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DEVELOPMENT POLICIES

Policy 1 Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.

Policy 1A Redevelop the former Continental Can site for residential uses.

This policy applies to that area depicted on Map 3A. Its intent is to focus capital resources on the redevelopment of the former Continental Can site into a quality waterfront residential community. The area is within a former designated urban renewal area and the City has approved a developer and corresponding site plan for 168 residential units on the 26 acre site. Bids have been let for infrastructure improvements and project completion is targeted for 1987.

The following guidelines will be used to review actions for consistency with this policy as it pertains to any future development of the River Edge site.

1. When an action is proposed to take place on the former Continental Can site, the following guidelines will be used.
 - a. Priority should be given to uses which are enhanced or dependent on a location adjacent to the water;
 - b. The action should enhance existing and anticipated uses. For example, a new highway should be designed and constructed as to serve the potential access needs for desirable residential/commercial development.
 - c. The action should serve as a catalyst to private investment in the area;

- d. The action should improve the deteriorated condition of a site and, at a minimum must not cause further deterioration. For example, a building could not be abandoned without protecting it against vandalism and/or structural decline;
- e. The action must lead to development which is compatible with the character of the area, with consideration given to scale, architectural style, density, and intensity of use;
- f. The action should have the potential to improve the existing economic base of the community, and, at a minimum,, must not jeopardize this base. For example, waterfront development meant to serve consumer needs would be inappropriate in an area where no increased consumer demands were expected and existing development was already meeting demand;
- g. The action should improve adjacent and upland views of the water, and at a minimum, must not affect these views in an insensitive manner;
- h. The action should have the potential to improve the possibilities for multiple uses on the site.

If an action is proposed to take place outside of the areas covered by this policy, and is either within the City of Tonawanda or adjacent coastal communities the agency proposing the action must first determine if it is feasible to take the action within the area covered by this policy. If such an action is feasible, the agency should give strong consideration to taking the action in that area. If not feasible, the agency must take the appropriate steps to ensure that the action does not cause deterioration of that area covered by this policy.

Policy 2 Facilitate the siting of water dependent uses and facilities on or adjacent to coastal waters.

Policy 2A Maintain water dependent recreational facilities at Niawanda Park, Riverwalk, and Barge Canal corridor.

More than half of the City of Tonawanda's waterfront is occupied by public parkland. Boat launching, fishing, strolling, and observation of aquatic competitions such as power-boat races are among the more popular public pursuits. Th City will continue to maintain and expand water-dependent and water-enhanced recreational uses, and construction of a small park at the Niagara River/Barge Canal junction will be undertaken as a component of the Riverwalk project.

1. The following uses and facilities are considered as water dependent at waterfront parkland.
 - a. Recreational activities which depend on access to the Niagara River or Barge Canal (for example: swimming, fishing, boating, wildlife vieweing).
 - b. Structures needed for flood and erosion protection purposes (for example: breakwater, bulkheads)
 - c. Facilties needed to store and service boats (e.g. marinas)
 - d. Support facilities which are necessary for the successful functioning of permitted water dependent uses (e.g. parking lots, snack bars, first aid stations, short term storage facilities). Though these uses must be near the given water dependent use they should, as much as possible be sited inland from the water dependent uses rather than on the shore.

If there is no immediate demand for a water dependent use along the City's waterfront parkland and a future demand is reasonably foreseeable, temporary passive recreational use will be considered.

In the actual choice of sites along the City's waterfront public parkland where water dependent uses will be encouraged and facilitated, the following guidelines shall be used.

1. Competition for space -- competition for space or the potential for it, should be indicated before any given site is promoted for water dependent uses. The intent is to match water dependent uses with suitable locations and thereby reduce any conflicts between competing uses that might arise. Not just any site suitable for development should be chosen as a water dependent use area. The choice of a site should be made with some meaningful impact on the real estate market anticipated. The anticipated impact could either be one of increased protection to existing water dependent activities or else the encouragement of water dependent development.
2. In-place facilities and services -- most water dependent uses, if they are to function effectively, will require basic public facilities and services. In selecting appropriate areas for water dependent uses, consideration should be given to the following factors:
 - a. The availability of public sewers, public water lines and adequate power supply;
 - b. Access to public transportation, if a high number of person trips are to be generated.

3. Access to navigational channels -- if recreational boating is planned, consideration should be given to setting aside a site, within the Barge Canal, from which access to adequately sized navigation channels would be assured.
4. Compatibility with adjacent uses and the protection of other coastal resources -- water dependent uses should be located so that they enhance, or at least do not detract from, the surrounding community. Consideration should also be given to such factors as the protection of nearby residential areas from odors, noise and traffic. Affirmative approaches should also be employed so that water dependent uses and adjacent uses can serve to complement one another.
5. Providing for expansion -- a primary objective of the policy is to create a process by which water dependent uses can be accommodated well into the future. State agencies and localities should therefore give consideration to long-term space needs and, where practicable, accommodate future demand by identifying more land than is needed in the near future.
6. Preference to underutilized sites - the promotion of water-dependent uses should serve to foster development as a result of the capital programming, permit expediting, and other government actions that will be used to promote the site. Nowhere is such a stimulus needed more than in those portions of the State's waterfront areas which are currently underutilized.

Policy 3

The State Coastal Policy regarding major ports is not applicable to the City of Tonawanda.

Policy 4

The State Coastal Policy regarding smaller harbor areas is not applicable to the City of Tonawanda.

Policy 5 Encourage the location of development in areas where public services and facilities essential to such development are adequate, except when such development has special functional requirements or other characteristics which necessitates its location in other coastal areas.

The City of Tonawanda is an area of concentrated development where infrastructure and public services are generally adequate to support future land uses and development, as specified in the proposed uses and proposed projects for waterfront area (see Section IV).

Policy 6 Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

The confusion, time delay, and costs associated with the issuance of permits required from all government levels prior to approval of waterfront development is not conducive to attracting public or private investment along the shoreline. The City of Tonawanda will utilize existing laws to ensure compliance with the City waterfront program, and for those new regulations will coordinate and combine review periods as well as public hearing requirements to the maximum extent possible.

For specific types of development activities and in areas suitable for such development, local, State and federal agencies will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, as long as the integrity of the regulations' objectives are not jeopardized. These procedures and programs will be coordinated within one agency. Also, efforts will be made to ensure that each agencies' procedures and programs are synchronized with other

agencies' procedures at each level of government. Finally, regulatory programs and procedures will be coordinated and 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 regulation's objectives.

FISH AND WILDLIFE POLICIES

Policy 7 Significant coastal fish and wildlife habitats shall be protected, preserved, and where practicable, restored so as to maintain their viability as habitats.

The State Coastal Policy regarding the protection of significant coastal fish and wildlife habitats is not applicable to Tonawanda.

Policy 8 Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effects on these resources.

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 Environmental Conservation Law (Sec. 27-0901 (3)). Waste is defined 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, stored, transported, disposed or otherwise managed." A list of hazardous wastes have been adopted by DEC.

(6 NYCRR Part 371).

The handling (storage, transport, treatment and disposal) of the materials included on this list is being strictly regulated in New York State to prevent their entry or introduction into the environment, particularly into the City's air, land and waters. Such controls should effectively minimize possible contamination of and bio-accumulation in the City's coastal fish and 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.

Policy 9 Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, 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 on them.

The educational and recreational value of coastal areas having a significant concentration of fish resources is of extreme importance to the general public. This is especially important in the Upper Niagara River. The latter represents a high quality fishing spot within close proximity to City residential neighborhoods. The combination of these factors presents a unique opportunity for public enjoyment.

This policy applies to the Upper Niagara River and Barge Canal offshore from the City.

Any efforts to increase recreational use of these resources will be made in a manner which ensures the protection of fish and wildlife resources and which takes into consideration other activities dependent on these resources. Also, 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 City agencies as they determine the consistency of their proposed action with the above policy.

1. Consideration should be made by federal, State and City agencies as to whether an action will impede existing or future utilization of the City'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 impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the habitat area.
3. The impacts of increasing access to recreational fish and wildlife resources should be determined on a case-by-case basis, and/or conferring with a trained fish and wildlife biologist.
4. Any public or private sector initiatives to supplement existing stocks (e.g., stocking the River or Barge Canal with fish reared in a hatchery) or develop new resources (e.g., creating private fee-fishing facilities) must be done in accord with existing State law.

Policy 10 The State Coastal Policy regarding commercial fishing is not applicable to the City of Tonawanda.

Policy 11 Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

This policy applies to those areas identified as Flood Hazard Areas and Floodways, as described in Chapter E. 'Flooding and Erosion' of the Inventory and Analysis Section. The erosion aspects of this policy are not applicable, since there are no identified Coastal Erosion Hazard Areas within the City of Tonawanda waterfront area.

Guidelines for determining an actions consistency with this policy are as follows.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
3. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
4. All new and replacement water supply shall be designed to minimize or eliminate infiltration of flood waters into the system.
5. New and replacement 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.

6. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
7. All subdivision proposals shall be consistent with the need to minimize flood damage.
8. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
9. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
10. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contains at least (50) lots of five (5) acres (whichever is less).

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section III or IV of the City Flood Damage Prevention Ordinance, the following standards are required:

1. New construction and substantial improvements of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
2. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or together with attendant utility and sanitary facilities, shall:

- a. be floodproofed so that below the base level the structure is watertight with walls substantially impermeable to the passage of water;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

Located within areas of special flood hazard established in Section III of the City's Flood Damage Prevention Ordinance are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If Section IV of the City's Flood Damage Prevention Ordinance is satisfied, all new construction and substantial improvements shall comply with applicable flood hazard reduction provisions of Section VI of the same City Ordinance.

Policy 12 The State Coastal Policy regarding protection of beaches, dunes, and bluffs is not applicable to the City of Tonawanda.

Policy 13 The construction or reconstruction of erosion protection structures shall be undertaken only if there is 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

The reconstruction of the riverwall adjacent to the former Continental Can site will be developed in such a manner as to ensure a probability of erosion control for 30 years as demonstrated in engineering standards for the reconstruction work.

This policy applies only to the riverwall which borders the River Edge development. This is an area of local erosion concern but does not have statewide significance. The present wall extends approximately 3,000 ft. along the Niagara River and Barge Canal. The City will undertake necessary maintenance improvements to the wall as needed. It will be subjected to the 30 year maintenance test which will be outlined in future construction performance standards that will be unique to this job. The 30 year test will also require certification by a licensed NYS structural engineer.

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 such activities or development, or at other locations.

Erosion and flooding are processes which occur naturally. However, by his actions, man 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 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 run-off and the erosion and weakening of shorelands; and the placing of

structures in identified floodways so that the base flood level is increased causing damage in otherwise hazard-free areas.

See explanation for policy 11.

Policy 15 The State Coastal policy regarding dredging and its interference with the supply of beach materials is not applicable to Tonawanda.

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 areas 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.

Public funds are used for a variety of purposes on the State's shorelines. This policy recognizes the public need for the protection of human life and existing investment in 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 Whenever 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 floodproofing of buildings or their elevation above the base flood level.

Policy 17A

The City of Tonawanda shall maintain the local erosion hazard areas in Niawanda Park and adjacent to the River Edge development (50' inland) in public ownership to minimize damage to property from flooding and erosion.

This policy recognizes both the potential adverse impacts of flooding and erosion upon development in the coastal area, as well as the costs of protection against those hazards which structural resources entail.

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 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 the policy would require the use of such measures, whenever possible.

In determining whether or not non-structural measures to protect against erosion or flooding will afford the degree of protection appropriate, an analysis, and if necessary, other materials such as plans and sketches of the activity or development, of the site and of the alternative protection measures should be prepared to allow an assessment to be made. Within Flood Hazard Areas, non-structural measures should include, but are not limited to, the following measures:

1. Avoidance or damage from flooding by the siting of buildings outside the hazard area.
2. Flood-proofing of buildings, or their elevation above the base flood level.

See Policy 11.

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.

Proposed major actions may be undertaken in the coastal area if they will not significantly impair valuable coastal waters and resources, thus frustrating the achievement of the purposes of the safeguards which the State has established to protect those waters and resources. Proposed actions must take into account the social, economic and environmental interests of the State and its citizens in such matters that would affect natural resources, water levels and flows, shoreline damage, hydro-electric power generation, and recreation.

PUBLIC ACCESS POLICIES

Policy 19 Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities so that these resources and facilities may be fully utilized by the public 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

Protect, and maintain the level and type of access to Niawanda Park, Veteran's Park, Riverwalk and City owned property adjacent to the Barge Canal, including the transient boat docking facilities at the mouth of Ellicott Creek with the Barge Canal.

The City of Tonawanda is fortunate to have 70% of their shoreline in public ownership. All lands are presently or soon will be developed as water related recreational resources.

The following guidelines shall be used by City, State and Federal agencies in determining the consistency of proposed actions which may affect access to Niawanda Park, Veteran's Park, Riverwalk, City-owned and State-owned property adjacent to the Barge Canal, and other public water-related recreation resources.

1. The existing access from adjacent or proximate 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 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 of the need to meet systematic objectives.

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

- 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 - Niawanda Park, Veteran's Park, Riverwalk, City and State owned property adjacent to the Barge Canal (See Map 6).
- c. Public lands or facilities - lands or facilities held by State or City in fee simple or less-than-fee simple ownership and to which the public has access or could have access, 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 systemwide 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 Niagara Frontier Transportation Authority having jurisdiction over such fares determines that such substantial fare increases are necessary, and/or that such increases will significantly reduce usage by individuals or families and incomes below the State government 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, of 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 the following factors:

- a. 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 the 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 or facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
3. The State 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; outside the defined Urban Area but not served by public transportation; outside the defined Urban Area boundary and 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 should be retained in public ownership.

Publicly owned lands immediately adjacent to the water's edge are identified in Section II.K., Public Access and Recreation, and are shown on Map 6. While such land shall be retained in

public ownership, traditional sale of easements on underwater lands to adjacent onshore property owners is consistent with this policy, provided such easements, do not substantially interfere with continued public use of the public lands on which the easement is granted. Also public use of such publicly owned underwater lands and lands immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety, military security, or protection of fragile coastal resources.

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

1. (See definitions under Policy 19 for "access," and "public lands or facilities").
2. A reduction in the existing level of public access - includes but is not limited to the following:
 - a. 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.
 - b. Pedestrian access is diminished or blocked completely by public or private development.
3. An elimination of the possibility of increasing public access in the future - includes but is not limited to the following:
 - a. 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.

- b. Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and or waters.
 - c. 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.
4. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated.
- a. A reduction in the existing level of public access includes but is not limited to the following:
 - 1) Access is reduced or eliminated because of hazardous crossing required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
 - 2) Access is reduced or blocked completely by any public developments.
5. 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 or private association agrees to accept responsibility for maintenance and liability of the accessway.

6. The State or federal 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.
7. Proposals for increased public access to the coastal lands and waters shall be analyzed according to the following factors:
 - a. 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 the 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. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
8. While such publicly-owned lands referenced in the policy shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent on shore property owners are consistent with this policy, provided such easements do not substantially interfere with continued public use of the public lands on which the easement is granted. Also, public use of such publicly-owned underwater lands and lands immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety, military security, or the protection of fragile coastal resources.

See Policy 19.

RECREATION POLICIES

Policy 21 Water dependent and water enhanced recreation will be encouraged and facilitated, and will be given priority over non-water related uses along the coast, provided it is consistent with the preservation and enhancement of other coastal resources and takes into account 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.

Policy 21A Water dependent and water enhanced recreation will be facilitated in Niawanda Park, Riverwalk and City owned property adjacent to the Barge Canal.

In Niawanda Park public walkways for scenic viewing and fishing platforms presently exist. These will be maintained as key activities within the Park. An additional fishing platform/erosion control structure is in the conceptual design stage. The City of Tonawanda has retained a 50' strip of land on the former Continental Can property for Riverwalk purposes. An easement has been granted to Erie County for development of a Riverwalk within the above Right of Way which is immediately adjacent to the River and Barge Canal. A scenic overlook and fishing area is part of the overall design. Maintenance and development of these facilities will be guaranteed through an execution of a maintenance agreement and easement transfer between the two government units. The City will continue development of the transient docking facilities at the mouth of

Ellicott Creek. This provides berthing space for recreational boaters traveling the Barge Canal system and wishing to eat or shop at City facilities.

All water recreational areas in the City are accessible by public transit. Daily bus service is available along Delaware Ave. in the City, thereby servicing the Barge Canal corridor with easy access to the Riverwalk. Approximately 60% of all City residents lie within a one mile radius of the line. The line runs approximately twice an hour.

Policy 22 Development, when located adjacent to the shore, will provide for water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.

Policy 22A Residential development of the former Continental Can Site (ie. River Edge) will provide for water related recreation.

Many developments present practical opportunities for providing recreation facilities as an additional use of the site or facility. Therefore, whenever developments are located adjacent to the shore they should, to the fullest extent permitted by existing law, provide for some form of water-related recreation use unless there are compelling reasons why any form of such recreation would not be compatible with the development, or a reasonable demand for public use cannot be foreseen.

The City of Tonawanda as part of their negotiations with developers of the residential complex on the former Continental Can site, have made land accommodations for development of the Riverwalk on the waterside edge of the project.

Other types of development which can generally provide water-related recreation as a multiple use include but are not limited to:

- parks
- highways
- utility transmission rights of way
- sewage treatment facilities
- large residential subdivisions (50 units)
- shopping centers
- office buildings

Prior to taking action relative to any development in the City, State agencies should consult with the State Office of Parks, Recreation and Historic Preservation, and with the City to determine appropriate recreation uses. The agency should provide OPRHP and the City with the opportunity to participate in project planning.

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

Whenever a proposed development would be consistent with LWRP policies and the development could, through the provision of recreation and other multiple uses, significantly increase public access to the shore, then such development should be encouraged to locate adjacent to the shore.

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, City of Tonawanda, or the nation.

Policy 23A Protect, enhance and restore the archaeologically significant site at the confluence of the Niagara River and Barge Canal in the City of Tonawanda.

Policy 23B Protect and enhance the historic qualities of the Long Homestead.

The area, approximately located on the former Continental Can site, which is being developed for residential use has been identified on the State Department of Education's inventory of archaeological sites. Two significant archaeological sites are known to exist in that area or in proximity to it.

The following activities on the site shall be subject to all federal and State regulations pertinent to the protection of archaeologically significant sites.

- o Alteration of the topographical features or earthworks of the site.
- o Demolition or removal in full or part of a building, structure, or earthworks.

Policy 23B pertains to the Long Homestead, located at the confluence of the Barge Canal with Ellicott Creek. It is the oldest building in the City. The structure is publicly owned and maintained and is open for public viewing. The City will retain ownership and therefore commit necessary public funds for its maintenance.

Prior to undertaking major construction activities in the identified areas of potential archaeological significance, anyone proposing such activity shall consult with the State Historic Preservation Office to determine whether significant archaeological resources are present at the site and what measures are necessary to preserve these resources. All practicable means shall be used to preserve significant archaeological resources.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthwork, or component thereof which has been officially certified as being imminently dangerous to life or public health.

Policy 24 The State Coastal Policy regarding scenic resources of statewide significance is not applicable to the City of Tonawanda.

Policy 25 Protect, restore, or enhance natural and manmade resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.

Policy 25A Protect and enhance the scenic qualities of the confluence of the Niagara River with the Barge Canal and those views prevelant along Niagara Street adjacent to Niawanda Park and East Niagara St. adjacent to the Barge Canal.

The location of the City adjacent to the Upper Niagara River and Barge Canal requires a commitment to ensure the visibility of the River and Canal to area residents. The River and Canal are public resources whose scenic quality must be preserved and utilized.

The recreational boating traffic, sunsets, and scenic vistas of the Town of Grand Island and City of North Tonawanda visible offshore from the area between the Niagara River and Barge Canal has local significance. The City of Tonawanda shall maintain public ownership of the Riverwalk right of way and ensure the development of a scenic overlook at the point of confluence. This assurance shall occur during easement negotiations with the County of Erie.

The following siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly. Guidelines include:

- siting structures and other development such as highways, power lines, and signs, back from shoreline or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore;
- clustering or orienting structures to retain views, save open space and provide visual organization to a development;
- incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
- removing deteriorated and/or degrading elements;
- maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing creates views of coastal waters;

- using appropriate materials, in addition to vegetation, to screen unattractive elements;
- using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

AGRICULTURAL LANDS POLICY

Policy 26 The State Coastal Policy regarding agricultural lands is not applicable to the City of Tonawanda.

ENERGY AND ICE MANAGEMENT

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.

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 contained primarily in Article 5 of the New York State Energy Law. That Article requires the preparation of a State Energy Master Plan. 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 Coastal Management Program.

The Department of State will comment on the State Energy Master Plan; present testimony for the record during relevant certification proceedings under Articles VII and VIII of the PSL; and use the State SEQR 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 coastal area are made consistent with coastal policies.

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 hydro-electric power.

Prior to undertaking actions required for ice management, an assessment must be made of the potential effects of such actions upon the production of hydroelectric power, fish and wildlife and their habitats in the Upper Niagara River offshore of the City of Tonawanda, flood levels and damage, and rates of shoreline erosion damage.

Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented.

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.

The State recognizes the need to develop new indigenous energy sources. It also recognizes that such development may endanger the environment. Among the various energy sources being examined are those which may be found on the Outer Continental Shelf (OCS), in Lake Erie or in other water bodies. The State encourages the wise development of off-shore energy resources in a manner that will ensure the environmental safety of such activities, protect important resources, and protect public water supplies.

WATER AND AIR RESOURCES POLICY

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 standard.

Municipal, industrial and commercial discharge 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 the Niagara River Barge Canal, Ellicott Creek and Two Mile Creek and those which pass through municipal treatment systems before reaching the State's waterways.

The City and Town of Tonawanda will undertake regular maintenance at its sewage treatment plant to ensure the proper maintenance.

Policy 31 State coastal area policies and purposes of approved Local Waterfront Revitalization Programs will be considered while reviewing coastal water classification and while modifying water quality standards; however those waters already overburdened with contaminants will be recognized as being a development constraint.

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 City of Tonawanda Waterfront Revitalization Program and State coastal management policies shall be factored into the review process for coastal waters in the City. However, such consideration shall not affect any water pollution control requirement established by the State pursuant to the Federal Clean Water Act.

The existing water quality classifications in the City of Tonawanda shore area should be maintained.

Policy 32 The State Coastal Policy regarding alternative or innovative sanitary waste systems is not applicable to the City of Tonawanda.

Policy 33 Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.

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, may 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 (e.g., improved street cleaning , reduced use of road salt) will be used in the City. It should be noted that the recent improvements to the City sewage collection system had a positive effect on the reduction of combined sewer overflows.

Policy 34 Discharge of waste materials into coastal waters from vessels will be limited so as to protect significant fish and wildlife habitats, recreation areas and water supply areas.

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 the enforcement of this Law in significant habitats and public water supply intakes, which need protection from contamination by vessel wastes. Also, specific effluent standards for marina toilets have been promulgated by the Department of Environmental Conservation (6NYCRR, Part 657).

The City of Tonawanda shall require pumpout facilities at new marinas.

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 resource and wetlands.

State dredging permits will be granted if it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to levels which satisfy State dredging permit standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15, 24, 25 and 34).

Dredging often proves to be essential for waterfront revitalization and development, maintaining navigation channels at sufficient depths, pollutant removal and meeting other coastal management needs. Such dredging projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands and other important coastal resources. Often these adverse affects can be minimized through careful design and timing of the dredging operation and proper siting of the dredge spoil disposal site.

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 cleanup of such discharges; and restitution for damages will be required when these spills occur.

See Policy 39 for definition of hazardous materials. All activities within the City of Tonawanda waterfront which are subject to this policy shall comply with all State and federal regulations.

Policy 37 Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.

See Policy 33.

Policy 38

The quality and quantity of surface water and groundwater supplies, will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

Surface water is the source of drinking water in the City of Tonawanda and therefore must be protected. The City waterfront area is serviced by a high technology water treatment and sanitary sewer system and all commercial and industrial discharges are regulated by State and federal law.

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 surface water supplies, recreation areas, and scenic resources.

The definition of terms "solid wastes" 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 serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment which is

improperly treated, stored, transported or otherwise managed." A list of hazardous wastes (NYCRR Part 366) will be adopted by DEC within 6 months after EPA formally adopts its list.

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.

Storage of solid and hazardous wastes is not permitted in the City of Tonawanda waterfront. Also see policy 36.

Policy 40 The State Coastal Policy regarding effluent discharges from major steam electric generating facilities and industrial facilities is not applicable to the City of Tonawanda.

Policy 41 Land Use or development in the coastal area will not cause National or State air quality standards to be violated.

The City's Local Waterfront Revitalization 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 quality control requirements applicable within the coastal area.

Policy 42 Coastal Management policies will be considered if the State reclassifies land pursuant to the prevention of significant deterioration regulations of the Federal Clean Air Act.

The policies of the State and local coastal management programs 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 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.

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 those areas.

Policy 44A Preserve and protect the freshwater wetland located in the Two Mile Creek open space corridor.

A freshwater wetland of 12.4 acres or greater is located in the City of Tonawanda coastal zone. This is illustrated on Map 5.

The benefits derived from the preservation of this wetland include but are not limited to:

- erosion, flood and storm control
- natural pollution treatment
- groundwater protection

- recreational opportunities
- educational and scientific opportunities; and
- aesthetic open space in an otherwise densely developed area

The City of Tonawanda shall maintain the portion of Two Mile Creek wetland in Veteran's Park in public ownership. All development activities proposed for the wetland are subject to permitting regulations outlined in the regulations associated with the New York State Freshwater Wetlands Act, Environmental Conservation Law Article 24. The small portion of the wetland extending onto private property will also be subject to the State permitting requirements.