:

1) If required under Part 666, all persons shall obtain a rivers system permit prior to any land development, as defined in Part 666.

2) New structures other than fences, poles, docks, bridges, water access parking areas, boat launching sites, and agricultural use structures shall be constructed beyond either:

a. the limit of the 100 year flood plain as determined by the federal insurance administrator pursuant to the national flood insurance program; or

b. one hundred fifty (150) feet from the mean high water mark, whichever distance is greater.

3) New structures constructed within five hundred (500) feet of the mean high water mark of the river except fences, poles, docks, bridges, fishermen parking areas, boat launching sites, and agricultural use structures shall be screened by vegetation or topographic features from the view of persons who may on the river.

No new structure shall exceed thirty-four (34) feet in height as measured from the lowest point of grade elevation of the structure to the highest point of the structure, except for utility poles (see 6 NYCRR Part 666.3).

4) New structures shall be designed and developed in such a manner as to prevent significant erosion or direct runoff to the river.

5) Bridges spanning the Nissequogue River are not permitted on land within the jurisdiction of the Village of Nissequogue.

6) Any new dock, boat launching site, or water access parking area shall not impede the natural flow of the river, and shall be so designed and developed as to minimize its intrusion, if any, into the river.

7) Residential lots shall be at least two (2) acres, and if the lot fronts on the river, the shoreline frontage shall be at least two hundred (200) feet.

8) No new public or private road shall be located inside or within five hundred (500) feet of the mean high water mark.

9) If there is no other vehicular access to a new or existing land use or development, a new private road may be allowed with a permit only if the road is not open to the general public, if it is located at all points at least as far from the river as the land use or development to which it will provide access, and if it is not located inside or within one hundred (100) feet of the mean high water mark.

10) Any new public or private road or trail and any new bridge associated with such road or trial, and running generally parallel to and not spanning the river, shall be located, designed and constructed to minimize its visibility from the river, to minimize alteration of the environment and avoid undue adverse environment

impact, and shall be effectively restricted to those uses specified, by the person undertaking the action.

11) Any bridge associated with a new trial (not spanning the river) shall be constructed of naturally occurring materials such as wood and stone, to the extent feasible.

12) River crossings by public utilities shall be located only where impacts to the scenic qualities of the river are minimized and, to the extent feasible, shall be confined to those points where crossings already exist. In no case shall such crossings be closer than two (2) miles.

13) All structures connected with a utility use shall be located, designed and constructed to avoid adverse environmental impact and to minimize visibility from the river and from other parts of the river area.

14) Forestry practices, including the harvesting of a forest woodland or plantation or other types of cuttings planned as part of a deliberate forest management program, and support structures such as roads, skidways and logging landings are prohibited in the Village of Nissequogue. Conservation practices, including removal of diseased, dead or rotten trees or other vegetation that pose a safety or health hazard, may be undertaken in a responsible manner inside or within one hundred (100) feet of the mean high water.

15) Selected and dispersed cutting of vegetation shall be allowed to the extent necessary to create a view of the river from any new structure or from any lawfully existing structure lacking such a view, where cutting would cause no undue adverse environmental impact, particularly with respect to the stability of the river bank and the aesthetic character of the river shoreline and where adequate screening of the structures from the view of persons who may be on the river is provided and maintained. Trees to be removed shall not, however, exceed eight (8) inches in diameter unless their removal has been approved by the Village Planning Board. Trees removed shall not exceed 25% of the tree cover on a parcel and no healthy tree shall be removed within 25 feet of a property line without permission from the Village.

(See Policies 7,11,14,23,44)

POLICY 26 **TO CONSERVE AND PROTECT AGRICULTURAL LANDS IN THE STATE'S COASTAL AREA, AN ACTION SHALL NOT RESULT IN LOSS, NOR IMPAIR THE PRODUCTIVITY, OF IMPORTANT AGRICULTURAL LANDS, AS IDENTIFIED ON THE COASTAL AREA MAP, IF THAT LOSS OR IMPAIRMENT WOULD**

ADVERSELY AFFECT THE VIABILITY OF AGRICULTURE IN AN AGRICULTURAL DISTRICT OR IF THERE IS NO AGRICULTURAL DISTRICT, IN AN AREA SURROUNDING SUCH LANDS.

Explanation of Policy

Nearly 216 acres or 13% of the Village of Head-of-the-Harbor and 88 acres or 4% of the Village of Nissequogue are classified as active agricultural land. Land under cultivation in the two Villages is unique and often prime, agricultural soil. Horse farms predominate in the Village of Nissequogue, while there are vegetable growers in the Village of Head-of-the-Harbor. The Perry Farm, between State Route 25A and Shep Jones Lane in the Village of Head-of-the-Harbor, is preserved under the Suffolk County Farmland Preservation Program. There are no agricultural districts or lands under individual commitment pursuant to Article 25AA of the Agriculture and Markets Law.

Development pressures and high market values for land have been the primary cause of the decreasing agricultural acreage in both Villages. The agricultural land which remains benefits the Villages as sources of open space, as reminders of their agricultural history, and as producers of fresh crops and animal services which directly benefit the local residents and economy.

In order to encourage the retention of and the active farming of the remaining agricultural land the following development standards shall apply wherever possible:

1) Within the Village of Head-of-the-Harbor:

   a. Active and prime agricultural soils are environmentally significant areas. On parcels of at least ten (10) acres which are part of an active farm, the siting of residential development in a manner to promote the retention of open space shall be preferred and encouraged. Land in the Suffolk County Preservation Program, in conservation or other easements, or under forms of reservation shall not be included when calculating the density yield of the parcel.

   b. Any portion of a parcel to be reserved for continued agricultural use shall be that part most suited for agriculture in terms of soil capability, slope, proximity to roads, and configuration for efficient farm production, the determination to be made in consultation with the Suffolk County Cooperative Extension and the Soil Conservation Service.

   c. Where separate agricultural parcels abut, or are in close proximity, development proposals shall be designed so that a contiguous, efficient agricultural parcel results, or movement of machinery is minimized.

d. Landscape buffering shall be required at the periphery of the residential use area abutting the agricultural use parcel to minimize disruption of both land uses.

2) Within the Village of Head-of-the-Harbor and the Village of Nissequogue:

a. No person shall cut fences, dump trash, garbage or waste material, destroy field crops or produce, harass farm animals or otherwise interfere with a farm business.

b. Prior to issuance of subdivision approval, involved public agencies and the property owner shall consult with private foundations, land trusts and organizations and the Suffolk County Farmland Preservation Program to ensure that all efforts to maintain the entire parcel in agricultural production have been explored and that no option other than subdivision and partial conversion remains. In order to make this consultation requirement less burdensome on the applicant, the Villages shall identify appropriate organizations and establish potential acquisition scenarios for existing agricultural lands.

ENERGY AND ICE MANAGEMENT POLICIES

POLICY 27 **DECISIONS ON THE SITING AND CONSTRUCTION OF MAJOR ENERGY FACILITIES IN THE COASTAL AREA WILL BE BASED ON PUBLIC ENERGY NEEDS, COMPATIBILITY OF SUCH FACILITIES WITH THE ENVIRONMENT, AND THE FACILITY'S NEED FOR A SHOREFRONT LOCATION.**

Explanation of Policy

Demand for energy in New York will increase, although at a rate slower than previously predicted. The State expects to meet these energy demands through a combination of conservation measures; traditional and alternative technologies; and use of various fuels, including coal, in greater proportion.

A determination of public need for energy is the first step in the process for siting any new facilities. The directives for determining this need are set forth in the New York State Energy Law. With respect to transmission lines and steam electric generating facilities, Articles VII and VIII of the State's Public Service Law require additional forecasts and establish the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront location. The policies derived from the siting regulations under these Articles are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization and Coastal Resources Act.

That Act is used for the purposes of ensuring consistency with the State Coastal Management Program and this Local Waterfront Revitalization Program.

In consultation with the Villages of Head-of-the-Harbor and Nissequogue, the Department of State will comment on the State Energy Office policies and planning reports as may exist; present testimony for the record during relevant certification proceedings under Articles VII and VIII of the PSL; and use the State SEQRA and DOS regulations to ensure that decisions on other proposed energy facilities (other than transmission facilities and steam electric generating plants) which would impact the waterfront area are made consistent with the policies and purposes of the Villages of Head-of-the-Harbor and Nissequogue Local Waterfront Revitalization Program.

The siting and construction of major energy facilities in the Villages of Head-of-the-Harbor and Nissequogue is impracticable and inappropriate given the topography, difficult access and shallow waters; the low intensity residential use of all Village areas, and the Villages' character and physical sensitivity to development constraints. The construction of major energy facilities in the Villages would cause irreversible harm to the Village waterfront areas of Stony Brook Harbor, the Nissequogue River, or Smithtown Bay.

POLICY 28 **ICE MANAGEMENT PRACTICES SHALL NOT DAMAGE SIGNIFICANT FISH AND WILDLIFE AND THEIR HABITATS, INCREASE SHORELINE EROSION OR FLOODING, OR INTERFERE WITH THE PRODUCTION OF HYDROELECTRIC POWER.**

Explanation of Why Policy is Not Applicable

Ice management is not currently undertaken in the coastal area of the Villages of Head-of-the-Harbor and Nissequogue.

POLICY 29 **ENCOURAGE THE DEVELOPMENT OF ENERGY RESOURCES ON THE OUTER CONTINENTAL SHELF, IN LAKE ERIE AND IN OTHER WATER BODIES, AND ENSURE THE ENVIRONMENTAL SAFETY OF SUCH ACTIVITIES.**

Explanation of Policy

The Villages of Nissequogue and Head-of-the-Harbor concur with this policy and encourage development of indigenous energy sources in those areas where it is environmentally safe and appropriate.

WATER AND AIR RESOURCES POLICIES

POLICY 30 **MUNICIPAL, INDUSTRIAL, AND COMMERCIAL DISCHARGE OF POLLUTANTS, INCLUDING BUT NOT LIMITED TO, TOXIC AND HAZARDOUS SUBSTANCES, INTO COASTAL WATERS WILL CONFORM TO STATE AND NATIONAL WATER QUALITY STANDARDS.**

Explanation of Policy

Municipal, industrial and commercial discharges include not only "end-of-the-pipe" discharges into surface and groundwater but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the State's waterways.

POLICY 31 **STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVER-BURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.**

Explanation of Policy

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217) the State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment. The Nissequogue River is presently classified as an SC waterbody and is closed to shellfishing due to E. coli contamination from stormwater runoff. Stony Brook Harbor is at present classified as an SA waterbody, suitable for shellfishing in designated sections.

The goal of the Villages' Local Waterfront Revitalization Program is to maintain the quality of Stony Brook Harbor by controlling runoff, sedimentation and waste discharge from vessels. Consequently, the SA classification should be maintained.

Runoff control standards, provision of adequate pumpout facilities, and boater education will help to improve the quality of the Nissequogue River.

POLICY 32 **ENCOURAGE THE USE OF ALTERNATIVE OR INNOVATIVE SANITARY WASTE SYSTEMS IN SMALL COMMUNITIES WHERE THE COSTS OF CONVENTIONAL FACILITIES ARE**

UNREASONABLY HIGH, GIVEN THE SIZE OF THE EXISTING TAX BASE OF THESE COMMUNITIES.

Explanation of Policy

Alternative systems include individual septic tanks and other subsurface disposal systems, dual systems, small systems serving clusters of households or commercial users, and pressure or vacuum sewers. These types of systems are often more cost effective in smaller less densely populated communities and for which conventional facilities are too expensive.

There is no sewerage system within the Villages. All waste disposal systems are privately owned on-site cesspools and septic tanks which are approved by the Suffolk County Department of Health.

The Villages recognize that such sanitary systems are potential sources of ground and surface water pollution, however, they lack the authority to approve innovative systems. Currently, no innovative systems are approved for use within Suffolk County. The Villages will urge the County to explore suitable alternative systems for coastal communities.

The Villages will request the Suffolk County Department of Health to schedule periodic inspections of existing septic systems and cesspools to ensure that they are functioning to the highest level to reduce the potential for contamination of water supplies and habitats.

POLICY 33 **BEST MANAGEMENT PRACTICES SHALL BE USED TO ENSURE THE CONTROL OF STORMWATER RUNOFF AND COMBINED SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.**

Explanation of Policy

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and combined sewer overflows. At present, structural approaches to controlling stormwater runoff (e.g., construction of retention basins) and combined sewer overflows (e.g., replacement of combined system with separate sanitary and stormwater collection systems) are not economically feasible. Proposed amendments to the Clean Water Act, however, will authorize funding to address combined sewer overflows in areas where they create severe water quality impacts. Until funding for such projects becomes available, non-structural approaches, such as improved street cleaning and reduced use of road salt, will be encouraged.

The following guidelines and techniques shall be used in managing stormwater runoff in the Villages of Head-of-the-Harbor and Nissequogue in order to prevent degradation of the coastal waters and landscape:

1) There shall be no direct discharge of stormwater runoff to surface waters, marshes, and wetlands. Stormwater pollutants shall be attenuated by using holding ponds, sedimentation basins, perimeter berming, vegetated buffer areas and other measures that reduce flow velocity and increase storage time. Water discharge from these systems shall be of acceptable quality before discharge into wetlands and surface waters. In addition, any filtering devices constructed as part of the drainage system must be adequately maintained in order to function properly.

2) During the construction period, disposal of stormwater runoff generated by development activity shall be handled on-site. Baling, mulching, use of fibrous cover materials or similar measures shall be used to contain soil erosion on the site.

3) All projects, regardless of the area of groundcover removal and/or grading, shall retain a natural vegetative buffer zone along waterbodies, including wetlands and marshes, which will confine visible siltation to the 25% of the buffer zone nearest to any land disturbing activity. If necessary, other forms of erosion control measures will also be included.

4) Natural land features such as shallow depressions shall be used, wherever possible, to collect stormwater on-site for recharge. Under no circumstances however shall such a feature be used if subsurface conditions cause a stagnate pool to develop.

5) Site designs shall reduce impermeable paving.

6) Reconstruction of Village roads shall result in stabilized road shoulders which eliminate or mitigate current erosion problems. To the maximum extent practicable, vegetation shall be used as a stabilizer and method of filtering and slowing stormwater flow from road surfaces.

7) The use of de-icing salts on roads shall be reduced.

(See Policies 7,14,37,44)

POLICY 34 **DISCHARGE OF WASTE MATERIALS INTO COASTAL WATERS FROM VESSELS WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS, AND WATER SUPPLY AREAS.**

Explanation of Policy

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the State's waters is regulated. Priority will be given to enforcement in areas such as shellfish beds and other significant habitats, beaches, and public water supply intakes, which need protection from contamination by vessel wastes. Specific effluent standards for marine toilets have been established in the Clean Water Act of 1977 (33 USCA 1322) and is enforced by the U.S. Coast Guard.

Due to the sensitivity of the Nissequogue River and Stony Brook Harbor as habitats and recreation areas and to the physical constraints which prevent adequate flushing, it is critical that discharge or dumping of any material be prohibited. The Towns of Smithtown and Brookhaven are encouraged to install or require installation of adequate pumpout facilities. Pumpout facilities shall be required of private marinas under the jurisdiction of the Villages without delay. Violations of Federal waste discharge regulations are increasing in frequency and noticeability with the result that shellfish beds in the coastal waters of Head-of-the-Harbor and Nissequogue are closed for harvesting.

(See Policies 6,7,31,44)

POLICY 35 **DREDGING AND DREDGE SPOIL DISPOSAL IN COASTAL WATERS WILL BE UNDERTAKEN IN A MANNER THAT MEETS EXISTING STATE DREDGING PERMIT REQUIREMENTS, AND PROTECTS SIGNIFICANT FISH AND WILDLIFE HABITATS, SCENIC RESOURCES, NATURAL PROTECTIVE FEATURES, IMPORTANT AGRICULTURAL LANDS, AND WETLANDS.**

POLICY 35A **NO DREDGING SHALL OCCUR WITHOUT A COMPREHENSIVE DREDGING PLAN BASED UPON DETAILED HYDRAULIC AND ENVIRONMENTAL ANALYSIS.**

POLICY 35B **DREDGE SPOIL DISPOSAL SHALL BE UNDERTAKEN IN A MANNER WHICH DOES NOT RESULT IN THE INTRODUCTION OR REINTRODUCTION OF DREDGED MATERIAL INTO STONY BROOK HARBOR OR THE NISSEQUOGUE RIVER.**

Explanation of Policy

In Stony Brook Harbor and the Nissequogue River, the need for dredging is limited because navigational needs do not extend beyond recreational boats reaching existing marinas. The 1977 Suffolk County Regional Marine Resources Council Dredging Advisory Committee excluded Stony Brook Harbor inlet from consideration for dredging. Past dredging activities have resulted in adverse environmental impacts including disruption of habitats, changes in tidal range, and accelerated siltation, especially at the head of Stony Brook Harbor, and destruction of wetlands.

The Villages of Nissequogue and Head-of-the-Harbor joined New York State, Suffolk County and the Sea Grant Institute in financing the development of a predictive model to test the impact of dredging proposals on Stony Brook Harbor. Future dredging projects reviewed, approved, funded or undertaken by New York State, the Town of Smithtown, the Town of Brookhaven or Suffolk County should be undertaken in a manner consistent with a comprehensive dredging plan based on this jointly-financed predictive model. A similar predictive model should be developed for the Nissequogue River.

The comprehensive dredging plan shall be premised on maintaining a balance among environmental quality, social and cultural values, and economic uses. In order to fully evaluate the impacts of proposed dredging options, and to minimize and mitigate adverse effects, the dredging plan shall incorporate the predictive model developed by the Marine Sciences Research Center, SUNY - Stony Brook, and described in "Prediction of Tidal Hydraulics and Sediment Transport Patterns in Stony Brook Harbor", Moon-Jin Park, August 1985. In addition, the dredging plan shall incorporate a limitation on boat drafts and the use of bathymetric surveys as means of minimizing large-scale dredging and its adverse effects.

The dredging plan should also minimize the duration and frequency of dredging. It should minimize the changes in tidal range. It should also minimize impacts away from areas needed for boat access to existing marinas which are being dredged.

There is a one-third rate of return of dredge material to Stony Brook Harbor resulting from improper disposal on wetlands and on Young's Island. Any future disposal of dredge material shall not be located on wetlands within the ownership or jurisdiction of either Village. Dredge spoil disposal shall not occur on Young's Island or on other lands bordering Stony Brook Harbor. Appropriate disposal methods shall be contained in the dredging plan.

Within the Village of Nissequogue, no dredged material shall be deposited in a manner which causes it to be reintroduced into the Nissequogue River or causes erosion and sloughing of the receiving land.

Use of the dredged material which is of suitable quality and characteristics for beach nourishment is encouraged, provided it does not hasten the need for redredging.

(See Policy 15)

POLICY 36 **ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS; ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE THE CLEAN-UP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGE WILL BE REQUIRED WHEN THESE SPILLS OCCUR.**

Explanation of Policy

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Section 27-0901 (3)) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed. The list of DEC defined hazardous wastes is provided in 6 NYCRR Part 371.

Commercial and industrial uses which would involve the manufacture, storage or shipment of petroleum and hazardous wastes are prohibited by the respective zoning laws of the Villages of Head-of-the-Harbor and Nissequogue.

Delivery of domestic fuel oil done in a workmanlike manner is not deemed to pose a threat to coastal waters.

Increasing use of diesel fuel in marinas can cause water quality problems if not stored and transferred properly.

POLICY 37 **BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-POINT DISCHARGE OF EXCESS NUTRIENTS, ORGANICS, AND ERODED SOILS INTO COASTAL WATERS.**

Explanation of Policy

Best management practices used to reduce these sources of pollution could include, but are not limited to, encouraging organic gardening and pest management in reference to chemical fertilizers and pesticides; soil erosion control; surface drainage control; and erosion control practices on construction projects as described under Policies 14 and 33.

In residential areas such sources of pollution are usually connected with lawn and garden maintenance. The use of pesticides, herbicides and organic compounds which can degrade surface and groundwater quality will be discouraged through public education programs and by encouraging the use of landscape materials which are native to Long Island. (See Policies 5,7,8,14 & 23)

POLICY 38 **THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUND WATER SUPPLIES WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE SUCH WATERS**

CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.

Explanation of Policy

Surface and groundwater are the principal sources of drinking water in the State, and therefore must be protected. Since Long Island's groundwater supply has been designated a sole source aquifer, all actions must be reviewed relative to their impacts on Long Island's groundwater aquifers.

The Villages of Head-of-the-Harbor and Nissequogue, by exercising a policy of low density zoning, and of strict control over the siting of structures, have established practices of conservation and protection of groundwater supplies. As nearly all the domestic water supplies in the Villages are derived from private wells, the need for such conservation practices is self-evident. Therefore, the current (1 and 2 acre) minimum lot size specified in the zoning ordinances of both Villages will be retained.

Neither Head-of-the-Harbor nor Nissequogue has a municipal sewerage system. However, the likelihood of pollution of coastal waters due to septic system leachate is mitigated by the large minimum lot size, prohibition against location of any part of an individual waste disposal system within 150 feet of mean high water or within 150 feet of any non-tidal waterbody, and prohibition against locating a septic system in areas having a seasonal high water table of less than three (3) feet.

(See Policies 5,7,8,11,14,23,37,44)

POLICY 39 **THE TRANSPORT, STORAGE, TREATMENT AND DISPOSAL OF SOLID WASTES, PARTICULARLY HAZARDOUS WASTES, WITHIN COASTAL AREAS WILL BE CONDUCTED IN SUCH A MANNER SO AS TO PROTECT GROUNDWATER AND SURFACE WATER SUPPLIES, SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATION AREAS, IMPORTANT AGRICULTURAL LANDS AND SCENIC RESOURCES.**

Explanation of Policy

The definitions of terms "solid waste" and "solid waste management facilities" are taken from New York's Solid Waste Management Act (Environmental Conservation Law, Article 27). Solid wastes include sludges from air or water pollution control facilities, demolition and construction debris and industrial and commercial wastes.

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, "waste is defined in Environmental Conservation Law (Section 27-0901 (3)) as waste or combination of wastes which

because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes is contained in 6 NYCRR 371.

Examples of solid waste management facilities include resource recovery facilities, sanitary landfills and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

Facilities for the handling, storage, treatment and disposal of solid wastes are currently prohibited under the zoning regulations or other applicable local laws of the Villages of Nissequogue and Head-of-the-Harbor. Local regulations shall not be amended to introduce such uses.

Transshipment of wastes through the Villages will be undertaken in a manner which complies with applicable County and State laws.

(See Policies 1,5,7,8,25,38,44)

POLICY 40 **EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING AND INDUSTRIAL FACILITIES INTO COASTAL WATERS WILL NOT BE UNDULY INJURIOUS TO FISH AND WILDLIFE AND SHALL CONFORM TO STATE WATER QUALITY STANDARDS.**

Explanation of Policy

The State Board on Electric Generation Siting and the Environment must consider a number of factors when reviewing a proposed site for facility construction. One of these factors is that the facility "not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the State, the public health, and public enjoyment of the receiving waters." The effects of thermal discharges on water quality and aquatic organisms will be considered by the siting board when evaluating an applicant's request to construct a new steam electric generating facility.

POLICY 41 **LAND USE OR DEVELOPMENT IN THE COASTAL AREA WILL NOT CAUSE NATIONAL OR STATE AIR QUALITY STANDARDS TO BE VIOLATED.**

Explanation of Policy

New York's Coastal Management Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean Air Act and State Laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

To the extent possible, the State Implementation Plan will be consistent with coastal lands and water use policies. Conversely, coastal management guidelines and program decisions with regard to land and water use and any recommendations with regard to specific sites for major new or expanded industrial, energy, transportation, or commercial facilities will reflect an assessment of their compliance with the air quality requirements of the State Implementation Plan.

The Department of Environmental Conservation will allocate substantial resources to develop a regulatory and management program to identify and eliminate toxic discharges into the atmosphere. The State's Coastal Management Program will assist in coordinating major toxic control programming efforts in the coastal regions and in supporting research on the multi-media nature of toxics and their economic and environmental effects on coastal resources.

POLICY 42 **COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF THE STATE RECLASSIFIES LAND AREAS PURSUANT TO THE PREVENTION OF SIGNIFICANT DETERIORATION REGULATIONS OF THE FEDERAL CLEAN AIR ACT.**

Explanation of Policy

The policies of the State and the Villages' Local Waterfront Revitalization Program concerning proposed land and water uses and the protection and preservation of special management areas will be taken into account prior to any action to change prevention of significant deterioration land classifications in coastal regions or adjacent areas. In addition, the Department of State will provide the Department of Environmental Conservation with recommendations for proposed prevention of significant deterioration land classification designations based upon State and local coastal management programs.

POLICY 43 **LAND USE OR DEVELOPMENT IN THE COASTAL AREA MUST NOT CAUSE THE GENERATION OF SIGNIFICANT AMOUNTS OF THE ACID RAIN PRECURSORS: NITRATES AND SULFATES.**

Explanation of Policy

The New York Coastal Management Program incorporates the State's policies on acid rain. As such, the Coastal Management Program will assist in the State's efforts to control acid rain.

These efforts to control acid rain will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

POLICY 44 **PRESERVE AND PROTECT TIDAL AND FRESHWATER WETLANDS AND PRESERVE THE BENEFITS DERIVED FROM THESE AREAS.**

POLICY 44A **PROTECT AND PRESERVE LOCALLY IMPORTANT FRESHWATER WETLANDS NOT UNDER STATE PROTECTION FROM DEVELOPMENT OR ENCROACHMENT.**

POLICY 44B **THE LOCATION AND CONSTRUCTION OF DOCKS AND PIERS SHALL MINIMIZE DISTURBANCE OF TIDAL WETLANDS AND HABITATS.**

POLICY 44C **BOAT TRAFFIC IN WATERS ADJACENT TO TIDAL WETLANDS SHALL NOT RESULT IN DISTURBANCE TO OR DESTRUCTION OF WILDLIFE HABITATS.**

Explanation of Policy

Tidal wetlands include the following ecological zones: coastal fresh marsh; intertidal marsh; coastal shoals, bars and flats; littoral zone; high marsh or salt meadow; and formerly connected tidal wetlands. These tidal wetland areas are officially delineated on the Department of Environmental Conservation's Tidal Wetlands Inventory Map.

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semi-aquatic vegetation and other wetlands so defined in the N.Y.S. Freshwater Wetlands Act and the N.Y.S. Protection of Waters Act.

The benefits derived from the preservation of tidal and freshwater wetlands include, but are not limited to :

- habitat for wildlife and fish, including a substantial portion of the State's commercial fin and shellfish varieties; and contribution to associated aquatic food chains;
- erosion, flood and storm control;
- natural pollution treatment;
- groundwater protection;
- recreational opportunities;
- educational and scientific opportunities; and
- aesthetic open space in many otherwise densely developed areas.

In evaluating development proposals within or adjacent to tidal or freshwater wetlands, the following standards and criteria shall be applied:

1) Stormwater runoff shall not be directly discharged into wetlands.

2) All wetland vegetation shall be maintained. Dredging and site construction should not disturb tidal wetlands either by direct removal of vegetation or substrate, or by the alteration of adjacent slopes that would undermine the stability of the substrate.

3) Subsurface sediments shall be maintained to provide structural support for the soils of the wetlands.

4) The elevation of the wetland shall not be altered.

5) Pollutants shall not be discharged into wetlands.

6) No wetland buffer zone vegetation shall be disturbed by grading, erosion, sedimentation, or direct removal of vegetation. This wetland buffer zone extends a minimum of 100 feet from the upland boundary of a tidal wetland, or within 100 feet from the boundary of a freshwater wetland.

7) There shall be no construction within 100 feet of the upland boundary of a freshwater or marine wetland. This includes the introduction or impervious surfaces, roads, utility equipment, etc. An exception is made for a private dock, provided no other opportunity for water access exists on the lot, except through wetlands.

8) If bulkheading is required for filled land or for soil stabilization adjacent to a wetland, the bulkhead should be located upland from the wetland above the highest yearly tide level elevation. Bulkheads should not block the surface and subsurface flow of freshwater to the wetland.

9) No material shall be deposited onto a wetland.

10) No part of a septic system shall be located within one-hundred-fifty (150) feet of a wetland.

(See Policies 7,11,13,14,19,21,33,35,37)