

III. LOCAL WATERFRONT REVITALIZATION PROGRAM POLICIES

Section III presents the waterfront revitalization policies and their associated standards that are used in guiding appropriate development actions for a community. These policies take into consideration the physical, economic, environmental and cultural characteristics of the community. They are comprehensive and reflect existing laws and authority regarding development and environmental protection. Together, these policies and their standards are to be used to determine an appropriate balance between economic growth and development and environmental protection in a manner that will permit the beneficial use of waterfront resources in the Town of Evans without significant adverse impacts to the community.

DEVELOPMENT POLICIES

- Policy 1 Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.
- Policy 2 Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.
- Policy 3 Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting of land uses and development in these port areas.
- Policy 4 Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities that have provided such areas with their unique maritime identity.
- Policy 5 Encourage the location of development in areas where public services and facilities essential to such development are adequate.
- Policy 6 Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

FISH AND WILDLIFE POLICIES

- Policy 7 Significant coastal fish and wildlife habitats will be protected, preserved, and where practicable, restored so as to maintain their viability as habitats.
- Policy 8 Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants that bio-accumulate in the food chain or cause significant sub-lethal or lethal effects on those resources.

- Policy 9 Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.
- Policy 10 Further develop commercial finfish, shellfish, and crustacean resources in the coastal area.

FLOODING AND EROSION HAZARDS POLICIES

- Policy 11 Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.
- Policy 12 Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.
- Policy 13 The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years.
- Policy 14 Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.
- Policy 15 Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes that supply beach materials to land adjacent to such waters and shall be undertaken in a manner that will not cause an increase in erosion of such land.
- Policy 16 Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development that requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.
- Policy 17 Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.

GENERAL POLICY

- Policy 18 To safeguard the vital economic, social and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards that the State has established to protect valuable coastal resource areas.

PUBLIC ACCESS POLICIES

- Policy 19 Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities.
- Policy 20 Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided in a manner compatible with adjoining uses.

RECREATION POLICIES

- Policy 21 Water-dependent and water-enhanced recreation will be encouraged and facilitated and given priority over non-water-related uses along the coast.
- Policy 22 Development, when located adjacent to the shore, will provide for water-related recreation, whenever such use is compatible with reasonably anticipated demand for such activities, and the primary purpose of the development.

HISTORIC AND SCENIC RESOURCES POLICIES

- Policy 23 Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the state, its communities or the nation.
- Policy 24 Prevent impairment of scenic resources of State-wide significance.
- Policy 25 Protect, restore or enhance natural and man-made resources that are not identified as being of State-wide significance, but that contribute to the overall scenic quality of the coastal area.

AGRICULTURAL LANDS POLICY

- Policy 26 Conserve and protect agricultural lands in the State's coastal area.

ENERGY AND ICE MANAGEMENT POLICIES

- Policy 27 Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.
- Policy 28 Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.
- Policy 29 Encourage the development of energy resources on the outer continental shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.

WATER AND AIR RESOURCES POLICIES

- Policy 30 Municipal, industrial, and commercial discharge of pollutants including, but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.
- Policy 31 State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards.
- Policy 32 Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high.
- Policy 33 Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.
- Policy 34 Discharge of waste materials into coastal waters from vessels subject to state jurisdiction will be limited to protect significant fish and wildlife habitats, recreational areas and water supply areas.
- Policy 35 Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State permit requirements and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands and wetlands.
- Policy 36 Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges and restitution for damages will be required when these spills occur.
- Policy 37 Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.
- Policy 38 The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.
- Policy 39 The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in a manner that protects groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.
- Policy 40 Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.

- Policy 41 Land use or development in the coastal area will not cause National or State air quality standards to be violated.
- Policy 42 Coastal management policies will be considered if the State reclassifies land areas pursuant to the prevention of significant deterioration regulations of the federal clean air act.
- Policy 43 Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.

WETLANDS POLICY

- Policy 44 Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

DEVELOPMENT POLICIES

- POLICY 1 Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.**
- POLICY 1A Improve the Sturgeon Point Marina facility and establish the lands upland of the marina for public use.**
- POLICY 1B Revitalize the Lake Erie Beach area of the waterfront.**
- POLICY 1C Revitalize and enhance the County and State Parks.**
- POLICY 1D Protect and improve stable residential areas.**

Explanation of Policy

Agencies must ensure that their actions further the revitalization of waterfront areas. The transfer or purchase of property, the construction of new public facilities and the provision of tax incentives to businesses are all examples of governmental means for spurring economic growth. When any such action or similar action is proposed, it must be assessed to determine if it would contribute to or adversely affect the revitalization of the Evans waterfront.

The revitalization of once dynamic waterfront areas, without consuming valuable open space outside of these areas, is an effective means of promoting economic growth. Waterfront redevelopment is also a useful means of rejuvenating and, in certain cases, stabilizing the residential and commercial areas adjacent to the waterfront area.

The intent of this policy is directly linked to a number of other policies; therefore, several issues must be considered:

1. Uses requiring a location abutting the waterfront must be given priority in any redevelopment effort (refer to Policy 2 for the means to effectuate this priority);
2. As explained in Policy 5, one reason for revitalizing previously developed and dynamic waterfront areas is that the costs for providing basic services to such areas is typically less than that of providing new services to areas not previously developed;
3. The likelihood for successfully simplifying permit procedures and expediting certain permitting or approval requirements (Policy 6) will be increased if a discrete area, and not the entire waterfront, is the focus for the effort. In turn, ease in obtaining permits should increase investment interests in these areas. Further, once the focused effort has succeeded, stabilization and revitalization of surrounding areas is more likely to occur.

An example of this is the proposed Evans Multi-Use Pathway. It is the intent of this amenity to link waterfront resources and improve access and tourism. By facilitating and completing each phase of this trail, impetus is provided for additional improvements and revitalization of public recreation facilities and other commercial areas along the waterfront.

Though local waterfront revitalization programs need not be limited to redevelopment, the Town and other governmental agencies are encouraged to identify areas as suitable for redevelopment, and establish redevelopment programs to bring about this change.

When an action is proposed to take place in an area of the waterfront that is considered as suitable for redevelopment, the following guidelines will be followed:

- a. Priority should be given to water-dependent and water-enhanced uses (see Policy 2);
- b. The action should enhance existing and anticipated uses;
- c. The action should serve as a catalyst to private investment in the area;
- d. The action should improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration (e.g., a building could not be abandoned without protecting it against vandalism and/or structural decline);
- e. The action must lead to development that is compatible with the character of the area, with consideration given to scale, architectural style, density, and intensity of use;
- f. The action should have the potential to improve the existing economic base of the community and, at a minimum, must not jeopardize this base (e.g., waterfront development meant to serve consumer needs would be inappropriate in an area where no increased consumer demands were expected and existing development was already meeting demand);
- g. The action should enhance adjacent and upland views of the water and, at a minimum, must not eliminate views or otherwise affect views in an adverse manner; and

- h. The action should have the potential to improve opportunities for multiple uses on the site.

Resources should be focused on improving the Lake Erie Beach commercial district and residential area as a quality, lakefront neighborhood. This area should include a mix of uses that are developed in keeping with the rural character of the area, to reestablish the hamlet as a prosperous area of shoreline activity. Efforts should be focused on the residential area, as well as the commercial district, to bring balanced renewal to the area. The height and scale of new development along the waterfront in this area should not adversely impact views of the lake and should recognize the character and capacity of Lake Shore Road, which is a local, rural roadway. New development should enhance and support existing recreational and residential uses. The recommendations and implementation strategies outlined in the Lake Erie Beach Revitalization study (see Appendix C) should be put into action in an effort to achieve the vision for the hamlet.

The Sturgeon Point is a central focus area for tourism and the marina offers the only permanent boat dockage between the City of Buffalo and Sunset Bay. This area of the Town should be enhanced and improved to support a greater level of recreational use and open space preservation. The area upland of the marina should be improved for passive recreational activities, as well as to provide additional parking area for the marina. This upland area offers opportunities for scenic viewing, picnicking and other passive recreation, and education/interpretation in the protected open space portions of the site. The Town should also explore opportunities for the expansion of the marina to provide additional dockage and accommodate larger vessels. The Sturgeon Point Marina area, with the adjoining public lands, provides an opportunity to create a significant node of recreational activity that could include limited commercial uses to support tourism.

The County currently owns and operates Wendt Beach and Bennett Beach Parks. These parks offer opportunities for passive and active recreation and public access to Lake Erie. Each park offers amenities that are unique to the area. The County is encouraged to make necessary capital improvements to these areas to increase and enhance public use, including the revitalization of the Wendt Mansion for public use and the protection of the dunes, old growth vegetation, and archaeological resources at Bennett Beach. The Mansion is an historic resource that is vacant and requires repair. It is also subject to vandalism. The longer it goes without attention, the greater the investment will be to restore it for public use. In addition, Bennett Beach contains an area of important ecological and archaeological resources. The County must make every effort to protect these resources from further impacts. The public should be prohibited from physically accessing the sand dunes, and the old growth vegetation in the area, which have high resource value (see Policy 7), and should be protected from any incompatible disturbance. The County should also consider updating the portions of the Erie County Parks Master Plan that address Bennett Beach. The Plan should omit certain recommendations that suggest physical development at this site and better promote protection of the important natural and cultural resources. The Plan should also reflect the County's existing considerations for improvements at Wendt Beach. In addition, although only a small portion of the park falls within the Evans waterfront area, Evangola State Park is an essential recreational facility that should be effectively maintained and operated.

To enhance community character and maintain the quality of life along the waterfront in Evans, the potential adverse impacts of new development and redevelopment on existing land uses, natural resources and the local economy should be properly assessed and mitigated, as required. Development should reflect the recognition of existing site characteristics, limit disturbance to land and water, and foster visual compatibility with surrounding areas.

The existing residential neighborhoods along the waterfront are important to the overall character of the community and prosperity of the area. New uses in stable residential neighborhoods should be avoided when their size or scale would significantly impact the character of the area. New construction, redevelopment and associated screening, such as fences and landscaping, should not reduce or eliminate vistas that connect local residents or visitors to the waterfront, or views that are otherwise important to the surrounding area.

Public access improvements should also be emphasized as a part of new development or redevelopment to better establish the connection between residential areas and the waterfront. Linkages are also important and should be created through the development of, or connections to, the waterfront trail system.

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

Explanation of Policy

There is a finite amount of waterfront space suitable for development purposes. Consequently, while the demand for any given piece of property will fluctuate in response to varying economic and social conditions, on a regional and statewide basis, the only reasonable expectation is that long-term demand for waterfront space will intensify. The traditional method of land allocation, i.e, the real estate market, with or without local land use controls, offers little assurance that uses that required waterfront sites will have access to the shoreline. To ensure that “water-dependent” uses can continue to be accommodated along the Evans waterfront, agencies should avoid undertaking, funding or approving non water-dependent uses when such uses would preempt the reasonably foreseeable development of water-dependent uses.

A water-dependent use is an activity that can only be conducted on, in, over or adjacent to a water body because such activity requires direct access to that water body, and that involves the use of water as an integral part of such activity.

The following uses and facilities are considered as water-dependent:

1. Uses that depend on the utilization of resources found in coastal waters (e.g., fishing);
2. Recreational activities that depend on access to coastal waters (e.g., swimming, fishing, boating, wildlife viewing);

3. Structures needed for navigational purposes (e.g., buoys, lighthouses, etc.)
4. Flood and erosion protection structures (e.g., breakwaters, bulkheads, seawalls, etc.);
5. Facilities needed to store and service boats and ships (e.g., marinas, boat repair or storage facilities, etc.).
6. Uses requiring large quantities of water for processing and cooling purposes (e.g., wastewater or water treatment plants);
7. Scientific/educational activities which, by their nature, require access to coastal waters (e.g., certain meteorological and oceanographic activities); and
8. Support facilities that are necessary for the successful functioning of water-dependent uses (e.g., parking lots, snack bars, first aid stations, short-term storage facilities), although these uses should be sited inland from the water-dependent use they support, rather than on the shore.

In the Town of Evans, there is a finite amount of waterfront space suitable for development purposes. Consequently, while the demand for any given piece of property along the waterfront will fluctuate in response to varying economic and social conditions, on a Town-wide basis, the only reasonable expectation is that long-term demand for waterfront space will likely intensify. As there is a limited amount of land zoned for commercial use along the Evans waterfront, demand is expected to be primarily for residential use. However, where applicable, the Town should strive to develop additional water-related or enhanced commercial uses in the LWRA.

The traditional method of land allocation, i.e., the real estate market, with or without local land use controls, offers little assurance that a use that requires a waterfront site will, in fact, have access to Town waters. To ensure that water-dependent uses can continue to be accommodated within the Town, any public agency undertaking actions within the Town will be required to avoid undertaking, funding, or approving non-water dependent uses when such uses would preempt reasonably foreseeable development of water dependent uses; furthermore, such agencies will utilize existing programs, as appropriate, to encourage water dependent activities.

Water-dependent uses in the Town of Evans include the Erie County Sewer District No. 2 wastewater treatment plant, the Erie County water treatment plant, the Sturgeon Point Marina and boat launch ramp, Point Breeze boat launch ramp and the Town and County beaches, which are water-dependent recreational uses. In the foreseeable future, uses accommodated along the Evans waterfront are expected to be primarily a continuation of existing uses with revitalization and improvement of water-dependent and water-enhanced uses, specifically water-dependent recreational facilities. Particular emphasis is on the Sturgeon Point Marina area, where water-dependent use could be expanded, primarily for recreational use. In no instance should an existing water-dependent or water-enhanced recreational facility be replaced with a non-water dependent use. In addition to water-dependent uses,

those uses that are enhanced by a waterfront location should be encouraged to locate along the shore, though not at the expense of water dependent uses.

In addition to water-dependent uses, uses that are enhanced by a waterfront location are considered preferable to non-water dependent uses, and would be encouraged to locate along the shore (although not at the expense of a water-dependent use). A water-enhanced use is defined as a use or activity that does not require a location adjacent to or over coastal waters, but whose location on land adjacent to the shore adds to the public use and enjoyment of the water's edge. Water-enhanced uses are primarily recreational, cultural, retail, or entertainment uses. A restaurant that uses good site design to take advantage of a waterfront view is an example of a water-enhanced use. Although enhanced by its location, residential use is not necessarily considered water-enhanced and should not be located along the shoreline at the expense of other uses. Water-enhanced uses along the Evans waterfront include restaurants/bars, campgrounds (both public and private), conference centers and retreats, and recreational facilities. These types of uses are generally conducive to their surrounding waterfront environment and should be continued.

If there is no immediate demand for a water-dependent use in a given area, but a future demand is reasonably foreseeable, then temporary non-water-dependent uses should be considered preferable to a non-water-dependent or enhanced use that involves an irreversible or nearly irreversible commitment of land. Parking lots, passive recreational facilities, outdoor storage areas, and non-permanent structures are uses or facilities that would be considered as "temporary" non-water-dependent uses.

New water-dependent and water-enhanced uses proposed for development along the Evans waterfront should be sited and designed to enhance the surrounding area and avoid adverse impacts to significant coastal resources, including viewsheds. The best locations for uses of this nature would be in the Sturgeon Point Marina area (Sub-Area 1), in the commercial area of Sub-Area 2 in the vicinity of the beach clubs, and Lake Erie Beach. Consideration should be given to such factors as the protection of nearby residential areas from odors, noise and traffic and the preservation of natural protective features. Affirmative approaches should be employed so that water-dependent and water-enhanced uses, and adjacent uses, will complement one another. For example, a recreation-oriented water-dependent use area could be sited in an area already oriented towards tourism. For instance, the Sturgeon Point Marina would enhance, and in turn be enhanced by, nearby restaurants, motels and other water-enhanced or non-water oriented tourist activities. In addition, to help ensure the availability of waterfront land for water-dependent use, consideration should be given to the siting and design of any development on land adjacent to the water, and to the reservation of land suitable to accommodate the long-term space needs of water-dependent uses (e.g., by devoting such land to open space or temporary non-water dependent uses).

In the actual choice of sites where water-dependent uses will be encouraged and facilitated, the following guidelines should also be considered:

1. Competition for space, or the potential for it, should be indicated before any given site is promoted for water-dependent uses. The intent is to match water-dependent uses with suitable locations and thereby reduce any conflicts between competing uses that

might arise. Not just any site suitable for development should be chosen as a water-dependent use area. The choice of a site should be made with some meaningful impact on the real estate market anticipated. The anticipated impact could either be one of increased protection to existing water-dependent activities or else the encouragement of water-dependent development.

2. Most water-dependent uses, if they are to function effectively, will require basic public facilities and services. In selecting appropriate areas for the development of water-dependent uses, consideration should be given to the availability of public sewers, public water lines and adequate power supply. Access to public transportation, if a high number of person trips are to be generated, should also be considered.
3. Where recreational boating exists, or is planned, adequate access to navigation channels must be assured, as required.
4. When areas suitable for water-dependent uses are publicly owned, favored leasing arrangements should be given to such uses.
5. The promotion of water-dependent uses should serve to foster development as a result of the capital programming, permit expediting and other State and local actions that can be used to promote the site.
6. A primary objective of the policy is to create a process by which water-dependent uses can be accommodated well into the future. Agencies should, therefore, give consideration to providing for expansion and the long-term space needs and, where practicable, accommodate future demand by identifying more land than is needed in the near future.
7. Local land use controls, especially the use of zoning districts exclusively for waterfront uses, can be an effective tool of local government in assuring adequate space for the development of water-dependent uses.

POLICY 3 **Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting of land uses and development in these port areas, including that under the jurisdiction of state public authorities, that is essential to, or in support of, the waterborne transportation of cargo and people.**

Explanation of Policy

This State Coastal Management Policy is not applicable to the Town of Evans waterfront area as it does not include any of the State's major port facilities.

POLICY 4 Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.

Explanation of Policy

This State Coastal Management Policy is not applicable to the Town of Evans waterfront area as it does not include a small harbor, as defined by this policy.

POLICY 5 Encourage the location of development in areas where public services and facilities essential to such development are adequate.

Explanation of Policy

By its construction, taxing, funding and regulatory powers, government has become a dominant force in shaping the course of development. Through these government actions, development, particularly large-scale development, in the waterfront area will be encouraged to locate within, contiguous to, or in close proximity to, existing areas of concentrated development where infrastructure and public services are adequate, and where topography, geology, and other environmental conditions are suitable for, and able to accommodate, development.

As noted in the Inventory and Analysis, the Town of Evans waterfront is generally serviced by a public water system, and has a sound transportation system that can accommodate existing development. The waterfront is located within a public sewer district, but service is presently not available to the area north of Wendt Beach Park to approximately Delamater Road. There are also a couple small gaps in service along Lake Shore Road in Sub-Area 3.

For any action that would result in large-scale development or that would facilitate or serve future development, a determination shall be made as to whether the action is within, contiguous to, or in close proximity to an area of concentrated development where infrastructure and public services are adequate. The following guidelines shall be used in making that determination:

1. Locations along the waterfront area may be considered suitable for development, if three or more of the following conditions prevail:
 - a. Population density of the area surrounding or adjacent to the proposed site exceeds 1,000 persons per square mile,
 - b. Fewer than 50 percent of the buildable sites (i.e., sites meeting lot area requirements under existing local zoning regulations) within a one-mile radius of the proposed site are vacant,
 - c. The proposed site is served by or is near to public or private sewer and water lines,

- d. Public transportation service is available within one-half mile of the proposed site, and/or
 - e. A significant concentration of commercial activity is within one-half mile of the proposed site.
2. The following points shall be considered in assessing the adequacy of infrastructure and public services in the area proposed for development:
- a. Streets and roadways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development,
 - b. The water needs of the proposed development (consumptive and fire fighting) can be met by the existing water supply system,
 - c. The existing wastewater treatment system can accommodate the sanitary waste generated by the development,
 - d. Energy needs of the proposed development (electricity, natural gas) can be accommodated by existing utility systems,
 - e. Storm water runoff from the proposed site can be accommodated by on-site and/or off-site facilities, and
 - f. Schools, police and fire protection are adequate to meet the needs of those expected to live, work, shop, or conduct business in the area as a result of the development.

It is recognized that certain forms of development may and/or should occur at locations that are not within or near areas of concentrated development. Thus, this policy does not apply to the following types of development projects and activities.

1. Economic activities that depend upon sites at or near locations where natural resources are present,
2. Development that, by its nature, is enhanced by a non-urbanized setting, (e.g., a resort complex, campgrounds, etc.),
3. Development that is designed to be a self-contained activity, (e.g., a small college, an academic or religious retreat, etc.),
4. Water-dependent uses with site requirements not compatible with this policy or when alternative sites are not available,
5. Development that, because of its isolated location and small scale, has little or no potential to generate and/or encourage further land development,

6. Uses and/or activities that should be located away from populous areas because of public safety considerations,
7. Rehabilitation or restoration of existing structures and facilities, and
8. Development projects that are essential to the construction and/or operation of the above uses and activities.

In certain areas where development is encouraged by this policy, the existing condition of public water and sewage infrastructure may require attention and improvements. Those agencies charged with allocating funds for investments in water and sewer facilities should give high priority to the needs of the Evans waterfront area so that full advantage may be taken or problems with existing infrastructure can be remedied in a fashion that allows for the promotion of waterfront revitalization.

In Evans, although wastewater treatment capacity may be available, certain areas are impacted by existing inflow and infiltration problems that must be addressed to eliminate potential adverse impacts. The County is encouraged to make every effort to remedy existing problems, particularly in the Sweetland Road and Point Breeze areas, to protect water quality and provide for adequate service.

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

Explanation of Policy

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

For specific types of development activities, and in areas suitable for such development, agencies will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, as long as the integrity and objectives of the regulations are not jeopardized. These procedures and programs will be coordinated within each agency. Also, efforts will be made to ensure that each agency's procedures are synchronized with those of other agencies at each level of government. Finally, regulatory programs and procedures will be coordinated and synchronized between levels of government, and if necessary, legislative and/or programmatic changes will be recommended. When proposing new regulations, an agency will determine the feasibility of incorporating the regulations within existing procedures, if this reduces the burden on a particular type of development and does not jeopardize the integrity and objectives of the regulations.

FISH AND WILDLIFE POLICIES

- POLICY 7** **Significant coastal fish and wildlife habitats will be protected, preserved, and where practicable, restored so as to maintain their viability as habitats.**
- POLICY 7A** **Locally important fish and wildlife habitats shall be protected and restored, where practicable.**
- POLICY 7B** **Protect and preserve the old growth forest and primary sand dune formations in the vicinity of Bennett Beach.**
- POLICY 7C** **Encourage community awareness and stewardship of natural resources along the waterfront.**
- POLICY 7D** **The Eighteen-Mile Creek Significant Coastal Fish and Wildlife Habitat shall be protected, preserved and, where practical, restored so as to maintain its viability as habitat.**
- POLICY 7E** **The Big Sister Creek Significant Coastal Fish and Wildlife Habitat shall be protected, preserved and, where practical, restored so as to maintain its viability as habitat.**

Explanation of Policy

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

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

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

1. Destroy habitat values through direct physical alteration, disturbance or pollution of a designated area, or through the indirect effects of actions that would result in a loss of habitat; and/or

2. Significantly impair the viability of a habitat beyond the tolerance range of fish and wildlife species through degradation of existing habitat elements, change in environmental conditions, functional loss of habitat values, or adverse alteration of other physical, biological or chemical characteristics.

If an action reduces a vital resource (e.g., food, shelter, living space) or changes environmental conditions (e.g., temperature, substrate, turbidity) beyond the tolerance range of an organism, then the action would be considered to "significantly impair" the habitat. Indicators of a significantly impaired habitat may include reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The range of generic activities most likely to adversely affect significant coastal fish and wildlife habitats include, but are not limited to, the following:

1. Draining wetlands or ponds causing changes in vegetation or changes in groundwater and surface water hydrology.
2. Filling wetlands, shallow areas of streams, lakes, bays, estuaries, which may change the physical character of substrate (e.g., sandy to muddy), smother vegetation, or alter surface water hydrology.
3. Grading land results in vegetation removal, increased surface runoff, or increased soil erosion and downstream sedimentation.
4. Clear cutting causes a loss of vegetative cover, increases fluctuations in the amount of surface runoff, and/or increases streambed scouring, soil erosion and sediment deposition.
5. Dredging or excavation may cause changes in substrate composition, the potential release of contaminants otherwise stored in sediments, removal of aquatic vegetation, or changes in circulation patterns and sediment transport mechanisms.
6. Dredge spoil disposal may result in the shoaling of littoral areas or changes to circulation patterns.
7. Physical alteration of shore areas through channelization or construction of shore structure may change the volume and rate of flow or increase scouring and sedimentation.
8. Introduction, storage or disposal of pollutants such as chemical, petrochemical, solid wastes, nuclear wastes, toxic material, pesticide, sewage effluent, urban and rural runoff, leachate of hazardous and toxic substances stored in landfills may cause increased mortality or sub lethal effects on organisms, altering their reproductive capabilities, or reducing their value as food organisms.

The range of physical, biological, and chemical parameters that should be considered includes, but is not limited to, the following:

1. Physical parameters, such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. Biological parameters, such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, behavioral patterns and migratory patterns; and
3. Chemical parameters, such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxic and hazardous materials).

Where destruction or impairment of habitat values cannot be avoided, potential impacts of land use or development should be minimized through appropriate mitigation. Use mitigation measures that are likely to result in the least environmentally damaging alternative. Mitigation techniques include:

1. Avoidance of potential adverse impacts to ecologically sensitive areas, scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions, and preventing fragmentation of intact habitat areas.
2. Minimization of unavoidable potential adverse impacts, including reducing the scale or intensity of the use or development, designing projects to result in the least amount of potential adverse impacts, choosing alternative actions or methods that would lessen potential impacts, using specific measures to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment, and/or implementing the specific protective measure included in the narratives for each State-designated Significant Coastal Fish and Wildlife Habitat (as outlined below).

There are two State-designated Significant Coastal Fish and Wildlife Habitats in the Town of Evans waterfront area (see Appendix B). These include Eighteen-Mile Creek and Big Sister Creek. Both areas provide important habitat for fish spawning and recreational fishing. Eighteen-Mile Creek is also archaeologically significant.

When a proposed action is likely to alter any of the biological, physical or chemical parameters as described in the habitat narratives for these areas beyond the tolerance range of the organisms occupying the habitat, the viability of that habitat would be significantly impaired or destroyed. Such action, therefore, would be inconsistent with this policy. A habitat impairment test must be met for any activity proposed in these areas. Any action determined to destroy or significantly impair the viability of the habitat would not be permitted.

For Big Sister Creek:

Big Sister Creek is one of the major tributary of Lake Erie and much of the channel remains relatively undisturbed. Stream ecosystems such as this, which provide valuable habitat for lake dwelling fish populations, are unusual in Erie County. While not included as part of the habitat, it should be noted that the sand dunes bordering the mouth of the creek are the only such formations on the Lake Erie shoreline in New York and are a designated unit of the National Coastal Barrier Resources System along the Great Lakes (indicating recognition of their ecological value). Big Sister Creek is especially significant because concentrations of several salmonid species enter the stream during their respective spawning period. Steelhead trout enter the creek during the fall and between late February and April, and runs of Coho and Chinook salmon and brown trout occur from late August through December (September through November primarily). These fish populations are the result of an ongoing effort by the NYSDEC to establish a major salmonid fishery in the Great Lakes through stocking, although there have been no releases directly into Big Sister Creek. In addition to these salmonids, the creek supports a production warm water fishery, including smallmouth bass (which spawn in the creek), channel catfish, rock bass, white bass, carp and possibly freshwater drum and northern pike. As a result of the abundant fisheries resources in the creek, a significant number of anglers are attracted to the area. During salmonid runs, recreational fishing pressure extends well up to NYS Route 5. However, the creek is most heavily fished from the banks within Bennett Beach County Park.

A habitat impairment test must be met for any activity that is subject to consistency review to identify potential actions that may destroy the habitat or significantly impair the viability of the habitat. If a proposed action is subject to consistency review, then this habitat protection policy applies, whether the action is to occur within or outside of the designated habitat area. To assist in applying the habitat impairment test, the following are examples of generic activities that could potentially impact the Big Sister Creek habitat:

1. Any activity that degrades water quality, increases temperature or turbidity, or reduces the flows of the creek would adversely impact the fisheries resources in this area. Salmonid populations are vulnerable to disturbances only during their seasonal migrations into the creek. Warm water fish species, which are generally year-round residents of the creek, are most sensitive during spawning and incubation periods, from March through July.
2. Barriers to fish migration, whether physical, or chemical, would have a significant adverse impact on the fish populations of Big Sister Creek.
3. Clearing of riparian vegetation or other stream bank disturbances could reduce habitat quality and value.
4. Discharges of stormwater runoff containing sediments or chemical pollutants will also result in adverse impact on Big Sister Creek.

In addition, public access to the creek should be maintained and enhanced to ensure that adequate opportunities for use of the fisheries resources are available. However, the unique sand dune habitat

and old growth forest vegetation found at and around the mouth of the creek should be protected and preserved to avoid human disturbances that would adversely impact the integrity of these significant resources. Increased efforts should be made to prohibit public use and interference with what remains of the original dune system. Furthermore, the boundaries of the Big Sister Creek habitat should be re-evaluated and revised to cover the important cultural and natural resources that exist at the mouth of the creek.

For Eighteen-Mile Creek

Eighteen-Mile Creek is the second largest tributary to Lake Erie in New York State and there are few comparable streams in the Great Lakes Plain ecological region. Undisturbed tributary streams that provide habitat for major spawning runs by salmonids and other lake-based fish populations are especially important for this region. Eighteen-Mile Creek is particularly significant because large concentrations of Coho salmon, Chinook salmon and brown trout migrate from Lake Erie into the creek each fall to spawn (September to November primarily). Steelhead migrates for spawning during the fall and between late February and April. These fish populations are the result of an ongoing effort by the NYSDEC to establish a major salmonid fishery in the Great Lakes through stocking. Eighteen-Mile Creek also supports substantial natural reproduction by smallmouth bass and has runs of various lake-dwelling species. Eighteen-Mile Creek provides a major salmonid fishery for anglers in the region. Although access is somewhat limited due to the topography of the creek corridor, the creek still heavily utilized during more popular times of the year.

A habitat impairment test must be met for any activity that is subject to consistency review to identify potential actions that may destroy the habitat or significantly impair the viability of the habitat. If a proposed action is subject to consistency review, then this habitat protection policy applies, whether the action is to occur within or outside of the designated habitat area. To assist in applying the habitat impairment test, the following are examples of generic activities that could potentially impact the Eighteen-Mile Creek habitat:

1. Any activity that substantially degrades water quality, increases temperature or turbidity, reduces flows or alters water depths in the creek would adversely impact the fisheries resources of this area. These impacts would be especially detrimental during spawning and nursery periods and in the spring after salmonids are stocked in the creek.
2. Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides or insecticides) would adversely impact fish populations. Of particular concern are the potential effects of upstream disturbances, including water withdrawals, impoundments, stream bed disturbances and effluent discharges.
3. Barriers to fish migration, whether physical or chemical would have a significant impact on fish populations in the creek.
4. Impacts to existing woodlands bordering Eighteen-Mile Creek and its tributaries. These areas should be maintained to provide bank cover, soil stabilization and buffer areas.

5. Development of additional public access may be desirable in appropriate locations to ensure that adequate opportunities for compatible human uses of the fisheries resources are available. However, installation of breakwalls or jetties to create a harbor for refuge could induce substantial development of this unusual natural area, directly resulting in the loss of habitat value.
6. Disturbance of wetland vegetation, including submergent beds, through dredging, filling or building bulkheads would result in the direct loss of valuable habitat area and should be avoided.

Measures that can be taken to restore the Big Sister Creek and Eighteen-Mile Creek Significant Coastal Fish and Wildlife Habitats include:

1. Reconstructing lost physical conditions to maximize habitat values,
2. Adjusting adversely altered chemical characteristics to emulate natural conditions, and/or
3. Manipulating biological characteristics to emulate natural conditions by reintroducing indigenous flora and fauna.

As noted above under the discussion for Big Sister Creek, and in Sections 2.7C and 2.8B in the Inventory and Analysis, a significant stand of old growth hemlock and hardwood forest with trees well over 200 years old (some up to 500 years old), exists on the remnants of primary dune located within and just north of Bennett Beach, making it the oldest forest community on Lake Erie (including the Canadian shoreline). What makes this area unique is that the woodland occurs on a Great Lakes sand dune. As previously noted, there is only one other plant community like this in the world. There are eight acres of habitat in the park and additional acreage to the north and south. The sand dune formations at Bennett Beach County Park are not only recognized as a significant ecological resource, they are determined to be an important prehistoric archaeological site, and recorded as Site UB 2617 in the archaeological files of the Department of Anthropology at the State University of New York at Buffalo. It was also reported to the State Office of Parks, Recreation and Historic Preservation. The information documented by the University noted that the site was repeatedly occupied by native populations of western New York throughout the last 2,500 to 3,000 years, and that intact archaeological deposits, including prehistoric living surfaces, hearths and pits are well preserved within the sand dunes (and likely within the ground in other portions of the property). The University recommended a thorough survey of the Bennett Beach area be conducted by a qualified professional archaeologist to further document the resources in this area in an effort to protect and preserve them as irreplaceable cultural resources.

The ecological resources that exist in the Bennett Beach area are extremely unique and warrant the utmost protection. The creek corridor is a designated New York State Coastal Fish and Wildlife Habitat and the dunes and adjoining barrier features have been included in the National Coastal Barrier Resources system. However, it may be beneficial to incorporate the dunes and barrier features that exist in this area into the Big Sister Creek Significant Coastal Fish and Wildlife Habitat area and grant

additional special protections (such as the designation of the area as a Scenic Area of Statewide Significance) to guarantee preservation of the important resources that exist here. No development should be allowed in the park or adjacent areas that would result in the loss of vegetation, disturbance to the dunes and archaeological resources or other such adverse impacts.

Other habitats and creeks of local significance exist along the waterfront, including Reisch Creek, Pike Creek, Little Sister Creek, Delaware Creek, Fern Brook and Muddy Creek. There are also large areas of State-designated wetlands in Wendt Beach County Park. As with State-designated habitats, all areas of local ecological significance should be protected. Water quality degradation, erosion (coastal and streambank), loss of vegetation and other such adverse impacts must be avoided to protect the natural integrity of these areas.

Finally, community awareness and stewardship of natural resources along the waterfront should be encouraged through the support of community activities, including the cleanup of the lake shore, beach sweeping activities, and non-point pollution prevention education campaigns.

POLICY 8 Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants that bio-accumulate in the food chain or cause significant sub lethal or lethal effects on those resources.

Explanation of Policy

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law [S27-0901(3)] as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or otherwise managed." A list of hazardous wastes (NYCRR Part 366) will be adopted by DEC within 6 months after EPA formally adopts its list.

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

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

POLICY 9 Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.

Explanation of Policy

Recreational uses of coastal fish and wildlife resources include consumptive uses such as fishing and hunting, and non-consumptive uses such as scenic viewing, wildlife photography, bird watching and nature study. The educational and recreational value of coastal areas that possess a significant concentration of fish and wildlife resources is of great importance to the public. This is especially important in the Eighteen-Mile Creek gorge, Big Sister Creek and Lake Erie waters off Sturgeon Point and other areas of the waterfront, where salmon, yellow perch and walleye, among other species, abound. Other locations include the waters off Pt. Breeze and Evangola State Park, where Black Bass and Walleye are found. These areas are high-quality fishing areas and present unique opportunities for public enjoyment. Anglers are also known to fish other local creeks and streams in the area for recreation and opportunities to enhance or increase access to these local waterways should be pursued.

The recreational use of these areas and resources is to be maintained and increased, primarily through the continuation of the State fish stocking programs and provision of increased access and support facilities. Any efforts to increase use of recreational resources in the Town will be made in a manner that ensures the protection of fish and wildlife resources in Lake Erie and local creeks and streams and that takes into consideration other activities dependent on these resources. Such efforts must be done in accordance with existing State law and in keeping with sound management considerations. Such considerations include biology of the species, carrying capacity of the resources, public demand, costs and available technology.

The following guidelines should be considered by agencies as they determine the consistency of any proposed action with this policy:

1. Consideration should be made by agencies as to whether an action will impede existing or future utilization of the Town's recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources should not lead to over-utilization of that resource or cause impairment of the habitat. Sometimes such impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the habitat area.
3. The impacts of increasing access to recreational fish and wildlife resources should be determined on a case-by-case basis, consulting the significant habitat narrative (see Policy 7) and/or conferring with a trained fish and wildlife biologist.
4. Any public or private sector initiatives to supplement existing fish stocks or develop new resources (e.g., creating private fee-hunting or fee-fishing facilities) must be done in accord with existing State law.

POLICY 10 Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the state's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.

Explanation of Policy

This State Coastal Management Policy is not applicable to the Town of Evans waterfront area as it does not include a commercial fishing, fish processing or shellfishing industry, as defined by this policy.

FLOODING AND EROSION HAZARDS POLICIES

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

POLICY 11A Buildings and other structures within the Special Flood Hazard areas along the creeks and streams in the Town of Evans will be sited in a manner that minimizes damage to property and human life.

Explanation of Policy

The public health and safety is continuously threatened by flooding and erosion. The cost and endangerment to human life that can result from such natural occurrences requires utmost attention by the Town and other public agencies. This policy applies to the Coastal Erosion Hazard Areas and Areas of Special Flood Hazards, as identified on the Coastal Erosion Hazard Area maps and the Flood Insurance Rate Maps filed for the Town.

On the portions of the Evans waterfront identified as coastal erosion hazard areas, buildings and similar structures shall be set back from the shoreline a distance sufficient to minimize damage from erosion unless no reasonably prudent alternative site is available as in the case of piers, docks and other structures necessary to gain access to coastal waters to be able to function. The extent of the setback will be calculated, taking into account the rate at which land is receding due to erosion and the protection provided by existing erosion protection structures, as well as by natural protective features such as beaches, sandbars, spits, shoals, near shore areas, bluffs and wetlands. The only new structure allowed in coastal erosion hazard areas is a moveable structure as defined in 6NYCRR Part 505.2(x). Prior to its construction, an erosion hazard areas permit must be approved for the structure. Existing, non-conforming structures located in coastal erosion hazard areas may be only minimally enlarged.

In the areas around Fern Brook, Muddy Creek, and Big Sister Creek, during late winter and early spring, ice jams and melt waters generally result in localized flooding. In these areas, buildings and other structures must not be located or constructed in a manner that would create or exacerbate flooding or

erosion. Compliance with FEMA and other local requirements is essential to ensure avoid potential impacts.

Where human lives may be endangered by major coastal storms, all necessary emergency preparedness measures should be taken, including disaster preparedness planning.

When determining consistency with this policy, the following general standards apply to new development, including new and substantially improved structures, in areas of Special Flood Hazard as regulated under Chapter 113 of the Town Code.

1. Subdivision Proposals, including proposals for manufactured homes and recreational vehicle parks and subdivisions:
 - a. Proposals shall be consistent with the need to minimize flood damage.
 - b. Public utilities and facilities, such as sewer, gas, electric and water systems, shall be located and constructed so as to minimize flood damage.
 - c. Adequate drainage shall be provided to reduce exposure to flood damage.
2. On streams without a regulatory floodway within Flood Zones A1 – A30 and AE, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - a. It is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - b. The Town agrees to apply to FEMA for a conditional Flood Insurance Rate Map revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping, as well as reimbursements to the Town for all costs incurred in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town for all costs related to the final map revision.
3. On streams with a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted in the floodway unless:
 - a. A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during the occurrence of the base flood; or
 - b. The Town agrees to apply to FEMA for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping, as well as reimbursements to the Town for all feeds

and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town for all costs related to the final map revision.

The following standards shall apply to all new and substantially improved structures.

1. Anchoring. New structures and substantial improvements to structures in areas of Special Flood Hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
2. New construction and substantial improvements to structures shall be undertaken with materials and utility equipment resistant to flood damage.
3. New construction and substantial improvements to structures shall be undertaken using methods and practices that minimize flood damage.
4. For enclosed areas below the lowest floor of a structure in a Special Flood Hazard Area, if base flood elevation data is available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and
 - b. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
5. Openings in structures may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

Enclosed areas located subgrade, on all sides, are considered as basement and are not permitted.
6. Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.

7. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
8. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.
9. On-site waste disposal systems (septic systems) shall be located to avoid impairment to them, or contamination from them, during flooding.

The following standards shall apply to all new or substantially improved residential structures located within Special Flood Hazard areas.

1. In Flood Zones A, A1 – A30, AE and AH, if base flood elevation data is available, new construction and substantial improvements shall have the lowest floor (including the basement) elevated to or above the base flood level.
2. Within Flood Zone A, when no base flood elevation data is available, new and substantially improved structures shall have the lowest floor (including the basement) elevated at least three feet above the highest adjacent grade.
3. Within Flood Zone AO, new and substantially improved structures shall have the lowest floor (including the basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community Flood Insurance Rate Map (at least two feet if no depth number is enumerated).
4. Within Flood Zones AO and AH, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

The following standards shall apply to all new or substantially improved commercial, industrial or other non-residential structures located within Special Flood Hazard Areas.

1. Within Flood Zones A, A1 – A30, AE and AH, if base flood elevation data is available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - a. Have the lowest floor (including the basement or cellar) elevated to or above the base flood elevation; or
 - b. Be flood proofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

2. Within Flood Zone AO, new construction and substantial improvements of non-residential structures shall:
 - a. Have the lowest floor (including the basement or cellar) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map (at least two feet if no depth number is enumerated); or
 - b. Together with attendant utility and sanitary facilities, be completely flood proofed to that level to meet the flood proofing standard specified in subsection 1.b, above.
3. If the structure is to be flood proofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A flood proofing certificate or other certification shall be provided to the Flood Administrator that certifies that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of subsection 1.b, above, including the specific elevation (in relation to mean sea level) to which the structure is to be flood proofed.
4. Within Flood Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from structures on slopes.
5. Within Flood Zone A, when no base flood elevation data is available, the lowest floor (including the basement) shall be elevated at least three feet above the highest adjacent grade.

The following standards shall apply to all manufactured homes and recreational vehicles that are located within Special Flood Hazard Areas.

1. Recreational vehicles placed on sites in Flood Zones A1 – A30, AE and AH shall either be on the site fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the requirements for manufactured homes, as outlined in subsections 2, 4 and 5, below.
2. A manufactured home that is:
 - a. placed or substantially improved in an area of Special Flood Hazard that is on a site either outside of an existing manufactured home park or subdivision,
 - b. placed in a new manufactured home park or subdivision,
 - c. placed in an expansion to an existing manufactured home park or subdivision,
or

- d. placed in an existing manufactured home park or subdivision where a home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors.
3. A manufactured home to be placed or substantially improved in Flood Zones A1-A30, AE and AH, that is located in an existing manufactured home park or subdivision, that will not be placed on a site where a manufactured home incurred substantial damage, shall be:
 - a. Elevated in a manner required under subsection 2, above; or
 - b. Elevated such that the manufactured home chassis is supported by reinforced piers or other foundations elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
4. In Flood Zone A, when no base flood elevation data is available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
5. In Flood Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Town's Flood Insurance Rate Map (at least two feet if no depth number is enumerated). Elevation on piers consisting of dry stacked blocks is prohibited.
6. Where practical, the relocation of existing structures and development that are exposed to flooding hazards away from the hazard is preferred over maintaining structures and development in place. Maintaining existing development and structures in hazard areas may be warranted for:
 - a. Structures that functionally require a location on the waterfront or in coastal waters,

- b. Water dependent uses that, by the nature of the use, require a shoreline location and cannot avoid exposure to hazards; or
- c. Sites in areas with extensive public investment, public infrastructure or major public facilities.

POLICY 12 **Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.**

POLICY 12A **Ensure that the protections afforded by the Coastal Erosion Hazard Area designations adequately serve natural protective features along the Evans waterfront.**

POLICY 12B **Adequately protect and preserve the dune formations that exist in Bennett Beach Park and the surrounding area in Sub-Area 2**

Explanation of Policy

Beaches, dunes, bluffs, and other natural protective features help safeguard coastal lands and property from damage, as well as reduce the danger to human life, resulting from flooding and erosion.

Excavation or disturbance of coastal features, improperly designed structures, inadequate site planning, or other similar actions failing to recognize the fragile nature and high protective value of natural erosion protection features, lead to the weakening or destruction of those landforms. Activities or development in, or in close proximity to, natural protective features must ensure that all such adverse actions are minimized or avoided. Primary dunes will be protected from all encroachments that could impair their natural protective capacity.

Areas of the Evans waterfront contain steep bluffs, primarily along the northern and southern reaches of the shoreline. Like many coastal communities, the waterfront is a favored location for residential development. Therefore, most of the primary dune that once protected the waterfront has been developed; however, remnants of primary dune exist in the vicinity of Bennett Beach. Beaches and near shore areas also span approximately 12 miles of shoreline, helping to stem the impacts of storm waves.

The remaining dune formations that exist at Bennett Beach County Park and in the surrounding area adjacent to the park needs to be adequately protected from further development or other impacts that would adverse affect their integrity and importance to the area. These resources are archaeologically and ecologically significant. The approximately eight acres of dunes at this beach are associated with important old-growth hemlock forest, making this area particularly unique. It is one of only two sites in the world where old-growth trees grow on sand dunes (the other site is Sleeping Bear National Park in Michigan). Furthermore, this is the only site with lake dunes in New York State. The ecosystem in this area of the waterfront is further enhanced by Big Sister Creek, which extends northward, creating a

peninsula with dunes and sandy beach. This general area of dunes and forest has been impacted over years by residential development and public use. This habitat area falls within the County Park and extends onto private residential properties immediately surrounding the park, but outside of the boundaries for the Big Sister Creek significant coastal fish and wildlife area. Although the area has been designated as a segment of the National Coastal Barrier Resource system, the State should consider revising the boundaries of the State-designated Significant Coastal Fish and Wildlife Habitat to include the highly significant area of old growth vegetation to extend additional protection over this resource.

The dune and forest resources in the Bennett Beach area are very beautiful and provide extensive opportunities for scenic viewing. This aspect should be recognized as a part of the value of this area. New York State Division of Coastal Resources has developed a scenic assessment program that identifies the scenic qualities of coastal landscapes, evaluates them against criteria to determine their aesthetic significance and recommends areas for designation as Scenic Areas of Statewide Significance (SASS). SASS designation protects scenic landscapes through the review of projects that require state or federal permitting, funding or approval. The Bennett Beach area may be a candidate for such a designation in consideration of the geologic and ecological resources that exist in this area. The Town should work with the State to pursue such a designation. Consideration should be given to other similar areas of importance that could be assembled as a Lake Erie SASS.

Furthermore, the sand dune formations at Bennett Beach County Park are also archaeologically significant. Between 1991 and 2003, this area was investigated by the State University of New York at Buffalo and determined to be an important prehistoric and historic archaeological site. The site was repeatedly occupied by native populations of western New York throughout the last 2,500 to 3,000 years. Inspection of the area indicated that intact archaeological deposits, including prehistoric living surfaces, hearths and pits are well preserved within the sand dunes and are likely to be preserved within the ground in other portions of the property. Thus, efforts are required to protect and preserve these irreplaceable cultural resources.

The County has not effectively recognized the importance of these natural resources and is not providing adequate protection. The habitat area that extends onto private property is more difficult to protect; therefore, regulatory mechanisms and other measures are required to ensure that potential development actions do not destroy or otherwise result in adverse impacts to these resources. Increased efforts should be made to prohibit public use and interference with what remains of the original dune system. Furthermore, the boundaries of the Big Sister Creek habitat should be re-evaluated and revised to cover the important cultural and natural resources that exist at the mouth of the creek.

Waterfront lands that generally extend seaward of Lake Shore Road are included within the State-designated Coastal Erosion Hazard Area (CEHA). However, portions of this area are not clearly defined, leading to ambiguous determinations and difficulty in properly protecting resources. In particular, the area in the vicinity of Bennett Road and Big Sister Creek, including Bennett Beach, does not appear to be effectively protected. The lack of clarity on these maps has led to the development of areas of primary dune that should be protected. The Evans waterfront area contains floodplain, primary dune formations and large stands of old growth forest that fall outside the protection of the CEHA boundary. Therefore,

the CEHA boundary maps for the Town must be thoroughly reviewed and amended to protect important natural protective features and other natural resources along the waterfront.

The following guidelines shall be used in determining the consistency of proposed actions with this policy. In general, any activity or development in, or in proximity to, a natural protective features that may be permitted under the other State or local regulations must be consistent with this policy to prevent or minimize, to the greatest extent possible, potential adverse effects on these resources.

1. Near shore Areas, including those lands under water, beginning at the mean low water line and extending seaward in a direction perpendicular to the shoreline to a point where the mean low water depth is 15 feet, or to a horizontal distance of 1,000 feet from the mean low water line, whichever is greater.
 - a. Excavating, mining or dredging that diminishes erosion protection afforded by natural protective features in the near shore area is prohibited, except dredging for construction or maintenance of navigation channels, bypassing of sand around natural or man-made obstructions or artificial beach nourishment.
 - b. Clean sand or gravel of a compatible type and size is the only material that may be deposited within near shore areas.
2. Beach areas include the zone of unconsolidated material that extends landward from the mean low water line to the place where there is a marked change in the material or physiographic form, or to the line of permanent vegetation, whichever is most seaward, except where dune formations are present, the beach area extends to the upland toe of the dune.
 - a. Excavation or mining that diminishes the erosion protection afforded by beaches is prohibited.
 - b. Materials may be deposited on beaches only for the purpose of expanding or stabilizing beaches. Clean sand or gravel of a compatible type and size is the only material that may be deposited within beach areas.
 - c. Active bird nesting and breeding areas on beaches or other natural protective features must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved in writing by NYSDEC.
3. Bluffs include any bank or cliff with a precipitous drop or rounded face adjoining a beach or body of water. The seaward limit of a bluff is the upland limit of its contiguous beach. Where no beach is present, the seaward limit is the mean low water line. The upland limit is 25 feet upland of the receding edge of the bluff.
 - a. Excavation or mining of bluffs is prohibited, except to provide shoreline access in appropriate areas in accordance with the provisions of this policy and other applicable regulations.
 - b. Any grading or other soil disturbance conducted on a bluff that causes or directs surface water over the receding edge is prohibited.

4. All development on bluffs is prohibited unless otherwise permitted by the following provisions:
 - a. Minor alterations of a bluff for new construction, modification or restoration of an erosion protection structure.
 - b. Bluff cuts for the provision of shoreline access, where the cut is made in a direction perpendicular to the shoreline, the ramps slope of the cut does not exceed a one on six gradient, the side slopes do not exceed a one on three gradient (unless terraced or otherwise structurally stabilized), side slopes and other disturbed non-roadway areas are stabilized with vegetation or other approved physical means, and completed roadways are stabilized and drainage is properly provided.
 - c. New construction, modification or restoration of walkways or stairways.
 - d. Active bird nesting and breeding areas on bluffs or other natural protective features must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved in writing by NYSDEC.
5. The use of motor vehicles is strictly prohibited on beaches, beach vegetation, primary dunes and bluffs. Vehicles may only access beach areas for boat launching purposes and must be removed immediately thereafter.
6. Activities and development within natural erosion protection areas that have been designated by NYSDEC as Coastal Erosion Hazard Areas must comply, as required, with the provisions of Article 34 of the Environmental Conservation Law and its implementing regulations (6 NYCRR 505).
7. Manage navigation infrastructure to limit adverse impacts on coastal processes. Design channel construction and maintenance projects to protect natural resources and prevent destabilization of adjacent areas by:
 - a. Using dredging setbacks from established channel edges and designing finished slopes to ensure their stability.
 - b. Locating channels away from erodible features, where feasible.
 - c. Preventing adverse alteration of basin hydrology.
 - d. Managing marina operations and vessel speeds to prevent shoreline erosion from increased wave activity.

POLICY 13 The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.

Explanation of Policy

Erosion protection structures are in certain locations along the Town’s shoreline. However, because of improper design, construction and maintenance, some fail to give the protection they were intended to provide. As a result, development is sited in areas where it is subject to damage or loss due to erosion. This policy will help ensure the reduction of such damage or loss.

In Coastal Erosion Hazard Areas, the construction, reconstruction or modification of any structures designed to reduce or prevent erosion, including groins, jetties, sea walls, revetments, bulkheads, breakwaters and artificial beach nourishment activities are subject to the following provisions:

1. The construction, modification or restoration of erosion protection structures must not be likely to cause a measurable increase in erosion at the development site or at other locations along the shoreline.
2. The construction, modification or restoration of erosion protection structures must minimize and, if possible, prevent adverse impacts on natural protective features, existing erosion protection structures and other natural resources, such as significant coastal fish and wildlife habitats.
3. All erosion protection structures must be designed and constructed according to generally accepted engineering principals that have demonstrated success or, where sufficient data is not currently available, a likelihood of success in controlling long-term erosion. The protective measures must have a reasonable probability of controlling erosion on the immediate site for at least 30 years.
4. All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering and other effects of storm conditions for a minimum of 30 years. Individual component materials may have a working life of less than 30 years only when a maintenance program ensures that they will be regularly replaced and maintained, as necessary, to attain the required 30 years of erosion protection.

POLICY 14 Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.

Explanation of Policy

Erosion and flooding are processes that occur naturally. However, by his actions, man can increase the severity and adverse effects of those processes, causing damage to, or loss of property and endangering

of human lives. Those actions include: the use of erosion protection structures such as groins, or the use of impermeable docks that block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of shorelands; and the placing of structures in identified floodways so that the base flood level is increased causing damage to otherwise hazard-free areas.

POLICY 15 Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.

Explanation of Policy

Coastal processes, including the movement of beach materials or shoreline sediment by water or by excavation or dredging in near shore areas or in offshore waters that changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Dredging and excavation activities should be accomplished in a manner that does not cause a reduction of sediment supplies, and thus an increase of erosion, to down drift areas of the shoreline.

Dredging currently occurs for maintenance purposes at Sturgeon Point Marina and, as required, at the mouths of certain creeks to maintain flow and prevent flooding of adjacent areas. This activity should be carefully managed to avoid impacts to surrounding resources and dredge spoils should be properly disposed of, in accordance with all State requirements. Offshore mining is prohibited along the Evans waterfront or in off shore waters.

POLICY 16 Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.

Explanation of Policy

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

1. Expend public funds for the management or control of flooding only in areas that will result in proportionate public benefit. Give priority in the expenditure of public funds to actions that will protect public health and safety, mitigate areas prone to localized flooding and erosion, protect areas of intensive development, and protect substantial public investment (infrastructure, facilities, etc.). The following factors shall be applied when evaluating the expenditure of public funds for flooding and erosion control projects:
 - a. The project should be limited to those circumstances where public benefits exceed public costs;
 - b. The project should be prohibited for the exclusive purpose of flooding and erosion protection for private development (including structures, roads and other infrastructure);
 - c. Funding may be apportioned among each level of participating governmental authority according to the relative public benefit accrued.
 - d. Consideration must be given to the public benefits achieved from proposed flood or erosion control measures, including the economic benefits derived from the protection of public infrastructure and investment, the protection of water dependent commerce, the extent of public infrastructure investment, and the extent of existing or potential public use.
2. Protect public lands and public trust lands and the use of these lands when undertaking all erosion or flood control projects.
 - a. Whenever possible, retain ownership of public trust lands that have become upland areas due to fill or accretion resulting from erosion control projects.
 - b. Avoid losses or likely losses of public trust lands or use of these lands, including public access along the shore, which can be reasonably attributed to or anticipated to result from erosion protection structures
 - c. Provide and maintain compensatory mitigation of unavoidable impacts to ensure that there is no adverse impact to adjacent property, to natural resources, or to public trust lands and their use.

POLICY 17 Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.

Explanation of Policy

This policy recognizes both the potential adverse impacts of flooding and erosion upon development and natural protective features in the coastal area, as well as the costs of protection against those hazards that structural measures entail. This policy also shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with this policy, it must be determined if any one, or a combination of, non-

structural measures would afford the degree of protection appropriate both to the character and purpose of the activity or development, and to the hazard. If non-structural measures are determined to offer sufficient protection, then consistency with the policy would require the use of such measures, whenever possible.

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

1. Non-structural measures shall include, but not be limited to the use of minimum setbacks as provided for in ECL Section 34-108; and the strengthening of coastal landforms by:
 - a. the planting of appropriate vegetation on dunes and bluffs;
 - b. the installation of sand fencing on dunes;
 - c. the reshaping of bluffs to achieve an appropriate angle of repose so as to reduce the potential for slumping and to permit the planting of stabilization vegetation; and
 - d. the installation of drainage systems on bluffs to reduce runoff and internal seepage of waters which erode or weaken the land-forms.
2. Within identified flood hazard areas:
 - a. Avoid risk or damage from flooding by the siting of buildings outside the hazard area, and
 - b. Flood-proof buildings and locate them above the base flood elevation.
3. Use hard structural erosion protection measures for control of erosion only where:
 - a. Vegetative approaches to control erosion are not effective;
 - b. Construction of a hard structure is the only practical design consideration and is essential to protecting existing upland uses or future anticipated water-dependent uses;
 - c. The proposed hard structural erosion protection measures are limited to the minimum scale necessary and are based on sound engineering practices;
 - d. Practical vegetative methods have been included in the project design and implementation; and
 - e. Adequate mitigation is provided and maintained to ensure that there is no adverse impact to adjacent property or to natural coastal processes and natural resources and, if undertaken by a private property owner, does not incur significant direct or indirect public costs.

4. Develop sediment and erosion control guidelines for the stream corridors that discharge to Lake Erie to improve water quality and minimize the need for dredging and associated disposal costs. Coordinate this effort with the application of stormwater management minimum control measures, as well as the adjoining communities that lie within the watershed areas, in an effort to manage impacts resulting from actions undertaken in these areas.

GENERAL POLICY

POLICY 18 To safeguard the vital economic, social and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the state has established to protect valuable coastal resource areas.

Explanation of Policy

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

PUBLIC ACCESS POLICIES

POLICY 19 Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities.

Explanation of Policy

Public access and recreation can attract tourists, improve the quality of life for residents and help to enhance the economic vitality of the waterfront. This policy calls for achieving balance among the following factors: the level of access to a water-related recreational resource or facility; the capacity of the resource or facility; and the protection of natural resources. The imbalance among these factors is due to access-related problems. Thus, priority must be given to improving physical access to existing and potential waterfront recreation sites. The water-related recreation resources and facilities in the Town that should receive priority for improved access are public beaches, boating facilities, fishing areas and waterfront parks. In addition, because of the greater competition for waterfront locations, this policy encourages mixed use areas and multiple-use of facilities to improve use and access.

In the Evans LWRA, there are a variety of water-related recreation resources that extend along the shoreline and are enjoyed by the public. These include the Hobuck Flats and Joel Harvey fishing access sites on Eighteen-Mile Creek, Sturgeon Point Marina, Wendt Beach County Park, Bennett Beach County Park, Purvis Landing, Evans Town Park, Lake Erie Beach Park and Evangola State Park. The County and State Parks and the Sturgeon Point Marina are regional destinations, while the other parks provide recreation and public access opportunities to local residents. The Sturgeon Point Marina provides the only available public dockage or boat launching facilities between the City of Buffalo and Cattaraugus Creek / Sunset Bay. Access to the waterfront parks is adequate.

Additional opportunities exist for improved public access at the terminus of Wendt Road. This is the former location of a boat launch ramp, but over time this facility fell into disrepair and was abandoned. However, the site is still utilized for informal access to the waterfront. This area is an excellent location for launching small, non-motorized watercraft, such as canoes and small boats that can be carried to the water. Access opportunities of this type are lacking along the waterfront. There is a small area that can be improved for parking and lighting available for public safety purposes. The Town should pursue the improvement of this area for additional public access and recreation (See Policy 21).

The Town should continue to develop improved opportunities for access and recreation at Sturgeon Point Marina through the development of the upland area for additional parking and passive recreation. The public fishing areas along Eighteen-Mile Creek are important recreational resources that should also be improved and protected. The Town should also take advantage of other opportunities that may come about in the future to improve and increase access to the shoreline.

Although existing access to each individual facility is sufficient, there is a need to provide safe and effective access to, and between, the waterfront parks for those who travel by non-vehicular means. The Town is currently working on developing a multi-use pathway that would span the length of Lake Shore Road. This pathway would connect all the water-related recreation facilities, as well as other cultural resources on the waterfront, providing safe and convenient access for pedestrian and bicyclists. To date, the Town has secured funding for portions of this amenity, but efforts must continue until the multi-use pathway is fully constructed. Completion of all phases of this pathway, with future linkage to the Village of Angola, is essential to improving and increasing public access to the waterfront. This pathway would also provide improved opportunities for recreation and fitness for local residents who currently utilize Lake Shore Road.

When determining the consistency of a proposed action with this policy, the following guidelines and provisions should be considered:

1. The existing access from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities shall not be reduced. Nor, shall the possibility of increasing access in the future from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities be eliminated. However, in the latter case, unless estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access, or unless such actions are found

to be necessary by the public body that has jurisdiction over such access as the result of a reasonable justification of the need to meet system-wide objectives.

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

- Access - the ability and right of the public to reach and use public coastal lands and waters.
- Public water-related recreation resources or facilities - all public lands or facilities that are suitable for passive or active recreation that requires either water or a waterfront location or are enhanced by a waterfront location.
- Public lands or facilities - lands or facilities held by the public sector in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including access to underwater lands and the foreshore.

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

- a. The number of parking spaces at a public water-related recreation resource or facility is significantly reduced.
- b. The service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting system-wide objectives.
- c. Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
- d. Pedestrian access is diminished or blocked completely by public or private development.
- e. There are substantial increases in the following: already existing special fares (not including regular fares in any instance) of public transportation to a public water-related recreation resource or facility; and/or admission fees to such a resource or facility except where the public body having jurisdiction over such fares determines that such fare increases are necessary; and an analysis shows that such increases will significantly reduce usage by individuals or families and incomes below the State-established poverty level.

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

- a. Construction of public facilities that physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.
 - b. Sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation resource or facility.
 - c. Construction of private facilities that physically prevent the provision of convenient public access to public water-related recreation resources or facilities from public lands and facilities.
2. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:
- a. The level of access to be provided should correlate with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
 - b. The level of access to be provided shall not cause a degree of use that would exceed the physical capability of the resource or facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
 - c. Any action for improving or increasing public access to water-related recreational facilities that involves State funding shall be open to all members of the public.
3. The Town should provide a level of public access and recreational use that takes into account the following factors:
- a. Proximity to business districts and adjacent residential areas,
 - b. Public demand for access,
 - c. The type and sensitivity of natural resources that could be effected by increased access,
 - d. The needs of special groups, such as the elderly or persons with disabilities, and
 - e. The potential for adverse impacts to adjacent land uses.
4. Where feasible, the Town should provide convenient, well-defined physical access to and along the Lake for water-related recreation.
5. Recognize and capitalize on the designation of Lake Shore Road as part of the New York State Seaway Trail.

6. Provide incentives for private development and redevelopment projects that provide public access and/or water-related recreational facilities.
7. Protect and maintain existing public access and recreational facilities by:
 - a. Preventing any on-site or adjacent development project or activity from directly or indirectly impairing physical access and recreation or adversely affecting the quality of such access.
 - b. Preventing physical deterioration of existing access and recreational facilities due to lack of maintenance or overuse.
 - c. Protecting and maintaining the supporting infrastructure for public access and recreational facilities.
 - d. Improving existing pedestrian access to the waterfront.

POLICY 20 **Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.**

POLICY 20A **Support and encourage the continued development of a waterfront trail system that extends the full length of the waterfront.**

Explanation of Policy

In the Town's waterfront area, it is important to provide and maintain access to water-related recreational activities. Furthermore, access to the publicly-owned foreshore and lands immediately adjacent to the foreshore or water's edge should be provided for numerous activities and pursuits that require only minimal facilities for their enjoyment. Such access would provide for walking along a beach or to a vantage point from which to view the Lake. Similar activities requiring access would include bicycling, bird watching, photography, nature study, beachcombing, fishing, scuba diving and hunting.

For these activities, there are several methods of providing access that will receive priority attention of the Town. These include: the development of a waterfront trail system, the improvement of access to waterfront from outlying areas, such as the Village of Angola, and the promotion of mixed and multi-use development along the shore.

The Town is currently developing a multi-use pathway that would span the length of Lake Shore Road. This pathway would connect all public water-related recreation facilities, and provide safe and convenient access to the public foreshore. The Town has secured funding for portions of this amenity, but efforts must continue until the multi-use pathway is fully constructed. Completion of all phases of this pathway, with future linkage to the Village of Angola, is essential to improving and increasing public access to the waterfront. It is also essential for establishing a link in the regional effort to connect all

waterfront communities, allowing for public access throughout the County and western New York region.

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

1. Existing access from adjacent or proximate public lands or facilities to existing public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrated to be of overriding regional or Statewide public benefit or, in the latter case, estimates of future use of these lands and waters are too low to justify maintaining or providing increased access. (See Policy 19 for definitions for “access” and “public lands or facilities”).
2. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where
 - a. It is inconsistent with public safety, homeland security or the protection of identified sensitive natural resources;
 - b. Adequate access exists within one-half mile of the site.
3. In making any grant, lease, permit, or other conveyance of land now or formerly underwater, there shall be reserved such interests or attached such conditions to preserve the public interest in the use of state-owned lands underwater and waterways for navigation, commerce, fishing, bathing, recreation, environmental protection and access to the navigable waters of the State (public benefit). In particular, the granting of publicly owned underwater or formerly underwater lands to private entities will be limited to exceptional circumstances only.
4. While publicly-owned lands shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent onshore property owners are consistent with this policy, provided such easements do not substantially interfere with continued public use of the public lands on which the easement is granted.
5. Provide additional physical public access and recreational facilities, where appropriate, throughout the waterfront.
 - a. Promote the acquisition of additional public lands to meet existing public access and recreational needs.
 - b. Provide for public access and recreational facilities on non-public waterfront lands as a secondary use.
 - c. Provide for public access from streets that terminate at the Lake.

- d. Provide access and recreational opportunities to all members of the public whenever access or recreation is directly or indirectly supported through federal or state projects or funding.
- e. Any transfer of public land holdings immediately adjacent to the lake should retain a public interest that will be adequate to preserve public access and recreational opportunities.
- f. Provide and improve appropriate physical access connections between public access sites, open space and Lake Erie waters.
- g. Restrict public access and recreation only where it may be incompatible with public safety and the protection of natural resources.

RECREATION POLICIES

POLICY 21 Water-dependent and water-enhanced recreation will be encouraged and facilitated and will be given priority over non-water-related uses along the coast.

POLICY 21A Expand and improve the public marina and water-related recreational facilities at Sturgeon Point.

POLICY 21B Improve the terminus of Wendt Road and Purvis Landing to provide a location for launching small watercraft

Explanation of Policy

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

Water-related recreation development should be increased. These uses shall have a higher priority over non-water dependent uses, including recreation uses, provided the development of such uses is consistent with the preservation and enhancement of important natural resources, such as fish and wildlife habitats, important viewing areas, and historic and cultural resources; and provided demand (including future anticipated demand) exists. In addition, water-dependent recreational uses shall have priority over water-enhanced recreational uses. Determining a priority among water dependent uses will require a case by case analysis.

Among the types of water-dependent recreation, provision of adequate boating services to meet existing and future demand is encouraged by this policy. Harbors of refuge are particularly needed along Lake Erie. There is also a need for a better positional pattern of boating facilities to correct problems of overused, insufficient, or improperly sited marina and docking facilities. The siting of

boating facilities must be consistent with preservation and enhancement of other coastal resources and with their capacity to accommodate demand. The provision of new public boating facilities is essential in meeting this demand, but such public actions should avoid competition with private boating development.

The demand for additional marina, swimming and fishing facilities in Erie County is growing. The Town should evaluate the need to expand Sturgeon Point Marina to accommodate this increasing demand, particularly in light of the fact that this marina is the only docking refuge between Buffalo and Dunkirk. Consideration should be given to increasing the number of available slips, providing wider slips and improving adjacent support facilities. Any expansion of Sturgeon Point Marina will, as appropriate, include sufficient parking, park-like surroundings for passive recreation, adequate toilet facilities, and pump-out facilities for vessels. The area upland of the marina should also be improved for public use through the development of passive recreational amenities, parking and protected open space.

The terminus of Wendt Road was previously used for launching small vessels. This site has deteriorated and requires improvements to enable residents and others to more effectively launch small watercraft, such as canoes, kayaks and other non-motorized vessels. There are very few locations along the waterfront for this use and the Sturgeon Point Marina services larger, motorized vessels.

Purvis Landing is the former location of a boat launch ramp in Sub-Area 2. This small park offers access to the lake, but needs to be improved. The site offers opportunities for canoeing or kayaking, but parking is an issue. Use of the existing parking spaces was thwarted by the nearby residents, leading the Town to remove existing parking spaces. The Town needs to investigate the potential to acquire land on the east side of Lake Shore Road for future parking to improve beach access at Purvis Landing for these uses.

POLICY 22 Development, when located adjacent to the shore, will provide for water-related recreation, whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development.

Explanation of Policy

Many developments present practical opportunities for providing recreation facilities as an additional use of the site or facility. Therefore, whenever new development or redevelopment is located adjacent to the shore, these projects should, to the fullest extent permitted by existing law, provide for some form of water-related recreation use unless there are compelling reasons why any form of such recreation would not be compatible with the development, or a reasonable demand for public use cannot be foreseen. Current examples of this along the Evans waterfront include residential communities with associations that manage easements or facilities for providing access and recreation, and commercial establishments that offer public access and recreation along the Lake.

The types of development which can generally provide water-related recreation as a multiple use include, but are not limited to parks, roadways, bars and restaurants, public facilities, utility rights-of-way, nature preserves*, sewage or water treatment facilities with large tracts of land*, schools and similar institutions*, and large residential subdivisions (typically 50 units or more).

- * The types of recreation uses likely to be compatible with these facilities are limited to the more passive forms, such as trails or fishing access. In some cases, land areas not directly or immediately needed by the facility could be used for recreation.

Prior to taking action relative to any development, the Town will review applicable LWRP policies, other applicant plans and reports for local and regional recreation and, as necessary, consult with the County and/or State Office of Parks, Recreation, and Historic Preservation to determine appropriate recreation uses. Appropriate recreational uses that do not require substantial additional construction shall be provided at the expense of the project sponsor where the cost does not exceed two percent of total project cost.

In determining whether compelling reasons exist that would make recreation, as a multiple or accessory use, inadvisable, safety considerations should reflect a recognition that some risk is acceptable in the use of recreation facilities. Whenever a proposed development would be consistent with LWRP policies and the development could, through the provision of recreation and other multiple uses, significantly increase public access and use of the waterfront, then such development should be encouraged to locate adjacent to the shore.

HISTORIC AND SCENIC RESOURCES POLICIES

POLICY 23 **Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the state, its communities, or the nation.**

POLICY 23A **Protect archaeologically significant sites in the vicinity of Bennett Beach and Eighteen-Mile Creek.**

Explanation of Policy

Among the most valuable of the Town's man-made resources are those structures or areas that are of historic, archaeological, or cultural significance. The protection of these structures requires recognition of their importance by all agencies. Protection must include concern not just with specific sites but with areas of significance, and with the area that surrounds specific sites. This policy is not to be construed as a passive mandate, but mandates active efforts for protection and, when appropriate, to restore or revitalize historic and cultural resources through adaptive reuse. While the program is concerned with the preservation of all such resources within the coastal boundary, it lends focus on promoting the preservation of historic and cultural resources that have a distinct coastal relationship.

The structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the Town, State, or the Nation, which should be covered under this policy include the following:

1. A resource, which is in a federal or State park, that requires protection and preservation.
2. A resource listed on, nominated, or determined eligible to be listed on the National or State Registers of Historic Places.
3. A resource on or nominated to be on the State Nature and Historic Preserve Trust.
4. An archaeological resource that is on the State Department of Education's inventory of archaeological sites.
5. A local landmark, park, historic site or locally designated historic district that is located within the LWRA.

The historic and cultural resources of the Town are a reminder of the community's early development and its rich waterfront tradition. These resources are tangible links to the past development of the Town. They are important components in defining the community's distinct identity and heritage. Therefore, the effective preservation of historic and cultural resources must also include efforts to restore and revitalize these resources, where appropriate.

The Town of Evans waterfront area includes a number of historic, cultural and archaeological resources that warrant recognition, protection and preservation. These include Graycliff, the Wendt House at Wendt Beach, Michael's Tower on the Claddagh property, Cash cemetery, the Kellogg Estate and the Morseman House. The recognition and protection of these is essential to preserving the culture and history of the area. Graycliff is a resource of national significance that should continue to be restored and protected for public enjoyment. The Wendt Beach House is presently in a state of disrepair. This locally-important resource should be restored for public use and protected as an historic resource. The Morseman House and Cash cemetery are some of the last vestiges of the past that remain in the waterfront area that deserve recognition and preservation, as well as Wendt Mansion, Michael's Tower and the structures on the Kellogg Estate (See Policy 25).

The sand dune formations at Bennett Beach County Park, in Sub Area 2 are archaeologically significant. The area was investigated between 1991 and 2003 by the State University of New York at Buffalo and determined to be an important prehistoric and historic archaeological site. It was recorded as Sites UB 2617, UB2914, and UB2623 in the archaeological files of the Department of Anthropology, and was also reported to the State Office of Parks, Recreation and Historic Preservation. The information documented by the University noted that the site was repeatedly occupied by native populations of western New York throughout the last 2,500 to 3,000 years. Inspection of the site indicated that intact archaeological deposits, including prehistoric living surfaces, hearths and pits are well preserved within the sand dunes and are likely to be preserved within the ground in other portions of the property. A thorough survey of

the Bennett Beach area needs to be conducted by a qualified professional archaeologist to further document the resources in this area in an effort to develop appropriate mechanisms for their protection. No development activity or other disturbance should occur on or in the vicinity of the primary dune formations in this area to preserve the integrity of these important cultural resources.

The significance of the Bennett Beach area currently is recognized through the designation of all or certain resources in this area as a State-designated significant coastal fish and wildlife habitat, a coastal erosion hazard area and a segment of the National Coastal Barrier Resources system. In light of the ecological and archaeological importance of the Bennett Beach and Pine Lodge areas, the Town should further designate this portion of the waterfront as a Critical Environmental Area. Disturbance of any nature to the dunes and vegetation should be strictly prohibited. No building construction should occur on the beach that could potentially impact cultural resources and artifacts in the area. This portion of the waterfront must be recognized and protected. Consideration should also be given to capitalizing on the educational and interpretive characteristics of this area.

The dune and forest resources in the Bennett Beach area are also very beautiful and provide extensive opportunities for scenic viewing. This aspect should be recognized as a part of the value of this area. New York State Division of Coastal Resources has developed a scenic assessment program that identifies the scenic qualities of coastal landscapes, evaluates them against criteria to determine their aesthetic significance and recommends areas for designation as Scenic Areas of Statewide Significance (SASS). SASS designation protects scenic landscapes through the review of projects that require state or federal permitting, funding or approval. The Bennett Beach area is may be a candidate for such a designation in consideration of the geologic and ecological resources that exist in this area. The Town will work with the State to pursue such a designation. Consideration should be given to other similar areas of importance that could be assembled as a Lake Erie SASS.

Eighteen-Mile Creek is also a renowned area of archaeological significance. Actions undertaken in the vicinity of this resource should be treated as SEQR Type 1 actions to assess potential impacts to archaeological resources. All practical means should be taken to protect these resources. When development is proposed, a site survey should be undertaken to determine the presence or absence of archaeological or cultural resources in the project area. If resources are discovered as a result of the survey, a detailed evaluation should be conducted to provide adequate data to allow for a determination of significance of the resources. If the potential for impacts exists, adverse impacts should be minimized by redesigning the project, mitigating direct impacts and/or recovering significant data and resources prior to construction.

The Town has also identified an area of old growth vegetation located in the vicinity of Bennett Beach. This area should be recognized as a locally-significant natural landmark and should be protected as such.

All practicable means to protect structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the Town, State, or the Nation shall be deemed to include the consideration and adoption of any techniques, measures, or controls to prevent a significant adverse

change to such significant structures, districts, areas or sites. A significant adverse change includes, but is not limited to:

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

Impacts to historic and cultural resources should be avoided or minimized when it may not be possible to preserve the resource. Historic structures should be relocated only when such resources cannot be preserved in place. Repair of historic resources and features should be undertaken using recognized preservation methods then physical conditions warrant such repair. The historic character of significant resources in the LWRA shall be preserved by protecting historic materials and features as follows:

1. Evaluate the physical condition of important materials and features,
2. Stabilize materials and features to prevent further deterioration,

3. Protect important materials and features from inadvertent or deliberate removal or damage, and
4. Ensure the protection of historic elements through a program of non-intrusive maintenance of important materials and features.

Historic resources should be protected by ensuring that development is compatible with the historic character of the area or resource. Potential development should be designed to a size, scale, proportion, mass and with a spatial relationship that is compatible with historic resources in the immediate vicinity. In construction additions to historic structures, use appropriate design and construction to minimize adverse impacts to historic character and allow for the visual compatibility of the new and old sections of the structure.

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

POLICY 24 Prevent impairment of scenic resources of State-wide significance.

Explanation of Policy:

This State Coastal Management Policy is not applicable to the Town of Evans waterfront area as it does not include any scenic resources of State-wide significance.

POLICY 25 Protect, restore or enhance natural and man-made resources which are not identified as being of State-wide significance, but which contribute to the overall scenic quality of the coastal area.

Explanation of Policy

Waterfront landscapes possess inherent scenic qualities. The presence of water and the ever-changing views and visually interesting working landscape draw people to the water's edge. Due to their importance, scenic resources should be considered in balancing the wise use and conservation of the waterfront.

In the Town of Evans, the waterfront provides a diverse visual experience. Panoramic views of the Canadian shoreline and glimpses of the City of Buffalo skyline are ever present. The waterfront offers

exceptional sunsets, which are viewed over the lake. For this reason, Lake Shore and Old Lake Shore Road are designated segments of the New York State Seaway Trail, which is a National Scenic By-way. In addition, views of the lake are enhanced by seasonal changes, and wetlands, shorelines in natural condition, natural protective features and open space along the upland areas of the waterfront all contribute to scenic quality of the area. The visual character and quality of Lake Erie and the Evans shoreline, including sufficient visual access, are important resources that should be enhanced and protected.

The visual quality of the Town landscape is a major contributor to the community character of the Town of Evans; it is part of what makes the waterfront a jewel for the community. The waterfront also contains a variety of cultural elements that add to the landscape. These resources should be protected and enhanced. Structures or activities that introduce visual interruptions to the natural landscape along the shoreline, such as intrusive artificial light sources or massive structural intrusions into open areas, should be avoided.

Efforts should be made to improve and enhance the visual quality of the areas of activity along the waterfront, such as Lake Erie Beach, Sturgeon Point and portions of Grandview Bay, through appropriate streetscape design, characteristic signage (unique to the area) and other aesthetic improvements. Such efforts would aid in boosting the attractiveness of these areas, thereby making them more inviting locations for tourism and economic activity, and improving their overall connection to the waterfront.

Lake Shore and Old Lake Shore Roads are designated sections of the New York State Seaway Trail, which is designated as a National Scenic By-way. A number of locally significant cultural and recreational resources are located along this corridor including, Graycliff, Wendt and Bennett Beach County Parks, Sturgeon Point Marina, the Evans Town Park, and Lake Erie Beach Park. In addition, there are many sections of these roadways that offer excellent views of Lake Erie.

The sand dune formations and associated forest habitat at Bennett Beach County Park and in the vicinity of Pine Lodge have long been recognized as a significant ecological resource. This area has been listed in the New York State Open Space Conservation Plan as one of top 10 priority sites for open space acquisition in Region 9. The approximately eight acres of dunes at Bennett Beach are associated with important old-growth hemlock forest, making this area particularly unique. It is one of only two sites in the world where such old-growth trees grow on sand dunes (the other site is Sleeping Bear National Park in Michigan). Furthermore, this is the only site with lake dunes in New York State. The ecosystem in this area of the waterfront is further enhanced by Big Sister Creek, which extends northward, creating a peninsula with dunes and sandy beach.

The sand dune formations at Bennett Beach County Park, in Sub Area 2, are not only recognized as a significant ecological resource, they are also archaeologically significant. The area was investigated between 1991 and 2003 by the State University of New York at Buffalo and determined to be an important prehistoric and historic archaeological site. It was recorded as Sites UB 2617, UB2914 and UB2623 in the archaeological files of the Department of Anthropology. It was also reported to the State Office of Parks, Recreation and Historic Preservation. The information documented by the University

noted that the site was repeatedly occupied by native populations of western New York throughout the last 2,500 to 3,000 years. Inspection of the site indicated that intact archaeological deposits, including prehistoric living surfaces, hearths and pits are well preserved within the sand dunes and are likely to be preserved within the ground in other portions of the property.

The dune and forest resources in the Bennett Beach and Pine Lodge area are very beautiful and provide extensive opportunities for scenic viewing. This aspect should be recognized as a part of the value of this area. New York State Division of Coastal Resources has developed a scenic assessment program that identifies the scenic qualities of coastal landscapes, evaluates them against criteria to determine their aesthetic significance and recommends areas for designation as Scenic Areas of Statewide Significance (SASS). SASS designation protects scenic landscapes through the review of projects that require state or federal permitting, funding or approval. The Bennett Beach area may be a candidate for such a designation in consideration of the geologic and ecological resources that exist in this area. The Town will work with the State to consider such designation. Consideration should be given to other similar areas of importance that could be assembled as a Lake Erie SASS.

In recognition of this designation and these resources, the following should be considered:

1. Efforts should be taken to improve views of the Lake Erie, where practicable, from these roadways.
2. Redevelopment along the shoreline that is situated adjacent to these roadways should not block views or cause additional visual obstruction of the waterfront.
3. Redevelopment along the shoreline that is situated adjacent to these roadways should be designed and oriented to enhance scenic vistas and the scenic quality of the surrounding area.
4. All signage installed along these roadways must be in conformance with 23 U.S. C. 131(c), which regulates billboards along designated scenic by-ways under the State's Scenic By-way program. (This also applies to scenic by-ways designated under the National program.)

When considering a proposed action, the Town shall first determine whether the action could affect a scenic resource of local significance. This determination would involve a review of the LWRP to ascertain if it shows identified scenic resources that could be affected by the proposed action, and a review of the types of activities proposed to determine if they would be likely to impair the scenic beauty of an identified resource. Impairment will include:

1. The irreversible modification of geologic forms;
2. the destruction or removal of vegetation;
3. the modification, destruction, or removal of structures, whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource;

4. and the addition of structures that, because of siting or scale, will reduce identified views or that, because of scale, form, or materials, will diminish the scenic quality of an identified resource.

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

Guidelines include:

1. Siting structures and other development such as highways, power lines, and signs, back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore;
2. Clustering or orienting structures to retain views, save open space and provide visual organization to a development;
3. Incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
4. Removing deteriorated and/or degrading elements;
5. Maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest;
6. Maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters;
7. Using appropriate materials, in addition to vegetation, to screen unattractive elements;
8. Using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

AGRICULTURAL LANDS POLICY

POLICY 26 Conserve and protect agricultural lands in the State's coastal area.

Explanation of Policy

There are portions of the waterfront that are rural with large areas of open land, particularly in Sub-Area 3, where active farming occurs. Portions of Sub-Area 3 are situated in the Brant-Evans Agricultural District. This policy requires a concern for any potential loss of important agricultural lands in this area or potential actions that could result in a loss in active agricultural activity.

The first step in conserving agricultural lands is the identification of such lands. The following criteria have been used to identify important agricultural lands:

1. Land that meets the definition of the U.S. Department of Agriculture as being prime farmland, unique farmland, or farmland of statewide importance.
 - a. Prime farmland is defined by USDA Soil Conservation Service in CRF #7 Agriculture Part 657.5(a), January 1979. A list of the soil associations that meet this definition has been prepared for Erie County.
 - b. Unique farmland is defined by USDASCS in CRF #7 Agriculture Part 657.5(b). In the coastal area of New York all fruit and vegetable farming meets the terms of the definition.
 - c. Farmland of Statewide importance is defined by USDASCS in CRF #7 Agriculture Part 656.5(c). Lists of soil associations which constitute farmland of statewide importance have been prepared for Erie County.
2. Active farmland located within designated Agricultural Districts.
3. Areas identified as having high economic viability for farming.
4. Prime farmland, unique farmland, and farmland of statewide significance will not be identified as important agricultural land whenever it occurs as parcels of land less than 25 acres in size and these small parcels are not within a mile of areas of active farming.

Implementing a policy of promoting agricultural use of land must, to be practical, concentrate on controlling the replacement of agricultural land uses with non-agricultural land use as the result of some public action. The many other factors such as markets, taxes, and regulations that influence the viability of agriculture in a given area can only be addressed on a Statewide or national basis. This policy requires a concern for the loss of any important agricultural land. However, the primary concern must be with the loss of agricultural land when that loss would have a significant effect on an ability of agricultural uses in the area to continue to exist, prosper and expand.

It must be determined whether a proposed public action would result in the loss of important agricultural lands as identified in the waterfront area. If it is determined that an action would result in the loss of identified agricultural lands, but that loss would not have an adverse effect of the viability of agriculture in the surrounding area, then the action may be consistent with this policy. However, such action must be undertaken in a manner that would minimize the loss of important farmland. If the action is determined to result in a significant loss of important agricultural land, then the action is not consistent with this agriculture policy.

The following guidelines define what must be considered in making the above determinations:

1. A public action would likely significantly impair the viability of an important agricultural area if:
 - a. The action would occur on identified agricultural land and would:

- (1) Consume more than 10 percent of the land of an active farm,
 - (2) Consume a total of 100 acres or more of identified important agricultural land, or
 - (3) Divide an active farm with identified important agricultural land into two or more parts, thus impeding efficient farm operation or reducing the size of farmed acreages to less than 25 acres.
 - b. The action would result in environmental changes that may reduce the productivity or adversely affect the quality and use of any identified agricultural lands.
 - c. The action would create real estate market conditions favorable to the conversion of large areas of identified agricultural land to non-agricultural uses. Such conditions may be created by:
 - (1) Public water or sewer facilities to serve non-farm structures.
 - (2) Transportation improvements, except for maintenance of and safety improvements to, existing facilities that serve non-farm or non-farm related development
 - (3) Major non-agribusiness commercial development adjacent to identified agricultural lands
 - (4) Major public institutions
 - (5) Residential uses other than farm dwellings
 - (6) Any change in land use regulations applying to agricultural land that would encourage or allow land uses that are incompatible with the agricultural use of the land.
2. The following types of facilities and activities should not be construed as having adverse effects on the preservation of agricultural land:
 - a. Farm dwellings, barns, silos, and other accessory uses and structures incidental to agricultural production or necessary for supplementing farm family income.
 - b. Agricultural business development, which includes the entire structure of local support services and commercial enterprises necessary to maintain an agricultural operation.
3. The proposed action shall, to the extent practicable, be sited on any land not identified as important agricultural land or, if it must be sited on identified important agricultural

land, it should be done in a manner that avoids disturbance of land according to the following priority:

- a. Prime or unique farmland in orchards or vineyards,
 - b. Other prime farm land in active farming,
 - c. Farmland of Statewide importance in active farming,
 - d. Active farmland identified as having high economic viability,
 - e. Prime farmland not being farmed, and
 - f. Farmland of Statewide importance not being farmed.
4. Where possible, development should be undertaken in manner, such as conservation subdivision or clustering, that preserves land for continued or future agricultural use through such means as lease arrangements with farmers, direct undertaking of agriculture, or sale of surplus land to farmers. Agricultural use of such land should have priority over any other proposed multiple use of the land.

ENERGY AND ICE MANAGEMENT POLICIES

POLICY 27 Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.

Explanation of Policy

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

The Town has no lands along the waterfront used or zoned for industrial use. The Town recognizes public energy needs, but also recognizes that the development of major energy facilities may endanger the natural and economic environment of the Evans Local Waterfront Revitalization Area.

The coastal area in the Town of Evans contains valuable resources, including fish and wildlife habitats of statewide significance, regulated freshwater wetlands, natural protective features including coastal erosion hazard areas, extensive areas of public parkland, and scenic and archaeological resources.

The benefits of developing energy facilities should be weighed against the potential economic and environmental impact on natural resources and the public to ensure that any proposed facilities would

be consistent with, or conducive to, the character of the Evans waterfront. Land uses associated with mineral extraction may be considered less desirable for the waterfront. The same considerations should be given to energy facilities in areas adjacent to the Evans LWRA.

POLICY 28 Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.

Explanation of Policy

Prior to undertaking actions required for ice management, an assessment must be made of the potential effects of such actions upon fish and wildlife and their habitats, flood levels and damage, rates of shoreline erosion damage, and upon natural protective features.

Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented. Ice management practices shall not interfere with infrastructure systems, nor impair significant fish and wildlife and their habitats or increase shoreline erosion or flooding.

POLICY 29 Encourage the development of energy resources on the outer continental shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.

POLICY 29A Conserve energy resources and promote alternative energy sources that are self-sustaining, including solar powered energy generation.

Explanation of Policy

The Town recognizes the need to develop new indigenous energy sources. Among the various energy sources being examined are those which may be found in Lake Erie. However, the Town also recognizes that such development may endanger the environment and adversely impact important shoreline amenities and the quality of life in the community. The waterfront is the Town's recreational jewel and has the potential for increased tourism and economic development. Therefore, energy exploration or the development of energy resources on the bottom lands of Lake Erie should consider potential adverse impact on waterfront resources. In addition, State law currently prohibits the development of natural gas wells nearer than one-half mile from the shoreline, two miles from public water supply intakes and one thousand feet from any other structure or installation on or in Lake Erie. State law also prohibits the production of liquid hydrocarbons in Lake Erie, either alone or in association with natural gas.

Commercial mining and other mineral or gravel extractions activities are also considered inappropriate waterfront activities. These uses are also prohibited in the Evans LWRA.

The conservation of energy should be an important part of prudent future planning for the waterfront. Energy efficiency can be achieved through several means that fall under the jurisdiction of the Town, including:

1. Promoting the use of public transportation, wherever possible and practical;
2. Integrating modes of transportation (bicycle, pedestrian and vehicular);
3. Promoting energy efficient design in new development, particular LEED certification; and
4. Promoting greater energy generating efficiency through upgrades of existing public and private facilities.

WATER AND AIR RESOURCES POLICIES

POLICY 30 Municipal, industrial, and commercial discharge of pollutants including, but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.

Explanation of Policy

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

The Town has no lands used or zoned for industrial use along the waterfront and there are no known point sources outfalls aside from the outfalls for the Erie County wastewater treatment plant on Big Sister Creek and the outfall for the County Water Treatment Plant on Lake Erie.

POLICY 31 State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.

Explanation of Policy

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217), the State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has

adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment. Local Waterfront Revitalization Programs and State coastal management policies shall be factored into the review process for coastal waters. However, such consideration shall not affect any water pollution control requirement established by the State pursuant to the Federal Clean Water Act.

Surface waters in the Town, including the creeks and Lake Erie, have been classified for usage by the State. Best management practices should be implemented to ensure that the best usage classification is maintained, and where possible, improved. Issues with failing septic systems, sanitary sewer system inflow and infiltration and non-point source pollution should be identified and addressed so as to protect local water quality and maintain existing standards (see Policies 33 and 37).

POLICY 32 Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.

Explanation of Policy

Alternative systems include individual septic tanks and other subsurface disposal systems, dual systems, small systems serving clusters of households or commercial users, and pressure or vacuum sewers. These types of systems are often more cost effective in smaller, less densely populated communities for which conventional facilities are too expensive. In unsewered areas of the waterfront where septic systems are still in use, proper maintenance practices must be promoted to protect water quality and ensure that systems are functioning effectively.

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

Explanation of Policy

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff. At present, structural approaches for managing stormwater runoff throughout the waterfront area, such as the construction of retention basins or closed pipe systems may not be economically feasible, but may be required in accordance with the Town of Evan Stormwater Management Plan. Until funding for such projects becomes available, non-structural approaches, including street cleaning and management of non-point source pollution, will be encouraged (see Policy 37).

1. Prevent point source discharges to the surface waters of Lake Erie and local creeks and streams, and manage or avoid land uses that would:

- a. Exceed discharge limits specified by State Pollution Discharge Elimination System (SPDES) permits for industrial and municipal discharges
 - b. Exceed established and applicable effluent requirements or cause or contribute to the contravention of water quality classifications and use standards; or
 - c. Materially and adversely affect the quality of receiving waters.
2. Ensure effective treatment of sanitary waste and industrial discharges by:
- a. Maintaining efficient operation of sanitary wastewater and industrial waste treatment facilities;
 - b. Providing, at a minimum, effective secondary treatment for sanitary sewage;
 - c. Modifying existing sewage treatment facilities to provide improved nitrogen removal capacity;
 - d. Incorporating treatment beyond secondary, when funding is available to the extent economically feasible, with particular focus placed on nitrogen removal, as part of new or upgraded wastewater treatment plant design;
 - e. Reducing demand on treatment facilities by:
 - (1) reducing infiltration of excess water in collection and transport systems,
 - (2) eliminating unauthorized collection system hookups,
 - (3) pre-treating industrial waste,
 - (4) limiting discharge volumes and pollutant loadings to or below authorized levels, and
 - (5) requiring the installation of low-flow water conservation fixtures in all new development and when replacing fixtures in existing development.
 - f. Controlling and reducing the loadings of toxic materials into the surface waters of the Lake, creeks and streams by including limits on toxic metals as part of wastewater treatment plant effluent permits and by enforcing existing pre-treatment requirements.
 - g. Reducing or eliminating combined sewer overflows.
 - h. Providing and managing on-site wastewater disposal systems (septic) by:
 - (1) using on-site systems only when a connection with a public sewer system is not practical;
 - (2) protecting surface and groundwater against contamination from pathogens and excessive nutrient loading by keeping septic effluent separated from these resources and by providing adequate treatment of septic effluent; and

- (3) encouraging evaluation and implementation of alternative or innovative on-site sanitary waste systems and technologies to remediate systems that currently do not adequately treat or separate effluent.

POLICY 34 Discharge of waste materials into coastal waters from vessels subject to state jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.

Explanation of Policy

The discharge of all untreated sanitary, rubbish, garbage and other solid or liquid wastes from vessels into the waters of Lake Erie is limited by New York State Law. Where coastal resources or activities require greater protection than afforded by this requirement, the State may designate vessel waste no discharge zones. Within these zones the discharge of all sanitary vessel waste, whether treated or not, is prohibited. Also, specific effluent standards for marine toilets have been promulgated pursuant to 6 NYCRR, Part 657.

To help protect off shore waters in the Town, a vessel waste pump-out station is available at Sturgeon Point Marina. Priority will be given to the enforcement of State Laws to protect water quality, particularly in and around the State-designated Significant Coastal Fish and Wildlife Habitats of Big Sister Creek and Eighteen Mile Creek, State, County and Town beaches, public water supply intakes and other important shoreline resources.

POLICY 35 Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands and wetlands.

Explanation of Policy

Dredging, filling, and dredge material disposal are activities that are needed for waterfront revitalization and development, such as maintaining navigation channels at sufficient depths, pollutant removal, stream channel maintenance and other coastal management needs. Such projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands, and other important coastal resources. Often these adverse effects can be minimized through careful design and timing of the dredging or filling activities, proper siting of dredged material disposal sites, and the beneficial use of dredged material.

Maintenance dredging is currently undertaken, as needed, at Sturgeon Point Marina, with dredge spoils utilized for adjacent beach restoration. Dredging of the mouths of certain creeks is also essential to managing flooding and erosion in those areas. Such projects should be carefully managed and must satisfactorily demonstrate that potential adverse effects can be reduced to levels that satisfy State

permit standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15, 24, 25, and 34), and are consistent with policies pertaining to the protection and use of coastal resources (Policies 7, 12, 15, 25, 26 and 44). Marina operations and vessel speeds should be regulated to prevent shoreline erosion from increased wave activity. Furthermore, navigation channel construction and maintenance should be designed to prevent destabilization of adjacent areas by:

1. Using dredging setbacks from established channel edges and designing finished slopes to ensure their stability,
2. Locating channels away from erodible features, wherever feasible, and
3. Preventing adverse alteration of basin hydrology.

POLICY 36 Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.

Explanation of Policy

Currently the only known activity involving petroleum use or transport occurs at the Sturgeon Point Marina, where it is stored and dispensed for recreational vessels. Other activities related to the shipment and storage of petroleum and other hazardous materials shall be prohibited in the Local Waterfront Revitalization Area (See Policy 39).

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

Explanation of Policy

The many creeks and streams in the Town are part of a larger watershed area that discharges to Lake Erie. Protecting the quality of these local surface waters is essential to the health and welfare of habitat areas. In an effort to protect water quality, best management practices shall be used to reduce sources of non-point source pollution (see Policy 38). These include, but are not limited to, encouraging a reduction in the use of lawn fertilizers and pesticide projects, proper disposal of motor oils and other petroleum products, septic system maintenance, reducing the use of road salts during the winter, organic farming and agricultural pest management practices, proper disposal of animal wastes, soil and erosion control, and surface drainage control techniques. The mitigation of sanitary sewer inflow and infiltration problems and improved management and maintenance of the County's wastewater system to prevent future problems is also important for the protection of local surface water quality. The Town should also promote public education to help local residents understand the importance of maintaining

septic systems and repairing/replacing failing systems, as outlined in the Town of Evans Stormwater Management Plan, which shall be adhered to.

Reduce non-point source pollution using management measures appropriate to specific land use or pollution source categories.

1. Urban land uses
 - a. For new development, manage total suspended solids in runoff to remain at pre-development loading levels.
 - b. For site development, limit activities that increase erosion or the amount or velocity of stormwater runoff.
 - c. For construction sites, reduce erosion and retain sedimentation on site, and limit and control the use of chemicals and nutrients.
 - d. For developed sites, limit the application of pesticides, herbicides and fertilizer products to reduce the potential for the pollution of stormwater runoff.
 - e. Plan, site and design roads and highways to manage erosion and sediment loss and limit the disturbance of land and vegetation.
 - f. Plan and design bridges to protect ecosystems.
 - g. For roads, highways and bridges, minimize to the greatest extent practical, the runoff of contaminants to surface waters.
2. Marinas
 - a. Site and design marinas such that currents will aid in flushing of the marina basin or the renewal of basin water regularly.
 - b. Assess potential impacts to water quality as a part of marina siting and design activities. Any new marina project shall utilize appropriate and adequate vessel pump-out technologies.
 - c. Properly manage stormwater runoff, discharges of hazardous substances, and solid waste disposal.
3. Hydro-modifications
 - a. Maintain the physical and chemical characteristics of surface waters, reduce adverse impacts and, where possible, improve the physical and chemical characteristics of surface waters in channels.
 - b. Minimize the impacts of channelization and channel modification on in-stream and riparian habitat, and identify opportunities to restore habitat.
 - c. Use vegetative means, to the greatest extent possible, to protect stream banks and shoreline from erosion.
4. Floatables and litter
 - a. Prohibit all direct and indirect discharges of refuse or litter into surface waters, or upon public lands contiguous to and within 100 feet of lake or tributary creek waters.
 - b. Limit the entry of floatable materials to surface waters through the proper containment and prevention of litter.
 - c. Remove and dispose of floatables and litter from surface waters and along the shoreline of the Lake.

- d. Implement pollution prevention and education programs to reduce the discharge of floatables and litter in Lake Erie and Town storm drains.
- e. Undertake regular maintenance and cleaning of storm drains that discharge to the lake and tributary creeks.

POLICY 38 The quality and quantity of surface water and groundwater supplies, will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

Explanation of Policy

Lake Erie is the primary source of drinking water in the Town of Evans and, therefore, must be protected. Much of the Town is serviced by the Erie County Sewer Authority's wastewater disposal and treatment system and all commercial discharges are regulated by State and Federal Law.

To the greatest extent possible, make efforts to improve the water quality of Lake Erie and the local creeks that flow to the Lake based on an evaluation of physical factors (pH, dissolved oxygen, dissolved solids, nutrients, odor, color and turbidity), health factors (pathogens, chemical contaminants and toxicity) and aesthetic and nuisance factors (oils, floatables, refuse and suspended solids). Minimize the disturbance of local creeks and streams, including their beds and banks, in order to prevent soil erosion, increased turbidity and irregular variation in velocity, temperature and water levels. The Lake and creeks should also be protected from the adverse impacts of excavation, fill, dredging (see Policy 35) and the improper disposal of dredged material.

Encourage the use of best management practices to prevent non-point source pollution (see Policies 33 and 37), including:

1. Limiting the application of fertilizers, herbicides and pesticides and avoiding the use of synthetic fertilizers that contribute nitrates and phosphorus to stormwater runoff;
2. Avoiding secondary discharges of pollutants, such as petroleum products to storm drains and ditches that discharge directly to surface waters; and
3. Properly cleaning up pet wastes and controlling litter.

POLICY 39 The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.

Explanation of Policy

The intent of this policy is to protect the public from sources of contamination and to protect waterfront resources in the Town from degradation through the proper control and management of wastes and hazardous materials. The definitions of terms "solid wastes" and "solid waste management facilities"

are taken from the New York's Solid Waste Management Act (Environmental Conservation Law, Article 27). Solid wastes include sludge from air or water pollution control facilities, demolition and construction debris and industrial and commercial wastes.

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. A fundamental problem associated with the disposal and treatment of solid and hazardous wastes is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources. The treatment and disposal of solid or hazardous wastes is strictly prohibited in the waterfront area. Proper and effective solid waste disposal/removal should be planned for when undertaking any major development or redevelopment project in the waterfront.

The storage of, or facilities for the storage of, solid or hazardous wastes are not permitted in the Town of Evans Waterfront Revitalization Area pursuant to Section 200-40.1 of the Evans Zoning Ordinance, which strictly prohibits dumps or landfills anywhere in the Town. The transport of such waste shall not be permitted along Lake Shore Road or any other road in the waterfront area (with the exception of the collection of municipal solid waste). Transport along other roadways in the Town would be subject to State and Federal regulations to ensure public health, safety and welfare.

POLICY 40 Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.

Explanation of Policy

The Town supports the State's position that major steam electric generating and industrial facilities shall "not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the State, the public health, and public enjoyment of the receiving waters." The Town further supports that no such use or facilities shall be located in the local waterfront revitalization area within its boundaries.

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

Explanation of Policy

The Town of Evans Local Waterfront Revitalization Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean Air Act and State laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

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

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

POLICY 42 Coastal management policies will be considered if the State reclassifies land areas pursuant to the prevention of significant deterioration regulations of the federal clean air act.

Explanation of Policy

The intent of this policy is to comply with State standards for controlling and preventing the degradation of air quality in the Town. New land uses and development or redevelopment should comply with the following:

1. Limit pollution resulting from new or existing stationary air contamination sources consistent with:
 - a. attainment or maintenance of any applicable air quality standards,
 - b. applicable New Source Performance Standards,
 - c. applicable control strategy of the State Implementation Plan, and
 - d. applicable Prevention of Significant Deterioration requirements.
2. Recycle or salvage air contaminants using best available air cleaning technologies.
3. Limit pollution resulting from vehicle and vessel movement or operation, including actions that directly or indirectly change transportation uses or operation, consistent with attainment or maintenance of applicable ambient air quality standards and applicable portions of any control strategy of the State Implementation Plan.
4. Restrict emissions of air contaminants to the outdoor atmosphere that are potentially injurious to human, plant and animal life, or that would unreasonably interfere with the comfortable enjoyment of life or property.

State air quality standards regulate chlorofluorocarbon pollutants. For actions with a potential impact on air quality, the Town shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to chlorofluorocarbon compounds.

POLICY 43 Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.

Explanation of Policy

The Town of Evans Local Waterfront Revitalization Program incorporates New York State's policies on acid rain. As such, this local program will assist in the State's efforts to control acid rain. Efforts to control acid rain will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

WETLANDS POLICY

POLICY 44 Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

Explanation of Policy

Freshwater wetlands include marshes, swamps, bogs and flats supporting aquatic and semi-aquatic vegetation and other wetland vegetation as defined under the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act.

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

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

There are a number of areas along the Evans waterfront that contain State and federally-designated freshwater wetlands. Wendt Beach County Park and the vacant lands adjacent to the A.J. Schmidt School are areas of particular concern. Any proposed activities that may affect these wetlands are subject to the provisions of Article 24 of the Environmental Conservation Law.

The following measures can further the protection or restoration of wetlands:

1. compliance with the statutory and regulatory requirements of the Freshwater Wetlands Act and Stream Protection Act; and
2. prevention of the net loss of wetlands by:
 - a. avoiding placement of fill or excavation of wetlands;
 - b. minimizing adverse impacts resulting from unavoidable fill, excavation or other activities;
 - c. providing compensatory mitigation for adverse impacts that may result from unavoidable fill, excavation or other activities remaining after all appropriate and practicable minimization has been accomplished; and
 - d. providing and maintaining adequate buffers between wetlands and adjacent or nearby uses and activities in order to ensure protection of the character, quality, value and function of the wetlands area.
 - e. Providing and maintaining buffers along creek corridors to provide protections from the impacts of upland uses and activities.
3. Where destruction or significant impairment of habitat values cannot be avoided, potential impacts of land use or development should be minimized through appropriate mitigation. Use mitigation measures that are likely to result in the least environmentally damaging alternative. Mitigation includes:
 - a. avoidance of potential adverse impacts, such as avoiding ecologically sensitive areas, scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions, and preventing fragmentation of intact habitat areas;
 - b. minimization of unavoidable potential adverse impacts, including reducing the scale or intensity of the use or development, designing projects to result in the least amount of potential adverse impacts, and choosing alternative actions or methods that would lessen potential impacts; and
 - c. specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment.