

**SECTION III**

**LOCAL POLICIES AND  
APPLICABLE STATE POLICIES**

### **III. LOCAL POLICIES AND APPLICABLE STATE POLICIES**

This section includes a listing of each State Coastal Policy and an indication of its applicability to the Local Waterfront Revitalization Program in the Village of Athens. Also included are additional local policies and an explanation of how both State and local policies relate to the local coastal area.

#### **A. DEVELOPMENT POLICIES**

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

##### **Explanation of Policy**

This policy applies exclusively to the Village waterfront and is complimented by Policy 2, which explains how priority will be given to water-dependent uses, and Policy 5, which relates the location of development to the availability of basic services.

The Village is the traditional location for intensive waterfront activity in Athens, although such activity has declined in recent years. A mixture of uses or activities are to be encouraged in the area between Murderer's Creek on the north and the point where Rt. 385 turns west, at the southern end of the Village, in keeping with the following general criteria (see also Map 4):

1. Priority should be given to uses which are enhanced or dependent upon a location adjacent to the water (see Policy 2);
2. The action should enhance existing and anticipated uses;
3. The action should serve as a catalyst to private investment in the area;
4. The action should improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration;
5. 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;
6. The action should have the potential to improve the existing economic base of the community;
7. The action should not impair upland views of the water by obstructing views or introducing incompatible elements of scale, color or materials, and should not detract from the views as seen from the water;
8. The action should improve the potential for multiple uses of the site and the general area.

Actions which would be consistent with this policy include the following:

1. Dredging and repair of the bulkheads at the abandoned ferry slip at the end of Second Street to increase docking space would complement restoration of the waterfront park and encourage water-related use of underutilized sites along the water's edge to the north as well as generate boater trade for local business.
2. Projects to improve the deteriorated condition of waterfront sites including removal of the abandoned barges, restoration of bulkheads and rehabilitation of vacant structures.

3. Measures to prevent erosion and/or siltation which reduces water depths adjacent to the Village park or other sites with deep water access, thereby impairing their viability.
4. Measures to encourage tourism based on the historic and water-related recreation resources of the coastal area. Such actions include improvements to docking facilities for tour boats and/or a ferry from the Hudson train station, a system of signs explaining the history and significance of sites in the historic district, and preparation of maps illustrating key sites and suggested walking tours.
5. Rehabilitation and restoration of structures in the historic district in accord with the guidelines in Policy 23 and the development of funding programs to assist such efforts.

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

**Explanation of Policy**

Most of the land along the village waterfront is developed. Available sites that have suitable access, topography, services and water depth to accommodate water-dependent uses are scarce. Therefore, this policy requires that water-dependent uses be given preference and, where possible, assistance in securing waterfront sites and that every effort be made to retain such existing uses. Those uses which are considered water-dependent and subject to these policies include the following:

1. Certain uses which utilize the resources of the coastal waters, such as fishing;
2. Recreational activities which depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing, scenic and nature walks);
3. Aids to navigation;
4. Flood and erosion protection structures (for example: breakwaters, bulkheads);
5. Facilities needed to store and service boats (for example: marinas, boat repair and construction yards, boat sales and service facilities, etc.);
6. Scientific/educational activities which, by their nature, require access to coastal waters (for example: certain meteorological and oceanographic activities); and
7. Support facilities which are necessary for the successful functioning of permitted water-dependent uses.

In addition, uses which are enhanced by, though not dependent on, a waterfront location should be encouraged to locate along the shore. A water-enhanced use is defined as a use that has no critical dependence on obtaining a waterfront location, but the profitability of the use and/or the enjoyment level of the users would be increased significantly if the use were adjacent to, or had visual access to, the waterfront. However, water-enhanced uses should be considered carefully if they may preclude water-dependent uses.

Sites for water-dependent uses should satisfy certain criteria, based on the type of use being considered. The following guidelines should be considered when designating such sites:

1. **Special Suitability:** Sites which are particularly suited to a particular type of use should be reserved for such use if possible. For instance, few sites have the appropriate land and water characteristics for marinas or boat launches. Those sites identified should be zoned and/or acquired for such uses.

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: (see also Policies 1 and 5)
  - a) The availability of public sewers, public water lines and adequate power supply;
  - b) Access to the area for trucks and rail, if heavy industry is to be accommodated; and
  - c) Access to public transportation, if a high number of person trips are to be generated.
3. Access to navigational channels: If commercial shipping, commercial fishing, or recreational boating are planned, consideration should be given to setting aside a site, within a sheltered harbor, from which access to adequately sized navigation channels can 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. Water-dependent uses must also be sited so as to avoid adverse impacts on the significant coastal resources such as wetlands and scenic areas.
5. Use of Underutilized Sites and Expansion of Existing Uses: Sites which are presently underutilized and/or which will permit expansion of existing water-dependent uses will be given preference when designating sites for water-dependent use.

Sites appropriate for new water-dependent uses include the site which now houses Teicher Metals, all the land from the ferry slip north to the sewage treatment plant on the east side of Water Street and the land north of the plant, along the water's edge to a point opposite Goodrich Street. Development of these sites should conform to the criteria set forth in Policy 1, in general, and in particular should retain views to the river from Water Street; should not obstruct views from the upper stories of buildings on Washington Street; should not generate noise, light, vibration or similar disturbances which would adversely impact nearby residences; and should not adversely impact the Vosburgh Swamp and Middle Ground Flats Significant Habitat.

**POLICY 2A                    PRESERVE AND RETAIN EXISTING WATER-DEPENDENT USES IN THE COASTAL AREA.**

**Explanation of Policy**

Most existing water-dependent uses in Athens are recreational. The retention of both public and private recreation facilities is consistent with Policies 21 and 22.

**POLICY 3                    THE STATE COASTAL POLICY REGARDING FURTHER DEVELOPING THE STATE'S MAJOR PORTS IS NOT APPLICABLE TO THE VILLAGE OF ATHENS.**

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

### **Explanation of Policy**

One of Athens most significant assets is its combination of waterfront activities and related commercial and residential uses in an easily accessible, compact, historic setting with few incompatible distractions. Although less active than in past decades, the basic elements of the historic waterfront are intact and efforts to preserve and re-establish traditional waterfront functions are to be encouraged. Such efforts can contribute to the economic growth of the Village and enhance the community's role as a center for commercial recreation and tourism as well as a place to live. See also Policy 25.

In order to promote activities such as recreational and commercial fishing, marinas, boat building, tour boats, preservation of historic structures, etc., the following guidelines will be followed:

1. Priority shall be given to water-dependent or water-enhanced uses which are compatible with the existing pattern of uses and will enhance rather than detract from existing uses (see also Policy 2).
2. An action shall not be out of keeping with existing development in terms of scale, intensity of use or architectural character. Potential sources of noise, traffic jams, or other nuisance should be carefully evaluated in terms of adjacent residential areas.
3. Actions shall not detract from views of the water or from views of the shore as seen from the water by obstructing existing view corridors or significant landmarks or by introducing elements which are discordant in terms of scale, color or materials.
4. Priority shall be given to actions which enhance the economic base by furthering use and enjoyment of recreational facilities. Such actions include:
  - a. Zoning to facilitate continued use of and necessary expansion of commercial recreational facilities.
  - b. Dredging to permit continued use and enjoyment of the river for boating.
  - c. Elimination of pollution sources which detract from the waterfront development.
  - d. Removal of obstacles to navigation such as abandoned vessels.

**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 NECESSITATE ITS LOCATION IN OTHER COASTAL AREAS.**

### **Explanation of Policy**

The Village of Athens has a public water supply and sewage disposal facilities. Central water supply and sewage disposal facilities are also available at Sleepy Hollow Lake. Vehicular access to the entire coastal area is provided by Route 385.

The Village is the appropriate location for most urban, water related development due to its service system as well as for the reasons cited under Policies 1 and 4, although deficiencies in the water distribution system may limit certain kinds of development if not remedied. A study is underway to explore methods of repairing the transmission line which limits the capacity of the water system. The following objectives will be achieved by this policy:

1. To strengthen the existing Village center and foster an orderly growth pattern.
2. To increase the efficiency of existing services and moderate the need for new services in outlying areas.

Certain capital improvements are needed in the public water and sewer facilities servicing the waterfront area, as previously described in the inventory and analysis. Those local, State and Federal agencies charged with allocating funds for investment in such facilities should give high priority to these needs, so that full advantage may be taken of the rich array of other infrastructure components in promoting waterfront revitalization.

Although the Sleepy Hollow systems are private they could substantially alter the development pattern in the coastal area by permitting higher density development where it would not otherwise exist and generating demand for and the ability to provide service to other supporting uses. In order to support revitalization of the Village center and foster appropriate development patterns the following guidelines shall apply to the area north of Murderer's Creek:

1. Residential development shall be confined to single family homes at a density of no more than one home per acre. Where such development can be connected to the central water supply and sewage disposal systems, clustering of units shall be encouraged to maintain larger open spaces intact. Open spaces shall be delineated to preserve natural features, especially the Hudson River shoreline and scenic views from Route 385.
2. Non-residential uses shall be limited to recreation facilities, particularly those oriented toward the water, and facilities serving the convenience needs of residential concentrations. Such latter uses shall be concentrated so as to avoid "strip" development and to retain the open character of the plateau.

It is recognized that certain forms of development are not compatible in an urban setting or do not require urban services and infrastructure or have specific site requirements that cannot be satisfied in such a location. Therefore, this policy shall not apply to the following:

1. Economic activities which depend upon sites at or near locations where natural resources are present, e.g., lumber industry, quarries.
2. Development which, by its nature, is enhanced by a non-urbanized setting, e.g., a resort complex, campgrounds, second home developments.
3. Development which is designed to be a self-contained activity e.g., a small college, an academic or religious retreat.
4. Water-dependent uses with site requirements not compatible with this policy or when alternative sites are not available.
5. Development which, because of its isolated location and small scale, has little or no potential to generate and/or encourage further land development.
6. Uses and/or activities which because of public safety consideration should be located away from populous areas.
7. Rehabilitation or restoration of existing structures and facilities.
8. Development projects which are essential to the construction and/or operation of the above uses and activities.

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

**Explanation of Policy**

When administering existing regulations and prior to proposing new regulations, every effort should be made to determine the feasibility of coordinating administrative procedures and incorporating new regulations in existing legislation, if this can reduce the burden on a particular type of development without jeopardizing the integrity of the regulations' objectives.

**B.     FISH AND WILDLIFE POLICIES**

**POLICY 7                    SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS, AS  
IDENTIFIED ON THE COASTAL AREA MAP, SHALL BE  
PROTECTED, PRESERVED, AND WHERE PRACTICABLE,  
RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS  
HABITATS.**

**Explanation of Policy**

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 region;
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 applicable local laws contained in an approved local waterfront revitalization program. If the 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:

1.     destroy the habitat; or,
2.     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 but are not limited to the following:

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 and Coastal Resources Act (Executive Law of New York, 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 VOSBURGH SWAMP AND MIDDLE GROUND FLATS  
SIGNIFICANT COASTAL FISH AND WILDLIFE HABITAT SHALL  
BE PROTECTED, PRESERVED AND, WHERE PRACTICAL,  
RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**

#### **Explanation of Policy**

The Vosburgh Swamp and Middle Ground Flats Habitat has been identified on the coastal area map. The fish and wildlife values of this habitat are described in Section II.

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Any activity that would degrade water quality, increase turbidity or temperature, or alter water depths in the Vosburgh Swamp and Middle Ground Flats habitat would affect fish and wildlife species using the area. Disruption of the freshwater or tidal flows in these areas could have major consequences to the littoral zones, wetlands, and mudflats which contribute significantly to the value of this habitat.

Elimination of productive wetland and littoral areas, through dredging, filling or bulkheading would have significant impacts on the fish and wildlife resources of Vosburgh Swamp and Middle Ground Flats. The period of April 15 through June is particular sensitive for fish spawning and use of the habitat as a nursery ground. Dredging and other activities that may directly affect propagation of fish will generally be restricted during this period. Spills of oil or other hazardous substances are an especially significant threat to this area, because the biological activity of tidal flats is concentrated at the soil surface, much of which may be directly exposed to these pollutants. Thermal discharges, depending on time of year, may have variable effects on use of the area by aquatic species (and wintering waterfowl); shad spawning activities and survival are directly affected by water temperature. Installation and operation of water intakes could have significant impacts on fish populations in the area, through impingement of juvenile and adult fish, or entrainment of fish eggs and larval stages.

**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 EFFECT ON THOSE RESOURCES.**

**Explanation of Policy**

The regulation of hazardous wastes is assumed by state and federal agencies. Other pollutants from point or non-point sources also cause substantial damage to fish and wildlife resources and are controlled by both state and local law. County and local government must effectively monitor pollution as well as enforce local regulations and report violations of state or federal law.

**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 WILD-LIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.**

**Explanation of Policy**

Recreational uses of coastal fish and wildlife resources include consumptive uses such as fishing and hunting, and non-consumptive uses such as wildlife photography, bird watching and nature study. The resources for such recreation in the Athens coastal area are extensive and varied. See Policies 19 and 20. Increased recreational use of these resources should 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, cost and available technology.

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

1. Consideration should be given by Federal, State and Village agencies as to whether an action will impede existing or future utilization of the Village's recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources shall not lead to over-utilization of that resource or cause impairment of the habitat. Sometimes such 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 shall be determined on a case-by-case basis, consulting the significant habitat narrative (see Policy 7 and 7A) and/or conferring with a trained fish and wildlife biologist.

**POLICY 10 THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF COMMERCIAL FISHING IS NOT APPLICABLE TO THE VILLAGE OF ATHENS.**

**C. FLOODING AND EROSION HAZARDS POLICIES**

**POLICY 11 THE STATE COASTAL POLICY REGARDING THE SITING OF BUILDINGS AND OTHER STRUCTURES TO MINIMIZE DAMAGE CAUSED BY FLOODING AND EROSION IS NOT APPLICABLE TO THE VILLAGE OF ATHENS.**

**POLICY 12 THE STATE COASTAL POLICY REGARDING PROTECTION OF NATURAL PROTECTIVE FEATURES IS NOT APPLICABLE IN THE VILLAGE OF ATHENS.**

**POLICY 13 THE STATE COASTAL POLICY REGARDING EROSION PROTECTION STRUCTURES IS NOT APPLICABLE IN THE VILLAGE OF ATHENS.**

**POLICY 13A REPAIR AND RESTORATION OF EXISTING BULKHEADS SHALL BE UNDERTAKEN IN A MANNER THAT WILL ADEQUATELY PROTECT ADJACENT PROPERTY FOR APPROPRIATE USE.**

**Explanation of Policy**

Erosion protection structures have been used to protect "made" land along the Hudson River in the Village. However, many such structures have deteriorated due to lack of maintenance. Bulkheads which protect public lands, such as the 2nd Street Park or the state boat launch, or other water-dependent uses, shall be given priority for bulkhead repair. Repairs should be designed to compliment uses such as boat launches, docking facilities etc., where consistent with other policies herein (see Policies 7, 7A, 9, 19 and 20). Private efforts at shoreline stabilization are also appropriate, if the applicable policies are adhered to.

**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.**

**Explanation of Policy**

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, jetties and bulkheads, 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.

New development on the steep slopes above the Hudson River could increase erosion unless proper erosion protection measures are taken during construction and incorporated into final design. Development plans in these areas, although primarily low density residential, will be required to include erosion protection plans and to adhere to the best management policies set forth in Policy 37.

**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.

**Explanation of Policy**

There is little natural beach material in the coastal area which is supplied to the adjacent land via natural coastal processes. Mining, excavation and dredging should be done so that both the natural and manmade shoreline are not undermined and so that natural water movement is not changed in a manner that will increase erosion potential. See also Policy 35.

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

**Explanation of Policy**

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: (1) THE SET BACK OF BUILDINGS AND STRUCTURES; (2) THE PLANTING OF VEGETATION AND THE INSTALLATION OF SAND FENCING AND DRAINING; (3) THE RESHAPING OF BLUFFS; AND (4) THE FLOOD-PROOFING OF BUILDINGS OR THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.

**Explanation of Policy**

This policy recognizes both the potential adverse impacts of flooding and erosion upon development and upon natural protective features 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, including measures to protect existing activities and development. To ascertain consistency with this 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.

Application of the Flood Damage Prevention regulations, which require flood proofing of buildings or elevating them above the base flood level, adherence to Best Management Practices (see Policy 37) and review of alternatives in accord with SEQR procedures will be effective in many instances as preventive measures. It must be recognized, however, that in certain instances where damage has already occurred and must be corrected or where non-structural measures are not feasible, structural solutions will be required.

#### **D. GENERAL POLICIES**

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

##### **Explanation of Policy**

Proposed major actions may only be undertaken in the waterfront 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, cultural, 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. Review under the SEQR process will allow a weighing of the costs and benefits of such actions.

**POLICY 18A**            **HOUSING AND JOB OPPORTUNITIES SHALL BE PRESERVED FOR ALL INCOME GROUPS IN THE COMMUNITY AND THE IMPACT OF COASTAL POLICIES AND SPECIFIC ACTIONS IN THE COASTAL AREA ON SUCH OPPORTUNITIES SHALL BE CAREFULLY CONSIDERED.**

##### **Explanation of Policy**

A recent influx of second home buyers has caused a rapid increase in housing cost and may also induce a change in the traditional community character. As homes are occupied only on a seasonal or week-end basis there is less interchange among residents. As more property owners derive their income outside the community, there is a change in demand for services and job skills. As housing costs increase, the options available to local residents, especially the young and the elderly, are diminished.

Such changes, if not mitigated, will transform the community from a diverse social and economic mix to one which is geared only to specific socio-economic groups. The policy of the LWRP is to maintain the existing community socio-economic mix to the maximum extent practicable. In particular, zoning amendments and other legislation will be reviewed to determine if they contribute to such unwanted changes as will specific physical projects.

#### **E. 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.**

**Explanation of Policy**

There are at least four publicly owned sites in the Athens coastal area where access to the water is possible (see Section II.R). Only two are at present intended for and adequately developed to provide access for recreational use -- the Village Park at 2nd Street and the state boat launch. The emphasis of this policy is upon maintenance and appropriate improvement of existing access points -- rather than creation of new ones -- to serve various recreation needs. New access sites will be considered if it can be demonstrated that they will serve unanticipated demands or create recreation opportunities not provided at existing sites. Access via easements, such as at the utility right-of-way south of the Village or the "White Elephant" railroad bed in the northern portion of the Village (see Policy 21); or dedication of less than fee simple rights is preferred over public acquisition. Such easements can provide visual access by trails or overlooks even when direct access is not possible.

Access from the water to land-based recreation areas and other uses is equally important to the creation of a fully accessible waterfront. Of particular importance is the improvement of docking at the Village's waterfront park by such actions as dredging, bulkhead stabilization to prevent further erosion, repair and restoration of the old ferry slip and installation of facilities for public docking of private vessels and tour boats.

Implementation of this policy requires careful balancing of several factors. The demand for specific recreation facilities; the adequacy and type of access to facilities; the capacity of the resource; and the protection of natural and historic resources. The following guidelines shall apply:

1. Existing access shall not be impaired by reducing the number of available parking spaces; imposing barriers such as roads, utility rights-of-way, or other public facilities; sale or lease of public lands; or construction of private facilities which hinder access.
2. Proposed projects to increase public access to existing or future public water-related recreation resources and facilities shall be analyzed and found consistent with this policy only if:
  - a) The level of access to be provided is in accord with estimated public use.
  - b) The level of access to be provided does not cause a degree of use which would exceed the physical capability of the resource or facility.
  - c) The level of use and nature of the access does not adversely affect adjacent land uses or the natural environment.
3. The potential for future increases in public access shall not be limited by construction of public facilities; sale, lease or transfer of lands that could provide such access; or construction of private facilities.
4. The State will not undertake or fund any projects which increase access to a water-related resource or facility that is not open to all members of the public.

**POLICY 19A          ACCESS TO MIDDLE GROUND FLATS SHALL BE MAINTAINED.**

**Explanation of Policy**

Middle Ground Flats is owned by the State of New York. No specific plans have developed for its use. However, the right of the public to gain access to this unique site should be clearly recognized, within appropriate limitations for use and management, and fostered by improvements to boat launch and docking facilities.

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

**Explanation of Policy**

In addition to active recreation facilities, access to the publicly-owned land of the coast should be provided, where appropriate, for numerous activities and pursuits which require only minimal facilities for their enjoyment. Such access would provide for walking along the waterfront or to a vantage point from which to view the water. Similar activities requiring access would include bicycling, birdwatching, photography, nature study, beachcombing, fishing and hunting. Methods of providing access include the development of waterfront trails, the improvement of vehicular access to the waterfront and the promotion of mixed and multi-use development. 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.

Existing access shall be maintained at (1) the Fourth Street boat launch, (2) the Village Waterfront Park, (3) the sewage treatment plant, (4) the ends of South Street and Union Street and, (5) the state boat launch site.

However, sale of easements on underwater lands to adjacent onshore property owners may be granted if public use of the foreshore is not substantially limited. Also, public use of underwater lands or the foreshore shall only be discouraged if such use would be inappropriate for reasons of safety or protection of natural resources. See also the guidelines in Policy 22.

**F.          RECREATION POLICIES**

**POLICY 21          WATER-DEPENDENT AND WATER-ENHANCED RECREATION SHALL BE ENCOURAGED AND FACILITATED, AND SHALL BE GIVEN PRIORITY OVER NON-WATER-RELATED USES ALONG THE COAST, PROVIDED 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.**

### **Explanation of Policy**

Water-related recreation includes such obviously water-dependent activities as boating, swimming, and fishing, as well as certain activities which are enhanced by a coastal location and increase the general public's access to the coast such as pedestrian and bicycle trails, picnic areas, scenic overlooks and passive recreation areas that take advantage of coastal scenery.

Provided the development of water-related recreation is consistent with the preservation and enhancement of such important coastal resources as fish and wildlife habitats, aesthetically significant areas, historic and cultural resources, agriculture and significant mineral and fossil deposits, and provided demand exists, water-related recreation development is to be increased and such uses shall have a higher priority than any non-coastal dependent uses, including non-water-related recreation uses. In addition, water-dependent recreation uses shall have a higher priority over water-enhanced recreation uses. Determining a priority among coastal dependent uses will require a case-by-case analysis. Those specific projects described in Section IV-B 1,3,4 and 5 are all consistent with this policy and will be encouraged.

**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.**

### **Explanation of Policy**

Certain waterfront 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.

Uses which are appropriate in the Athens coastal area and which can provide opportunities for water-related recreation as a multiple use include: parks, existing utility transmission lines (Niagara Mohawk R.O.W.), water treatment facilities (Village sewer plant), schools, nature preserves, large scale residential and mixed use projects, and maritime commercial uses.

Whenever a proposed development would be consistent with coastal 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.

## **G. HISTORIC AND SCENIC RESOURCES POLICIES**

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

### **Explanation of Policy**

Among the most valuable man-made resources are those structures or areas which are of historic, archaeological, or cultural significance. The protection of these structures must involve a recognition of their importance by all agencies and the ability to identify and describe them. Protection must include concern not just with specific sites but with areas of significance, and with the area around specific sites. The policy is not to be construed as just passive mandate but also suggests effective efforts, when appropriate, to restore or revitalize resources through adaptive reuse. While the policy

is concerned with the preservation of all such resources within the coastal boundary, the preservation of historic and cultural resources which have a coastal relationship will be actively promoted.

The Athens coastal area includes the Athens Lower Village Historic District; the Brick Row Historic District; and four individual structures, namely the Hudson-Athens Lighthouse, the Zion Lutheran Church, the Albertus Van Loon House, and the Del Vecchio House. All are listed on the National Register of Historic Places and have a distinct relationship to the maritime history of the community.

In addition, Athens contains archeological resources of Statewide importance that include pre-historic settlements, industry, and religious remains. All practical means to protect the historic and archeological resources shall be taken, including consultation with the State Historic Preservation Officer and adoption of such techniques, measures and controls necessary to prevent a significant adverse change to the resource. A significant adverse change includes but is not limited to:

1. Alteration of or addition to one or more of the architectural, structural, ornamental or functional features of a building, structure, or site that is a recognized historic, cultural, or archaeological resource, or component thereof. Such features are defined as encompassing the style and general arrangement of the exterior of a structure and any original or historically significant interior features including type, color and texture of building materials; entry ways and doors; fenestration; lighting fixtures; roofing, sculpture and carving; steps; rails; fencing; windows; vents and other openings; grillwork; signs; canopies; and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topo-graphical features, earthworks, paving and signs located on the designated resource property.
2. Demolition or removal in full or part of a building, structure, or earthworks that is a recognized historic, cultural, or archaeological resource or component thereof, to include all those features described in (a) above plus any other appurtenant fixtures associated with a building structure or earthwork.
3. All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archaeological resource and all actions within an historic district that would be incompatible with the objective of preserving the quality and integrity of the resource. Primary considerations to be used in making judgement about compatibility should focus on the visual and locational relationship between the proposed action and the special character of the historic, cultural, or archaeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping and related items of the proposed actions.

This policy shall not be construed to prevent normal maintenance, actions necessary to remove a threat to the public welfare, health or safety, or rehabilitation or restoration in accord with standards and design which do not adversely impact the significant features of the structure, district or site.

Actions which will advance this policy include the following:

1. A program to restore the facades of structures in the district, particularly in the 2nd Street business area.
2. Efforts to occupy vacant structures, particularly upper stories of mixed-use structures.
3. Sidewalk improvements, such as resetting blue stone pavers and tree planting.

4. A program to design and install descriptive plaques on important structures and development of maps and illustrative material to aid tourists, students and other interested parties to tour the historic district and identify significant features.

**POLICY 24 THE STATE COASTAL POLICY REGARDING THE PROTECTION OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE IS NOT APPLICABLE TO THE VILLAGE OF ATHENS.**

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

### **Explanation of Policy**

When considering a proposed action care shall be taken to protect, restore or enhance the overall scenic quality of the coastal area. Activities which could impair or further degrade scenic quality are the same as those cited under the previous policy, i.e., modification of natural landforms, removal of vegetation, etc.

In the responses to the Waterfront Questionnaire, "Enjoying the View" was the most popular recreation activity. Views to the Hudson River and the eastern shore exist at many locations, including:

1. The Village riverfront park;
2. The site of the Village sewage treatment plant;
3. The site of the State boat launch;
4. Street ends and corridors of Second, Third, Market, and Union Streets, and South Washington Street looking south;
5. Points along NYS Route 385 south in the southern portions of the Village including the view of the Hudson-Athens Lighthouse at the southern entrance of the Village; and
6. View from NYS Route 385 south to Mount Merino and the Hudson River at the northern Village boundary.

(Refer to Map 1 for locations of vistas).

The following siting and design guidelines will be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly and consider both the scenic resource and the community's development objectives and priorities.

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 existing historic 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 or diseased vegetation or creates views of coastal waters.
7. Using appropriate materials, in addition to vegetation, to screen unattractive elements.
8. Using appropriate scale, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

Actions to maintain and improve visual access to the water or to screen or otherwise mitigate the adverse impact of certain existing elements will be pursued. Selective maintenance and/or removal of vegetation at key vantage points along Route 385 can enhance scenic vistas of the River and actions to screen or otherwise reduce the visual impact of the oil storage facilities in the Village will be considered.

The entire length of Route 385 in Athens is an experience of beauty and serenity. The long views of the river from the higher elevations, entering from either the north or south, give way to closer views as one descends into the historic village. This entire scenic experience should be preserved by designating Route 385 as a scenic road and by creating opportunities for selected viewing locations. Other specific elements to be preserved or enhanced are views from the waterfront street ends and the South Franklin Street Park. Also, the visual composition of the Village -- tree-lined streets, traditional architecture, defined street frontages -- should be retained and enhanced and proposed actions reviewed to prevent introduction of discordant elements. The Scenic Roads Handbook produced by the Heritage Task Force for the Hudson River Valley, Inc. will be used as a guide in addressing scenic quality along Route 385.

#### **H. AGRICULTURAL LANDS POLICY**

**POLICY 26                    THE STATE COASTAL POLICY REGARDING THE PROTECTION OF IMPORTANT AGRICULTURAL LANDS IS NOT APPLICABLE TO THE VILLAGE OF ATHENS.**

#### **I. ENERGY AND ICE MANAGEMENT POLICIES**

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

#### **Explanation of Policy**

Demand for energy in New York will increase, although at a rate lower 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 new facilities. The directives for determining this need are set forth in the New York State Energy Law. With respect to transmission lines, Article VII 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 these proceedings are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated

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

In consultation with the Village, the Department of State will present testimony for the record during relevant certification proceedings under Article VII 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 waterfront area are made consistent with the policies and purposes of the 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 HYDROELECTRIC POWER.**

**Explanation of Policy**

Prior to undertaking actions required for ice management, an assessment must be made of the potential effects of such actions upon fish and wildlife and their habitats, flood levels and damage, and rates of shoreline erosion damage, and upon natural protective features. This policy shall apply adjacent to the shoreline, where no ice management practices presently are undertaken as well as to the Hudson River channel, where actions to maintain navigation are followed. Methods to mitigate potential adverse impacts should be identified and utilized whenever feasible.

**POLICY 29            THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF ENERGY RESOURCES IS NOT APPLICABLE TO THE VILLAGE OF ATHENS.**

**J.     WATER AND AIR RESOURCES POLICIES**

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

**Explanation of Policy**

Municipal, industrial and commercial discharges include not only "end-of-the pipe" discharges into surface and groundwater but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through the regional treatment system before reaching the State's waterways. State and federal laws adequately govern pollutant discharge into coastal waters. However, constant inspection and adequate monitoring of coastal waterways are necessary to ensure that all regulations are enforced. Municipal government will take all necessary steps, both at the local level and in cooperation with higher levels of government, to apply existing monitoring and enforcement machinery and, where appropriate, to strengthen it. Local citizen participation is to be encouraged both for educational and enforcement purposes.

**POLICY 31            STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVER-**

**BURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.**

**Explanation of Policy**

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217) the State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment.

The classification of the Hudson as Class A, suitable for all uses, is compatible with the present use and future objectives for the river. Any action taken in the coastal area which would lead to revision of such classification will be considered inconsistent with these policies. The classification of Murderer's Creek should be upgraded from Class C to Class B below the dam because that portion of the creek is part of the Vosburgh Swamp and Middle Ground Flats Significant Habitat. If the Sleepy Hollow Lake sewage treatment plant becomes operational, consideration should be given to placing the discharge pipe in the Hudson River rather than in Murderer's Creek. Dispersal of pollutants will be greater in the river than in the creek, especially since the Sleepy Hollow Dam has reduced high flow periods and resultant periodic flushing of the creek.

**POLICY 32            ENCOURAGE THE USE OF ALTERNATIVE OF INNOVATIVE SANITARY WASTE SYSTEMS IN SMALL COMMUNITIES WHERE THE COSTS OF CONVENTIONAL FACILITIES ARE UNREASONABLY HIGH, GIVEN THE SIZE OF THE EXISTING TAX BASE OF THESE COMMUNITIES.**

**Explanation of Policy**

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

The urbanized portion of the Village plus the Brick Row enclave are served by the public sewage system. The private system at Sleepy Hollow Lake serves the recreational development there. As indicated in Policy 5, development other than low density residential uses will be required to be connected to either of these two systems. However, where sufficient localized situations warrant, alternative systems will be explored.

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

**Explanation of Policy**

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and combined sewer overflows. In some instances, 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. Non-structural approaches (e.g., improved street cleaning, reduced use of road salt) will be encouraged in such cases. The standards set forth in Policy 14 will apply to all construction in the coastal area to control stormwater runoff and erosion.

**POLICY 34            DISCHARGE OF WASTE MATERIALS INTO COASTAL WATERS FROM VESSELS WILL BE LIMITED SO AS TO PROTECT**

**SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS AND WATER SUPPLY AREAS.**

**POLICY 34A**            **NO VESSEL SHALL DISCHARGE WASTE WATER UNSUITABLE FOR HUMAN CONSUMPTION INTO THE COASTAL WATERS AND/OR TAKE ON FRESH WATER FROM THE RIVER TO BE TRANSPORTED ELSEWHERE FOR SALE OR USE WITHOUT OBTAINING ALL REQUIRED PERMITS.**

**Explanation of Policies**

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the State's waters is regulated by State Law. Priority should be given to the enforcement of the Law in areas affecting significant habitats and beaches (Vosburgh Swamp and Middle Ground Flats) which need protection from contamination by vessel wastes. Specific effluent standards for marina toilets have been promulgated by the Department of Environmental Conservation (6 NYCRR, Part 657) and shall be strictly enforced. Plans for expansion or development of new marinas will be reviewed to determine if a requirement for on-shore pump out facilities are appropriate and feasible. The recently discovered practice of large tankers exchanging contaminated water for the pure water of the river is also a threat to the ecology of the river as well. Therefore, the following policy shall apply in the Athens coastal waters and is recommended to other communities on the river as well.

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

**Explanation of Policy**

Dredging often proves to be essential for water 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 effects can be minimized through careful design and timing of the dredging operation, proper siting of the dredge spoil site, and restoring natural vegetation on the site.

In addition to the routine dredging of the main Hudson River Channel, dredging adjacent to the Village waterfront park, and at the mouth of Murderer's Creek (at the state boat launch) is appropriate to maintain adequate depths for navigation. Dredge spoils may be used at Middle Ground Flats to create sites for recreational use.

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), and are consistent with State Coastal Policies 7, 7A, 15, 24, 26 and 44.

**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.**

### Explanation of Policy

This policy shall apply not only to commercial storage and distribution facilities but also to residential and other users of petroleum products and radio-active and other toxic or hazardous materials. Spills, seepage or other accidents on or adjacent to coastal waters or which, by virtue of natural or man-made drainage facilities, eventually reach coastal waters are included under this policy. See also Policy 39.

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

### Explanation of Policy

Best management practices used to reduce these sources of pollution could include, but are not limited to, encouraging organic farming and pest management principles, soil erosion control practices, and surface drainage control techniques. Development shall adhere to the following standards:

1. Natural ground contours shall be followed as closely as possible.
2. Areas of steep slopes, where high cuts and fills may be required, shall be avoided.
3. Natural drainage systems shall be preserved to the extent practicable and extreme care should be exercised in areas adjacent to natural watercourses and in locating artificial drainageways so that their final gradient and resultant discharge velocity will not create additional erosion problems.
4. Natural protective vegetation shall remain undisturbed if at all possible.
5. The amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water shall be limited.
6. The velocity of the runoff water on all areas subject to erosion shall be reduced below that necessary to erode the materials.
7. A ground cover shall be applied sufficient to restrain erosion on that portion of the disturbed area undergoing no further active disturbance.
8. Runoff from a site shall be collected and detained in sediment basins to trap pollutants which would otherwise be transported from the site.
9. The angle for graded slopes and fills shall be limited to an angle no greater than that which can be retained by vegetative cover or other erosion control devices or structures.
10. The length as well as the angle of graded slopes shall be minimized to reduce the erosive velocity of runoff water.

**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.**

### **Explanation of Policy**

Local groundwater supplies and surface water of the Hudson River must be protected. The impact of an action on the quality of Hudson River water will be a major factor in planning and decision making. Such impacts include those, resulting from construction activity, land use management, point and non-point pollution sources and direct actions on the water ways. See also Policy 39.

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

### **Explanation of Policy**

The definitions of terms "solid wastes" and "solid wastes 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 and are 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. Federal and State law provide a substantial base of regulations for waste disposal. The strict enforcement of these regulations is extremely important to protect the fish and wildlife habitats of the coastal area, and will be given priority.

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

### **Explanation of Policy**

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

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

**Explanation of Policy**

New York's Coastal Management Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clear 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. Since dispersion conditions have been found to be weaker than elsewhere in the general area, monitoring of local conditions is necessary to determine the impact of proposed projects on air quality.

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

**Explanation of Policy**

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

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

**Explanation of Policy**

The New York Coastal Management Program incorporates the State's policies on acid rain. As such, the Coastal Management Program will assist in the State's efforts to control acid rain. These efforts to control acid rain will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

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

**Explanation of Policy**

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semi-aquatic vegetation and other wetlands so defined in the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act. A number of such areas along the Hudson River designated as Freshwater Wetlands by the Department of Environmental Conservation include Minerly Swamp, and just north of Murderer's Creek (see Map 3).

No tidal wetlands are delineated on the Hudson north of the Tappan Zee Bridge.

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

1. habitat for wildlife and fish, including a substantial portion of the State's commercial fin and shellfish varieties; and contribution to associated aquatic food chains; (see Policy 7 and 7A)
2. erosion, flood and storm control;
3. natural pollution treatment;
4. groundwater protection;
5. recreational opportunities;
6. educational and scientific opportunities; and
7. aesthetic open space in many otherwise densely developed areas.

Existing state laws establish the basis for preservation of coastal resources but should be reinforced by appropriate local action where necessary. Activities in the coastal area which would adversely affect freshwater wetlands by causing increases in erosion, sedimentation, pollution or similar affects shall be scrutinized carefully and mitigating actions required where such impacts cannot be avoided.