

Town of Essex Local Waterfront Revitalization Program

Adopted:
Essex Town Council, December 12, 2002

Approved:
NYS Secretary of State Randy A. Daniels, July 29, 2003



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

RANDY A. DANIELS
SECRETARY OF STATE

January 21, 2005

Honorable Ronald Jackson
Supervisor
Town of Essex
Main Street
PO Box 355
Essex, NY 12936

Dear Supervisor Jackson:

I am pleased to inform you that I have approved the Town of Essex Local Waterfront Revitalization Program (LWRP), pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive intermunicipal management program that promotes the balanced preservation, enhancement, and utilization of the Town's valuable resources.

I am notifying state agencies that I have approved your LWRP and am advising them that their activities must be undertaken in a manner consistent, to the maximum extent practicable, with the program.

I look forward to working with you as you endeavor to revitalize and protect your waterfront.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy A. Daniels". The signature is stylized with a large initial "R" and a long, sweeping underline.

Randy A. Daniels

RAD:mo\gn

TOWN OF ESSEX

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Ronald E. Jackson
Supervisor

Barbara Kunzi
Town Clerk

COUNCILMEN:
Suzanne Perley
Stephen Sayward
Mark Wrisley
James LaForest

Resolution #20 of the Essex Town Board

Adoption of the Town of Essex Local Waterfront Revitalization Program June 12, 2003

WHEREAS, the Town of Essex initiated preparation of a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of the Executive Law; and

WHEREAS, a Draft Local Waterfront Revitalization Program (DLWRP), Comprehensive Plan, related Waterways and Harbor Management Law and a new Zoning Law were prepared under the guidance of the Town Board and Town's Zoning & Shoreline Review Committee; and

WHEREAS, the DLWRP and the other plans and local laws were all subjected to a Generic Environmental Impact Statement process which culminated in the acceptance of a final GEIS and adoption of a SEQRA Findings Statement on December 12, 2002 in accordance with the requirements of Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, the DLWRP, including all proposed local plans and laws, and the GEIS were circulated by the Department of State to appropriate local, county, state, and federal agencies in accordance with the requirements of Executive Law, Article 42 and Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, all meetings of the Town Board and Town's Zoning & Shoreline Review Committee were open to the public, and two public hearings were advertised and held by the Town Board on June 25, 2002 and July 16, 2002, and a written comment period was held open until July 27, 2002 to receive and consider comments on the DLWRP, all proposed local laws and zoning amendments, and the GEIS; and

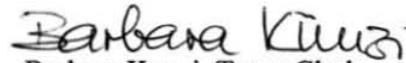
WHEREAS, minor modifications were made to the Draft Local Waterfront Revitalization Program as called for in the Final GEIS, the SEQRA findings Statement and in response to comments received.

NOW THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Essex, New York, that the Town of Essex Local Waterfront Revitalization Program for the Town of Essex is hereby approved and adopted.

BE IT FURTHER RESOLVED, that the Town Board of the Town of Essex hereby directs the Supervisor of the Town to formally transmit the adopted LWRP, and all related local implementing laws, to the New York State Secretary of State for approval pursuant to Article 42 of the NYS Executive Law -- the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

Upon a motion made by Councilman Perley and seconded by Councilman Sayward, the foregoing resolution was duly adopted by the Town Board at its regular meeting held on June 12, 2003, by a vote of its members as follows: Supervisor Jackson - yes, Councilman Perley - yes, Councilman Wrisley - yes, Councilman Sayward - yes, Councilman LaForest - yes.

Dated: June 19, 2003


Barbara Kunzi, Town Clerk

SEAL



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Introduction

The New York Department of State, Division of *Coastal Resources*, recognizes that local governments are in the best position to determine their waterfront needs. The Division of *Coastal Resources* encourages waterfront communities to guide the beneficial use, revitalization, and protection of their waterfront resources by preparing Local Waterfront Revitalization Programs.

What is a Local Waterfront Revitalization Program?

A Local Waterfront Revitalization Program is a locally prepared, comprehensive land and water use plan for a community's natural, public, working waterfront and for its developed resources. It provides a comprehensive framework within which critical waterfront issues can be addressed. In partnership with the Division of *Coastal Resources*, a municipality develops community consensus regarding the future of its waterfront and refines State waterfront policies to reflect local conditions and circumstances. Once approved by the New York Secretary of State the Local Program serves to coordinate state and federal actions needed to achieve the community's goals for its waterfront.

BENEFITS OF A LOCAL WATERFRONT REVITALIZATION PROGRAM

- **Clear direction** - A Local Waterfront Revitalization Program reflects community consensus regarding use of its waterfront. As such, it can significantly increase a community's ability to attract appropriate development that will take best advantage and respect the unique cultural and natural characteristics of its waterfront.
- **Technical assistance** - A Local Waterfront Revitalization Program establishes a long-term partnership between local government and the state, providing a source of technical assistance to prepare and implement a Local Program.
- **State consistency** - State permitting, funding, and direct actions must be consistent with an approved Local Waterfront Revitalization Program. This "consistency" provision is a strong tool that helps ensure all government levels work in unison to build a stronger economy and a healthier waterfront environment.
- **Financial assistance** - A Local Waterfront Revitalization Program presents a unified vision for the waterfront; it therefore, increases a community's chances to obtain public and private funding for waterfront projects. Funding for both the development and implementation of Local Waterfront Revitalization Programs is available from the New York State Environmental Protection Fund.

The Town of Essex Local Program

The *Town of Essex Local Waterfront Revitalization Program* (LWRP) is the Town's principal waterfront management tool. As proposed here, it establishes the Town's policies for development and use of the waterfront and provides the framework for evaluating the consistency of all discretionary actions in the waterfront zone with those policies. The guiding principle of the LWRP is to maximize the benefits derived from economic development, environmental preservation, and public use of the waterfront, while minimizing the conflicts among these objectives. Through the direct actions of the Town, State assistance, and individual project review, the LWRP aims to promote activities appropriate to various waterfront locations. The program is designed to coordinate activities and decisions affecting the shoreline when there are overlapping jurisdictions or multiple discretionary actions. When a proposed project is located within the shoreline zone and requires a local or state discretionary action, a determination of the project's consistency with the policies and purposes of the LWRP must be made before the project can move forward.

The *Town of Essex Local Waterfront Revitalization Program* was adopted as a local plan. It incorporates the major state policies, and delineates a shoreline zone to which the policies will apply. Pursuant to state regulations, the LWRP was approved by New York State. As a result of this approval, state discretionary actions within the Town's waterfront zone must be consistent to the maximum extent practicable with the LWRP and the Town must be given the opportunity to comment on all state projects within its waterfront zone.

Under the LWRP, local discretionary actions, including those subject to the Town's land use review, and environmental (SEQR) procedures, are reviewed for consistency with the LWRP policies. LWRP review of local actions is coordinated with existing regulatory processes and in most instances occurs concurrently. For local actions requiring approval by the Town Planning Board, the Planning Board makes the consistency determination. The full process for assuring that government actions are consistent with the Town's plan is described later.

New York State Waterfront Revitalization Program

Consistency with local waterfront policies is a key requirement of the waterfront revitalization program established in New York State's *Waterfront Revitalization of Coastal Areas and Inland Waterways Act* of 1981. The New York State Department of State administers the state's waterfront program and is responsible for advising State agencies whether their actions are consistent with the waterfront policies. For actions undertaken by State agencies, including permitting, funding assistance, land transactions and development projects, the State agency with jurisdiction makes the consistency determination, which is filed with the Department of State. If there is any disagreement between a State agency and the Town regarding the consistency of an activity, either the Town or the State agency may seek the mediation of the Secretary of State.

Related Regulations

The New York State Department of Environmental Conservation (DEC) is responsible for management and protection of natural resources and environmental quality. The DEC regulates activities that may have an effect on water quality. Activities such as draining, filling or building structures within a waterway may be undertaken only if DEC has granted a permit. In granting a permit, the DEC is empowered to place conditions and restrictions on an activity which can include mitigation measures.

The Army Corps of Engineers (ACOE) is responsible for the protection and management of the nation's waterways and wetlands. Like the DEC, ACOE is empowered to review and issue permits for activities occurring in navigable waters and in tidal or freshwater wetlands that meet the national designation criteria. These activities include dredging, filling, bulkheading, and placement of structures in the water. A central mandate of the ACOE is to maintain navigable channels and the general functioning of the waterways of commerce. In reviewing projects, the ACOE consults with other federal agencies including the U.S Fish and Wildlife Service, the Coast Guard and the Environmental Protection Agency.

The Adirondack Park Agency (APA) provides for the protection of the quality of the lakes, ponds, rivers, wetlands, and streams of the Park and the qualities of their shorelines. Regulations under the APA Act provide for the review of any project that involves any shoreline within the Park.

Much of the development occurring in or near New York's waterways requires permits from the DEC, APA, and the ACOE. To receive permits from the State agencies, a proposed project must be consistent with the Town's LWRP. Because of their differing mandates and missions, all the agencies involved in waterfront issues may have varying permitting requirements. The Division of *Coastal Resources* will also assist the Town in obtaining the cooperation of the ACOE and other federal agencies in achieving the policies of the LWRP. As part of its coordination role, the LWRP consistency review can help to resolve these conflicts and to ensure that the Town's policies and plans are considered by all permitting agencies.

Planning Context for the LWRP

The LWRP builds on, and is a direct outcome of, numerous waterfront planning efforts. These plans and studies have led to a more complete understanding of the Town's waterfront, calling attention to the need for a LWRP that reflects the different conditions, issues and priorities along the waterfront.

The *Town Comprehensive Plan* (the Plan) expresses the Town's long-range goals for the 21st century and beyond. The plan assesses local conditions and proposes short and long-term strategies to guide land use change, planning and coordination. The waterfront vision expressed by the Plan was incorporated into the policies of this LWRP and in the *Shoreline Overlay District Regulations* included in the Town's revised Zoning Law adopted in June 2003 (Appendix A).

The *Shoreline Overlay District Regulations* advance many of the Comprehensive Plan recommendations and incorporate LWRP goals and policies, such as requirements for public access and visual corridors in most new residential and commercial development. It also ensures that the scale of development is appropriate for the waterfront by controlling the height and bulk of waterfront buildings and pier structures. The *Shoreline Overlay District Regulations* contains provisions for water-dependent uses and allows for floating structures. Where LWRP policy goals and the *Shoreline Overlay District Regulations* overlap, the policies reference the *Shoreline Overlay District Regulations*.

SECTION I

WATERFRONT REVITALIZATION AREA BOUNDARY

Waterfront Revitalization Area Boundary

The Town of Essex is located approximately halfway up Lake Champlain, extending for nine miles along Lake Champlain's 587 miles of shoreline. The Lake is unique, in part because of its narrow width, (measuring only twelve miles as its widest point), great depth (some parts are more than 400 feet deep) and the size of the land area, or watershed, through which 90% of the water delivered to the Lake flows. Lake Champlain stretches south from the Canadian border for 120 miles along almost one-third of the New York State's eastern border. Lake Champlain flows north through the Richelieu River to the St. Lawrence Seaway, and it also connects to the Hudson River in the south via the Champlain Canal. Because of its strategic location in North America, events and battles took place on this waterway that shaped the future of two modern nations.

Essex's nine mile long shoreline on Lake Champlain is very beautiful – a source of pleasure to its residents, seasonal homeowners, and visitors – and a priceless asset to the Town. Essex is fortunate that its shoreline is largely unspoiled by development, thus contributing to the unique rural lakeside character of the Town.

The Waterfront Revitalization Program Boundary, which coincides with the Shoreline Overlay District, extends to the east to the center of Lake Champlain and north and south to the Essex Town lines. A visual and topographic analysis was completed to determine the western boundary which follows an irregular pattern encompassing the major developed sections of the Essex Hamlet and follows topographical ridgelines to the south of the hamlet that have been deemed sensitive areas for development. This methodology was employed so that lands subject to development in highly visible areas could be included in the Shoreline Overlay Protection District.

A narrative description and map of the Shoreline Protection Overlay District is included in Appendix B.

Section II

Inventory and Analysis

Location, Landscape, and Natural Environment

The Town of Essex encompasses approximately 23,798 acres nestled in the foothills of the Adirondack Mountains along the shore of Lake Champlain. It is almost a perfect rectangle in shape, 38 square miles in area. It is bounded on the north by the Town of Willsboro, on the west by the Town of Lewis, on the south by the Town of Westport and on the east by Lake Champlain. The western part of the Town is



The Essex Shoreline looking north from Whallons Bay

characterized by steep, wooded hills and rounded mountains often referred to as the foothills of the Adirondacks. The Boquet River flows northward through the center of Town. In the southeastern corner of Essex, the Schroon Range, a sub-group of the Adirondack Mountain system, extends out into the Lake, forming Whallons Bay with its rugged promontory ending at Split Rock. In between these mountainous outcroppings, the Boquet River cuts a narrow valley through a high central plateau of open farmland with dramatic views westward towards the Adirondacks and eastward out over Lake Champlain.

A significant part of the shoreline is characterized by narrow strips of rocky beach below steep banks. As stated previously, the offshore waters are not typically calm and recent unexplained weather patterns have meant that shoreline property owners are seeing the significant effects of erosion and dealing with the need for bank stabilization. What little is left of undeveloped shoreline can be considered generally unsuitable for future development.

Land Use and Analysis

The Town of Essex is situated in northeastern New York on Lake Champlain. The Town encompasses approximately 23,798 acres, of which approximately 16 percent is water.

The entire Town is located within the Adirondack Park and is subject to the Adirondack Park Agency's Land Use Plan and Regulations. This land is allocated to the official Adirondack Park Land Use and Development Plan Map - land use area classifications as of August, 2000:

Table 1
Land Use Classifications

	Essex Acres	% of Essex Total	Essex County	Essex County % of Park Total
Hamlet	255.0	1.1	18,864	1.4
Moderate Intensity Use	222.1	1.0	20,291	1.1
Low Intensity Use	1,892.1	8.0	77,651	2.5
Rural Use	8,728.5	36.7	184,884	4.8
Resource Management	8,195.5	34.5	309,006	2.7
Industrial Use	0.0	0.0	6,470	0.0
Wilderness	0.0	0.0	326,819	0.0
Primitive	0.0	0.0	21,327	0.0
Wild Forest	617.0	2.6	175,146	0.4
Intensive Use	0.0	0.0	6,554	0.0
Historic	0.0	0.0	495	0.0
State Administrative	0.0	0.0	316	0.0
Pending Classification	0.0	0.0	182	0.0
Open Water	3,856.0	16.2	76,580	5.1
Total	23,766.1	100.00	1,224,583	2.0

The Town has two established hamlets, Essex and Whallonsburg. Several other concentrations of housing are recognized by local residents; Boquet, located about three miles west of the Essex hamlet on the shores of the Boquet River; Brookfield, located in a more remote area in the western part of the Town; and Whallons Bay, located in the southeast part of the Town embracing the bay which bears its name and Split Rock.

Generally speaking, the land uses in Essex have not changed drastically over the years, other than a reduction in the housing stock reflected in the population figures.

The existing land uses in the waterfront area are presented in five arbitrarily named sub-areas, including North Bay, Beggs Point, South Bay, Lake Shore Road, and Whallons Bay. The bulk of access to the Essex Waterfront takes place in the Essex Hamlet with the cross-lake ferry, Beggs Park, and the marinas.

1. North Bay

The North Bay sub area includes that portion of the waterfront area from the northernmost boundary of Essex to the Ferry Landing at the intersection of State Route 22 and Lake Shore Road. This sub-area contains several different land use patterns. Land from the northern Town line to land just north of the Ferry dock is privately owned with residences on fairly good sized lots. The northernmost shoreline is characterized by rocky beaches with little or no sand. Several of the homeowners in this area have had to shore up the banks of the shoreline due to erosion over the years. Only one homeowner in the

northernmost area maintains a seasonal dock, as the Lake is broad and open and subject to strong winds. As you make your way south to the Ferry Dock, there exists an area called "Sandy Point" which has one of the few sandy beaches on the Essex shoreline. This beach is privately owned by seasonal homeowners. The bay close to the Ferry dock is a popular overnight mooring spot for sail boaters in the summer, however it is not completely sheltered and is subject to the unpredictable weather and winds of Lake Champlain. The main obstacle to this mooring area is no public access to the Essex waterfront. Most access is by permission on private property.



Lake Champlain Transportation Ferry Landing (right), the Old Dock Restaurant (left).

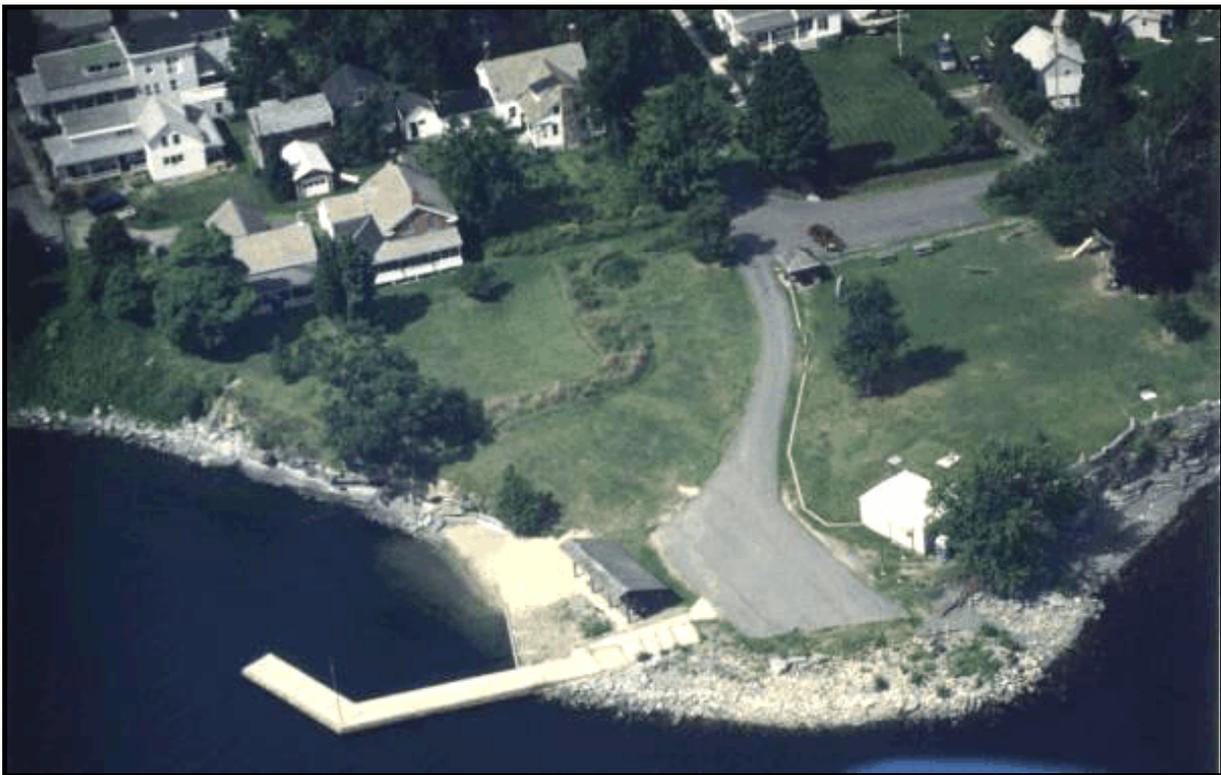
The North Bay area is also home to the Lake Champlain Transportation Company ferry dock. In the summer months, the ferry operates two boats from 6 a.m. to 11 p.m. This schedule shortens to one boat on the hour in the off-season. Due to the fact that the Lake has not frozen for the past several years, the ferry has run year-round. This is a major access point to Essex and the entire New York Champlain Valley Region for purposes of general commerce and tourism.

Adjacent to the ferry dock is the Old Dock Restaurant which has transient docking facilities for up to 30 boats. This service is offered at no charge to customers. Short-term overnight docking is permitted.

Immediately south of the Old Dock are Cabins by the Lake, which has a large cement dock which is permitted for several boats. There are also some privately owned moorings at this location.

2. Beggs Point and Beggs Park

Over 20 years ago, with broad local support and a Federal Land and Water Conservation grant, the Town of Essex acquired and developed a waterfront municipal park at Beggs Point. The park was developed on the site formerly occupied by the Essex Horse Nail Company. The park is located on a man-made plateau rising about fifteen feet above the Lake level of Lake Champlain. The plateau is contained on the east by 19th century stone retaining walls, which rise from Lake Champlain. The walls, and a wharf which is no longer present, were constructed by previous industrial users of the site including the horse nail factory works (c.1879), or earlier occupants which include the Lyon and Palmer Sash Company and the Hoskins and Ross Shipyard.



Beggs Park and the Town Dock

The retaining wall is subject to very harsh treatment by the elements, including repeated freezing and thawing, wave action, and the effects of Lake ice. At present, it requires extensive repair. Such repairs are necessary to protect the integrity of both the historic walls and the park itself. In 1997, a grant was received from the Lake Champlain Basin Program to do an engineering study to provide the necessary guidance for the rehabilitation of Beggs Point wall. This study and engineers' recommendation for reconstruction of the wall was completed in December of 1999. In late 2001 it was discovered that a

critical retaining wall on Lake Road directly adjacent to the Beggs Park wall was in a very serious state of collapse. This sea wall retains a critical section of Lake Road that, unless repairs are made soon, may have to be closed to traffic. Funding sources should be sought immediately by the Town Board to effect the necessary repair of the road and wall.

Begg's Park today is home to a Town maintained public dock which allows access on a limited basis for boaters wishing to dock at no charge for up to two hours, a playground and picnic tables and is a tremendous asset to the community. The vistas from the Park extend for miles up and down the Lake. It is the only access most hamlet residents and visitors have to the Lake. The Town maintains a beach adjacent to the park; however, at the current time, public swimming is not allowed. There is no public access to the Lake in the Town for purpose of launching watercraft.

3. South Bay

Early in the 1800s there were two shipyards in Essex. One was located on what is today known as Begg's Point and operated by John Ross; the other on Gould or "South Bay", the present site of the Essex Marina and Essex Shipyard and operated by the Eggleston brothers. The Ross yard built sail and steamboats. The Eggleston Brothers built the Euretta, the first sloop to sail these northern waters, about 1800. A short time later, with war in view, eight or ten vessels of one-hundred and fifty tons were built as well as two hundred and fifty row galleys or bateaux for the American fleet on the Lake.

Around 1850, the village of Essex was the leading port on Lake Champlain, shipping locally produced lumber, iron, clothing, sash and doors, lime, brick, quarried stone, dairy products, etc. The Ross Shipyard became the Essex Manufacturing Company in 1879, builders of sashes and blinds. The Essex Horse Nail Company subsequently occupied the same site, and employed sixty to seventy men and women until it burned in 1917. The Ross Shipyard no longer exists.

Business at the Eggleston Brothers' shipyard declined but later revived when it was purchased and operated by C.W. Mead as a boatyard. He built several sailboats and a 40-foot power yacht, the Emerald. In 1938 the Morse brothers, James, Alpheus, and Frank bought the yard and set about reestablishing the business. By 1955, this enterprise boasted of having the largest undercover storage and first complete marina on Lake Champlain. It expanded to include a garage, machine shop, and boat building shop.

With a 1930s vision of seaplanes becoming a popular mode of travel, the name of the business was established as the Essex Marine Base, and recognized as a seaplane base by the FAA. The identification can still be seen on aeronautical charts. James Morse operated the marina until the entire property was sold in December 1986.

Shortly after taking over the Essex Marine Base property in 1987, the new owners divided the Essex Marine Base into two separate properties. The northerly portion included the service dock, two boathouses, a gas station, a small workshop-apartment building, and the Cupola House; it is now operated as the Essex Marina. The southerly portion included the principal boat basin, with seasonal and transient dockage along with moorings for a total capacity of 60 boats. It also included a boat launch ramp, one boathouse, a restaurant-bar, restroom-shower-laundry buildings, a retail store, and the Cleland

House (an unoccupied duplex house fronting on Main Street). The southern portion is now operated as the Essex Shipyard.



South Bay, home to the Essex Marina (right) and the Essex Shipyard (left)

In 1988 the Essex Community Heritage Organization (ECHO) sued the Town of Essex Planning Board in a case involving the granting of special use permits by the Town of Essex Planning Board to the Essex Marine Base and Essex Shipyard for increased dock space. As a result of that lawsuit, permits were issued by the Town allowing for the construction of a crib dock at the Essex Marine Base to accommodate 20 boats and 10 cars and the Essex Shipyard was allowed to increase the size of the marina by 20 slips by substituting 10 moorings with 10 slips and adding 20 new slips for a total of 80 slips. They were also to add 10 parking spaces. The settlement of the lawsuit also included a Stipulation that the Town would develop and adopt a formal shoreline and hamlet land use ordinance with ECHO contributing toward the costs of the project. This LWRP and its implementing laws are intended to meet that court (legal) requirement.

Since the 1988 Court Stipulation, both marinas have upgraded their facilities significantly. The Essex Marina created a new boat basin utilizing timber and stone cribbing to accommodate 20 boats in accordance with its permit. The Cupola House was restored and adapted to two apartments and a retail gallery. Additional parking and landscaping were completed and toilets and showers were added for boaters. The gas station was rejuvenated. Fuel tanks, fuel pumps, and a boat pump-out station were installed in accordance with current regulations. The service dock, with fuel, water, and pump out is the only service dock in Essex. Because of the modest demand in Essex, it adequately serves those needs.

The Essex Shipyard restored the badly deteriorated timber and stone crib docks that protected its boat basin and installed concrete tops, which are resistive to wave action in the spring. Power poles and crane equipment that occupied the wharf area were removed and replaced with underground power lines. A deck with seasonal awning expanded the restaurant capacity and the entire kitchen and dining areas were refurbished. Trees, flower beds, benches, and boardwalks were added to the waterfront and incorporated into an expanded parking plan. The entire exterior of the Cleland House was restored.

In 1990, the Essex Shipyard was further subdivided to create a separate one-half acre parcel for the boathouse (home to Essex Boatworks) and the retail store building. The Essex Shipyard was unable to expand to its permitted capacity in 1989-1990 due to the Recession and a sudden drop in the boating market. The Essex Marina actually ceased operation for two years at about this time. The Essex boating market has still not recovered to its 1980s level, partly due to recreational boating trends on Lake Champlain and partly due to the development of several new, large marinas between Essex and the Canadian border. With confidence that Essex will continue to retain its market share, the Essex Shipyard obtained new expansion permits in 2001 from the NYS DEC and the Army Corps of Engineers.

The Lake Champlain boating season is periodically delayed by high water in the spring. Since both marinas have basins that are surrounded by timber and stone (on the bottom) docks, both are subject to potential flooding and wave damage.

Essex is not a full-service boating center. The commercial marinas to the north have travel-lifts, full-time mechanics, marine supplies, boat sales, winter storage, and rates that reflect the economies of handling 200 – 300 boats at one operation.

On the other hand, none of them are as attractive as Essex, with its lakeside setting, shops, accommodations, restaurants, and historic architecture. Essex's major appeal – and real potential – is as a prime boating destination. Both marinas serve several purposes relating to the economy and quality of life in Essex: they bring visitors to Essex by boat rather than by car, they create waterfront activity and interest that has been an inherent characteristic of Essex for over two centuries, and they provide access to the water. Neither marina closes its doors to fishermen, photographers, or sight-seers. Anyone can go to the marinas and look at boats, eat, or just sit. Boating visitors are likely to patronize other local businesses. In addition, the marinas provide convenient dockage for local residents.

The only boat launch area available in Essex is at the Essex Shipyard Marina for which a fee is charged. Also, this is a very difficult launch due to the steepness of the entry and limited access for maneuvering vehicles. While the area at Whallons Bay has been suggested as a site for a public boat launch, its physical location close to Lake Shore Road makes this almost impossible. Public boat launch facilities are available in the neighboring Towns of Westport and Willsboro.

The proximity of the two marinas to each other and a recent application by the Essex Marine Base for an expansion, coupled with the concerns of two adjoining land-owners, has been the source of controversy in the Town for the past several years.

As a result of the historical use of this bay for marina and marina-related services, this area is best identified as the most reasonable and practical location on the Essex shoreline for commercial marina

and boat-related activities. A pierhead line within which expansion of the marinas will be considered has been established as part of the Town's Waterways and Harbor Management Law adopted in March 2003 (Appendix C). Any expansion of the marinas within this area will be subject to all the zoning rules and regulations, SEQR, and other environmental considerations and reviews.

Impact from the marinas can be hard to measure directly, as there is generally a mixture of permanent and transient boat slips. It is important to note that the availability of transient boat slips provides another means of access to the community rather than relying on vehicle access.

4. Lake Shore Road

This area of the shoreline encompasses all that shoreline south of South Bay down to Whallons Bay.

The Crater Club, a rustic camp retreat and summer resort colony is located two miles south of the Essex Hamlet on Lake Champlain. It was founded and built in the early 1900s by John Bird Burnham, and it is home today to approximately 40 seasonal property owners. John Burnham constructed telephone lines, four tennis courts, a fourteen-mile water system, docks, a central building with dining room, a library, recreational facilities, a big garden and a federal Post Office. Many of these facilities remain today. In the days of long vacations, the Crater Club resort's clients were persons of middle means, among them clergymen, educators, government officials, authors, and persons whose tastes were simple. During this time, Burnham built over 75 cottages, each with a lake or mountain vista. The members have continued to maintain the common buildings and facilities and have upgraded the dock area. Today, the residents of the Crater Club bring vitality and life during the summer months to an otherwise secluded and private part of our Town.

While most of the residences at the Crater Club are still seasonal, over recent years several homes have been retrofitted for year round use.

The Crater Club is serviced by an on-site privately owned water system. Water is pumped from the Lake to many of the camps through pipe that lies above the ground, making it a seasonal operation. Several of the members have drilled wells for water, however, due to ground restrictions, this is not a viable option for most of the camps. In 2001, a committee was formed to explore options for a new water system for the Club. The Town was approached for input, but it has been determined that the cost of infrastructure to run Town water to the site was far more than the seasonal homeowners would be willing to bear at this time.

Individual septic systems are also the norm at the Crater Club. Once again, due to rocky site conditions, future expansion and or new construction of buildings at this site should be monitored closely for discharge and runoff, as the hillside location of this housing development has the potential to directly impact Lake Champlain.

Adjacent to the Crater Club dock, the Split Rock Yacht Club, a small informal club, sponsors weekly sailing races during mid-summer. For the past 60 years, the Club has followed the course from the

southern shore of Essex to a marker in Whallons Bay and back to a marker off Cannon Point and finally to the finish line in Cape Cod Knockabouts. In 1999 the Club had approximately 100 members. Lake Champlain is a marvelous lake for sailors. Powerboats also enjoy it but often find the heavy



Crater Club beach and dock facility (right) and sailing club (left)

weather unpredictable and difficult. Experiments with houseboats have not worked because an active lake pounds them too much. The two marinas in Essex are filled with large sail vessels as well as powerboats.

This area of the Lake represents the most threatened in terms of development. Lake Shore Road, which serves as a major north south travel route, is built very close to the shoreline and at places is subject to severe erosion. Due to severe erosion on a major section of the road at the South Farm property, the Essex County Highway Department in the year 2001 moved that section of the road to the west side of its actual location with grant funds from FEMA.

This part of the shoreline is also characterized by docks, boathouses and very few seasonal homes. This section of the shoreline has been targeted as critical. The often steep drop from the upland area to the lake surface is prone to erosion, slumping, and even collapse. These areas are unsuitable for development and should be protected.

5. Whallons Bay and Split Rock Point

The southernmost part of the shoreline encompasses Whallons Bay and an area known as Split Rock. The Town owns an access point to the Lake at Whallons Bay, which has been used in past years as a swimming area. However, recent problems with "swimmer's itch" closed this beach area to public swimming. This area provides a natural cove protecting boaters from the wind and is a popular transient mooring and water ski site.



Whallons Bay

Adjacent to Whallons Bay, the cliffs of Split Rock Mountain rise 400 feet out of Lake Champlain between Westport and Essex, creating a dramatic bluff known as the Palisades. The state acquired the cliffs in 1980 and much of the rest of the Mountain in 1994 totaling 3,000 acres and 4.3 miles of shoreline, representing the largest stretch of undisturbed waterfront on the 120-mile long Lake. In 1994, the state also bought the Webb-Royce Swamp across the road from Split Rock Mountain. The swamp is popular among birders for its great variety of species, including osprey, heron, various ducks, and great horned owls. Swamp white oak, a rarity in the Adirondacks, can be found there.

Water Use, Public Access and Recreation Resources

The Essex shoreline is a wonderful resource that uniquely defines the character of the community.

The existence of the ferry dock provides a major access point to Essex County, Northern New York and the Adirondack Park. While no direct studies exist, it is a reasonable conclusion that upwards of 80% of peak season ferry traffic passes through Town without stopping. However, the historic and unspoiled nature of the Town itself is an attraction for tourists. Tourism is a major part of the economy of Essex County and is promoted heavily by surrounding Towns and the Essex County Visitors Bureau. In addition, shop owners in the Essex hamlet rely entirely on tourism for the success of their seasonal businesses.

In March, 1997, a study was sponsored by the Village of Port Henry and funded through a Department of State Environmental Protection Fund Local Waterfront Revitalization Program grant entitled: "Essex and Clinton County Local Waterfront Revitalization Program". The study stated: "today, tourism and recreation utilizing the incomparable natural and cultural resources of Lake Champlain are economic activities which no community can afford not to incorporate in any revitalization effort, but in doing so the communities need and wish to preserve the unique quality of life and the environment associated with it."

Lake Champlain Byways, a collaborative effort between three New York County Planning Offices (Clinton, Essex and Washington) and four Vermont Regional Planning Commissions (Northwest, Chittenden, Addison, and Rutland) developed a plan for a 250-mile bi-state route surrounding Lake Champlain (America's sixth largest fresh water lake) and including the Town of Essex. The Corridor Management Plan is aimed at coordinating existing activities to establish a regional identity and unification of the Lake as a region. Strategies and partnerships identified in the plan are to promote, interpret and steward the region's resources in balance with economic development in the region.

In 1992 the state of New York designated the Champlain Trail as a New York State Scenic Byway, recognizing the roadway's access to the scenic, historic, cultural, natural, and recreational qualities of Lake Champlain and the communities that line its shore. New York State has identified NYS Route 22 in Essex County as a designated byway on the Champlain Trail. Lake Champlain Byways is more than a designated roadway. It reflects a "geographic sense of place" that is created by a concentration of byway resources that have a functional or physical relationship to Lake Champlain. The objective of regional unity is realized through the linkage of communities by a network of multi-modal routes with themed interpretation.

By this definition, the Byway corridor extends from the center of the Lake to Elizabethtown, encompassing the entire Town of Essex. The Byways Corridor Management Plan does not include land use policies or plans for implementation. Specific areas where there is interest to work together includes education, recreation, transportation, agriculture, tourism, environment, and historic/cultural resource management.

The Essex Community Heritage Organization has recently received funding for the establishment of a heritage/tourism facility to be located in the hamlet of Essex. In 1996, the National Park Service funded

the "Champlain Valley Heritage Corridor Project," a New York-Vermont effort to study how best to take advantage of the historic nature of the Champlain valley. This effort, initiated by Senator James Jeffords of Vermont resulted in the U. S. Congress establishing a national heritage corridor in the Champlain Valley. A team of planners from the National Park Service worked in consultation with local citizens, government representatives, scholars, and resource specialists to evaluate the preservation and interpretation of the resources of the Champlain Valley.

In Essex County, the Champlain Valley Heritage Network supports recognition of the Champlain Valley Heritage Corridor providing for its implementation to be managed locally, and its emphasis includes economic development as well as addresses industrial tourism, tourism history and the military history of the area.

Within the corridor, the Champlain Trail is supplemented by a network of multi-modal transportation routes:

- **Lake Champlain Bikeways** is a network of routes for bicyclists. The principle route, "Champlain Bikeway", circles Lake Champlain. From this principle route, interpreted bicycle theme loops provide access for bicyclists to the smaller communities and roadways in the region.
- **Lake Champlain Walkways** is a network of trails and roadways that connect the region's communities and are accessible by the pedestrian. Although this network is in a pilot-study stage, it is anticipated that these routes will have local interpretation developed for the user.
- **Lake Champlain Waterways** are routes for boaters that connect the lakeshore to the Lake's streams and rivers up to the first non-navigable point (dam or waterfall). The Waterways include the Lake Champlain Paddlers Trail, which connects sites along the Lake that are accessible to the public. This network is also in a pilot-study stage, it is anticipated that these routes will have local interpretation developed for the user.

This network of multi-modal routes is developed to merge transportation and recreation for the visitor. The slower modes of travel, coupled with interpretation, allows the visitor to have a meaningful and authentic experience of the region. By having visitors utilize various modes of travel, the region can experience reduced congestion on major roadways, while increasing visitor access to the local businesses and services, and showcasing local culture and heritage.

Zoning

A community's zoning is its guide for future development. The Town of Essex Zoning Ordinance was initially adopted in 1974. The zoning ordinance was updated as part of the development of a new Comprehensive Plan and the adoption of a Shoreline Overlay District. For the most part, the existing zoning establishes districts which support fairly stable existing land uses, but enhancements are needed to accommodate planned future development and to insure the protection of existing resources. Such development can be expected to take place in all of the LWRP sub-areas and adequate protection for the waterfront and related resources should be adopted in anticipation of such development.

Lands included in the Shoreline Overlay District (the Study Area) overlap five different zoning districts (see map in Appendix A). These include:

Table 2
Land Uses in Shoreline Overlay District

Zoning District	Description	Principal Bldgs. Per Square Mile	Average Lot Size (acres)	Density (minimum lot size)
Residential II (R2)	Moderate Intensity	500	1.3	1
Agriculture (A)	Resource Management	15	42.7	2
Essex Hamlet (H)	No Intensity Restriction	N/A	N/A	.5
Forest/Recreation (FR)	Rural Use	75	8.5	5
Critical Areas (C)	Critical Environmental Areas	15	42.7	Not Specified

The entire Town is under the jurisdiction of the Adirondack Park Agency (APA) which has its own set of land use classifications. However, the overall intensity in the Town's zoning ordinance matches the intensity set forth in the APA land use regulations.

Infrastructure

The Town as a whole has no public water or sewer system. There is currently one Water District in the Essex Hamlet. Water is pumped from an intake approximately 120 feet off the shore of Lake Champlain at Beggs Park. The water line intake sits at a depth of approximately 40 feet. The majority of residents get water from wells and are serviced by on-site septic systems. Several year round and seasonal residents draw their drinking water directly from Lake Champlain.

The Town recently received funding for the expansion of the water district surrounding the hamlet of Essex. This new water district (Water District # 1, Extension # 1) extends the water line to the north border of the Town and was completed in late summer 2002.

The Town of Essex is the last un-sewered community on Lake Champlain. Individually owned septic tanks and leaching fields are the present means of sewage treatment. The Town has recently retained the services of a professional engineering firm to provide a preliminary engineering study of wastewater treatment system options for the Town. In addition, the Town has been and continues to actively pursue

funding programs to provide for the cost of a municipal sewer. It is anticipated that any public sewer system will be limited to the Essex Hamlet area directly on and adjacent to the shores of Lake Champlain, as it is a well known fact that there are many failing systems leaching into the Lake at this time.

With the exception of the Essex Ferry, the Town of Essex has no public transportation system(s).

Historic Resources

Visually, both in layout and architecture, Essex has retained the character of an early 19th century village, a character determined by its geographical and historical position.

In 1974, the Essex Community Heritage Organization, (ECHO), prepared the National Register nomination which led to the listing of the Essex Village Historic District on the National Register of Historic Places in 1975. The resulting historic district is approximately 1.5 miles long and .3 miles wide. From the intersection of Route 22 and Main Street it extends approximately .8 miles to the north, with the current Kellogg (Blockhouse Farm) property being the northern most property to be included. It extends approximately .6 miles to the south with the "Champ Watch" property being the most southerly. The shore of Lake Champlain is the eastern boundary and the western boundary is a line .3 miles from the intersection of Route 22 and Main and running parallel to Main Street.

The district contains approximately 150 structures which predate the 20th century. Of the structures in the district, there are only 15 that were constructed after 1900. Of these, only 3 were built after 1910. Four or five structures are of the 18th century; the rest are all 19th century. Of these, only 7 were constructed after 1860. The predominant building materials were clapboarded wood, frame, brick, and native stone. No structure exceeds 2 1/2 stories, thus taking the fullest advantage of the natural beauty of a location between wooded ridge and a rocky and irregular lakeshore.

It should be added that it is the sense of Essex as an architectural whole, without intrusive modern elements, and with a wealth of imaginative taste in the use of detail, that is the village's finest heritage. From the viewpoint of either an architectural historian or a casual visitor, the village of Essex displays a unique opportunity to see and study a village that "went to sleep architecturally" for 100 years and, excepting a brief arousal at the turn of the 19th century, has not changed in any important aspects.

Life however, does go on for the many residents and businesses in the Essex Hamlet. A very lively and energetic business core heavily promotes the area during the summer season. The population of the Town swells and the many seasonal residents return to enjoy the Lake and the very special quality of life. On any given day, the hamlet is replete with tourists, enjoying the sights, patronizing shops, restaurants, and marinas.

Scenic Resources

Given its location on Lake Champlain between the Adirondack Mountains of New York and the Green Mountains of Vermont, Essex has an abundance of scenic views which should be identified and preserved. The visual resources of Essex are as unique and varied as anywhere in the Adirondacks and beautiful views of Lake Champlain can be seen from points all along the waterfront. Route 22 carries the most automobile tourist traffic and visual impressions are created by this travel route through majestic hillsides and sprawling open farm fields heading north, south, or east through the Town.

Entering the Hamlet from the north, the road bends around the shoreline presenting a vista of the Ferry landing, Community Church spire, and the Greystone Manor. From the west, the view corridor is terminated by the "sunburst" pediment of the former firehouse at the main hamlet intersection with the Green Mountains of Vermont as a backdrop. These and other panoramic vistas, such as from Beggs Point, are memorable events which give Essex its special place-identity.

Topography and Geology (source Essex: A Land Use Planning Process, 1975)

The landscape of Essex was formed by a billion-year old uplift and more recent glaciation. The massive uplift of igneous rock is responsible for the mountainous areas within the Township; and the Lake Champlain Valley bedrock was formed under ancient seas where sandstone and limestone were deposited. A granite lacolith, found at the site of the Crater Club, was a vein of molten rock forced to the surface creating a small dome. The landscape was altered by glaciers of the last ice age; the ice sheet flowed from the north grinding and sculpturing the bedrock. Glaciers deposited what is known as glacial till-mixed rock fragments, sand and silts. Drumlins, a glacial landform deposited parallel to the flow of ice are low, cylindrical hills that occur in Essex between the Boquet River and Lake Champlain. These drumlins are surrounded by old lake bed deposits of clay and sand; sediments which were washed into Lake Vermont (Lake Champlain being a vestige of that Lake) settled out in the still water. Additional deposits include glacial outwash and are well drained coarse soils with deep water tables found near Whallons Bay Road and along the Boquet River at the Willsboro-Essex line.

The most recent landform in Essex is the Boquet River flood plain. The periodic flooding deposits soils of various textures along the flat lands of the river bottom. New channels are created as sediment clogs old channels which form oxbows where meanders occur. There are former channels that have been by-passed by the main flow.

Topographic maps are graphic representations of the earth's surface drawn to scale. Slopes are computed by comparing the vertical rise over horizontal distance expressed as a percentage. Thus, ten feet in rise in 100 feet is ten percent slope. Much of Essex is in the zero to three percent slope category – lands that are very flat. Water is slow to drain from such areas; and where soils are clayey, standing water is a problem. Except for possible drainage problems, development is appropriate in these areas. Slopes in the range of three to fifteen percent are suitable for most types of development, since grading building sites is not difficult. Public roads, however, may be difficult to travel in the winter if their gradient exceeds eight percent. Fifteen percent is the maximum for private driveways. Since grading is more extensive and retaining walls sometime required, 15 to 25 percent slopes are moderately difficult to

develop. In addition, erosion and septic tank leaching fields are common problems on these slopes. Sewage effluent can potentially seep downward and laterally to appear at the surface a few feet down slope. Very steep slopes over 25 percent occur in Essex on Split Rock Mountain, North Boquet Mountain, South Boquet Mountain, and several other areas in the western section of the Town.

Land Use/Growth Impact Issues

As part of this Program, the Town commissioned a growth impact analysis to be done of the shoreline by The Saratoga Associates of Saratoga Springs, New York. This study represents a compilation of past studies done by various consultants to the Town, and also provides an analysis of land use options for the future. The study also includes results of a survey conducted by the Town (see Town of Essex Shoreline Study, January, 2001, The Saratoga Associates.)

Water Quality

Water quality within Lake Champlain varies significantly from section to section and from season to season. Primary water quality threats for the Lake are excessive nutrients (primarily phosphorus), nuisance aquatic species, pathogens, and localized heavy concentrations of toxic substances.

The nutrient phosphorus poses the greatest threat to clear, nuisance-free water in the Lake. High concentrations of phosphorus cause excessive growth of algae and other aquatic plants, particularly the non-natives, Eurasian milfoil and water chestnuts. Zebra mussels, which entered Lake Champlain in 1993, have now been found in many sections of the Lake, including Essex, colonizing any hard surface in its shallower portions. These exotic colonies cause a problem for boat owners and those who withdraw drinking water from the Lake. Pathogens, including bacteria, viruses, and other micro-organisms enter the Lake mainly from animal and human waste sources. Sources often include faulty waste systems, discharges from boat holding tanks, agricultural run-off, and urban and suburban run-off.

Once again, it is important to note that Essex remains the last un-sewered community located directly on the shore of Lake Champlain. The Town is aware that there are many failing septic systems in the densely populated hamlet with a potential for significant impact to the Lake.

Levels of toxic substances are relatively low in Lake Champlain compared with bodies in more industrialized areas. While there have been occurrences of PCBs (polychlorinated biphenyls) and mercury in the Lake, the area adjacent to and including the Essex Shoreline Overlay District are not included.

Swimming in Lake Champlain on a hot summer day is one of the most popular activities in the area. In 1995, Lake Champlain Basin residents and visitors enjoyed 64 swimming beaches, both public and private along the New York and Vermont shorelines. During recent years, enhanced access to additional beach areas has been undertaken in local communities such as the neighboring Town of Willsboro with the development of Noblewood Park. Water at public beaches is monitored by the New York

Department of Health to determine if there are any threats to human health from pathogens such as fecal coliform.

Currently, there is no public swimming area in the Town of Essex. The beach at Whallons Bay has been closed to swimming for many years due to "swimmer's itch." The beach at Beggs Park is used occasionally for swimming during the summer months, however, the Town is not providing any lifeguard services and the beach is posted for no swimming.

Significant Fish and Wildlife Habitats

Observers of wildlife and bird life within the Town have helped identify key wildlife habitats. Split Rock Mountain, one of these areas, is the northern edge of a valued deer wintering range. The white tailed deer is the most numerous of the large mammals in the Adirondacks, but the cold winters and limited food supply have kept the total numbers lower than in areas of central New York state. The best deer habitat contains vegetation patterns with open and forested areas. This network of "edges" accommodates both food supply and cover needs for the deer population. The second type of habitat is "diverse ecosystems." The most notable is the Webb Royce Swamp, of which one half is in Essex, and located adjacent to the southernmost area of the study area. While it is not included in the study area, it represents a significant critical area in the Town.

It is a wetland, supporting a hardwood forest surrounded by open agricultural landscape that harbors waterfowl, marsh birds, and various mammals including raccoons. The flood plain of the Boquet River near the oxbows is prime waterfowl nesting ground, and species such as mergansers and mallards are often seen. Near Essex "Station" in the marshy wetlands, cattails attract marsh birds such as redheaded blackbirds. Muskrat could also be expected here. Transient birds feed in the wheat and corn stubble found along the ridge tops in the agricultural areas (species such as killdeers, snow-bunting and Canadian geese). Along the Middle Road, solitary elms provide good vantage points for roughed legged hawks to hunt mice and other prey. The Boquet is known for its trout and bass fishing and is stocked by the Department of Environmental Conservation. This is in addition to the natural fisheries of Lake Champlain.

The Lake Champlain Basin supports abundant and diverse warm water fish populations. Eighty-one species of fish have been identified in Lake Champlain. About twenty of these species are actively sought by anglers, including large and small-mouth bass, walleye, northern pike, chain pickerel, brown bullhead, channel catfish, yellow perch, lake trout, landlocked Atlantic salmon, steelhead trout, brown trout, and rainbow smelt. At present, four species found in the Basin are classified by Vermont or New York as endangered: lake sturgeon (VT), northern brook lamprey (VT), stonecat (VT) and eastern sand darter (NY). Four species are listed as threatened: eastern sand darter (VT), American brook lamprey (VT), mooneye (NY), and lake sturgeon (NY).

Flooding and Erosion

The Town of Essex complied with the National Flood Insurance Act and delineated floodplain boundaries and adopted a local compliance law in 1987. The entire Shoreline Overlay District is located on lands determined to be outside the 500-year flood plain.

Important Agricultural Lands

Farming is an integral part of life in Essex and has been for two hundred years. Agriculture comprises up to 60% of the land use in Essex and more than any other single factor creates the rural Essex landscape. The soils in general are well-adapted for farming and grazing. Along the Lake, it is a claylike loam. Moving west into the mountains, it becomes a lighter sandy loam. The primary soil type, running in a north-south pattern, is the Vergennes-Kingsbury association described as deep, moderately well and somewhat poorly drained, fine textured soils. The underlying bedrock is limestone of the Glens Falls and Orwell formations of the Trenton and Black River groups, historically used both for construction and the manufacture of lime. The Essex County Soil and Water Conservation District has recently completed an updated soils mapping of Essex County.

Of the 32 farms or farm-related properties identified in the Town of Essex, the majority are in hay production. In addition, many other landowners have hay fields. Growing hay is well suited to Essex's soils and compatible with Essex's desire for well-groomed open land. There are no dairy farms active in Essex at this time, however a new milking facility is currently under construction and will be operational in 2002.

The use of land for agriculture has given Essex much of its characteristic look and feel. However, local agriculture has come to reside in the hands of fewer and fewer farmers. Our agricultural landscape, characterized by meadows, pastures, and fields of hay and corn are now interspersed with stretches of abandoned fields reverting to grassland or woods.

The South Farm property on the Lake Shore Road represents the largest parcel of agriculturally zoned land to be included in the Shoreline Protection Overlay District. This property has a remote owner and has not been actively farmed for many years. The site represents one of the most desirable housing development areas in the Town. However, its APA land use classification restricts the number of homes or principal buildings that may be constructed on this property.

Summary of Key Waterfront Conclusions

- Implement erosion control measures to save shoreline areas and improve safety and include shoreline stabilization methods which can be vegetated or blended in with the natural surroundings in areas of highly erodent soils;
- Restrict development in those areas with highly erodible soils, watershed areas, steep slopes, lack of central water and sewer facilities, and other environmental constraints.

- Provide for expanded opportunities for access to the waterfront, e.g. boat launch, swimming, public moorings;
- Provide for local control over the number of moorings, dock facilities and development on the shoreline;
- Strengthen linkages between the marinas, waterfront businesses, and the downtown;
- Provide for marina economic viability by allowing expanded services where feasible while protecting the character of the community and the environmental quality of the Lake;
- Raise public awareness of both the Town's and Lake Champlain's cultural and natural resources;
- Protect existing scenic and natural resources; important view sheds should be protected and enhanced;
- Preserve the historic character of the hamlet of Essex while allowing for compatible new development and access to the waterfront;
- Initiate a site plan review process for all development activities within the Shoreline Protection Overlay District.

SECTION III
LWRP POLICIES

This section was developed in cooperation with the New York State Department of State, Division of Coastal Resources and Waterfront Revitalization. In developing a set of Waterfront Revitalization Program Policies, the Town drew upon the State policies of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act, the Town Comprehensive Plan, the Town Zoning Law, and the preceding analysis. To effectively realize the Town's waterfront planning goals, eleven policies are outlined below.

Foster a pattern of development in the waterfront area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location, and minimized adverse effects of development.

1. Protect water-dependent uses, promote siting of new water dependent uses in suitable locations, and support efficient harbor operation.
2. Protect agricultural lands.
3. Promote sustainable use of fish and wildlife resources.
4. Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities.
5. Protect and improve water resources.
6. Minimize loss of life, structures, and natural resources from flooding and erosion.
7. Minimize environmental degradation from solid waste and hazardous substances.
8. Provide public access to and along the Town's coastal waters.
9. Protect scenic resources that contribute to the visual quality of the Essex Town waterfront.
10. Protect, preserve, and enhance resources significant to the historical, archeological, and cultural legacy of the Essex waterfront.

For each policy, set forth in Part III, goals, standards and criteria are provided to guide public agencies and set parameters for consistency determinations. Depending on the conditions in a particular area, the policies articulate appropriate land and water use goals and present a hierarchy of preferred options for meeting those goals.

POLICY 1 FOSTER A PATTERN OF DEVELOPMENT IN THE WATERFRONT AREA THAT ENHANCES COMMUNITY CHARACTER, PRESERVES OPEN SPACE, MAKES EFFICIENT USE OF INFRASTRUCTURE, MAKES BENEFICIAL USE OF A WATERFRONT LOCATION, AND MINIMIZES ADVERSE EFFECTS OF DEVELOPMENT.

The pattern of development along the Town of Essex Lake Champlain shoreline is characterized by a compact historic hamlet with a mix of residential and commercial uses surrounded by a scenic rural landscape with forests, open fields, agriculture, and scattered housing. The Lake itself is used for a variety of recreational purposes, principally for recreational boating. A commercial ferry service connects the hamlet to Vermont. It is the policy in the Town of Essex to preserve this pattern of development. The character and value of this pattern is more fully described in the Inventory section of this document, in the Town's Comprehensive Plan, and in 1989 Trancik Study, Essex Hamlet: Plan for the Future of Essex.

1.1 Preserve the historic character of the hamlet of Essex while allowing for compatible new development; utilize scenic and historic resources of the community to foster appropriate economic development.

- Require new development within the hamlet to be similar in scale, materials, and siting to existing development.
- Allow for a mix of uses by permitting a wide range of residential and commercial uses.
- Encourage the reuse of existing buildings.
- Promote the development of commercial uses that will serve the needs of residents and visitors, such as, grocery, hardware, pharmacy, café, restaurant.
- Provide for a range of housing, including housing for the elderly.
- Promote new infill development to accommodate population increases, particularly in the area of the hamlet south of Church St. west of Main St. (TSA Study, 2001)
- Avoid new development that would overburden roads and sewage disposal capacity.
- Maintain or require parking and circulation patterns that preserve and facilitate pedestrian traffic throughout the hamlet.
- Design parking facilities to mitigate visibility by locating at rear of structures, landscaping to screen, avoiding unnecessary pavement, etc., and ease parking restrictions in the hamlet.
- Limit the scale of new roads to that of those in place.

- Locate and design new development to reduce automobile use.

1.2 Preserve the rural character of the waterfront area outside the hamlet of Essex.

- Adhere to the density limitations established by the Adirondack Park Agency and the Town of Essex Zoning Law.
- Limit building where it would conflict with the Town's rural pattern and scale of settlement.
- Protect and encourage agriculture in those areas of the Town that are or have historically been devoted to farming.
- Preserve stonewalls and hedgerows.
- Preserve open fields not in agricultural use.
- Retain open space in as large contiguous parcels as possible.
- Avoid commercial strip development.
- Allow flag lots to preserve scenic, historic, and natural resources.

1.3 Maintain the waterfront area north of the hamlet primarily for residential use of moderate intensity, while allowing a range of uses other than non-resource based industrial uses.

1.4 Limit new development south of the hamlet and shoreward of Lake Shore Road to uses accessory to development located landward of Lake Shore Road.

1.5 Preserve the open character of the land landward of Lake Shore Road by encouraging agricultural uses and through careful siting of low-density residential and commercial development. (zoning, site plan review, and special use permit criteria)

1.6 Provide for public recreation at Whallons Bay.

1.7 Preserve the land in the area of Split Rock as predominately open space.

1.8 Ensure that development or uses make beneficial use of their waterfront location.

The amount of waterfront located in the Town and its related resources are limited. Plans for future development of the waterfront must therefore be limited to appropriate scale. As outlined on the map, several areas of the shoreline have severe development constraints. All uses should relate to the unique qualities associated with their proposed location and consideration should be given to whether a use is appropriate for that location. When planning waterfront development

or redevelopment, the waterfront location should be reflected in the design, siting and orientation of the development.

Encourage water enhanced uses where appropriate. Water enhanced uses are activities that do not require a location on or adjacent to the water to function, but whose location on the waterfront could add to public enjoyment and use of the water's edge if properly designed and sited. Water enhanced uses are generally of a recreational, cultural, commercial or retail nature.

Water enhanced uses should be encouraged where they are compatible with surrounding development and are designed to make beneficial use of their location on the waterfront. Water enhanced uses should be sited and designed to:

- Attract people to or near the waterfront and provide opportunities for access that is oriented to the Lake.
- Provide public views to or from the water.
- Minimize consumption of waterfront land.
- Not interfere with the operation of water-dependent uses.
- Not cause significant adverse impacts to community character and surrounding land and water resources.

The following uses and facilities are considered potentially appropriate as water-enhanced activities along the Essex shoreline:

- Activities such as active and passive recreation, parks, and playgrounds.

Facilities such as industrial, high-density residential, and large-scale public utilities are not suitable for the Essex waterfront. Adequate upland is available for such uses.

The following planning principles should be used to guide investment and preparation of development strategies and plans:

- Scale development to be appropriate to the setting.
- Design development to highlight existing resources, such as local history and important natural and manmade features to reinforce community identity.
- Design the waterfront as a focus for activity that draws people to the Lake and links the waterfront to upland portions of the community.

- Recognize environmental constraints as limiting development.

All development or uses should recognize the unique qualities of the waterfront location by:

- Using site and building design to make beneficial use of a waterfront location and associated waterfront resources.
- Minimizing consumption of waterfront lands and potential adverse impacts on natural resources.
- Limiting shoreline alteration and surface water coverage.
- Incorporating recreational activities, public access, open space, or amenities as appropriate to the use, to enhance the site and the surrounding community, and to increase the visual and physical access to the Lake.
- Ensuring that design and siting of uses and structures complements the surrounding community and landscape.
- Using indigenous plants as components of landscape design to improve habitat and water quality.

1.9 Maintain and enhance natural areas

Natural areas, open space, and recreational land produce public benefits that may not be immediately tangible. In addition to scenic and recreational benefits, these lands may also support habitat for commercially or ecologically important fish and wildlife, provide watershed management of flood control benefits, serve to recharge ground water, and maintain links to the region's agricultural heritage.

Special consideration should be given to protecting stands of large trees, unique forest cover types and habitats, and old fields. The open space value of agricultural land should be protected.

1.10 Minimize the adverse effects of new development and redevelopment

- Cluster development to economize on roads and other infrastructure and to protect scenic, agriculture, and natural resources.
- Require appropriate landscaping to screen or enhance the appearance of new development.
- Control lot configuration to minimize the effects of new development.
- Regulate lighting.

- Allow for transfer of development rights to protect open space.
- Limit tree clearing.
- Control shoreline access from multi-family development.
- Require adequate setbacks.

Adhere to standards specific to certain uses, including telecommunications towers, restaurants, motor vehicles services, and public utilities.

POLICY 2: PROTECT WATER-DEPENDENT USES, PROMOTE SITING OF NEW WATER-DEPENDENT USES IN SUITABLE LOCATIONS, AND SUPPORT EFFICIENT HARBOR OPERATION.

The intent of this policy is to protect existing water-dependent commercial and recreational uses and to promote their future siting in accordance with the reasonably expected demand for such uses. It is also the intent of this policy to foster orderly water use management to address the problems of conflict, congestion, and competition for space in the use of surface waters and underwater lands.

2.1 Protect water-dependent uses.

Commercial waterborne activity, both for transportation and recreation, contributes to the economy and quality of life within the Town. These activities include the Lake Champlain Transportation ferry, marinas, excursion boats, fishing boats, and waterfront rental facilities. Water dependent recreational activities, such as swimming, boating, and fishing are also important to the quality of life in the Town.

Water dependent uses have locational requirements that make portions of the waterfront especially suitable. As a result most of these uses are primarily located on and in the bays adjacent to the hamlet.

A water dependent use is an activity that can only be conducted in, on, over, or adjacent to a water body because such activity requires direct access to that water body, and that involves as an integral part of that activity, the use of the water. The following uses and facilities are considered potentially appropriate as water-dependent activities along the Essex shoreline:

- Recreational activities which depend on access to water such as fishing, boating.
- Existing public and private marina facilities and the Essex-Charlotte ferry.
- Tour boat and charter boat facilities.
- Water related public utilities, such as the Town water system.

In addition, caution should be taken to:

- Reserve the water surface for water dependent uses.
- Avoid actions which would displace, adversely affect, or interfere with existing water dependent uses.
- Maintain ferry service by supporting the upgrading of infrastructure to provide safe and efficient traffic patterns in the Essex hamlet.
- Preserve or improve existing shorefront infrastructure, including Town-owned wharves, piers, and bulkheads to maintain and enhance water-dependent activities.

2.2 Promote the siting of new or expanded water-dependent uses at suitable locations

The bays adjacent to the hamlet are the areas most suitable for commercial water dependent uses. However, these areas are already substantially developed with such uses and little space remains for new uses. Space is available for limited expansion or reconfiguration of existing uses.

Outside the hamlet, the need for compatibility of these uses with surrounding uses and natural features limits new or expanded water dependent uses to relatively small scale recreational uses, such as a swimming beach or public boat launch.

Limit in-water expansion of marinas to the area landward of the pierhead line established in the Essex Waterways and Harbor Management Law.

Ensure that adequate upland infrastructure, including parking as required by the Town zoning law, is available before approving new or expanded water dependent uses.

2.3 Minimize the effects of new or expanding water dependent uses

Site new and/or expanded existing marinas, yacht clubs, boat yards, and other boating facilities where there is: adequate upland for support facilities and services; sufficient waterside and landside access; appropriate near-shore depths to minimize dredging; and adequate water circulation.

Limit discharge of vessel waste by requiring the provision of sufficient vessel waste pump out facilities.

2.4 Promote the efficient management of surface waters and underwater lands.

Lake Champlain within the Town of Essex supports a wide range of public and private in-water uses. These uses include recreational and commercial boating, anchorage and mooring areas, recreational fishing and swimming, marinas, public and private docks, special aquatic events, and ferry service. The Town of Essex finds that to manage the efficient use of Lake Champlain

that lies within the Town, promote safe commercial and recreational navigation, provide for the equitable allocation of the water's surface for a variety of uses, and to protect the natural and cultural resources upon which many of these uses depend, a waterways and harbor management law is necessary.

Adhere to the standards established by the Town's Waterways and Harbor Management Law.

POLICY 3: PROTECT AGRICULTURAL LAND

Although there is currently no active agriculture in the waterfront area some lands south of the hamlet suitable for agriculture are zoned for agricultural use. Agriculture remains a preferred use for these lands.

- Define agriculture broadly and encourage diverse agricultural enterprises, including dairy, hay, production, livestock production, produce stands, and specialty farms, such as wildflowers, nurseries, berries, orchards, and produce.
- Require provision of a buffer whenever a non-agricultural use is proposed to be located adjacent to an agricultural use. The provision of the buffer shall be the responsibility of the non-agricultural use.
- Locate housing to minimize conflicts with the agricultural community.
- Avoid regulating agricultural uses in a manner that unreasonably restricts farm structures or practices.
- Minimize the negative impacts of development on active farmland.
- Regulate the keeping of livestock in or adjacent to residential areas to limit odor, dust, and noise.

POLICY 4: PROMOTE SUSTAINABLE USE OF LIVING RESOURCES.

POLICY 5: PROTECT AND RESTORE ECOLOGICAL RESOURCES, INCLUDING SIGNIFICANT FISH AND WILDLIFE HABITATS, WETLANDS, AND RARE ECOLOGICAL COMMUNITIES.

The waterfront ecosystem within the Town is composed of all the migratory and resident wildlife and vegetation that inhabit the open waters, embayments, beaches, and adjacent uplands. The central goal of this policy is to avoid any adverse primary or secondary impacts to the waterfront ecosystem. Impairment to the terrestrial and aquatic habitat areas, functions, and other elements of this ecosystem results from outright physical loss of elements (primary impact) degradation of these elements caused over time by actions within or adjacent to a community (secondary impact), as well as functional loss

caused by the introduction of uses that are disruptive to certain wildlife or plant species. Unavoidable adverse impacts from a proposed project should be minimized and mitigated.

Avoid activities that may cause or cumulatively contribute to permanent adverse changes to the ecological complexes and their natural processes. When avoidance is not possible, minimize the impacts of the project to the extent feasible and mitigate any physical loss or degradation of ecological elements. Use mitigation measures that are likely to result in the least environmentally damaging feasible alternative.

Where destruction or significant impairment of habitat values cannot be avoided, the potential impacts of land use or development should be minimized and any resulting losses of habitat mitigated to the extent practicable.

5.1 Protect indigenous plants from excessive loss or disturbance and encourage greater quantity and diversity of indigenous plants to the extent practical.

- Avoid use of non-indigenous plants except in ornamental gardens, as collect specimens, or for erosion control and filtration provided that it is not feasible to use native species to perform the same functions.
- Avoid use of non-indigenous plants that are invasive species likely to alter existing natural community composition. Where destruction or significant impairment of plants cannot be avoided, the potential impacts of land use or development should be minimized and any resulting losses of plants mitigated to the extent practicable.

5.2 Minimize negative impacts of development, especially in environmentally sensitive areas, such as shorelines and watersheds of Lake Champlain, the higher elevations, steep slopes, soils with a likely capacity for erosion, stream corridors, and wetlands.

5.3 Protect native stocks and maintain sustainable populations of indigenous fish and wildlife species and other aquatic living resources.

- Protect spawning grounds, habitats and water quality to preserve aquatic resources.
- Artificial stocking should only be undertaken when it will not result in loss of the genetic integrity of native populations. Prevent the introduction of non-indigenous species into natural environments unless it is part of an approved pest control program.

POLICY 6: PROTECT AND IMPROVE WATER RESOURCES.

The purpose of this policy is to protect the quality and quantity of water in the waterfront area. Quality considerations include both point and non-point source pollution management. All projects that involve discharges to water bodies need to comply with applicable state water quality standards and regulations.

Specific non-point pollution management measures are presented in the Guidance Specifying Management Measures for Sources of Non-point Pollution in Coastal Waters (U.S. EPA, 840-B-92-002).

6.1 Prohibit direct or indirect discharges which would cause or contribute to contravention of water quality standards.

- Prohibit the direct discharge of materials and wastewater to the Lake and its tributaries.
- Require all land development, including the conversion of existing structures to multiple units, to meet local and State standards for water supply and sewage disposal.
- Seek establishment of a sewer district to serve the Essex hamlet, especially properties along the Lake Champlain shoreline.

6.2 Protect the quality of the Town's waters by managing activities that generate non-point source pollution.

- Use best management practices, including the preservation and enhancement of shoreline vegetation, to minimize non-point discharge into Town waters of excess nutrients, organics, eroded soils, and pollutants, and to control storm water runoff from roadways and other developed areas.
- Minimize the negative impacts of development in the watershed of Lake Champlain, along stream corridors, and on soils with a likely capability for erosion.
- Manage and reduce storm water runoff by requiring erosion and sediment control plans whenever appropriate. Erosion and sediment control plans shall meet the standards of the Town zoning law.
- Require that site drainage recharge groundwater to the extent practical and that surface waters flowing off-site shall not degrade any streams or adversely affect drainage on adjacent properties or public roads.
- Manage manure and other waste so that it does not create a risk to public health or to the quality of any wetland, water body, or groundwater.
- Construct all parking, loading, access driveways, or service areas of permeable materials.
- Ensure that drainage structures are properly maintained.

6.3 Protect water quality when excavating or placing fill in navigable waters and in or near marshes, estuaries, and wetlands.

- Undertake dredging and dredge spoil disposal in a manner that meets state permit requirements, protects fish and wildlife habitats, natural protective features, wetlands and aquatic resources, and, where feasible, maintains or improves aesthetic resources.
- Ensure that excavation and fill operations meet state standards for physical factors, such as pH, dissolved oxygen, dissolved solids, nutrients, odor, color and turbidity, health factors such as pathogens, chemical contaminants, and toxicity, and aesthetic factors such as oils, floatables, refuse, and suspended solids.
- Minimize potential adverse impacts on aquatic life during excavation or placement of fill by using clean fill material and appropriate scheduling of operation.

6.4 Protect the quality and quantity of groundwater, streams, and the sources of wetlands.

- Determination by the state of water classifications and water quality standards should be based in part on the upland land use policies and on the existing and intended waterfront functions.
- Minimize disturbance of streams including their beds and banks. Prevent erosion of soil, increased turbidity, and irregular variation in velocity, temperature and level of water.
- Maintain the viability of small streams and wetlands by protecting the quantity of water that feeds these areas.

POLICY 7: MINIMIZE LOSS OF LIFE, STRUCTURES AND NATURAL RESOURCES CAUSED BY FLOODING AND EROSION.

This policy aims to reduce flooding and erosion hazards and to protect life, structures, and natural resources by reinforcing state and Town flooding and erosion regulations. Development in the waterfront area needs to be managed to reduce exposure to these hazards. The Town of Essex waterfront area is generally free from flood hazard. Shoreline erosion does occur along portions of the lakefront.

The inherent protective value of natural shorelines needs to be enhanced to ensure continuing benefits to the Town, region, and state. The benefits of erosion control structures for property owners will be balanced against the impacts upon adjacent properties and to the water body as a whole, which can include increased erosion, aesthetic impairments, loss of public recreational resources, loss of habitats, and water quality degradation.

7.1 Avoid development in erosion prone areas

- Development and other investments of private and public funds should be located in a manner that minimizes or eliminates potential exposure to flooding and erosion hazards. If feasible, locating non-water dependent development and structures away from erosion hazards is the most effective means of avoiding the consequences of erosion.
- Minimize the negative impacts of development on the shoreline, soils with a likely capacity for erosion, and in flood plains.
- Minimize shoreline alteration by not altering natural contours, by not disturbing shoreline vegetation except in a minimal way. Where shoreline vegetation has been disturbed it shall be restored or replaced with appropriate indigenous vegetation.
- Minimize the erosion that may be caused by construction on any land in the shoreline overlay district.
- Limit the time period when soil may be exposed without vegetation and ensure that exposed soil is adequately protected from erosion.

7.2 Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the condition and use of the property to be protected and the surrounding area.

- Maximize the flooding and erosion protective capacities of natural shoreline features and minimize interference with natural waterfront processes to avoid adverse effects on the shoreline. Generally, protection, maintenance, and restoration of natural waterfront processes and shoreline features are preferred over use of structural measures.
- Use vegetative plantings and other non-structural measures that have a reasonable probability of managing flooding and erosion based on shoreline characteristics including exposure, geometry and sediment composition. Use vegetative plantings to increase protective capacities of natural protective features at every opportunity and in combination with other types of measures. Use vegetative plantings alone to control erosion in areas where the potential success rate vegetative methods is high.
- Use hard structural erosion protection measures, such as bulkheads, only where avoidance of the hazard is not practical using non-structural measures, and provide mitigation where structural measures will increase severity of the hazard to surrounding public and private property. Allow use of hard structural supports where they will maintain or develop infrastructure for water-dependent uses or support commercial uses. In areas with extensive use of hard structural measures, protect upland development and investment by supporting efforts to close gaps in the hardened shoreline, repair breaches, and maintain the structure.

- Subject wharves, bulkheads, or any shoreline alteration to the standards of site plan review.
- Limit the height of bulkheads and require they be constructed of native stone, cement, or wood. Where treated lumber is used it shall be sealed and non-leaching. Cement should be tinted in color to blend into the adjacent shoreline.
- Design projects so that they do not adversely affect adjacent shorelines or properties by exacerbating flooding or erosion. Unavoidable impacts that result from a project should be mitigated to the extent practicable.

POLICY 8: MINIMIZE ENVIRONMENTAL DEGRADATION FROM SOLID WASTE AND HAZARDOUS SUBSTANCES.

The disposal of solid waste (residential, commercial and commercial wastes; demolition and construction debris; sludges from air, water pollution control, or resource recovery facilities, and dredge spoils) can affect the use and quality of the Town's waterways and waterfront lands. Among the concerns associated with the disposal and treatment of solid wastes and hazardous substances are the environmental damage caused by illegal dumping and the potential for contamination of water resources and waterfront habitat areas, filling of wetlands and littoral areas atmospheric loading, and degradation of scenic resources in the waterfront zone.

Projects involving the handling, management, transportation or discharge of solid wastes and hazardous substances need to comply with the applicable state and local laws or their successors. Solid wastes are those materials defined under ECL 27-0701 and 6 NYCRR Part 360-1.2. Hazardous wastes are those materials defined under ECL 27-0901 and 6 NYCRR Part 371. Substances hazardous to the environment are defined under ECL 37-0101. Toxic pollutants are defined under ECL 17-0105. Radioactive materials are defined under 6 NYCRR Part 380. Pesticides are those substances defined under ECL 33-010 1 and 6 NYCRR Part 325.

POLICY 9: PROVIDE PUBLIC ACCESS TO AND ALONG THE TOWN'S COASTAL WATERS.

The intent of Policy 9 is to increase both physical and visual public access in a manner that balances the interests of public and private waterfront use. This policy also presents standards for public lands, public facilities contiguous to the shoreline and lands under water (public trust lands). These standards are intended to preserve existing access to the shoreline provided by facilities such as public parks, beaches, marinas, piers, streets, highways, and existing easements on privately owned land, and to encourage public access improvements as a component of public projects.

9.1 Preserve, protect and maintain existing physical, visual and recreational access to the waterfront.

- Protect and maintain infrastructure, including roadways and shoreline protection structures, which support public access and recreation facilities.
- Maintain in good repair existing public access areas to ensure public safety and enhance enjoyment.
- Enhance Town park and beach areas including maintaining the wall at Beggs Park.
- Explore opportunities for increased access to shoreline and the waters of Lake Champlain.

9.2 Incorporate public access into new public and private development where compatible with proposed land use and coastal location.

- Encourage the development and maintenance of high quality public spaces in appropriate locations, particularly those that would facilitate connection of existing waterfront public access spaces and allow continuous access along the shore.
- When public access cannot be included as a component of a public project, site and design the project in a manner that does not preclude the future development of public access.

9.3 Provide visual access to the waterfront, the Lake, waterfront open space where physically practical.

- Preserve existing visual access in the development of waterfront public lands and facilities. Minimize reduction of existing visual access caused by the scale design, and location of public projects in areas such as streets, parks, bridges and highways. Preserve visual corridors provided or defined by mapped streets (open or improved) that terminate at the shoreline or within the waterfront block.
- The requirements of the Essex Zoning Law should guide the location and amount of visual access provided.

9.4 Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations.

When acquiring waterfront property for public access and open space, give priority to locations such as:

- Sites with potential for waterfront-enhancing, water-related or water-dependent uses or recreation (passive or active, along the shore, on piers or in the water);

- Sites that would enhance natural resources and habitats;
- Sites that would improve access to public lands, buffer public incompatible uses, or consolidate or connect existing public lands;
- Sites listed as local Historic Landmarks or listed on the State a Register of Historic Places;
- Make appropriate recreational use of Town owned land at Whallons Bay;
- Provide for future recreational needs, especially for youth.

9.5 Preserve the public interest in and use of lands and waters held in public trust by the state and Town.

- Limit grants, easements, permits or lesser interest in lands underwater to those instances where there would be no overall adverse effect on the public interest in public trust lands.
- Limit the transfer of interest in public trust lands to the minimum necessary.
- Require documentation of ownership, riparian interest, or other legal right when such interests or rights are not readily apparent prior to approving private use of public trust lands under water.
- Retain a public interest in the transfer of interest in underwater lands which will be adequate to preserve appropriate public access, recreational opportunities, and other public trust purposes.

9.6 Increase access to and public enjoyment of the waterfront area by encouraging and supporting appropriately scaled tourist facilities.

- Encourage low impact tourism that increases employment, keeps revenue in the local economy, targets interpretation of community history, and maintains the look and feel of the community's surroundings.
- Encourage non-motorized forms of tourism development.
- Incorporate bike lanes or wide shoulders in highway improvements.
- Encourage tourists passing through Town to extend their stay.
- Support the Lake Champlain Byways Program.
- Provide for enhanced appropriate access to natural areas via hiking and bike.

POLICY 10: PROTECT SCENIC RESOURCES THAT CONTRIBUTE TO THE VISUAL QUALITY OF THE ESSEX TOWN WATERFRONT.

The intent of Policy 10 is to prevent the impairment of natural and manmade scenic resources in the waterfront area. High quality landscapes may consist of waterbodies, landforms, vegetation and components of the built environment such as buildings, highways, bridges, piers, and other structures. In the Town, visual quality and scenic resources are recognized and protected through historic preservation, natural resources protection, parks and open space planning and acquisition, zoning special districts, controls on over-water development, and design standards that shape new development.

10.1 Protect and improve visual quality associated with the Town's historic context and working waterfront.

- Enhance the aesthetic quality of the entire community and maintain its natural beauty.
- Ensure that new buildings and other structures are compatible with and add interest to existing scenic elements, such as landmarks, maritime uses, recreational boating facilities, natural features, topography, landforms and the botanic environment. Among the measures that may be considered are grouping or orienting structures to preserve open space and maximize views to and from the water, and incorporating sound existing structures into development where harmonious with their surroundings. Preserve the aesthetic features of the shoreline.
- Where feasible and practical, provide views of visually interesting elements of the natural and built landscape.
- New development should be compatible with the scenic elements defining the character of the area.
- Minimize the negative impacts of development on scenic view sheds.
- Preserve existing vegetation or establish new vegetation where necessary to enhance scenic quality.
- Minimize introduction of uses that would be discordant with existing scenic elements, and screen unattractive aspects of uses that detract from the visual quality of nearby public parks and waterfront open spaces.
- Control signage pursuant to standards established in the Town zoning law.
- Protect the Route 22 corridor as a scenic travel corridor.
- Protect the scenic values of Lake Shore Road.
- Bury power lines in all new construction when possible.

POLICY 11: PROTECT, PRESERVE AND ENHANCE RESOURCES SIGNIFICANT TO THE HISTORICAL, ARCHAEOLOGICAL, AND CULTURAL LEGACY OF THE ESSEX WATERFRONT

Archaeological sites and historic structures are tangible links to past generations, events and cultures associated with Town's waterfront area. The intent of this policy is to protect, preserve, and revitalize those historic, archaeological, and cultural resources that have a waterfront relationship or significance. All projects involving historic and archaeological resources need to comply with national, state, and local laws and regulations regarding designated historical resources.

11.1 Retain and preserve designated historic resources and enhance resources significant to the coastal culture of the Town.

- Protect designated historic resources, including those structures, landscapes, districts, areas, sites, or underwater structures that are listed on the National or State Register of Historic Places. Apply the Secretary of the Interior's Standards for Rehabilitation when reviewing any commercial development involving historic properties in the Essex hamlet historic district. Use the Secretary's Standards for Rehabilitation as guidelines in reviewing any residential project affecting a designated historic resource.
- Avoid demolition of buildings, or major portions of buildings that contribute to the architectural, historic, or character of the Essex Historic District.
- Permit demolition of buildings in the historic district only if they do not or cannot contribute to the historic district, they have irretrievably lost their physical integrity or ability to contribute, or their demolition would meet the standards for a use variance pursuant to the Town of Essex Zoning Law.

11.2 Minimize damage to historic shipwrecks and other submerged resources that may have historic value.

11.3 Minimize potential adverse impacts to significant archaeological resources by redesigning the project, reducing the direct impacts on the resource, or data prior to construction. Attract people to or near the waterfront and provide opportunities for access that is oriented to the Lake.

SECTION IV
PROPOSED PROJECTS

The following chart summarizes proposed activities necessary to advance achievement of the Town's policies for its Lake Champlain waterfront. Many of these activities will require assistance from several State agencies as well as the participation and support of civic organizations, businesses, and the public.

Town of Essex LWRP Project Outline

Proposed Activity	Specific Example	Location								Next Step				
		Hamlet				Town				Planning	Preliminary Design	Feasibility	Secure Implementation Funds	Final Design/Construction
		Waterside	Waterfront/Shoreline	Main Street	Other Hamlet	Waterside	Waterfront/Shoreline	Other Non-Waterfront	Area-wide					
Infrastructure improvements for drivers, cyclists, walkers.	1. Parking improvements in Essex Hamlet.		X	X	X						X			
	2. Footpath development to link hamlets, natural areas, historic sites, and other communities.								X	X				
	3. Widen highway shoulders for safer cycling and walking.								X	X				
Improvements in appearance of public spaces.	1. Underground utility lines in Essex Hamlet.			X							X	X		
	2. Streetscape plantings, lighting, crosswalks, and street furniture in Essex Hamlet.		X	X							X			
Development and improvement of public recreation.	1. Develop public access concept plan for Whallons Bay.					X	X				X			
	2. Reconstruct Beggs Park retaining wall.		X										X	
	3. Develop Master Plan for Beggs Park.		X							X				
	4. Control "swimmers itch" at Whallons Bay.					X						X		
	5. Identify additional opportunities for public access to Lake Champlain.		X				X			X				
Infrastructure and public facility improvements for community development.	1. Build sewer system in Essex Hamlet.		X	X	X						X			
	2. Provide water where economically feasible to areas of concentrated settlement adjoining Essex Hamlet.						X	X		X				
	3. Establish a suitable facility for meeting and other community events.								X				X	X

Town of Essex LWRP Project Outline

Proposed Activity	Specific Example	Location								Next Step				
		Hamlet				Town				Planning	Preliminary Design	Feasibility	Secure Implementation Funds	Final Design/Construction
		Waterside	Waterfront/Shoreline	Main Street	Other Hamlet	Waterside	Waterfront/Shoreline	Other Non-Waterfront	Area-wide					
Integration of historic preservation with community and economic development.	1. Develop self-guided tours.								X		X			
	2. Develop interpretive displays for installation on Essex-Charlotte ferries.								X		X			
	3. Acquire facade easements on historic buildings.			X							X			
	4. Develop comprehensive education/interpretation program for residents and visitors.								X	X				
Develop projects which protect natural resources.	1. Educate community on effects of non-point source pollution.								X		X			
	2. Undertake comprehensive shoreline erosion study.		X				X			X				
	3. Acquire scenic easements on views and viewsheds.		X				X	X		X				
	4. Design and implement projects which protect water supplies.								X	X				
	5. Design and implement projects which protect surface and groundwater.								X	X				
	6. Design and implement projects which prevent stormwater run-off pollution.								X	X				
	7. Purchase development rights of lakeside agricultural lands.							X		X				
Sponsorship of projects which aid economic development and protect natural resources.	1. Provide public sewerage to waterfront businesses and public facilities.		X								X			

Town of Essex LWRP Project Outline

Proposed Activity	Specific Example	Location								Next Step				
		Hamlet				Town				Planning	Preliminary Design	Feasibility	Secure Implementation Funds	Final Design/Construction
		Waterside	Waterfront/Shoreline	Main Street	Other Hamlet	Waterside	Waterfront/Shoreline	Other Non-Waterfront	Area-wide					
	2. Undertake market research to identify year-round business opportunities appropriate for labor force and scale of community.								X	X				
	3. Undertake market research to enable continued viability of lakeshore agricultural lands.								X	X				
Development of housing to meet needs of young families and elderly.	1. Undertake preliminary design and feasibility analysis of affordable housing/elderly housing.			X	X						X	X		
Implement projects which facilitate public administration.	1. Develop GIS/natural resource database land use administration system.								X	X				

SECTION V

LOCAL IMPLEMENTATION OF THE PROGRAM

The Local Waterfront Revitalization Program for the Town of Essex represents a program that impacts not only the waterfront of the community, but the Town in its entirety. Those projects and policies discussed and set forth in this document will impact the future development and quality of life for all who live in the Town for years to come.

Lead Agency

The Town of Essex Planning Board will be the local agency responsible for the administration and oversight of this program. The members of the Town of Essex Planning Board are active community leaders who are in a position to monitor not only the development of their jurisdiction, but also intimately understand the problems and limitations of their community.

Zoning

Coincident with the development of this program, the Town updated its Comprehensive Plan and Zoning Law. The previous Zoning Law did not adequately address for land use and development activities within the waterfront. The Town's revised Zoning Law and related land use controls constitute the Town's foremost means of implementing and enforcing the Local Waterfront Revitalization Program.

A Shoreline Protection Overlay District (Appendix A and Appendix B), which supplements the underlying zoning district regulations in the waterfront area, was incorporated into the revised Zoning Law adopted in June 2003. The Shoreline Protection Overlay District regulations apply to all land within the Shoreline Protection Overlay District and require that all new construction and additions to existing structures located obtain site plan approval from the Planning Board.

Harbor Law

The Town Board adopted the Town of Essex Waterways and Harbor Management Law (Appendix C) in March 2003, which delineates uses on the water side of the Shoreline Overlay Protection Overlay District.

Consistency Process

The Town also adopted a local Waterfront Consistency Review Law (Appendix D) as part of this program. This law parallels the State law requiring that State actions be consistent with the Town's LWRP by requiring that the Town also act consistent with its LWRP. For Planning Board actions the Planning Board will determine consistency with the LWRP as an integral part of its existing decision making process. For actions not subject to the Planning Board the Town Board will determine the consistency of any Town actions.

All State and Town activities within the mapped waterfront zone boundary must be found consistent with the policies and purposes of this LWRP. A proposed action or project is deemed consistent with the LWRP when it will not substantially hinder the achievement of any of the policies and, where practicable, will advance one or more of the policies. The action must be found consistent with the LWRP before it can be approved. However, a determination of consistency does not itself authorize or

require the issuance of any permit, license, certification or other approval of any grant, loan or other funding assistance by the federal, state or local agency having jurisdiction pursuant to other provisions of law.

Also included in this local program are Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect (Appendix E).

Locational Considerations and Policy Applicability

The LWRP policies set general goals for the Town's waterfront as whole, and specific goals for portions of the waterfront that have notable characteristics. A proposed project is reviewed to determine its consistency with the policies applicable to its specific waterfront location. The program recognizes that the relevance of each policy may vary depending upon the project type and where it is located.

When a policy is not relevant to the proposed project and its location, the policy would not be considered in the consistency review.

Inherently Consistent Actions

Some proposed projects directly foster the goals set for each of the waterfront functional areas. In addition, actions with a limited scope are not reviewed for LWRP consistency unless the project requires a federal or state permit.

Findings of Inconsistency with LWRP Policies

In cases where a project does not appear consistent with one or more of the relevant policy standards and criteria, consideration is given to any practical means of altering the project to make it consistent with such standards and criteria. If a project is not so altered and therefore hinders the policies and intent of the LWRP, it may be found inconsistent by the Town Planning Board or the state agency with jurisdiction.

When a project is not consistent with one or more of the policies and cannot be modified, the state regulations (NYCRR 600.4(b)) allow the project to be found consistent only if the State agency certifies that the project satisfies the following four requirements: (The Town Consistency Law includes similar provisions)

1. No reasonable alternatives exist which would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy;
2. The action taken will minimize all adverse effects on such policies to the maximum extent practicable;
3. The action will advance one or more of the other waterfront policies; and
4. The action will result in an overriding regional or statewide public benefit.

SECTION VI

**STATE AND FEDERAL ACTIONS AND PROGRAMS
LIKELY TO AFFECT IMPLEMENTATION**

State and federal actions will affect and be affected by implementation of a Local Waterfront Revitalization Program (LWRP). Under State law and the U.S. Coastal Zone Management Act, certain State and federal actions within or affecting the local waterfront area must be “consistent” or “consistent to the maximum extent practicable” with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. The following list of State actions and programs is that list. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that an LWRP identify those elements of the program which can be implemented the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification, or approval programs; grant, loan, subsidy, or other funding assistance programs; facilities construction; and planning programs which may affect the achievement of the LWRP. Federal agency actions and programs subject to consistency requirements are identified in the New York State Coastal management Program and by the implementing regulations of the U.S. Coastal Zone Management Act.

The second part of this section is a more focused and descriptive list of State and federal agency actions which are necessary to further implementation of the LWRP. It is recognized that a State or federal agency's ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above, may not apply; and that the consistency requirements cannot be used to require a State or federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section IV and Section V, which also discuss State and federal assistance needed to implement the LWRP.

A. State Actions and Programs Which Should be Undertaken in a Manner Consistent with the LWRP

1. STATE AGENCIES

ADIRONDACK PARK AGENCY (regional agency)

- 1.00 Regulation of land use and development on private lands pursuant to the Adirondack Park Land Use and Development Plan.
- 2.00 Administration of the NYS Wild, Scenic and Recreational Rivers System Act within the Adirondack Park.
- 3.00 Administration of the NYS Freshwater Wetlands Act within the Adirondack Park.
- 4.00 Approval of local government land use plans within the Adirondack Park.

OFFICE FOR THE AGING

- 1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

DEPARTMENT OF AGRICULTURE AND MARKETS

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Programs.
- 4.00 Permit and approval programs:
 - 4.01 Custom Slaughters/Processor Permit
 - 4.02 Processing Plant License
 - 4.03 Refrigerated Warehouse and/or Locker Plant License

DIVISION OF ALCOHOLIC BEVERAGE CONTROL/ STATE LIQUOR AUTHORITY

- 1.00 Permit and Approval Programs:
 - 1.01 Ball Park - Stadium License

- 1.02 Bottle Club License
- 1.03 Bottling Permits
- 1.04 Brewer's Licenses and Permits
- 1.05 Brewer's Retail Beer License
- 1.06 Catering Establishment Liquor License
- 1.07 Cider Producer's and Wholesaler's Licenses
- 1.08 Club Beer, Liquor, and Wine Licenses
- 1.09 Distiller's Licenses
- 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
- 1.11 Farm Winery and Winery Licenses
- 1.12 Hotel Beer, Wine, and Liquor Licenses
- 1.13 Industrial Alcohol Manufacturer's Permits
- 1.14 Liquor Store License
- 1.15 On-Premises Liquor Licenses
- 1.16 Plenary Permit (Miscellaneous-Annual)
- 1.17 Summer Beer and Liquor Licenses
- 1.18 Tavern/Restaurant and Restaurant Wine Licenses
- 1.19 Vessel Beer and Liquor Licenses
- 1.20 Warehouse Permit
- 1.21 Wine Store License
- 1.22 Winter Beer and Liquor Licenses
- 1.23 Wholesale Beer, Wine, and Liquor Licenses

DIVISION OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
 - 3.01 Letter Approval for Certificate of Need
 - 3.02 Operating Certificate (Alcoholism Facility)
 - 3.03 Operating Certificate (Community Residence)
 - 3.04 Operating Certificate (Outpatient Facility)
 - 3.05 Operating Certificate (Sobering-Up Station)

COUNCIL ON THE ARTS

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program.

DEPARTMENT OF BANKING

- 1.00 Permit and approval programs:
 - 1.01 Authorization Certificate (Bank Branch)
 - 1.02 Authorization Certificate (Bank Change of Location)
 - 1.03 Authorization Certificate (Bank Charter)
 - 1.04 Authorization Certificate (Credit Union Change of Location)
 - 1.05 Authorization Certificate (Credit Union Charter)
 - 1.06 Authorization Certificate (Credit Union Station)
 - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
 - 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
 - 1.09 Authorization Certificate (Investment Company Branch)
 - 1.10 Authorization Certificate (Investment Company Change of Location)
 - 1.11 Authorization Certificate (Investment Company Charter)
 - 1.12 Authorization Certificate (Licensed Lender Change of Location)
 - 1.13 Authorization Certificate (Mutual Trust Company Charter)
 - 1.14 Authorization Certificate (Private Banker Charter)
 - 1.15 Authorization Certificate (Public Accommodation Office - Banks)
 - 1.16 Authorization Certificate (Safe Deposit Company Branch)
 - 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
 - 1.18 Authorization Certificate (Safe Deposit Company Charter)
 - 1.19 Authorization Certificate (Savings Bank Charter)
 - 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
 - 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
 - 1.22 Authorization Certificate (Savings and Loan Association Branch)
 - 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
 - 1.24 Authorization Certificate (Savings and Loan Association Charter)
 - 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
 - 1.26 Authorization Certificate (Trust Company Branch)
 - 1.27 Authorization Certificate (Trust Company-Change of Location)
 - 1.28 Authorization Certificate (Trust Company Charter)
 - 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
 - 1.30 Authorization to Establish a Life Insurance Agency

- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

OFFICE OF CHILDREN AND FAMILY SERVICES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
 - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
 - 3.02 Operating Certificate (Children's Services)
 - 3.03 Operating Certificate (Enriched Housing Program)
 - 3.04 Operating Certificate (Home for Adults)
 - 3.05 Operating Certificate (Proprietary Home)
 - 3.06 Operating Certificate (Public Home)
 - 3.07 Operating Certificate (Special Care Home)
 - 3.08 Permit to Operate a Day Care Center

DEPARTMENT OF CORRECTIONAL SERVICES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

EMPIRE STATE DEVELOPMENT/ EMPIRE STATE DEVELOPMENT CORPORATION

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

EDUCATION DEPARTMENT

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certification of Incorporation (Regents Charter)
 - 2.02 Private Business School Registration
 - 2.03 Private School License
 - 2.04 Registered Manufacturer of Drugs and/or Devices
 - 2.05 Registered Pharmacy Certificate
 - 2.06 Registered Wholesale of Drugs and/or Devices
 - 2.07 Registered Wholesaler-Re-packer of Drugs and/or Devices
 - 2.08 Storekeeper's Certificate

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
 - 4.01 Capital projects for limiting air pollution
 - 4.02 Cleanup of toxic waste dumps
 - 4.03 Flood control, beach erosion and other water resource projects
 - 4.04 Operating aid to municipal wastewater treatment facilities
 - 4.05 Resource recovery and solid waste management capital projects
 - 4.06 Wastewater treatment facilities

- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
 - (a) Water Quality Improvement Projects
 - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
- 7.00 Marine Finfish and Shellfish Programs.
- 8.00 New York Harbor Drift Removal Project.
- 9.00 Permit and approval programs:

Air Resources

- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals

- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 9.22 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- 9.23 Permit - Article 24, (Freshwater Wetlands)

Hazardous Substances

- 9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

Lands and Forest

- 9.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.28 Floating Object Permit
- 9.29 Marine Regatta Permit
- 9.30 Navigation Aid Permit

Marine Resources

- 9.31 Digger's Permit (Shellfish)
- 9.32 License of Menhaden Fishing Vessel
- 9.33 License for Non-Resident Food Fishing Vessel
- 9.34 Non-Resident Lobster Permit
- 9.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 9.36 Permits to Take Blue-Claw Crabs
- 9.37 Permit to Use Pond or Trap Net
- 9.38 Resident Commercial Lobster Permit
- 9.39 Shellfish Bed Permit
- 9.40 Shellfish Shipper's Permits
- 9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- 9.42 Permit - Article 25, (Tidal Wetlands)

Mineral Resources

- 9.43 Mining Permit
- 9.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- 9.45 Underground Storage Permit (Gas)
- 9.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

Solid Wastes

- 9.47 Permit to Construct and/or Operate a Solid Waste Management Facility
- 9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

- 9.49 Approval of Plans for Wastewater Disposal Systems
 - 9.50 Certificate of Approval of Realty Subdivision Plans
 - 9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
 - 9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
 - 9.53 Permit - Article 36, (Construction in Flood Hazard Areas)
 - 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
 - 9.55 State Pollutant Discharge Elimination System (SPDES) Permit
 - 9.56 Approval - Drainage Improvement District
 - 9.57 Approval - Water (Diversion for) Power
 - 9.58 Approval of Well System and Permit to Operate
 - 9.59 Permit - Article 15, (Protection of Water) - Dam
 - 9.60 Permit - Article 15, Title 15 (Water Supply)
 - 9.61 River Improvement District Approvals
 - 9.62 River Regulatory District Approvals
 - 9.63 Well Drilling Certificate of Registration
 - 9.64 401 Water Quality Certification
-
- 10.00 Preparation and revision of Air Pollution State Implementation Plan.
 - 11.00 Preparation and revision of Continuous Executive Program Plan.
 - 12.00 Preparation and revision of Statewide Environmental Plan.
 - 13.00 Protection of Natural and Man-made Beauty Program.
 - 14.00 Urban Fisheries Program.

15.00 Urban Forestry Program.

16.00 Urban Wildlife Program.

ENVIRONMENTAL FACILITIES CORPORATION

1.00 Financing program for pollution control facilities for industrial firms and small businesses.

FACILITIES DEVELOPMENT CORPORATION

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

OFFICE OF GENERAL SERVICES

1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land, grants of easement and issuance of licenses for land underwater, including for residential docks over 5,000 square feet and all commercial docks, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.

2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.

3.00 Facilities construction, rehabilitation, expansion, or demolition.

4.00 Administration of Article 5, Section 233 of the Education Law regarding the removal of archaeological and paleontological objects under the waters of the State.

5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.

DEPARTMENT OF HEALTH

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

- 2.00 Permit and approval programs:
 - 2.01 Approval of Completed Works for Public Water Supply Improvements
 - 2.02 Approval of Plans for Public Water Supply Improvements.
 - 2.03 Certificate of Need (Health Related Facility - except Hospitals)
 - 2.04 Certificate of Need (Hospitals)
 - 2.05 Operating Certificate (Diagnostic and Treatment Center)
 - 2.06 Operating Certificate (Health Related Facility)
 - 2.07 Operating Certificate (Hospice)
 - 2.08 Operating Certificate (Hospital)
 - 2.09 Operating Certificate (Nursing Home)
 - 2.10 Permit to Operate a Children's Overnight or Day Camp
 - 2.11 Permit to Operate a Migrant Labor Camp
 - 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
 - 2.13 Permit to Operate a Service Food Establishment
 - 2.14 Permit to Operate a Temporary Residence/Mass Gathering
 - 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
 - 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
 - 2.17 Shared Health Facility Registration Certificate

**DIVISION OF HOUSING AND COMMUNITY RENEWAL AND ITS SUBSIDIARIES
AND AFFILIATES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.
- 2.00 Financial assistance/grant programs:
 - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
 - 2.02 Housing Development Fund Programs
 - 2.03 Neighborhood Preservation Companies Program
 - 2.04 Public Housing Programs
 - 2.05 Rural Initiatives Grant Program
 - 2.06 Rural Preservation Companies Program
 - 2.07 Rural Rental Assistance Program
 - 2.08 Special Needs Demonstration Projects
 - 2.09 Urban Initiatives Grant Program
 - 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs.

HOUSING FINANCE AGENCY

- 1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 2.00 Affordable Housing Corporation

JOB DEVELOPMENT AUTHORITY

- 1.00 Financing assistance programs for commercial and industrial facilities.

MEDICAL CARE FACILITIES FINANCING AGENCY

- 1.00 Financing of medical care facilities.

OFFICE OF MENTAL HEALTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Operating Certificate (Community Residence)
 - 2.02 Operating Certificate (Family Care Homes)
 - 2.03 Operating Certificate (Inpatient Facility)
 - 2.04 Operating Certificate (Outpatient Facility)

OFFICE OF MENTAL RETARDATION AND DEVELOPMENT DISABILITIES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition, or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Establishment and Construction Prior Approval
 - 2.02 Operating Certificate Community Residence
 - 2.03 Outpatient Facility Operating Certificate

DIVISION OF MILITARY AND NAVAL AFFAIRS

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.

NATURAL HERITAGE TRUST

1.00 Funding program for natural heritage institutions.

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (including Regional State Park Commission)

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Funding program for recreational boating, safety and enforcement.
- 4.00 Funding program for State and local historic preservation projects.
- 5.00 Land and Water Conservation Fund programs.
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places.
- 7.00 Permit and approval programs:
 - 7.01 Floating Objects Permit
 - 7.02 Marine Regatta Permit
 - 7.03 Navigation Aide Permit
 - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.
- 9.00 Recreation services program.
- 10.00 Urban Cultural Parks Program.

POWER AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION

- 1.00 Corporation for Innovation Development Program.
- 2.00 Center for Advanced Technology Program.

DEPARTMENT OF STATE

- 1.00 Appalachian Regional Development Program.
- 2.00 Coastal Management Program.
- 3.00 Community Services Block Grant Program.
- 4.00 Permit and approval programs:
 - 4.01 Billiard Room License
 - 4.02 Cemetery Operator
 - 4.03 Uniform Fire Prevention and Building Code

STATE UNIVERSITY CONSTRUCTION FUND

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

STATE UNIVERSITY OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

DEPARTMENT OF TRANSPORTATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including, but not limited to:
 - (a) Highways and parkways

- (b) Bridges on the State highways system
 - (c) Highway and parkway maintenance facilities
 - (d) Rail facilities
- 3.00 Financial assistance/grant programs:
- 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
 - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg, and New York
 - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
 - 3.04 Subsidies program for marginal branchlines abandoned by Conrail
 - 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
- 4.01 Approval of applications for airport improvements (construction projects)
 - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
 - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
 - 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
 - 4.05 Certificate of Convenience and Necessity to Operate a Railroad
 - 4.06 Highway Work Permits
 - 4.07 License to Operate Major Petroleum Facilities
 - 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
 - 4.09 Real Property Division Permit for Use of State-Owned Property

- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Corporation.
- 2.00 Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:
 - (a) Tax-Exempt Financing Program
 - (b) Lease Collateral Program
 - (c) Lease Financial Program
 - (d) Targeted Investment Program
 - (e) Industrial Buildings Recycling Program
- 3.00 Administration of special projects.
- 4.00 Administration of State-funded capital grant programs.

DIVISION OF YOUTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding or approval of such activities.

B. STATE ACTIONS AND PROGRAMS NECESSARY TO FURTHER THE LWRP.

OFFICE OF GENERAL SERVICES

Prior to any development occurring in the water or on the immediate waterfront, OGS should be consulted for a determination of the State's interest in underwater or formerly underwater lands and for authorization to use and occupy these lands.

DEPARTMENT OF STATE

Provision of funding for the implementation of an approved LWRP

- o Minimum Shoreline Building Setback (excluding docks and boathouses): 50 feet for EH; 75 feet for all other districts

2.1-1-1 Septic System Setbacks: The minimum setback for any on-site sewage system leach field or drainage field shall be 100 feet from the mean high water mark irrespective of zoning district or land use classification. The setback is measured along the shortest distance from the mean high water mark to the closest point of the leaching facility. The Zoning Officer, Planning Board, or the Adirondack Park Agency shall have the authority to require a greater setback than that set forth above if it is determined that soils or other pertinent conditions require such greater setback to reasonably protect the water quality of Lake Champlain.

Any new on-site sewage disposal system must also comply with NYS Department of Health standards, including that it:

shall not be located on slopes in excess of 15%;
shall not be closer than 100 feet from the source of any water supply system.

Standards:

In addition to the standards set forth throughout this Zoning Law, the following standards shall apply throughout the Shoreline Overlay District:

Construction on any land located in the Shoreline Overlay District shall be carried out in such a manner so as to minimize the erosion that may be caused by such activity. Construction and excavation activities shall be carried out in the shortest time possible.

Shoreline areas, excepting beaches, shall not be exposed (without vegetation) for longer than the time period designated by the Planning Board, and when exposed for such allowable time period, shall adequately be protected from erosion.

All structures, except docks and boathouses, shall be screened by vegetation or landscaped or placed in such a manner so that the view of the structures from the water and to the water is filtered or obscured and the visual impact is minimized.

All parking, loading, access driveways or service areas shall be constructed of permeable materials where practicable.

Lighting devices shall be oriented and limited so as to minimize disturbances on surrounding properties and so as not to unreasonably diminish or obstruct views from the water or to the water.

Wharves, docks, moorings and other in-water structures. No person shall construct or expand any in-water structure, including but not limited to docks, piers, wharves, or jetties without first obtaining a special permit from the Planning Board pursuant to the Town of Essex Waterways and Harbor Management Law.

Shoreline Alteration: No person shall construct, place, expand, or alter or replace any retaining wall or bulkhead without first applying for, and obtaining, a special permit from the Planning Board. In addition, a special permit is required for any filling, grading, lagooning, dredging, ditching and/or excavating within the Shoreline Overlay District where such activities affect an area greater than 200 square feet. The following standards shall apply to the foregoing activities:

General standards:

The activity shall not alter the natural contours of the shoreline.

The activity shall not disturb shoreline vegetation except in a minimal way. Where vegetation is destroyed, harmed or removed, it shall be restored or replaced with indigenous vegetation.

Stabilization shall be in accordance with the U.S. Soil Conservation Service Engineering standards and specifications.

The activity shall be carried out in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.

The activity shall be designed and carried out to preserve or enhance the aesthetic features of the shoreline area to be disturbed and the shoreline and not aesthetically detract from the shoreline areas in the immediate vicinity of the area to be disturbed.

All applicable federal, state and other governmental agency permits shall be obtained.

Specific Standards:

Filling. No fill shall be placed in the Shoreline Overlay District except as associated with shoreline protective structures, beach replenishment, agricultural uses or other uses approved by the Planning Board. Any fill placed in the Shoreline Overlay District shall be protected against erosion.

Dredging. There shall be no removal or rearrangement of materials in the water, except at those locations where such removal or rearrangement is found to be beneficial to existing shoreline conditions, uses, and water quality and clarity. Where dredging is permitted by the Planning Board, soil materials shall not be deposited in the Shoreline Overlay District unless approved by the Planning Board.

Retaining Walls/Bulkheads. The addition, expansion or replacement of any type of retaining wall or bulkhead shall be discouraged, except in the case where the alternative of shoreline restoration to a natural state is impossible due to excessive slope or severe erosion problems, a condition to be determined by the Planning Board. Construction of retaining walls or bulkheads shall not be allowed when proposed for only aesthetic purposes.

Tree cutting and land clearing regulations.

The purpose of the tree cutting and land clearing regulations is to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreline area. These provisions shall not apply to the removal of dead, diseased or dying trees or to other vegetation that in the opinion of the Zoning Officer, present safety or health hazards. Within the Shoreline Overlay District, the removal of vegetation, including trees, shall be permitted on shorefront lots provided a Zoning Permit is issued by the Zoning Officer and the following standards are met:

Within 35 feet extending inland from all points along the mean high-water mark no more than 30 percent of the trees in excess of six inches diameter at breast height (4 ½ feet above ground) existing at any time may be cut over any ten-year period.

Within six feet inland of the mean high-water mark no more than 30 percent of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to Subsection (1) above.

The general exception to the above standards shall be an allowance for lake access and beaches. The creation of a contiguous clear-cut opening in the buffer strip shall not exceed 20 percent of the shoreline frontage on any individual lot or a maximum of 50 linear feet, whichever is less. The clear-cut should be angled across the lot so as to allow for a view and access, but reduce runoff. The pathway created should be constructed or surfaced to be effective in controlling erosion.

As an alternative to the above standards, a cutting plan allowing greater or different cutting may be permitted by the Zoning Officer by review and approval of a cutting plan. Such plan shall include a sketch of the lot and provide information on the topography and existing vegetation of the area in question, a proposed cutting plan and proposed re-vegetation plan. The Zoning Officer may request the Planning Board, Soil Conservation Service or other agency for input and recommendations. The Zoning Officer may grant such permit only if it is determined that the cutting plan:

Will not cause undue erosion or destruction of scenic beauty;

Will provide that natural vegetation is preserved as far as practicable and, where removed, is replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty;

Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the Zoning Officer may require the submission of a bond which will guarantee the performance of the replacement plantings by the lot owner.

Will not violate the standards of the shoreline restrictions of the Adirondack Park Agency or other governmental agency, if applicable.

APPENDIX A

Shoreline Overlay District Regulations

Section 3.1-8 Shoreline Overlay District

2.1-7-1 Location and Applicability. The Shoreline Overlay District is superimposed over the basic zoning districts as set forth on the zoning map of the Town of Essex. The regulations presented in this Section shall only apply to those lands located within the boundaries of the Shoreline Overlay District as depicted on Schedule C and as overlaid on the Town of Essex Zoning Map. In the overlay district, proposed land uses are subject to the requirements set forth in this Section, in addition to those requirements and standards ordinarily applicable to the underlying districts. In case of conflict, the more restrictive regulation requirements shall apply.

2.1-7-2 Purpose. The Shoreline Overlay District regulations are intended to provide additional protection to the lakefront and shorelines of the Town of Essex so that uses of land and structures are arranged, constructed and operated in a manner that conserves the natural beauty and environmental integrity of this area of the Town. As stated in the Town of Essex Shoreline study, "the overall intent in creating this overlay district is to encourage growth that does not detract from the community character or degrade the natural environment near the Town's shoreline."

2.1-7-3 Effect on Schedule A. The schedule of uses permitted or allowed by site plan or special permit in each of the underlying zoning districts remains in effect in the Shoreline Overlay District except that all permitted and special permit uses shall also require site plan review and approval. Thus, at a minimum, no new structure or use, or expansion or change to an existing structure or use, shall be allowed in the Shoreline Overlay District without first applying for, and obtaining, site plan approval together with the other approvals required in the underlying zoning district. In addition, site plan approval is required for all retaining walls, wharfs, bulkhead and/or any other structure, landscaping or any other alteration of the shoreline prior to its construction. The following uses are prohibited in the Shoreline Overlay District even though such uses may be permitted or allowed in the underlying zoning district: Mobile home parks, junkyards, large-scale manufacturing, hospitals and stand alone telecommunication towers in excess of 25 feet in height.

2.1-7-4 Dimensional Requirements: The minimum dimensional requirements applicable for the underlying zoning districts apply with the following additions (where conflict occurs, the stricter requirements apply).

For Residential Uses:

- o Minimum Shoreline Width: 75 feet for EH, 150 feet for all other districts
- o Minimum Shoreline Building Setback (excluding docks eight feet or less in width and boathouses): 50 feet for EH, and R-II districts; 75 feet for all other districts.

For Non-Residential Uses:

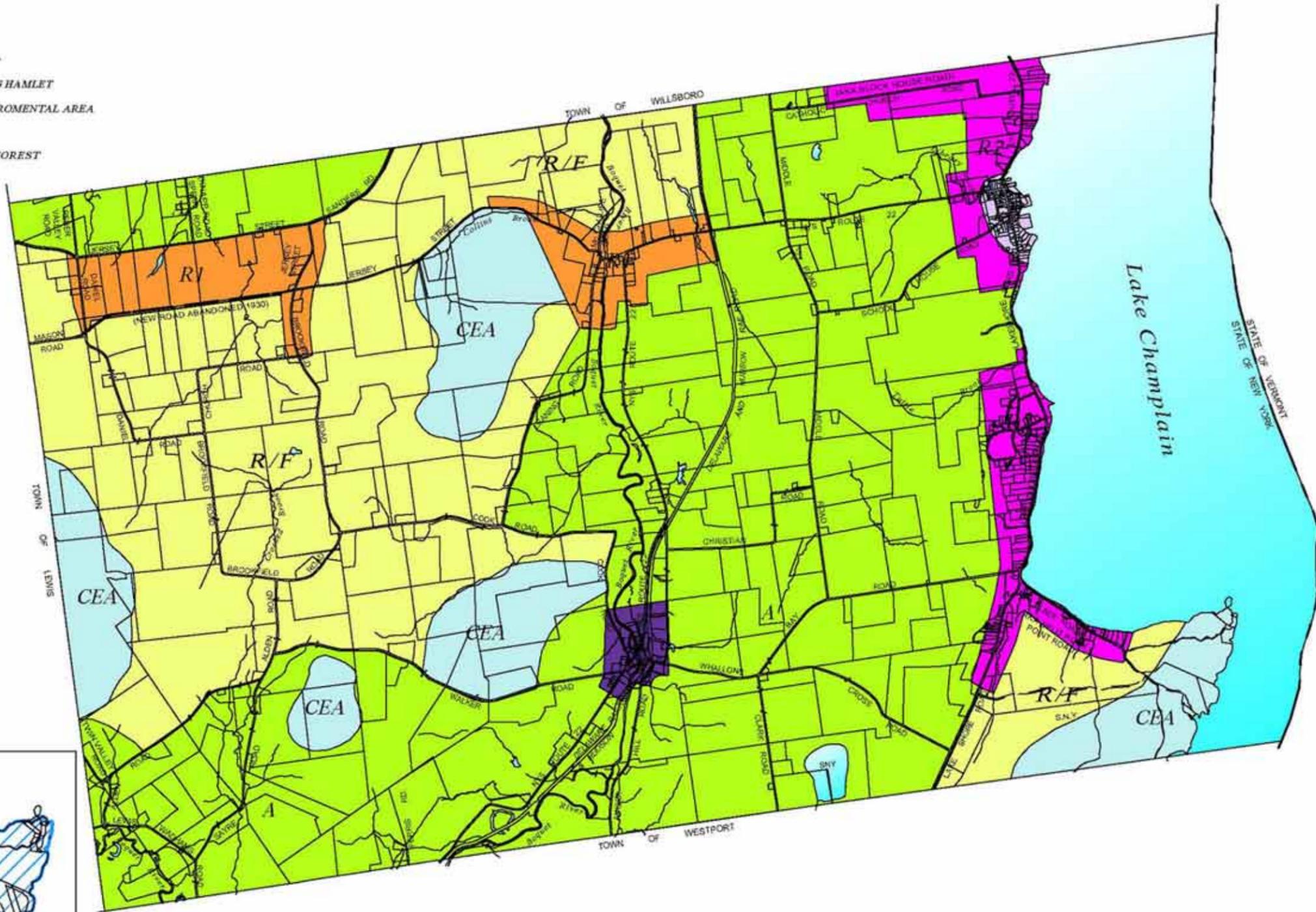
- o Minimum Shoreline Width: 100 feet for EH; 150 feet for all other districts

Town of Essex
ZONING CLASSIFICATIONS

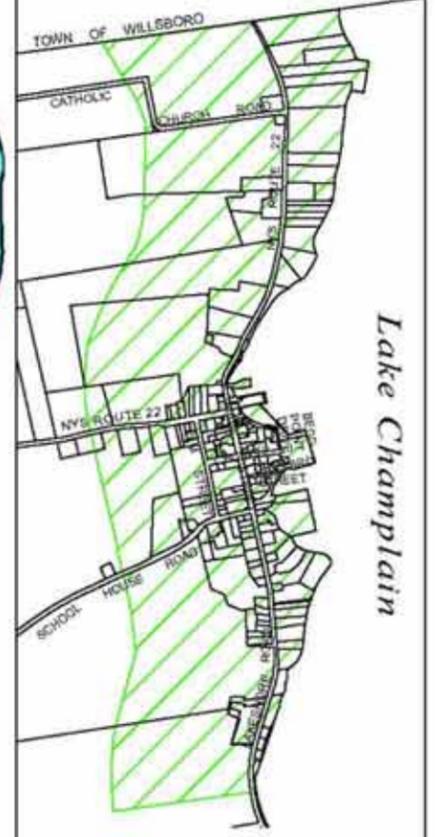
- R1-RESIDENTIAL 1
- R2-RESIDENTIAL 2
- EH- ESSEX HAMLET
- WH- WHALLONSBURG HAMLET
- CEA- CRITICAL ENVIROMENTAL AREA
- A- AGRICULTURE
- R/F- RECREATION/FOREST



SHORELINE PROTECTION
OVERLAY DISTRICT



TOWN OF ESSEX
HISTORIC DISTRICT
BOUNDARY



NO	DESCRIPTION	DATE

A E S
NORTHEAST
1012 CITY HALL PLACE
PLATTSBURGH, NEW YORK 12001
TEL: (518) 531 1593
FAX: (518) 531 1890
www.aesnortheast.com

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MAP OF
**ZONING CLASSIFICATIONS
FOR THE
TOWN OF ESSEX**
ESSEX COUNTY, NY

DATE:	5/13/2009
DRAWN BY:	J. BURIS
CHECKED BY:	S. ALLEN
PROJECT NO:	285

APPENDIX B

Shoreline Protection Overlay District Description

Please refer to the Shoreline Protection Overlay District Map for an illustration of the Shoreline Protection Overlay District. From the north, the Overlay District begins at the Town of Essex line. The eastern edge of the district is defined by the Lake Champlain shoreline, bordering Whallons Bay, and Split Rock Point before turning south again to meet up with the south side tax parcel 49.04-1-6.200. The overlay district boundary follows the backside of tax parcel 49.04-1-6.200 until it intersects with the road that parallels the Whallons Bay shoreline. The boundary follows this roadway along the ridgeline and then tracks the eastern boundaries of tax parcels 49.04-1-9.100 and 49.04-1-1.00 before meeting up with Lake Shore Road.

At this point the district boundary heads northward along Lake Shore Road before following the southern edge of tax parcel 49.15-1-19.000, then turning northward to line the western edges of several parcels that sit to the west of Lake Shore Road. At the northwest corner of tax parcel 49.11-1-2.000 the district boundary continues northward paralleling Lake Shore Road at a distance of 2,250 feet until it heads due east to meet up with the southwest corner of tax parcel 40.81-3-10.000.

Continuing to head northward the boundary borders the west side of the first row of parcels lining the west side of Lake Shore Road until it meets with tax parcel 40.73-5-3.100. It then runs along the south border of tax parcel 40.73-5-3.100, meets Elm Street and follows it to County Route 22.

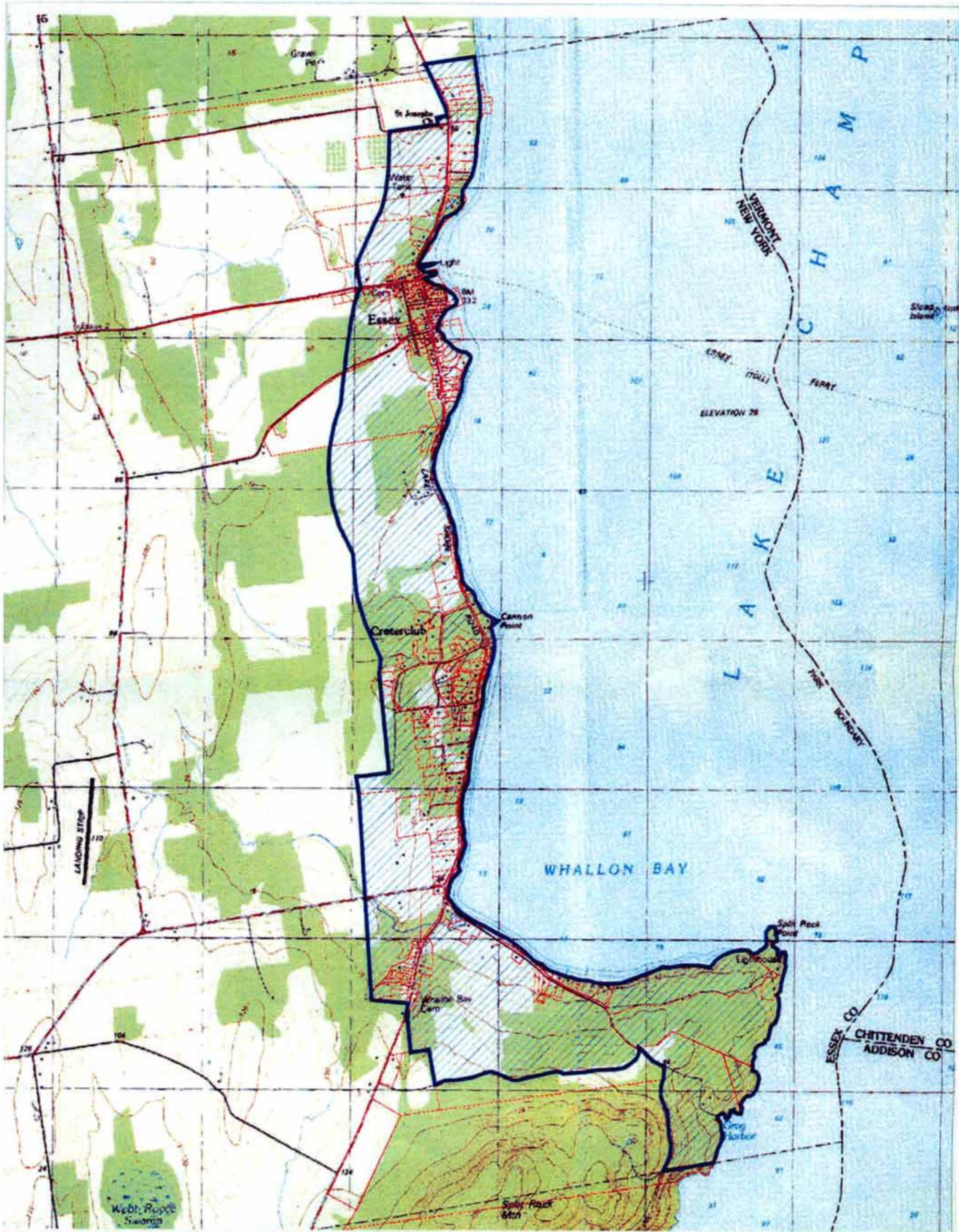
The district boundary then follows County Route 22 westward before lining the west edge of tax parcel 40.3-2-11.000. At this location the boundary then again parallels Lake Shore Road at a distance of 1,300 feet before meeting up it Blockhouse Road. Blockhouse Road eastward, the district boundary lines the west and north boundaries of tax parcel 40.57-1-2.000 before continuing along Lake Shore Road to the Essex Town line.

Justification for the Western Edge of the Shoreline Protection Overlay District

In dealing with zoning district boundaries, it is common planning practice to follow physical and distinct boundaries such as roads, streams, or parcel boundaries. Where physical features are not located in a manner that can serve this purpose, it is common to specify a distance from a roadway. In Essex, the proposed Shoreline Protection Overlay District roughly parallels the shoreline and there are very few physical features that also parallel the shoreline making it difficult to use them to form the western boundary. Where the possibility existed, a feature such as a road or tax parcel was used. Where there were no parallel features to the shoreline, a specific distance was used. An example of this situation can be found on the property commonly referred to as the South Farm.

To determine the distance in this example, a visual and topographic analysis was completed to determine where the ridgeline formed the top of the hill. This methodology was employed so that lands subject to development in highly visible areas could be included in the Shoreline Protection Overlay District. The distance determined for this area is 2,250 feet from Lake Shore Road.

ESSEX HAMLET WATERFRONT PLAN



SHORELINE PROTECTION OVERLAY DISTRICT

 Shoreline Protection Overlay District

 Parcel Boundaries



March 2000

THE SARATOGA ASSOCIATES

LANDSCAPE ARCHITECTS, ARCHITECTS, ENGINEERS AND PLANNERS, P.C.
SARATOGA SPRING, NEW YORK CITY 12158-1000

APPENDIX C

Waterways and Harbor Management Law

Findings: Lake Champlain within the Town of Essex supports a wide range of public and private in-water uses. These uses include recreational and commercial boating, anchorage and mooring areas, recreational fishing and swimming, marinas, public and private docks, special aquatic events, and ferry service. The Town of Essex finds that to manage the efficient use of Lake Champlain that lies within the Town, promote the safety of commercial and recreational navigation, provide for the equitable allocation of the water's surface for a variety of uses, and to protect the natural and cultural resources upon which many of these uses depend, this Local Law is hereby enacted for these purposes and to implement the Town's Local Waterfront Revitalization Program.

Section 1.0 Authority:

1.1 This law is adopted pursuant to §130.17 of New York State Town Law, §922 of the New York State Executive Law, §10 the Municipal Home Rule Law; and Article IX of the New York State Constitution.

1.2 The provisions of this law shall, except when prohibited by the laws of the United States, apply to all the waters of Lake Champlain that lie within the Town of Essex.

Section 2.0 Definitions: As used in this law, the following terms shall have the meaning indicated.

ANCHOR: To secure a vessel temporarily to the bottom of a water body by dropping an anchor or anchors or other ground tackle from a vessel for a period of no longer than seventy-two (72) consecutive hours.

ANCHORAGE AREA: The areas designated by the Town of Essex, as depicted on the Harbor Management Chart, that are reserved specifically for the anchoring of vessels.

AQUATIC EVENT: Any public or private organized activity including but not limited to a regatta, boat race, boat show, water skiing competition or demonstration, or firework display, which uses a defined area of the water for set period of time.

BEACH: All public beaches (of all jurisdictions), private membership club beaches, and private homeowners' association beaches, as depicted on the Harbor Management Chart.

BULKHEAD: Any structure, except a building, positioned parallel to the shoreline, the primary function of which is to retain soil or any other material from eroding into a waterway or to protect the land from wave damage.

CHANNEL: Water areas specifically reserved for unobstructed movement of vessels and which may be marked in the water by aids to navigation. Channels are depicted on the Harbor Management Chart.

DOCK: Any permanent structure, except a building, connected to a bulkhead or the upland and extending over the water's surface designed to secure vessels and provide access from the shore to a water body. The term dock includes the term pier, attenuation dock, quay, wharf, crib dock, stake dock, floating dock and all other similar structures.

DOCK-COMMERCIAL: A dock or portion of a dock which accommodates more than three (3) vessels, excepting canoes or row boats and sailboats under eighteen (18) feet.

DOCK-PRIVATE: A dock which accommodates up to three (3) vessels, owned by the property owner, excepting canoes, and row boats and sailboats under eighteen (18) feet.

DOCKMASTER: See Harbormaster.

FAIRWAY: An area in the harbor, other than a federally or locally designated channel, commonly used as an open access way between marine structures or designated channels, buffers areas, and mooring areas.

FERRY APPROACH AREA: The area designated on the harbor management chart which is used by the cross lake ferry in arriving and departing from the shore.

FLOAT: Any structure buoyant on the water surface affixed and secured in place to underwater lands which provides an offshore surface, for swimmers, or other purposes.

HARBOR MANAGEMENT AREA: All surface waters, inlets, bays, and coves of Lake Champlain within the Town of Essex.

HARBOR MANAGEMENT CHART: The water surface map adopted by the Town of Essex as part of this local law.

HARBORMASTER: The person appointed by the Town Board to ensure enforcement of laws, regulations, and policies governing navigable waters within the Town of Essex. For purposes of this Local Law, the term Harbormaster shall include the position of Dockmaster or any such person authorized by the Town Board to carry out the provisions of this Local Law.

JET SKI: A ski propelled by machinery and designed to travel over water. (See Personal Watercraft)

LAKE CHAMPLAIN WITHIN THE TOWN OF ESSEX: That part of Lake Champlain that extends to the east to the center of the Lake and north and south to the Essex Town boundary lines.

LIVE-ABOARD VESSEL: Any vessel used, designed, or occupied as a dwelling unit, business office or any commercial use, or for any private or social club of whatsoever nature, including but not limited to a structure constructed upon a barge while the same is moored or docked within the harbor management area of the Town of Essex.

MARINA: Any waterfront facility which provides accommodation services for vessels by engaging in any of the following: (1) the sale of marine products or services; (2) the sale, lease, rental, or charter of vessels of any type; (3) the sale, lease, rental or any other provision of storage, wharf space, or mooring for vessels not registered to the riparian property owner's immediate family, the owner or lessee of the property, members of the lessee's immediate families, or an overnight guest on said property.

MOOR: To attach a vessel to the ground or lands underwater by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator.

MOORING AREA-PUBLIC: The areas designated by the Town of Essex as depicted on the Harbor Management Chart that are reserved specifically for the mooring of vessels.

MOORING DEVICE: a permanent or semi-permanent vessel-anchoring device and its associated tackle, such as chains, buoys, and other equipment, other than a common anchor, manufactured and used specifically for the permanent or semi-permanent mooring of vessels.

PERSONAL WATERCRAFT OR SPECIALTY PROP CRAFT: A vessel which uses an inboard motor powering a water jet pump as its primary source of motive power or is powered by an outboard motor or a propeller drive motor, and which is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

PERSON: An individual, partnership, corporation, association, and any other legal entity subject to the provisions of this chapter.

PIERHEAD LINE: A line, as depicted on the Harbor Management Chart, beyond which no structure may extend out into navigable waters.

SHORELINE: The line of the shore as generally depicted on the Harbor Management Chart.

SPEED: The speed of a vessel over the water's surface as measured in miles per hour.

SWIMMING AREA: A water area designated on the Harbor Management Chart set aside for swimming.

TOWN BOARD: The Town Board of the Town of Essex.

UNREGISTERED VESSEL: A vessel that is not registered as required by New York State Law.

VESSEL: Includes every description of a motorized vessel and watercraft or other contrivance used or capable of being used as a means of transportation in or on the water, including aircraft, and personal watercraft.

VESSEL OWNER: The person under whose name the vessel was last registered in accordance with the provisions of Section 46, United States Code on Chapters 121-125 of the NYS Motor Vehicle and Traffic Law and, in any other case, the last known owner or person who claims lawful possession of such vessel by virtue of legal title or equitable interest therein which entitles him/her to such possession.

Section 3.0 Vessel Operations:

3.1 Dangerous operation prohibited. No person shall operate a vessel at a speed greater than is reasonable or prudent, including, without limitation, the throwing of its wake, so as to:

- a. endanger the life or limb of another person using Lake Champlain under the conditions and having regard to the actual and potential hazards then existing; or to
- b. disturb the reasonable comfort or endanger a person on or operating another vessel or cause damage to another vessel, structure, shoreline property, the environment, or interfere with the free and proper use of the waters of any channel.

3.2 Speed of vessels:

- a. No person shall operate any vessel at a speed in excess of that posted by speed markers. The Town may, from time to time, by resolution, establish maximum speed limits for any portion of waters or waterways subject to this law and provide for the posting of speed markers, or signs at conspicuous locations.

No person shall operate a vessel at speeds greater than five (5) miles per hour within congested areas within the jurisdictional limits of the Town, which shall include marinas, anchorage areas, mooring areas, fairways, channels, the north and south bays adjacent to the hamlet of Essex or other areas within feet of the shoreline, except to enable a water skier to take off or land in areas outside the waters adjacent to the hamlet.

The Town Board may, by resolution, from time to time and for periods stated in such resolution, suspend the enforcement of this section with respect to any portion or portions of waters or waterways and designate such areas by the location of appropriate speed markers.

No person shall operate a vessel at speeds greater than five (5) miles per hour within one hundred fifty (150) feet of swimmers, bathing floats, a regulation red diving flag, or lifelines.

No person shall operate a vessel within one hundred fifty (150) feet of any area marked for skin or scuba diving by the placement a regulation red diving flag except a vessel being used to support such diving.

3.3 Identification and Vessel Registration:

No person shall operate an unregistered vessel upon the waters of the Town. Vessel operators shall identify themselves and produce the vessel's registration to Town, county, state or federal law

Where a shoreline lot owner violates this Section, the Zoning Officer may require total re-vegetation so as to create a buffer strip area which is in compliance with this Section.

APA Standards should be met if they are stricter than the above.

Provisions for Access: Within the Shoreline Overlay District, the following minimum shoreline frontages shall be required for deeded, easement, right-of-way, or other contractual access to the shoreline of Lake Champlain for three or more lots, parcels, or sites or multi-family dwelling units not having separate and distinct ownership of shore frontage:

Site plan review and approval by the Planning Board pursuant to the standards below.

A plan shall be submitted showing areas for swimming, recreation, docking, building placement, parking and landscaping.

Compliance with the Town of Essex Waterways and Harbor Management Law and the provisions of this Section and this zoning law.

Such use shall not significantly impair the natural appearance of said parcel; shall not overcrowd the parcel or the adjacent water surface; shall not produce unreasonable noise or glare to the surrounding properties; and shall not pose any substantial hazards.

The first three (3) lots, sites or dwelling units shall require a total of not less than 75 feet and each additional lot, site or dwelling unit shall require an additional five (5) feet of shoreline frontage.

Waterfront parcels may be developed for contractual access for five (5) or more lots or units only if those lots or units are part of an overall development plan for land that is located adjacent to the waterfront parcels.

Each parcel used for contractual access shall measure at least the minimum lot area for the zoning district where the access is proposed and shall measure an average depth of 100 feet from the mean high water mark.

No structures other than toilets in compliance with NYS Dept. of Health regulations, pump houses, changing facilities, and picnic shelters shall be constructed on the waterfront parcel. The total combined square footage of all structures shall not exceed 1000 square feet.

Commercial activities of any kind are prohibited.

Parking areas shall be landscaped and shall be set back from the shoreline a minimum of 75 feet.

3.1-8-10 Exemption for Emergency Conditions

The shoreline restrictions shall not apply to any emergency land use or development which is immediately necessary for the protection of life or property as defined by the Adirondack Park Agency in its rules and regulations as authorized in Section 809 of the Adirondack Park Agency Act.

enforcement authorities upon request. Failure to produce such registration upon request shall be presumptive evidence of the operation of an unregistered vessel and a violation of this section. Required equipment: No person shall operate a vessel which does not meet all duly adopted and published requirements of the State Navigation Law with regard to safety equipment to be carried or incorporated into vessels of its type.

3.5 Prohibited discharges.

No person on or operating a vessel shall dump refuse, or garbage, or discharge treated or untreated sanitary waste to the water.

Section 4.0 Personal Water Craft (PWC):

No person shall operate a PWC within five hundred (500) feet of shore at a speed greater than five (5) miles per hour except that such five (5) mile per hour speed limit shall not apply when operating at safe headway speed in a straight line to or from shore or to of from an area five hundred (500) feet from shore.

No person shall operate a PWC within the Town so as to knowingly annoy, disturb, injure or endanger the health, comfort, repose, or peace of another person.

No person shall operate a PWC between the hours of 7:00 p.m. or sunset, whichever is earlier and 8:00 a.m.

Section 5.0 Aquatic Events:

No person shall conduct organized aquatic events without obtaining a permit for such event from the Town Board.

No person shall operate a vessel to tow water skiers, nor shall any person water ski in or across navigation channels at any time within five hundred (500) feet of any bather, diver, pier, wharf, float, mooring, other boat or the shore. Water skiing includes riding on, operating, or being towed by motor-propelled surfboards and water bikes, and the towing or manipulation of a surfboard or similar devices behind a motorboat. Such devices, which are defined as vessels in accordance with the State Navigation Law, may be operated along the outside lines of navigation channels to reach and return from open waters where their operation is permitted, but shall not interfere with the operation of other vessels.

Section 6.0 Mooring Areas:

Location of Mooring: The location of public mooring areas are indicated on the harbor management chart, the use thereof, and the types of mooring permitted are subject to standards adopted by the Town Board. Location and use conditions will be stated on the mooring permit.

Mooring Permits:

No person shall place a mooring or mooring tackle, or moor a vessel, without first obtaining a mooring permit. Such permit shall be applied for on forms to be supplied by the Town and shall be accompanied by an application fee as shall be fixed from time to time by resolution of the Town Board.

Upon receipt of a properly prepared application, the Harbormaster shall determine if the application is complete, and if so, shall process the application. No application shall be deemed complete until the permit fee is paid. A mooring permit shall be deemed expired if the mooring is not installed within two years of the date it was issued. The applicant shall have six months to file an application for renewal of the expired permit.

Permits for the use of individual private moorings in public mooring areas shall be issued to the owner of the vessel to be moored. These moorings shall not interfere with egress or access to new or existing fairways or new and existing public access to the waterfront.

Permits for moorings accessory to a waterfront residential use shall be issued to the riparian property owner or lessee. Two moorings are allowed per riparian residential property dependent on conditions and available water surface area. These moorings should not limit access to adjacent properties. All such permits shall be non-transferable.

6.3 Mooring within the Harbor Management Area:

No person shall moor any vessel except in a designated mooring area as shown on the Harbor Management Chart unless the vessel is moored at a marina, yacht club, or at a mooring accessory to a lodging, restaurant, or waterfront residential use.

No person shall moor any vessel so that it lies within the lines of any channel, swimming area, fairway, or ferry approach access channel.

No person shall place a mooring, nor shall any mooring be placed so that a vessel moored to it, at the full swing of its' mooring line, will be closer than twenty (20) feet to the projection of the property lines extended into the lake as determined by the Harbormaster in accordance with commonly accepted convention and practices for such determinations.

No person shall fail to anchor or moor a vessel in such manner as to be secure at all times and under all conditions. Any vessel that becomes a menace to navigation or is un-seaworthy or sinks, grounds, or otherwise becomes disabled, shall be removed by the owner or person in charge of such vessel. If such vessel is not removed within a reasonable period of time after a lawful order to remove it, it may be removed by or at the direction of the Town Board at the expense of the owner or person in charge of said vessel. It shall be a violation of this section if any person fails to remove such vessel after ordered to remove it.

Section 7.0 Anchoring:

No person shall anchor in a channel, fairway, mooring area, ferry access channel or within 100 feet of shore except in a designated anchorage area.

No person shall anchor at night without displaying lights except in an anchorage area designated on the Harbor Management Chart.

No person may anchor a vessel for more than seventy two (72) hours without obtaining a permit from the Harbormaster.

A person owning, operating, or in control of such vessel may leave a vessel temporarily to go ashore, but must be available to tend the vessel in the event of inclement weather. It shall be the vessel owner's and/or operator's responsibility to remain clear of all moored vessels and other structures.

Section 8.0 Floats:

No person shall anchor or moor any float without a permit from the Harbormaster.

Issuance of permits shall take into account safety, day and night navigation, water depth and bottom conditions, tackle, access, and compliance with the Local Waterfront Revitalization Program. No float shall interfere with the use of channels or fairways. Permit shall only be issued to a riparian property owner.

Section 9.0 Docks and Other In Water Structures:

No person shall construct or expand any structure including but not limited to docks, piers, wharves, boat lifts, breakwaters, or jetties, without obtaining a permit in compliance with the Town of Essex Zoning Law. Permits shall only be issued to a person with a riparian property interest by the Harbormaster.

Issuance of permits shall take into account safety, day and night navigation, effects on natural resources, cultural resources and water quality, public use of the water, and compliance with the Town's Local Waterfront Revitalization Program.

Docks accessory to a riparian residential use are limited to 100 feet in length or 8 feet of water depth, whichever is less, and 8 feet in width.

No dock or other structure may be constructed within 15 feet of a line that defines the area of riparian rights of a neighboring property, which line shall be determined in accord with commonly established conventions and practices for such determinations.

No structures shall be placed upon a dock that are not necessary for vessel access and safety.

No dock or other structure shall extend into a fairway, channel, ferry access channel, anchorage area, mooring area, or extend waterward of a pierhead line designated on the Harbor Management Chart.

A permit is not required for repairs to an existing dock, if such repairs do not alter the dock's size or shape.

Section 10.0 Living Aboard Vessels:

Except as hereinafter provided, no person shall live aboard any vessel or any floating or fixed structure over the water, nor shall any person or marina owner or operator permit any vessel to be used for living aboard when moored or docked within the harbor management area, except as outlined in Section 6.2 (Mooring Permits).

During the period April 15 to November 30, a vessel may be occupied as living quarters, provided that:

The vessel is of a type typically used for recreational boating and is suitable for general navigation on Lake Champlain under its own propulsion at any time during the period April 15 to November 30.

The vessel shall be moored or docked in a marina that has access to the lake for that boat, excluding periods of hazardous boating conditions.

The vessel is equipped with a Type III Marina Sanitation Device, in operational condition, and has access to a vessel waste pump facility.

Section 11.0 Enforcing Authority:

The Town Board, Harbormaster or any peace officer, are empowered to enforce the provisions of this Local Law. Every person in charge of a vessel shall at all times obey the lawful orders of a police or peace officer.

All appeals of decisions made by the Harbormaster shall be reviewed by the Town Board which shall be responsible for issuing a final determination.

The Harbormaster may recuse himself from the review of any application which represents a conflict of interest and may turn over any application he deems appropriate to the Town Board to rule on.

The Town Board shall have the final authority to enforce all provisions of this Local Law.

Section 12.0 Penalties for Offenses:

Any person violating any provision of this law shall be guilty of a violation and may, upon conviction, be punished by a fine not exceeding \$100. Each day that a violation under this law continues shall be deemed a separate offense.

Section 13.0 Waivers:

Upon request from the applicant, the Town Board may waive the numerical standards for docks and other in-water structures where strict compliance with the regulations for such structures results in an undue burden on the applicant, provided that such waiver will not have the effect of nullifying the intent and purpose of the Harbor Management Law.

Section 14.0 Miscellaneous Provisions:

Owners of the upland property shall completely remove any pilings, floats, or similar structures which are abandoned or fall into disuse.

No permit shall be issued for moorings or docks for commercial uses as defined in the Town zoning code unless or until the associated upland property has met the standards of the Town of Essex Zoning Law.

The Town Board shall have the power to establish standard contracts and contract terms and fees for the rental of public wharves, slips, docks, and moorings.

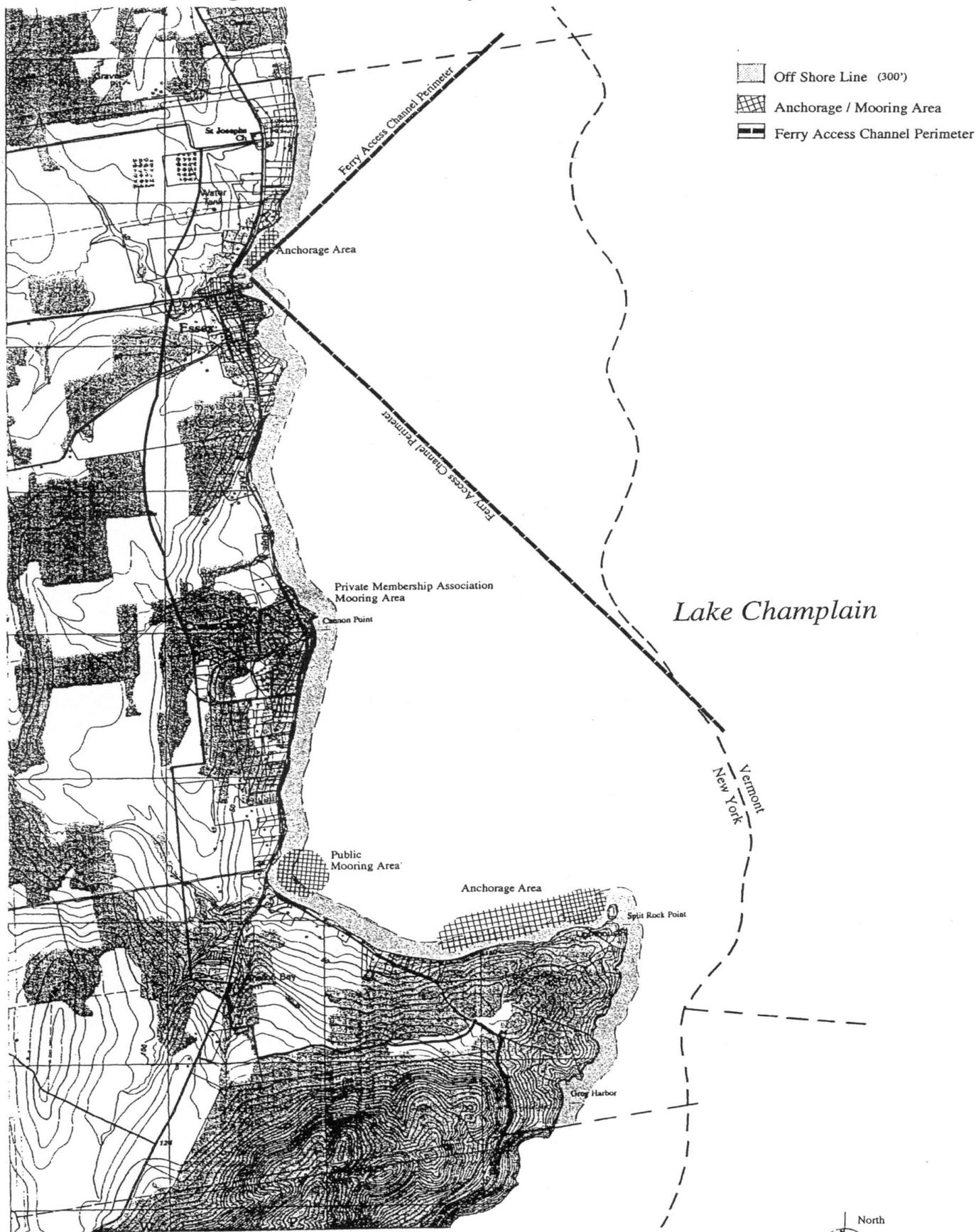
Section 15.0 Severability:

The provisions of this Local Law are declared to be severable and, if any section, sentence, clause, or phrase hereof shall for any reason be held to be invalid, ineffective, in conflict with regulations of state or federal authorities or unconstitutional, such decision shall not affect the validity of the remaining portions hereof, but such portions shall remain in full force and effect.

Section 16.0 Effective Date:

This Law shall take effect immediately upon its adoption by the Town of Essex and approval of the Harbor Management Plan as a component of the Town of Essex Local Waterfront Revitalization Program by the New York Secretary of State, according to the applicable provisions of law.

Harbor Management Overlays



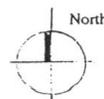
-  Off Shore Line (300')
-  Anchorage / Mooring Area
-  Ferry Access Channel Perimeter

Lake Champlain

Vermont
New York

Town of Essex Harbor Management Plan

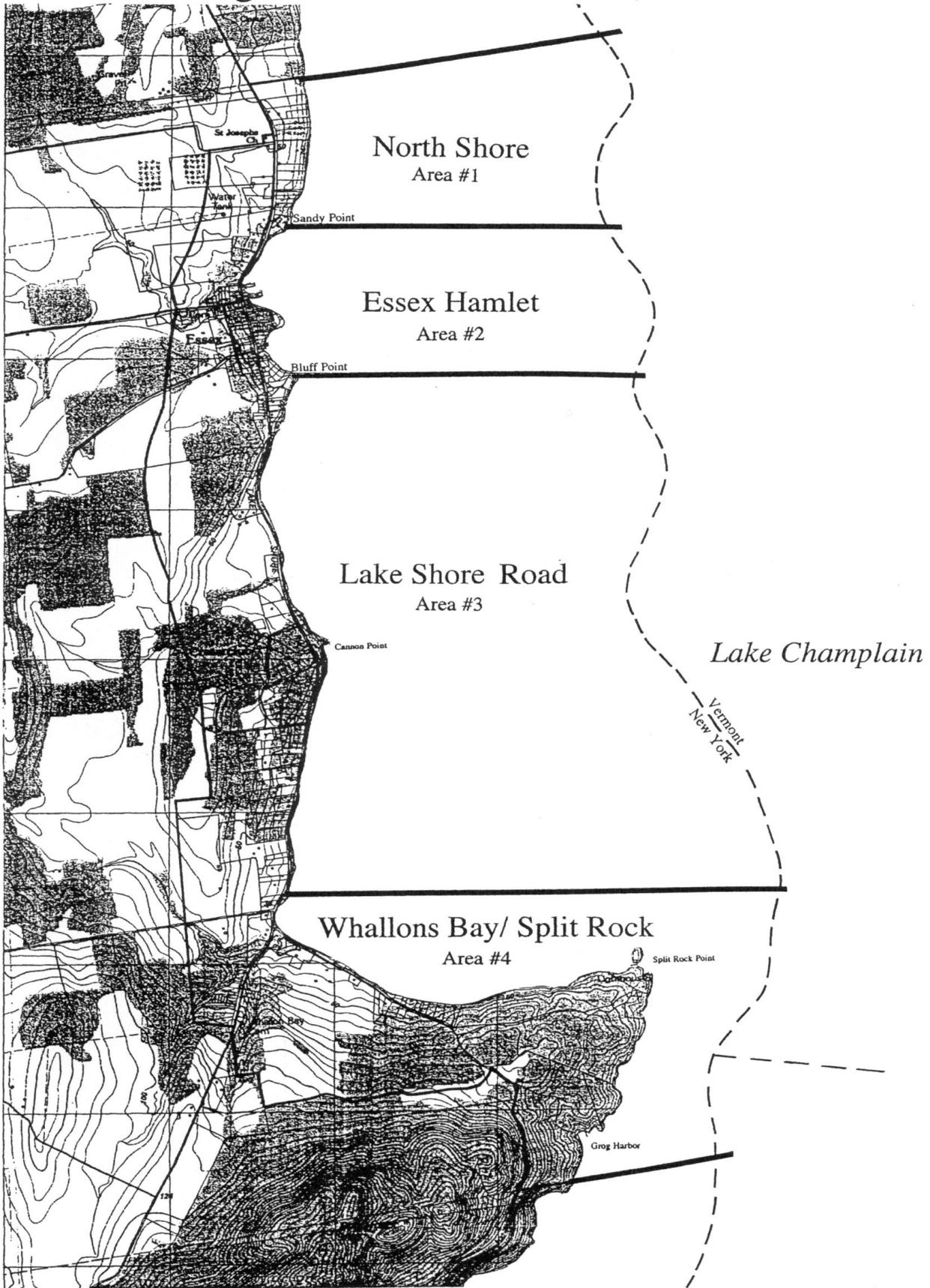
Raycroft-Meyer Landscape Architecture and Planning
21 North Street Bristol, Vermont 05443



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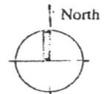
February 2002

Harbor Management Areas



Town of Essex Harbor Management Plan

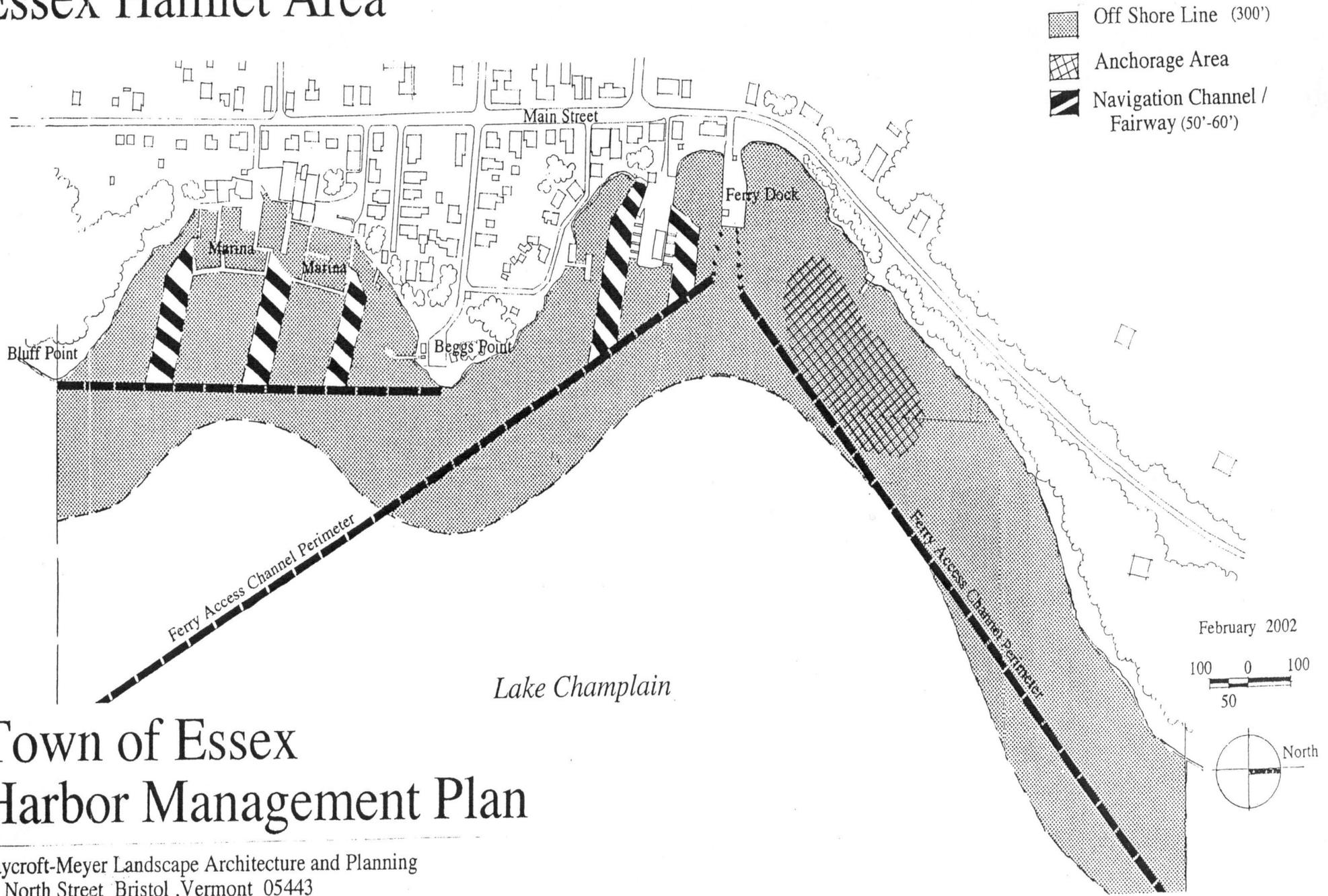
Raycroft-Meyer Landscape Architecture and Planning
21 North Street Bristol, Vermont 05443



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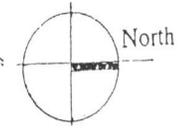
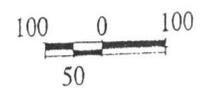
February 2002

Essex Hamlet Area



- Off Shore Line (300')
- Anchorage Area
- Navigation Channel / Fairway (50'-60')

February 2002

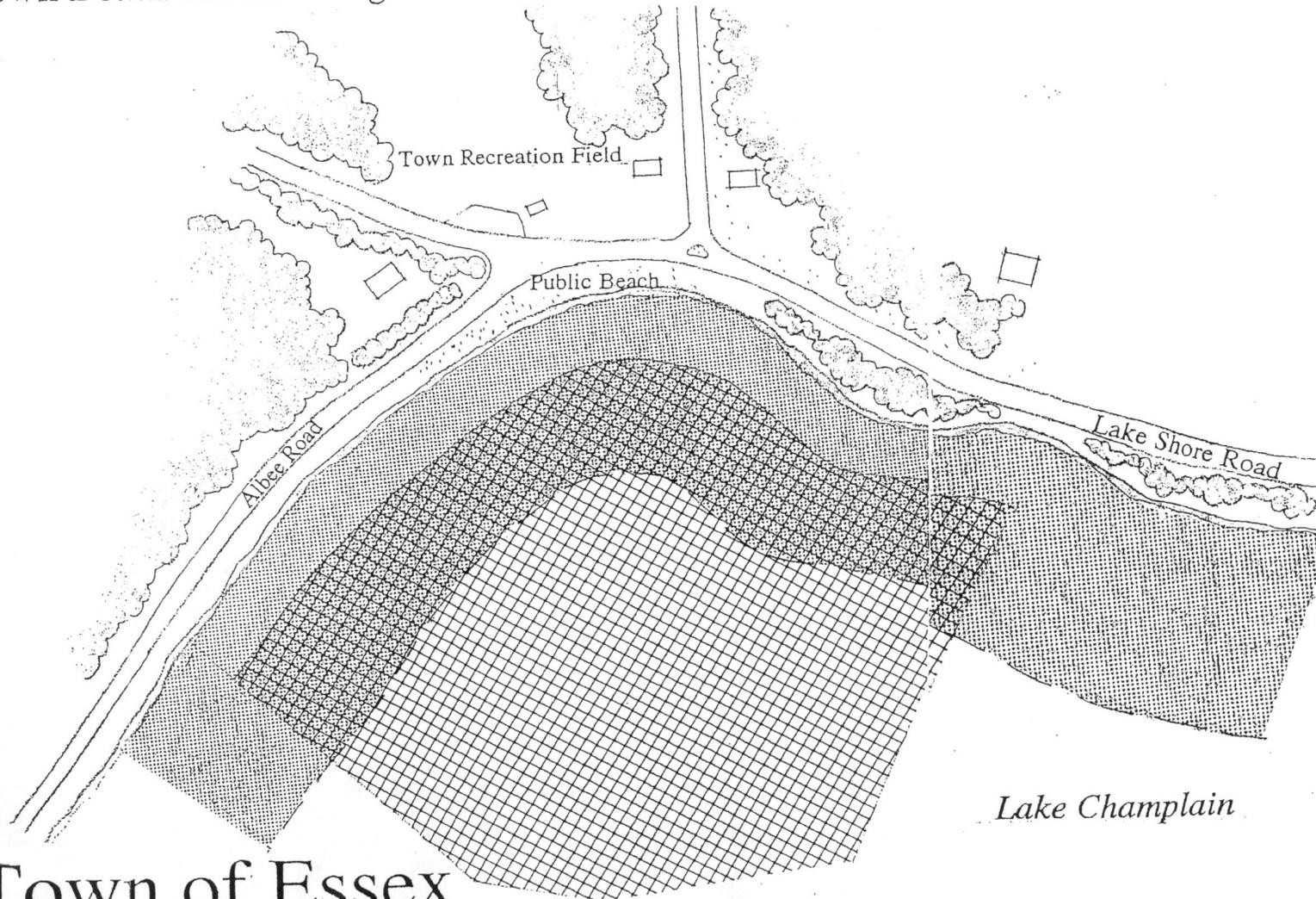


Town of Essex Harbor Management Plan

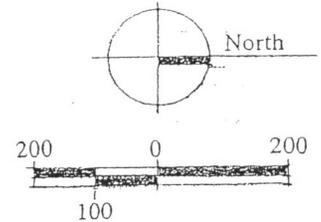
Raycroft-Meyer Landscape Architecture and Planning
21 North Street Bristol, Vermont 05443

Whallons Bay

Town Beach and Mooring Area



-  Off Shore Line (300')
-  Public Mooring Area



February 2002

Town of Essex Harbor Management Plan

Raycroft-Meyer Landscape Architecture and Planning
21 North Street Bristol, Vermont 05443

APPENDIX D

Waterfront Consistency Review Law

I. Title

This Local Law will be known as the Town of Essex Waterfront Consistency Review Law.

II. Authority and Purpose

1. This Local Law is adopted under the authority of Section 10 of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).

2. The purpose of this Local Law is to provide a framework for agencies of the Town of Essex to consider the policies and purposes contained in the Town of Essex Local Waterfront Revitalization Program when funding, approving, or directly undertaking actions located in the waterfront area; and to assure that such actions are consistent with the said policies and purposes.

3. It is the intention of the Town of Essex that the preservation, enhancement, and utilization of the natural and historic resources of the unique waterfront area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between natural and historic resources and the need to accommodate reasonable population growth, economic development, and attract the traveling public. Accordingly, this Local Law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: loss of fish and wildlife resources; diminution of open space areas or public accesses to the waterfront; loss of historic resources; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

4. The substantive provisions of this Local Law shall only apply while there is in existence a Town of Essex Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. Definitions

1. "Actions" means any action other than a minor action, actions include:

projects or physical activities, such as construction or any other activities that may affect natural, manmade or other resources in the waterfront area by changing the use, appearance or condition of any resource or structure, that:

- (i) are directly undertaken by an agency; or
- (ii) involve funding by an agency; or
- (iii) require one or more new or modified approvals, permits, or review from an agency or agencies;

2. "Agency" means any board, agency, department, office, other body, or officer of the Town of Essex.

3. "Waterfront area" means any land or water area that lies within the Waterfront Boundary established in the Town of Essex Local Waterfront Revitalization Program.

4. "Consistent" means that the action will fully comply with the LWRP policies and purposes and, whenever practicable, will advance one or more of them.

5. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Town of Essex, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Essex.

6. "Minor actions" include the following actions, which are not subject to review under this chapter:

maintenance or repair involving no substantial changes in an existing structure, facility, or landscape;

repaving of existing paved highways not involving the addition of new travel lanes;

street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;

official acts of a ministerial nature involving no exercise of discretion;

routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;

civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;

emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to coastal resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part.

"Planning Board" means the Planning Board of the Town of Essex.

IV. Review of Actions

A. Town Board Written Determination of Consistency

Whenever a proposed action is located within or affects the Town's waterfront area, a Town agency, other than the Planning Board, shall, prior to approving, funding, or undertaking the action, refer the proposed action to the Town Board for a determination whether it is consistent with the LWRP.

The Town Board may request any information reasonably necessary to make its consistency determination and may seek the advice of the Planning Board prior to making its determination.

The Town Board shall review the proposed action referred to it and make its consistency determination within 30 days of the first regular meeting of the Town Board following receipt of the referral and any necessary information the Board requested. If the Town Board has sought the advice of the Planning Board the time period for making its determination may be extended 30 days.

The Town Board's determination may be that the action is either:
Consistent with the LWRP,
Consistent with the LWRP if stated conditions are met, or
Inconsistent with the LWRP.

If the Town Board determines that the action is inconsistent with the LWRP, it may suggest alternative actions that would be consistent.

B. Planning Board Written Determination of Consistency

Prior to making its decision to approve or disapprove any action located within or affecting the waterfront area, the Planning Board shall make a determination whether the action is consistent with LWRP.

The Planning Board may request from an applicant information reasonably necessary to make a determination of consistency with the LWRP.

The Planning Board shall as much as practical integrate its consistency determination into its existing decision making procedures.

The Planning Board's determination may be that the action is either:
Consistent with the LWRP,
Consistent with the LWRP if stated conditions are met, or
Inconsistent with the LWRP.

If the Planning Board determines that the action is inconsistent with the LWRP, it may suggest alternative actions that would be consistent.

C. Consistency Standards

The Town Board's and the Planning Board's evaluation of consistency with the LWRP shall be in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Town of Essex LWRP, a copy of which is on

file in the Town Clerk's office and available for inspection during normal business hours. The action shall be consistent with the policies to:

Foster a pattern of development in the waterfront area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development.

Protect water-dependent uses, promote siting of new water dependent uses in suitable locations, and support efficient harbor operation.

Protect agricultural lands.

Promote sustainable use of fish and wildlife resources.

Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities.

Protect and improve water resources.

Minimize loss of life, structures, and natural resources from flooding and erosion.

Minimize environmental degradation from solid waste and hazardous substances.

Provide public access to and along the Town's coastal waters.

Protect scenic resources that contribute to the visual quality of the Essex Town waterfront.

Protect, preserve, and enhance resources significant to the historical, archeological, and cultural legacy of the Essex waterfront.

D. Determination That an Action is Not Consistent with the LWRP

If the Town Board or the Planning Board determines that an action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the Town Board or the Planning Board makes a written finding with respect to the proposed action that:

No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions.

The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions.

The action will advance one or more of the other LWRP policy standards and conditions: and

The action will result in an overriding Town, regional or state-wide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policies and purposes.

V. Enforcement:

The Town Zoning Enforcement Officer shall be responsible for enforcing this Local Law. No work or activity on a project in the Waterfront area which is subject to review under this Local Law shall be commenced or undertaken until the Zoning Enforcement Officer has been presented with a written determination from the Town Board or Planning Board that the action is consistent with the Town's LWRP policies and purposes. In the event that an activity is not being performed in accordance with this Local Law or any conditions imposed thereunder, the Zoning Enforcement Officer shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

VI. Violations:

A person who violates any of the provisions of, or who fails to comply with any conditions imposed by this Local Law shall have committed a violation, punishable by a civil penalty not exceeding one hundred dollars. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense. Thus, when a violation of any of the provisions of, or with any conditions imposed by, this Local Law is continuous, each day shall constitute a separate and distinct violation subjecting the offender to an additional civil penalty of one hundred dollars a day.

The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this Local Law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty. The Town may also enforce this Local Law by injunction or other civil proceeding.

For the purposes of enforcement and prosecution of violations of this Local Law, where a "person" is an entity other than an individual, the principal executive officer or partner or agent or manager of such entity may be considered to be such person.

VII. Severability:

The provisions of this Local Law are severable. If any provision of this Local Law is found invalid, such finding shall not affect the validity of this Local Law as a whole or any part of provision hereof other than the provision so found to be invalid.

VIII. Effective Date:

This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

APPENDIX E

A. Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect.

1. Purposes of Guidelines - The Waterfront Revitalization and Coastal Resources Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.

The Act also requires that state agencies provide timely notice to the Town whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.

The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

2. Definitions

Action means

A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA); occurring within the boundaries of an approved LWRP; and being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.

Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

- a. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
- b. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
- c. That will result in an overriding regional or statewide public benefit.

Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to the Executive law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

3. Notification Procedure

When a state agency is considering an action as defined above, the state agency shall notify the Supervisor (Planning Board Chairman) of the Town of Essex.

Notification of a proposed action by a state agency:

Shall fully describe the nature and locations of the action; Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through any alternative procedure agreed upon by the state agency and local government;

Should be provided to the Supervisor (Planning Board Chairman) as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the Supervisor (Planning Board Chairman) should be considered adequate notification of a proposed action.)

If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the Supervisor (Planning Board Chairman) can serve as the state agency's notification to the Town.

4. Local Government Review Procedure

Upon receipt of notification from a state agency, the Town will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the Supervisor (Planning Board Chairman), the state agency should promptly provide the Town with whatever additional information is available which will assist the Town to evaluate the proposed action.

If the Town cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

If the Town notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in Section 5 below shall apply. The Town shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the Town shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

5. Resolution of Conflicts

The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP.

Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.

If the consultation between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

If the consolidation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either part may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.

Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.

If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.

The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.