

SECTION III - Waterfront Revitalization Program Policies

Development Policies

Policy 1

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

Policy 1A

Revitalize the waterfront area between the northern limit of the Erie County water authority property to the southern limit of the county-owned isle view park for a mix of uses, with an emphasis on water-dependent and water-related uses on the shoreline.

Policy 1B

Wherever feasible, consolidate industrial operations to maximize public access.

The waterfront region in the Town of Tonawanda is in a period of transition. The area has a strong industrial heritage, but it is increasingly focused on waterfront recreational and scenic purposes. The Riverwalk, Isle View Park, Niawanda Park, Veteran's Park, Fireman's Park, Aqua Lane Park, the Town Boat Launch and the Two- Mile Creek Greenway are some of the recreational assets in or near the Town's waterfront region. These amenities have increased public access and open space in the region, and are helping to change the character of the area. Former environmental concerns have largely been addressed.

The area is ready for redevelopment in a new context—one that recognizes the importance of industrial and commercial uses, but that also increasingly accommodates recreational use, public access to the waterfront and the aesthetic potential of the area.

The Southern Sector of the Tonawanda waterfront is essentially fully developed in active uses. Redevelopment is not likely to occur in this sector for the foreseeable future. The Central and Northern Sectors of the Tonawanda waterfront do contain vacant and underutilized parcels which offer important opportunities for redevelopment. The appropriate revitalization of the once-dynamic waterfront industrial corridor represents an effective means to regain the public's positive perception of their shoreline. It will also serve to increase the marketability of vacant, underutilized sites by improving land use compatibility, the visual environment, and the economic potential of the area.

Water-dependent uses will be given priority for location immediately adjacent to the shoreline wherever feasible, with water-enhanced uses having secondary priority. For the upland portion of the waterfront revitalization area (east of River Road) water- enhanced and non-water-dependent uses are

allowable. All development within 500 feet of River Road will conform to design standards proposed in the River Road Overlay to minimize negative impacts and enhance the visual character of the area.

Water-dependent uses encouraged along the shoreline of the Central and the Northern Sectors include: recreational uses such as parklands, trails, docks, fishing facilities or picnic areas; marinas or yacht clubs; commercial excursion or fishing charter boat facilities; boatyard or boat storage facilities; and water-dependent industrial activities, such as water-intakes.

Water-enhanced uses appropriately included in the mix of allowed uses in the Northern Sector include support services to the water-based recreational assets in the area, such as small-scale retail operations, restaurants, visitor centers/ interpretative facilities, or lodging. Any development along the shoreline in the Northern Sector must be scaled to respect the physical and environmental limits of the site, as well as the aesthetic qualities of the waterfront.

In the Central Sector, which is more industrial in nature and where developable water-side parcels are larger, water-dependent or water-enhanced uses will receive priority and be encouraged, but a greater variety of uses may be allowed, including some light industrial uses and business offices.

Uses along the shoreline within the waterfront revitalization area boundaries shall be subject to the following standards:

1. The maximum building height for structures located west of River Road in the Northern Sector is 35 feet. Structures shall be located on a site in a manner that preserves views of the Niagara River from public roadways and lands.
2. All buildings, parking lots and outdoor storage areas shall be set back a minimum of 50 feet from the shoreline of the Niagara River, unless it is impracticable to do so. Trails, docks or piers, boat launch facilities, water- intake facilities, and structures associated with public park purposes may be located closer to the shoreline.
3. Landscaping shall be used to enhance the appearance of development, supply a visual break of the built environment and screen loading docks, storage areas and similar features.
4. Existing natural features and vegetation, including mature trees, shall be incorporated into site design to the maximum extent practicable.

In addition to the specific standards listed above, the following guidelines will be used to review actions for consistency with this policy:

1. The action should enhance existing and anticipated uses. For example, utility systems should be designed and constructed so as to serve the potential needs for desirable mixed use development (i.e. recreation, commercial, marina, residential, light industrial).
2. The action should serve as a catalyst to private investment in the area.

3. The action should improve the deteriorated condition of the sites 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.
4. The action must lead to development which is compatible with the future plans for the area, with consideration given to scale, architectural style, density, and intensity of use.
5. The action should have the potential to improve the existing economic base of the community and, at a minimum, must not jeopardize this base.
6. The action should improve adjacent and upland views of the water and, at a minimum, must not affect these views in an insensitive manner;
7. The action should have the potential to improve the possibilities for multiple uses on the sites.
8. The action should not have potential for depreciating the value of nearby sites and should be fully compatible with existing or future planned nearby uses.

If an action is proposed by a state or federal agency to take place outside of the areas covered by this policy, 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 undertaking 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 the waterfront area, or the County's Isle View Park.

Refer to Policies 2, 21, 22, 25, 37, Part IV, and Appendix A for additional standards and guidelines.

Policy 2

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

Within the Town of Tonawanda waterfront, there are many existing public and private water-dependent uses. These uses include marinas, water-intake facilities for industrial uses, the Huntley power station, and Town and County boat launch sites. There are also many water-enhanced uses, such as the River Walk and parks. The Town supports and encourages the continuation of these uses.

In addition to these specific uses, the following shall also be considered appropriate water-dependent uses for the Tonawanda waterfront:

1. Uses which depend on the utilization of resources found in coastal waters (for example: fishing, mining of sand and gravel);
2. Recreational activities which depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing);
3. Flood and erosion protection structures (for example: breakwaters, bulkheads);

4. Facilities needed to store and service boats and ships (e.g. marinas, boat repair, boat construction yards);
5. Industrial activities that depend upon access to coastal waters (for example: access to dockage, water for cooling)
6. Scientific/ educational activities which, by their nature, require access to coastal waters;
7. Support facilities which are necessary for the successful functioning of permitted water dependent uses (including parking lots, interpretive centers, parks, and snack bars.

In the northern sector of the waterfront, recreational uses and related support services shall be the preferred development type. Industrial and resource dependent uses are more appropriately located in the southern and southern portion of the central sector. The proposed zoning for the waterfront district will facilitate the siting of water-dependent uses along the shoreline, by allowing some these uses by right in appropriate locations.

The Town can benefit from facilitating the location and expansion of water-dependent uses in its waterfront. However, the large amount of vacant and available waterfront land does not warrant limiting allowable uses exclusively to water-dependent facilities. Water- dependent uses will be given priority on waterfront lands, but compatible water-enhanced and non-water-dependent uses will be permitted to locate in the waterfront area, in accordance with Policies 1 and 1A. Lands within the designated waterfront revitalization area that do not have waterfront access are not restricted to water-dependent or water- enhanced uses, but should be compatible in style and nature with surrounding uses.

The following standards shall apply to the siting of marinas within the Tonawanda waterfront:

1. Marinas shall be located and designed to minimize adverse impacts on coastal fish and wildlife habitats of local and statewide significance. They shall also be located to minimize adverse impacts on regulated freshwater wetlands.
2. Marinas shall be located in areas where minimum physical attributes required by marinas already exist and where minimal initial and subsequent maintenance dredging will be required. Such physical attributes include natural depths at or exceeding minimal navigable depths, low rates of sediment transport, and sufficient water movement to promote flushing.
3. Sites selected for new marinas shall contain adequate upland to accommodate associated facilities and accessory uses. Expansion of existing marinas is dependent upon the availability of adequate upland to accommodate the expansion.
4. Marinas shall be adequately landscaped to provide a park-like setting.
5. Pumpout facilities shall be provided in accordance with Policy 34.

6. Marinas shall be designed to maximize flushing to prevent possible accumulation of contaminants that could lower the quality of coastal waters.
7. New marinas must be sited and/or designed with adequate protection against boat wakes caused by existing boat traffic.
8. Marina design shall include provision for control of stormwater to prevent direct runoff from undeveloped portions of the site directly into coastal waters.
9. Marina design shall minimize interference with public use of underwater lands and the water surface.

The following standards shall apply to facilities providing boat maintenance service:

1. Boat maintenance activities, including washing, sanding, painting, draining bilge water, and servicing motors, shall not discharge waste water or other substances into any waterbody, nor shall any waste materials be disposed of in such a manner that they run over ground and into a waterbody.
2. Dismantled boats, engines, all parts or supplies, goods, materials, refuse, garbage, or debris shall be fully screened from view from public roads and from the waterside.

Refer to Policies 1, 19, 20, 21, 22, 37, Part IV, Proposed Land and Water Uses, and Appendix A, for additional standards.

Policy 3

The state coastal policy regarding the development of the state's major ports is not applicable to the Town of Tonawanda.

Policy 4

The state coastal policy regarding the strengthening of small harbors is not applicable to the Town 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 large scale investment of public funds for constructing sewer and water lines, as well as an efficient transportation network, requires a commitment by the Town to channel development into areas which can best accommodate the service needs of that development. This eliminates the future need of extending service areas into outlying regions, while foregoing the excess capacity of existing treatment plants, etc. The public is well served by a policy of infill development due to cost savings both in tax

dollars, as well as a reduction in fuel consumption. The latter occurs due to the proximity between work, home, and in the case of the waterfront, recreational areas.

The Town of Tonawanda waterfront area is fully serviced with adequate infrastructure to support the development called for by this LWRP. Proposed projects will be reviewed to ensure that existing system capacities will not be exceeded. Local, State, and federal agencies charged with allocating funds for improvements in water and sewer facilities should give high priority to the needs of the waterfront area, so that full advantage may be taken of the rich array of existing infrastructure components in promoting waterfront revitalization.

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 Town will utilize existing laws to ensure compliance with the LWRP. Where practicable, new regulations will coordinate and combine review periods and public hearing requirements to the maximum extent possible.

For specific types of development activities and in areas suitable for such development, Town, 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 and objectives are 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 coordinated and synchronized between levels of government and, if necessary, legislative and/or programmatic changes will be recommended.

When proposing new regulations, the Town 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.

Habitat protection is recognized as fundamental to assuring the survival of fish and wildlife populations. Certain habitats are critical to the maintenance of a given population and, therefore, merit special protection. Such habitats exhibit one or more of the following characteristics: (1) are essential to the

survival of a large portion of a particular fish or wildlife population (e.g. feeding grounds, nursery areas); (2) support populations of rare and endangered species; (3) are found at a very low frequency within a coastal regional; (4) support fish and wildlife populations having significant commercial and/or recreational value; and (5) would be difficult or impossible to replace.

A habitat impairment test must be met for any activity that is subject to consistency review under federal and state laws, or under the applicable local laws contained in an approved Local Waterfront Revitalization Program. If that proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific habitat impairment test that must be met is as follows:

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

- destroy the habitat; or,
- significantly impair the viability of a habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area, or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

Significant impairment is defined as reduction in vital resources (e.g. food, shelter, living space) or change in environmental conditions (e.g. temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include, but are not limited to, reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The **tolerance range** of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species' population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters, which should be considered in applying the habitat impairment test include:

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

2. Biological parameters, such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and
3. Chemical parameters, such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Significant coastal fish and wildlife habitats are evaluated, designated, and mapped pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42). The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas.

Policy 7A

The Strawberry Island-Motor Island habitat shall be protected, preserved, and where practicable, restored so as to maintain its viability as a habitat.

Any activity that would substantially degrade water quality in Strawberry Island - Motor Island Shallows could affect the biological productivity of this area. All species of fish and wildlife may be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Spills of oil or other hazardous substances are especially significant threats to waterfowl concentrations in this area. Disturbances of littoral areas or wetland vegetation at any time of year may affect a variety of fish and wildlife species. Dredging, filling, bulkheading, or development of boat launching facilities in this area could adversely affect fish and wildlife in a variety of ways, including direct loss of habitat, and increased human disturbance during fish spawning and nursery periods (April-July for most warm water species). Temporary habitat disturbances would also be especially detrimental during this period. However, habitat management activities may be necessary to ensure that this productive fish and wildlife area is not destroyed by erosion. Structural measures, if appropriate, should be designed to maintain or enhance the value of Strawberry Island - Motor Island Shallows without adversely affecting existing fish and wildlife resources. Thermal discharges, depending on time of year, may have variable effects on use of the area by aquatic species and wintering waterfowl.

Installation and operation of water intakes could have a significant impact on fish populations, through impingement of juveniles and adults, or entrainment of eggs and larval stages. Recreational use of Strawberry Island should be controlled to restrict activities that may increase soil erosion. (See Appendix E for a detailed description of this habitat.)

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 sub-lethal or lethal effect on those 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)) 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 has been adopted by DEC (6NYCRR Part 371).

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

Policy 9A

Expand recreational use of fish resources (i.e., fishing areas) offshore of the town's northern and southern sectors.

The educational and recreational value of coastal areas having a significant concentration of fish and wildlife resources is of extreme importance to the general public. This is important in the Strawberry Island area and Upper Niagara River areas offshore from the Southern and Northern sectors. The former represents a significant fish and wildlife habitat, while the latter areas are locally significant fishing areas. Both Southern and Northern sectors provide opportunities to catch yellow perch, walleye, and trout/ salmon.

Any efforts to increase recreation use of these resources will be made in a manner which ensures the protection of fish resources and which takes into consideration other activities dependent on this resource. Also, such efforts must be done in accordance with existing State and federal 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 town agencies as they determine the consistency of their proposed action with the above policy:

1. Consideration should be made by federal, State and Town agencies as to whether an action will impede existing or future utilization of the Strawberry Island - Motor Island Shallows.
2. Efforts to increase access to Strawberry Island - Motor Island Shallows 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 the Strawberry Island - Motor Island Shallows should be determined on a case-by-case basis, consulting the significant habitat narrative (see Policies 7 and 7A) 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 fish reared in a hatchery) or develop new resources (e.g. creating private fee-hunting or fee-fishing facilities) must be done in accord with existing State law.

See Policy 7.

Policy 10

The state coastal policy regarding the development of commercial fishing resources is not applicable to the Town of Tonawanda.

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 the endangering of human lives caused by flooding and erosion.

Policy 11A

Buildings and other structures within special flood hazard areas, including areas identified as special flood hazards on the flood insurance study maps filed for the Town of Tonawanda dated November 12, 1982, will be sited so as to minimize damage to property and human life.

Within the Town of Tonawanda waterfront area, the Niagara River flood hazard areas, or 100-year floodplains, have been designated on the official Flood Insurance Rate Maps dated November 12, 1982, prepared for the Town by the Federal Emergency Management Agency. The floodplain areas are shown in [Map 10](#).

There are no designated coastal erosion hazard areas within the Town's waterfront.

The public health and welfare is threatened by flooding, and there is a public interest in providing protection against flooding, which can result in significant public and private cost and endangerment of human life.

In the Tonawanda waterfront, any new development or substantial improvements shall be sited outside the flood hazard area, or shall be raised above the base floodplain level.

Any permitted uses built within the area designated as the 100-year floodplain shall be flood proof, according to the following guidelines:

A. Anchoring:

All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. Construction materials and methods:

1. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
2. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
3. Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least five (5) acres.

C. Subdivision proposals:

1. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
2. On-site waste disposal systems shall be located as to avoid impairment or contamination from flooding.

D. Specific standards:

In all areas within the waterfront revitalization area that are designated as special flood areas where the base flood elevation data have been provided as set forth in the Town's Flood Damage Prevention Law, the following standards are required:

1. **Residential construction:** In most areas within the waterfront revitalization area, residential housing is not an allowed use. If any new residential construction or substantial improvement of any residential structure were to occur within an area of special flood hazard in the waterfront revitalization area,

the lowest floor, including basement shall be elevated to or above the base flood elevation.

2. **Nonresidential construction:** 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 flood proof so that below the base flood 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;
 - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied.

Where human lives may be endangered by major lake storms, all necessary emergency preparedness measures shall be taken, including disaster preparedness planning. In response to a flood event or severe coastal storm, municipal and other agencies shall follow those procedures outlined in the Town's adopted Disaster Preparedness Plan.

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, and bluffs.

Policy 12A

Activities or development in the coastal area will be undertaken so as to prevent further damage to Strawberry Island - motor island shallows.

The nearshore area adjacent to Strawberry Island helps safeguard the island from increased erosion. Activities or development in the nearshore area, as well as activities on the island itself, must be done in a manner that prevents any endangerment to the continued viability of the island and Motor Island shallows as a natural habitat (see Policy 7) .

For the purposes of this policy, the nearshore area are those lands underwater beginning at the mean low water line off the island and extending waterward a distance in a direction perpendicular to the shoreline to a point where mean low water depth is 15 feet, or to a horizontal distance of 1,000 feet from the mean low water line, whichever is greater.

Guidelines for reviewing consistency of shoreline actions with this policy are as follows:

1. Excavating, mining or dredging which may cause erosion of the island is prohibited, except construction or maintenance of navigation channels, bypassing sand around any natural or man-made obstruction, artificial beach nourishment, and maintenance of Town water intake.
2. Clean sand or gravel of a compatible type and size is the only material which may be deposited within nearshore areas.

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

The construction of erosion protection structures at strawberry island shall be undertaken only if it has a reasonable probability of controlling erosion for at least 30 years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.

Erosion protection structures may be proposed for Strawberry Island by private interest groups or the federal and state governments. Due to the significance of Strawberry Island as a fish habitat and recreational resource it is imperative that any such structure be designed properly and utilize construction and maintenance standards which ensure their reliability. This policy will help ensure the reduction of such damage or loss which might occur from inadequate erosion structures at the island.

This policy applies to any structures specifically designed to reduce or prevent erosion on Strawberry Island, such as a groin, jetty, seawall, revetment, breakwater or artificial beach nourishment project. It also applies to any shoreline protection structure that is constructed at other locations within the Town's waterfront area.

Guidelines for evaluating an action's consistency with this policy are as follows:

1. The construction, modification, or restoration of erosion protection structures must:
 - a. Not be likely to cause a measurable increase in erosion at Strawberry Island or lands located at other waterfront locations in the Town's coastal zone.
 - b. Minimize, and if possible, prevent adverse effects upon the significant fish habitat on and around the island.
2. All erosion protection structures must be designed and constructed according to generally accepted engineering principles which have demonstrated success or, where sufficient data is not currently available, a likelihood of success in controlling long-term erosion. The protective measures must have a reasonable probability of controlling erosion on the immediate site for at least 30 years.

3. All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering, and other effects of storm conditions for a minimum of thirty (30) years. Individual component materials may have a working life of less than thirty (30) years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required thirty (30) years of erosion protection.

See Policies 7 and 14.

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 area.

See Policies 7, 11, 11A, 12, 12A, 13, 13A.

Policy 15

Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal 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.

Coastal processes, including the movement of beach materials by water, and any mining, excavation or dredging in nearshore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Such mining, excavation, and dredging should be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to such shorelands. Offshore mining is a future alternative option to land mining for sand and gravel deposits which are needed to support building and other industries.

See Policies 7, 12, 12A, and 14.

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.

Public funds are used for a variety of purposes on the Town's shoreline. 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 setback of buildings and structures; (ii) the planting of vegetation and the installation of sand fencing and drainage; (iii) the reshaping of bluffs; and (iv) the flood-proofing of buildings or their elevation above the base flood level.

POLICY 17A

Whenever possible utilize non-structural measures to minimize damage to property from flooding in those areas located in special flood hazard areas (i.e. 100 year flood plains). Such measures shall include the (1) installation of proper drainage measures and (2) the flood-proofing of buildings or their elevation above the base flood level.

This policy recognizes 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 measures entail.

This policy shall apply to the planning, siting, and design of proposed activities and development within special flood hazard areas, including measures to protect existing activities and development. These areas are shown in [Map 10](#). 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 the policy would require the use of such measures, whenever possible.

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

Within identified Flood Hazard Areas, non-structural measures shall include, but are not limited to, the following:

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

See Policy 11.

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.

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, Hydroelectric 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 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

Maintain the ease of public access to Aqua Lane Park, town boat launch, and Erie County Riverwalk.

Policy 19B

Increase access opportunities, wherever practical, at the Erie County isle view park, Strawberry Island, New York State Thruway Authority property under the grand island bridges, and the two mile creek corridor.

Within the Town's waterfront, there are important public recreational resources that provide opportunities for the public to reach and enjoy the Niagara River shoreline. These areas include: Aqua Lane Park, Erie County Riverwalk, Town Boat Launch, and Erie County's Isle View Park. Maintaining access to these recreation facilities is a primary concern of the Town. In addition, there are currently undeveloped publicly-held areas which have the potential to provide expanded riverfront access in the

future. These areas include Strawberry Island, the Two Mile Creek corridor, and New York State Thruway Authority property under the Grand Island Bridges. Ensuring that public access to these future sites is not precluded is also an important component of this policy.

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

1. The existing access from River Road, Aqua Lane, and NYS Thruway Authority Rights-of-Way to County Riverwalk, Aqua Lane Park, Town Boat Launch, and Erie County's Isle View Park shall not be reduced, nor shall the possibility of increasing access in the future from these thoroughfares to the above mentioned resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify 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.
2. Existing access points to future recreation areas along Two Mile Creek, the County's Isle View Park, Riverwalk, and the New York State Thruway Authority property under the Grand Island Bridge shall not be reduced or eliminated unless use of these resources is deemed unfeasible or too low to justify maintaining the access level.

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 lands or facilities - lands or facilities held by New York State, State Authority, or local government in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including underwater lands.
- c. 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) Pedestrian access to the public recreation resources listed above is not provided as River Road is improved.
 - (5) Vehicular access to parking areas serving the recreation areas listed in this policy is diminished or eliminated.
 - (6) There are substantial increases in 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 determines that such substantial fare increases are necessary; and/or admission fees to such a resource or facility, and an analysis showing that such increases will significantly reduce usage by individuals or families and incomes below the State government established poverty level.
- d. An elimination of the possibility of increasing public access in the future includes, but is not limited to, restricting the following:
- (1) Construction of public facilities (such as expansion of River Road) which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities (e.g. to the County's Isle View Park).
 - (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. An example includes the sale of excess New York State Thruway Authority property north of the Grand Island Bridges for use as a gasoline station, thereby diminishing access to the County's Riverwalk.
3. Any proposed project to increase public access to public water-related recreation resources and facilities, including the State-funded Riverwalk, 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 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.
4. The public agencies 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 to public water-related resources and facilities, public agencies shall give priority, in the following order, to projects located within (1) the Northern Sector, (2) the waterfront zoning district, and (3) the Southern Sector.

See Part IV, Proposed Land and Water Uses and Proposed Projects, and Appendix A, Waterfront Zoning Districts.

Policy 20

Access to the publicly-owned riverbank and to land immediately adjacent to the riverbank 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 land shall be retained in public ownership.

Policy 20A

Access to the edge of the Niagara River shall be provided off Aqua Lane Park, town boat launch, sections of County Riverwalk, county Isle View Park, and Strawberry Island.

New York State owned lands under the Niagara River are recognized as beginning at the last known natural location of the "ordinary high waterline" of the riverbank.

While such publicly-owned lands shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent onshore 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 land 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.

The following additional guideline will be used in determining the consistency of a proposed action 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 demonstrated to be of overriding regional or statewide public benefit, or in the latter case, estimates of future

use of these lands and waters are too low to justify maintaining or providing increased access.

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

- 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.
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:
 - a. Access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
 - b. 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 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 and Town 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.
6. Proposals for increased public access to 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.

See also Policies 1, 2, 7, 9, 19, 21 and 22, Section IV, Proposed Land and Water Uses and Proposed Projects, and Appendix A, Waterfront Zoning Districts.

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

Redevelop the cherry farm site for a mix of active and passive water-dependent and water-enhanced recreation uses.

Policy 21B

Develop a linear trail for passive recreation along Two Mile Creek.

The demand for additional marina, swimming and fishing facilities in the Town of Tonawanda and Erie County has been well documented in Town, County, and State reports. The public right to recreational use of the Niagara River's resources is important to realize and can be accomplished through the expansion, development, and improvements of public water-related recreation facilities along the Town's waterfront area. This includes the County Riverwalk and Isle View Park, as well as the Town Boat launch and Aqua Lane Park.

The Cherry Farm site is a 55-acre former landfill located in the Central Sector of the Tonawanda waterfront. The site offers excellent opportunities for creation of additional active and passive water-related recreation for the Town. Investigation and remediation of hazardous wastes is required prior to use of the site for recreation purposes, and this work is being undertaken in consultation with the NYS Department of Environmental Conservation. Appropriate recreational use of the site includes boat launch facilities, shoreline walkways, an interpretive center, a wetlands nature trail, a bandshell, and open space. Design of the site should be protective of the natural resources on the site and in the Niagara River adjacent to the site, and should take full advantage of views to the Niagara River.

Two Mile Creek flows through the northeastern extension of the Town's waterfront and into the City of Tonawanda, where it empties into the Niagara River. Within the City of Tonawanda, the creek is incorporated into a municipal park, and the City has proposed a linear trail along the creek. Provision will be made for continuation of the linear trail into the Town's waterfront, providing a continuous link to the Niagara River and to the Riverwalk.

Consistent with demand and the protection of other important coastal resources, water-related (dependent and enhanced) recreation uses shall have a higher priority than any non-water-related uses, including non-water-related recreation uses. Water-dependent recreation uses shall have a higher priority than water-enhanced uses, including water-enhanced recreation uses. Determining a priority among water-dependent uses will require a case-by-case analysis. (See Policy 2 for definitions and additional provisions concerning water-dependent uses.)

Any development of water-related recreational facilities or increase in recreational use must be consistent with the preservation and enhancement of other important coastal resources, such as fish and wildlife habitats, aesthetically significant areas, historic and cultural resources, and significant mineral and fossil deposits and their capacity to accommodate anticipated use. Boating facilities will, as appropriate, include parking, park-like surroundings, toilet facilities, and pumpout facilities.

Use of off-road recreational vehicles shall not be permitted on public lands covered by this policy.

See also Policies 1, 2, 9, 19, 20 and 22 and Section IV, Proposed Land and Water Uses.

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

Provide for multiple use of the town's water treatment plant for passive recreational use in association with aqua lane park and the County Riverwalk.

Policy 22B

Provide multiple use of land controlled by the New York State Thruway Authority for waterfront recreation access.

Policy 22C

Provide for multiple uses of appropriate sections of the town's sewage treatment plant which are deemed safe and environmentally compatible for a portion of the linear trail facility proposed for two mile creek.

Policy 22D

Provide, where practicable, for multiple use of aqua lane for the Riverwalk's linear trail facility.

Many developments present practical opportunities for providing recreation facilities as an additional use of the site or facility. Therefore, whenever developments are located along 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 types of development which can generally provide water-related recreation as a multiple use include, but are not limited to, the following:

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

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

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

Whenever a proposed development is compatible with the natural and built environments of the Town and consistent with the LWRP policies and the development could, through the provision of recreation and other multiple uses, significantly increase public use of the shore, then such development should be encouraged to locate adjacent to the shore.

The land controlled by the New York State Thruway Authority and owned by Erie County under the Grand Island Bridges offers ideal opportunities for passive recreational use. The Town shall initiate discussions with the Authority and Erie County to determine proper legal arrangements. The site contains the County Riverwalk , bridge abutments, and occupies 480 linear feet of river shoreline and includes approximately 7 acres.

See Part IV, Proposed Land and Water Uses and Proposed Projects, and Appendices A and B.

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.

Policy 23A

Protect archaeologically significant sites in the southern sector.

A potentially valuable man-made resource in the Town is the archeological site in the Southern Sector. Its protection must involve recognition of its importance by all agencies and the ability to identify and describe it.

While the Town's program is concerned with the preservation of all such resources within the waterfront area, it will actively promote the preservation of historic and cultural resources which have a coastal relationship.

Prior to undertaking any action in the archaeologically-sensitive parts of the Southern Sector, the NYS Office of Parks, Recreation and Historic Preservation shall be contacted to determine if archeological resources will be affected by the proposed activity.

An archeological site (UB 235) has been identified as lying on the mainland opposite Strawberry Island. Its potential significance is unknown. It may presently be located beneath the Chevrolet Plant.

All practicable means to protect the area noted in Policy 23A shall be undertaken to prevent an adverse change to the site. A significant adverse change includes, but is not limited to, demolition or removal in full or part of the site.

Policy 24

The state coastal policy regarding the protection of scenic resources of state-wide significance is not applicable to the Town 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 vistas of the town's shoreline.

Policy 25B

Upgrade the appearance of river road by providing trees and landscape plantings that are suitable for a roadside location.

The scenic vistas within the Town's waterfront area are shown in [Map 4](#).

The views of the Niagara River off River Road in the Northern Sector of the Town represent the only area where waterfront views are available to those using this major north-south coastal road. In the Southern Sector, the Town boat launch site, the Town water plant, and Interstate 190 also offer expansive views of the river. It is important to maintain these views. Therefore, the following guidelines will be used when reviewing actions against this policy:

1. Siting structures and other development such as highways, power lines, and signs, 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.
2. Clustering or orienting structures to retain views, save open space, and provide visual organization to a development.
3. Incorporating sound, existing structures into the overall development scheme.
4. Removing deteriorated and/or degrading elements.
5. Maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest.
6. 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 removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters.
7. Using appropriate materials, in addition to vegetation, to screen unattractive elements.
8. Using appropriate scale, form, and materials to ensure that the buildings and other structures are compatible with, and add interest, to the landscape.

9. Within the Waterfront Revitalization Area, billboards, roof signs and pole signs are prohibited. Ground signs are allowed for identification of a project or project area and will be consistent with the Town sign ordinance and design standards developed by the former Horizons Waterfront Commission.

River Road is a major access road in the Tonawanda waterfront, serving industrial users, as well as through traffic. Since it serves as a gateway to the Town's waterfront, its visual character is an important component of the public's perception of the waterfront. Street trees and appropriate landscaping shall be incorporated into improvement plans for River Road. In addition, private development shall provide street trees in accordance with the standards of the Waterfront Zoning District and the General Industrial Zoning District.

See Policies 1 and 2, and Part IV. Refer also to Appendix A and Appendix B.

Agricultural Lands Policy

Policy 26

The state coastal policy regarding the conservation and protection of significant agricultural lands is not applicable to the Town 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.

Policy 27A

Decisions on the expansion of Niagara Mohawk power corporation's Huntley station 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 need are set forth in the New York 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 establishes the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront location. With respect to electric generating facilities, environmental impacts associated with siting and construction will be considered by one or more State agencies or, if in existence, an energy siting board. The policies derived from these

proceedings are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. The 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 Town of Tonawanda, the Department of State will comment on energy policies and planning reports as may exist; present testimony for the record during relevant proceedings under State law; and use the State SEQR and DOS regulations to ensure that decisions on other proposed energy facilities (other than those certified under the Public Service Law) which would impact the waterfront area are made consistent with the policies and purposes of this Local Waterfront Revitalization Program.

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.

Policy 28A

Ice management practices shall not damage the Strawberry Island habitat, 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, the Strawberry Island - Motor Island Shallows, flood levels, 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

The state coastal policy regarding the development of off-shore energy sources is not applicable to the Town of Tonawanda.

Water and Air Resources

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.

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 the Niagara River and Two Mile Creek, and those which pass through the Town's sewage treatment system before reaching the Niagara River.

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

The State has identified certain stream segments as being either "water quality limiting" or "effluent limiting." Waters not meeting State standards and which would not be expected to meet these standards even after applying "best practicable treatment" are classified as "effluent limiting," and all new waste discharges must receive "best practicable treatment." However, along stream segments classified as "water quality limiting," waste treatment beyond "best practicable treatment" would be required, and costs of applying such additional treatment may be prohibitive for new development.

It should be noted that an easement and pipeline for the Town of Tonawanda's water supply crosses the island. The intake cribs are located just offshore of Strawberry Island. Since this portion of the river is an important water supply source, as well as a significant fish and wildlife habitat, it is vital that the water quality in this area remain high.

Policy 32

The state coastal policy regarding the use of alternative or innovative sanitary waste systems is not applicable to the Town 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 storm-water collection systems) are not economically feasible. Until funding for such projects becomes available, non-structural approaches (e.g. improved street cleaning, reduced use of road salt) will be encouraged.

Policy 34

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

The discharge of sewage, garbage, rubbish, and other solids and liquid materials from watercraft and marinas into the State's water is regulated. Within the Town's waterfront area, priority will be given to the enforcement of this law in the area of public water supply intakes which need particular protection from contamination by vessel wastes.

Pumpout facilities shall be required at all new or expanded marinas or at other places where boats are moored, except where:

1. The facility is designed for, and will serve, boats of 26 or less feet in length, which are not equipped with marine sanitation devices; or
2. The facility provides less than 25 seasonal slips for boats of 26 or more feet in length, and there is adequate pumpout capacity at a neighboring marina or other place which, by notarized agreement, will allow use of its pumpout facilities.

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 and wetlands.

Dredging often proves to be essential for waterfront revitalization, maintaining navigation channels at sufficient depth, and removing pollutants. Such dredging projects, however, may adversely affect water quality and scenic resources. Often, these adverse effects can be minimized through careful design and timing of the dredging operation and proper siting of the spoil disposal site.

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 regulation developed pursuant to Environmental Conservation Law, Articles 15, 24, 25, and 34.

See Policies 7, 12, and 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 cleanup of such discharges; and restitution for damages will be required when these spills occur.

The NYS Environmental Conservation Law (Section 37-0101.2) defines materials hazardous to the environment as "substances which, because of their toxicity, magnification or concentration within

biological chains, present a demonstrated threat to biologic life cycles when discharges into the environment." All activities within the Town's waterfront area 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.

Best management practices used to reduce these sources of pollution could include, but are not limited to, encouraging soil erosion control techniques and surface drainage control practices.

To maintain natural drainage functions of the land, and to reduce the volume of sedimentation and other pollutants entering the Niagara River, the following standards will be applied to all development and land use activities with the Town's waterfront area:

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 stormwater runoff and flood waters. Disturbance of land includes activities such as alteration of slope, deposition of waste materials, and removal of vegetation.
2. 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 adequately handle the volume and rate of velocity of surface water runoff.
3. Natural drainage patterns shall be protected and incorporated into site design.
4. 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.
5. 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, beaming, silt traps, and mulching shall be used to ensure that sedimentation is minimized and mitigated.
6. In no case shall stormwater be diverted to another property either during site preparation or after development.
7. 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.

8. A natural vegetative buffer of twenty-five (25) feet shall be retained adjacent to surface waters and wetlands to absorb floodwaters and trap sediments.
9. Trails and walking paths along waterbodies shall be sited and constructed so they are not a source of sediment.
10. 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.

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.

The Niagara River is the sole source of drinking water in the Town of Tonawanda and therefore must be protected. The Town's 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.

Policy 39A

The permanent disposal and permanent storage of solid and hazardous wastes are prohibited within the town's coastal zone.

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 sludge from air or water pollution control facilities, demolition and construction debris, and industrial and commercial wastes. For a definition of hazardous waste see Policy 8.

Hazardous materials are substances used in the manufacturing or refinery process 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, disposed, transported or otherwise managed." A list of hazardous wastes (NYCRR Part 366) has been adopted by DEC (6 NYCRR Part 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.

Permanent solid and hazardous waste disposal and storage in the local waterfront area is prohibited.

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.

Policy 40A

Effluent discharged from the Niagara Mohawk Power Corporation Huntley generating station, Chevrolet motor division, Dunlop, DuPont, and other industrial facilities into the Niagara River will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.

A number of factors must be considered 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 State agencies or, if applicable, a siting board when evaluating an applicant's request to construct a new 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.

Policy 41A

Land use or development in the town's waterfront district will not cause any decrease in air quality standards.

The Town'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 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.

In addition, any land use or development proposed for the Town's Waterfront Zoning District must not result in a decrease in air quality within the area.

See Policy 1A.

Policy 42

Coastal management policies will be considered if the state reclassifies land area pursuant to the prevention of significant deterioration regulations of the federal clean air act.

The policies of the State and Local Waterfront Revitalization 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 classifications in coastal regions or adjacent areas. In addition, the NYS Department of State will provide the NYS Department of Environmental Conservation with recommendations for proposed prevention of significant deterioration land classification designations based upon State and Local Waterfront Revitalization 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 these areas.

Policy 44a

Preserve and protect the freshwater wetlands in the cherry farm area.

A freshwater wetland of 13 acres is located in the Town's waterfront area adjacent to the Cherry Farm, and is illustrated in [Map 10](#).

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

Any activity proposed in this wetland shall conform to those standards established in NYCRR, Title 6, Parts 663 and 664.

In the Cherry Farm area, the existing freshwater wetland will be protected and incorporated into the design of the park as a passive natural area. Care shall be taken in the design, construction, and maintenance of the park to ensure that freshwater continues to flow into the wetland from the Niagara River through the existing inlets. In addition, any road crossing the wetland to provide access from River Road to the Cherry Farm site shall be constructed in a manner that permits the continued exchange of water from one side of the wetland to the other.