SECTION III Local Waterfront Revitalization Program Policies

Section III presents the waterfront revitalization policies and their associated standards that are to be used in guiding appropriate development and actions for the Town of Hamburg. These policies consider the physical, economic, environmental and cultural characteristics of the Town. 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 preservation that will permit the beneficial use of waterfront resources in the Town without undo impacts to Lake Erie or adjacent upland areas. The following is a list of the Town of Hamburg LWRP Policies:

Developed Waterfront Policies

Policy 1 - Foster a pattern of development in the Town of Hamburg that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development

Policy 2 – Preserve historic resources in the Town of Hamburg

Policy 3 – Enhance visual quality and protect outstanding scenic resources

Natural Waterfront Policies

Policy 4 – Minimize loss of life, structures and natural resources from flooding and erosion

Policy 5 – Protect and improve water resources

Policy 6 – Protect and restore the quality of ecological resources throughout the Town of Hamburg

Policy 7 – Protect and improve air quality

Policy 8 – Minimize environmental degradation from solid waste and hazardous substances and wastes

Public Waterfront Policies

Policy 9 – Improve public access to the waterfront and the use of public lands

Working Waterfront Policies

Policy 10 – Protect existing water-dependent uses in the Town of Hamburg and promote the siting of new water-dependent uses in suitable locations

Policy 11 – Protect sustainable use of living marine resources

Policy 12 – Protect existing agricultural lands

Policy 13 – Promote appropriate use and development of energy and mineral resources

DEVELOPED WATERFRONT POLICIES

POLICY 1

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

The community character of the Town of Hamburg is defined by the pattern of land use and development that is clustered along New York State Route 5 and the shoreline of Lake Erie. With the exception of the southern portion of Sub-Area 3, much of the lakefront in the Town of Hamburg is well developed (primarily with residential uses), offering few opportunities for new development. The long standing planning goals of the Town are aimed at preserving and enhancing the character of the waterfront and its relationship to the Lake, and providing better opportunities for the recreation, tourism and public access that are compatible with the existing scale of development and the availability of services in the community. In addition, Sub-Area 1 is considered the focal point for the community. In this area, emphasis should be focused on enhancing view of the lake, opportunities for public access and strengthening the business community.

This policy is intended to foster a pattern of development that provides for economic prosperity and the beneficial use of waterfront resources in the Town of Hamburg. In recognizing the characteristics of the unique sub-areas along the waterfront, the primary components of this policy are to: strengthen economic activity in the Woodlawn, Athol Springs and Wanakah/Clover Bank business districts in Sub-areas 1 and 2; encourage water-dependent uses along the Lake that support tourist related activities; protect and improve stable residential areas; improve recreation and public access opportunities; and preserve and protect remaining open space and significant natural resources. Development that does not reinforce the traditional land use pattern and improve the quality of life along the waterfront would adversely impact the community character of the area.

1.1 Concentrate development and redevelopment in order to revitalize deteriorated and underutilized uses and strengthen the traditional waterfront focus of the area, particularly in Sub-area 1.

New development or redevelopment should be located where infrastructure is adequate or can be upgraded to accommodate such development. The scale of development or redevelopment along the waterfront should be appropriate to the setting and character of the area and highlight existing resources, such as the local history and important natural or man-made features to reinforce community identity. Development and redevelopment efforts should be primarily focused in Sub-area 1. This area should be designed and developed as a focus for activity, drawing people to the area and linking the Lake to the Athol Springs and Woodlawn business districts. Development and redevelopment decisions should be compatible with community and regional needs, as well as market demands. In addition, the environmental quality of degraded areas should be restored and environmental constraints, in particular shoreline erosion, should be recognized as a limiting factor to the development or

redevelopment of certain areas. Finally, the efforts of the NYS Department of Transportation for calming traffic flow along NYS Route 5 should not result in adverse impacts to important waterfront resources and should ensure adequate facilities for pedestrians and bicyclists throughout the study area. Furthermore, any improvements to NYS Route 5 must not cut the community off from the waterfront.

Revitalization efforts in the Town should focus on phasing out existing and former industrial uses in Sub-Area 1. In particular, the Buffalo Crushed Stone (on the former Bethlehem Steel property) and Snyder Tank properties could be redeveloped with uses that are more compatible with the surrounding area. These sites could be revitalized with marine-commercial uses to improve and promote public access and recreational tourism, and to help foster additional revitalization efforts in the area. The former Foit's restaurant is another location in Sub-Area 1 that should be revitalized for public use and enjoyment. This site is proposed for redevelopment as a scenic overlook, and the efforts to secure funding and technical assistance for this action should be continued in order to achieve this goal for the area. In addition, a master plan should be developed for the area between the Bedrock Eatery and the Foit's property to guide redevelopment and public use in this area.

Sub-Area one is, in many ways, a gateway to the Hamburg waterfront, and redevelopment efforts should reflect this, including the development of an actual gateway feature that welcomes residents, workers and visitors to the area and provides a linkage to the waterfront.

1. New development should be located where infrastructure is adequate or can be upgraded to accommodate new development or redevelopment.

2. The following planning principles should be used to guide investment and the preparation of development strategies and plans for the waterfront:

    a) scale development to be appropriate to the setting;

    b) design development to highlight existing resources, such as local history and important natural and man-made features to reinforce community identity;

    c) design the waterfront as a focus for activity that draws people to the area;

    d) provide and improve integrated linkages between the waterfront and upland portions of the community, including the use of appropriate directional signage, particularly for the residential neighborhoods that have been isolated from this area;

    e) meet community and regional needs and market demands when making development choices so that the end product provides a useful service and benefits and connects with the surrounding area;

    f) recognize environmental constraints as a limiting factor for development and devise ways to blend environmental preservation into site design, wherever possible, to achieve development without adversely impacting important environmental resources;

g) restore environmental quality to degraded areas for both resource preservation and urban revitalization; and

h) recognize the physical constraints of certain main-made features that possess important cultural and historic value, and devise ways to blend and preserve these features into site design, wherever possible, to achieve development that eliminates or minimizes adverse impacts.

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

a) using building and site design to make beneficial use of the Lake location and associated waterfront resources;

b) minimizing consumption of waterfront lands that does not meet the intent of this policy or that would result in potential adverse impacts on natural resources;

c) incorporating recreational activities, public access, open space and other such amenities into waterfront designs, as appropriate, to enhance the subject site and the surrounding community, and to increase visual and physical access to the Lake;

d) attracting people to the waterfront, as appropriate to the use;

e) reinforcing community identity by highlighting local history and important natural and man-made features;

f) ensuring that design and siting of uses and structures complements the surrounding community and landscape, particularly the central business district;

g) using indigenous plants as components of landscape design to improve habitat and water quality, and to lessen water demands; and

h) using appropriate signage and other amenities to promote tourist activities and ensure better wayfinding along the waterfront.

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

All uses proposed for the waterfront should relate to the unique character of the waterfront area and should be appropriate for the location. Water-dependent uses should be promoted where appropriate and given precedence over other types of development at suitable waterfront sites. Existing water-dependent uses should be protected. Development that is not dependent on a waterfront location or that cannot make beneficial use of such a location should be discouraged. Water-enhanced uses may be encouraged where they are compatible with surrounding development and are designed to make beneficial use of their location along the Lake.

1. Water-dependent uses and water-enhanced uses should be sited and designed to:

a) attract people to or near the waterfront and provide opportunities for access;

b) provide public views to or from the water;

c) link the waterfront to adjoining business districts;

d) minimize consumption of waterfront land; and

e) not cause significant adverse impacts to community character and surrounding land and water resources.

2. Uses should be avoided that would:

a) result in unnecessary and avoidable loss of significant waterfront resources;

b) ignore the waterfront setting as indicated by design or orientation; and

c) not, by nature, derive economic benefit from a waterfront location.

1.3 Maintain and enhance natural areas, recreation and open space lands.

Natural areas, open space and recreational land produce public benefits that may not be immediately tangible. In addition to scenic and recreational benefits, these lands may also support habitat for important fish and wildlife, provide watershed management for flood control benefits, and serve to recharge ground water. Special consideration should be given to protecting stands of large trees and significant habitats. The expansion of infrastructure into undeveloped areas should be avoided where such expansion would promote development that is detrimental to waterfront resources, important natural resources, or the character of the waterfront community, particularly in Sub-Area 3.

To enhance community character and maintain the quality of the natural and man-made environment, potential adverse impacts that may result from site development, including impact to existing development, the physical environment, and economic factors should be identified and avoided or properly mitigated. Development and redevelopment should be designed to take advantage of significant site characteristics, limit the disturbance of important natural resources, foster visual compatibility with the surrounding area, and maintain the continuity of public access along the water's edge.

1. Adverse impacts on natural resources should be avoided, including, but not limited to:

a) deterioration of water quality;

b) loss, fragmentation, and impairment of habitats and wetlands; and

c) changes to the natural processes that would increase shoreline flooding and erosion.

2. Special consideration should be given to protecting mature trees, unique forest cover types and significant wildlife habitats.

3. Establish a continuous trail system that is sufficiently wide enough to allow for pedestrian and bicycle travel along the waterfront.

4. The expansion of infrastructure into undeveloped areas should be avoided where such expansion would promote growth and development that would be detrimental to important natural resources or in any way impact or reduce opportunities for public recreation.

1.4 Minimize the adverse impacts of new development or redevelopment on the waterfront.

To enhance community character and maintain the quality of life along the waterfront in the Town of Hamburg, the potential adverse impacts of new development and redevelopment on existing land uses, the natural environment and the local economy should be properly assessed and mitigated, as required. Development should reflect the recognition of existing site characteristics, limit disturbance of land and water, and foster visual compatibility with surrounding areas. The size and scale of development or redevelopment should be compatible with the character of the surrounding area, the adjacent Lakefront and the Town as a whole.

Cumulative and secondary adverse impacts from development and redevelopment should be properly assessed and minimized. Cumulative impacts are the result of the incremental or increased impact of repetitive actions or activities when added to other past, present, or future actions or activities. Secondary impacts are those that are foreseeable, but occur at a later time or at a greater distance from the action, and are caused by an action or activity, whether directly or indirectly.

1. Potential economic impacts should be minimized as follows:

   a) prevent deterioration of the waterfront and the surrounding area by eliminating derelict and dilapidated conditions;

   b) avoid uses that detract from community character of the waterfront;

   c) prevent the isolation of community uses and people from the waterfront; and

   d) protect and enhance the economic base of the community and promote diverse economic activity.

1.5 Protect and improve stable residential areas.

The existing residential neighborhoods along the waterfront are important to the overall character community and economic functioning 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 to better establish the connection between residential areas and the waterfront. Linkages are also important and should be created through the development of the waterfront trail system.

POLICY 2

Preserve historic resources in the Town of Hamburg

The historic resources in the Town of Hamburg are a reminder of the community's early development and its rich waterfront tradition. The northern portion of the waterfront also has a notable industrial heritage. Although there are no structures or landmarks that have received historic designation or that are listed on the State or National Register of Historic Place, there are historic structures of local significance. In addition, the New York State Archaeological Sensitivity Map (NYSOPRHP, 1992) identifies the entire Town of Hamburg as a zone of archaeological sensitivity, with three identified zones of potential archaeological significance. Lake Erie, in the Hamburg vicinity, also has a maritime history that should be recognized.

Historic resources that would be covered under this policy include those structures, districts, areas and sites that are listed or designated as follows:

1. any historic resource in a federal or state park established solely or in part to protect and preserve the resource;
2. any resource on, nominated to be on, or determined to eligible for listing on the National or State Register of Historic Places;
3. any cultural resource managed by the New York State Natural and Historic Preserve Trust or the New York State Natural Heritage Trust;
4. any archaeological resource that is on the inventories of archaeological sites maintained by the New York State Department of Education or the Office of Parks, Recreation and Historic Preservation; and
5. any locally designated historic or archaeological resources protected by a local law or ordinance.

Historic resources and archaeological sites are tangible links to the past development of the Town. They are important components in defining the community's distinctive identity and heritage. Therefore, the effective preservation of historic resources must also include efforts to restore and revitalize important resources, where appropriate. The intent of this policy is to preserve these resources in the Town of Hamburg.

In identifying those elements that are important in defining the character and value of an historic resource, designation information, available documentation and original research should be used. Important character-defining elements of the resource should be identified in terms of:

a) time, place and use;

b) materials, features, spaces and spatial relationships;

c) setting within the physical surroundings and community; and

d) association with historic events, people or groups.

The value of the historic resource should be determined as indicated by:

a) its membership within a group of related resources, that would be adversely impacted by the loss of any one of the group;

b) the rarity of the resource in terms of the quality of its historic elements or in the significance of it as an example; or

c) the significance of events, people or groups associated with the resource.

2.1 Maximize the preservation and retention of historic resources in the Town.

1. Potential impacts to historic resources in the LWRA should be thoroughly evaluated through the environmental review process. All practical means should be utilized to preserve identified resources and mitigate or avoid potential adverse impacts.

2. The historic character of significant resources identified in the Town shall be preserved by protecting historic materials and features as follows:

    a) evaluate the physical condition of important materials and features;

    b) stabilize materials and features to prevent further deterioration;

    c) protect important materials and features from inadvertent or deliberate removal or damage; and

    d) ensure the protection of historic elements through a program of non-intrusive maintenance of important materials and features.

3. Repair historic materials and features using recognized preservation methods when physical condition warrants such repair.

4. Foster uses that maximize retention of the historic character of a resource and minimize alterations so as to preserve and retain the character of the structure.

    a) Alterations should not obscure, destroy or radically change character defining spaces, materials, features or finishes in order to reduce adverse impacts to the resource.

    b) Alterations may include selective removal of features that are not historic elements of the resource and its setting and that detract from the overall historic character of the resource.

    c) Minimize potential negative impacts on the historic character of the resource due to necessary updates to systems in order to meet health and safety code requirements or to conserve energy.

    d) In constructing new additions, 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 structure.

5. The loss of historic resources or the historic character of the area shall be minimized when it is not possible to completely preserve the resource.

a) Historic structures should be relocated only when the resources cannot be preserved in place.

b) Demolition of a resource should only be allowed where alternatives for retention are not feasible.

6. Avoid potential adverse impacts of development and redevelopment on adjacent or nearby historic resources.

a) Historic resources should be protected by ensuring that development is compatible with the historic character of the affected resource.

b) Potential development should be designed to a size, scale, proportion, mass and with a spatial relationship compatible with the historic resource.

c) Potential development should be designed using materials, features, forms, details, textures and colors compatible with similar features of the historic resource.

7. Limit adverse cumulative impacts on historic resources.

a) Minimize the potential adverse cumulative impact on an historic resource, which is a member of a group of related resources, that may be adversely impacted by the loss or diminution of any one of the members of the group.

b) Minimize the potential cumulative impacts of a series of otherwise minor interventions on an historic resource.

c) Minimize potential cumulative impacts from development adjacent to the historic resource.

2.2 Protect and preserve archaeological resources.

1. Potential impacts to archaeological resources in the LWRA should be thoroughly evaluated through the environmental review process.

2. When a development action is proposed in the Town of Hamburg a cultural resource investigation will be conducted.

a) A site survey will be undertaken to determine the presence or absence of cultural resources in the project area.

b) If cultural resources are discovered as a result of the initial survey, a detailed evaluation will be conducted to provide adequate data to allow for a determination of the significance of the archaeological resources.

3. If the potential for impacts to an archaeological resource exists, adverse impacts shall be minimized by:

a) redesigning the project,

b) mitigating direct impacts on the resources, or

c) recovering significant data/resources prior to construction.

4. Disturbance or adverse impacts to any archaeological resources situated on or under lands owned by the State of New York shall be avoided. These resources may not be appropriated for private use.

5. With respect to activities that involve excavation in the Town of Hamburg, public agencies and utilities should contact the New York State Office of Parks, Recreation and Historic Preservation to determine appropriate protective measures for archaeological resources.

POLICY 3

Enhance visual quality and protect outstanding scenic resources

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 Hamburg, the waterfront provides a diverse visual experience. Panoramic views of the Canadian shoreline and the City of Buffalo skyline are ever present. The Town is also known for its exceptional sunsets, which are viewed over the lake. For this reason, NYS Route 5 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, and open space along the upland all contribute to scenic quality of the waterfront. The visual character and quality of Lake Erie and the Hamburg shoreline, including sufficient visual access, are important resources that should be enhanced and protected.

3.1 Protect and improve the visual quality of the Town of Hamburg waterfront.

The visual quality of the Town landscape is a major contributor to the community character of the Town of Hamburg. The Town includes the historic central business district, which is the strongest visual element, along with characteristic residential areas, the well-defined lake corridor, and open space. In addition, the Town contains a variety of cultural elements in 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.

3.2 Protect and enhance the visual quality of the Town business districts.

The Town's business districts offer a special visual ambience that should be preserved and enhanced. Some of the structures in these districts are of local historic significance or are linked to the heritage of the area. Efforts should be made to improve and enhance the visual quality of the business districts 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.

3.3 Identify and protect aesthetic values associated with recognized areas of high scenic quality.

Recognized areas of high scenic quality include: designated Scenic Areas of Statewide Significance, designated scenic rivers, scenic roads, scenic by-ways and other governmentally-recognized scenic resource areas; and areas designated under the Protection of Natural and Man-made Beauty regulations (ECL Article 49). A scenic by-way is a transportation route and adjacent area of particular scenic, recreational, cultural or archaeological characteristics that is managed to protect such characteristics and to encourage economic development through tourism and recreation.

NYS Route 5 and Old Lake Shore Road 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, Woodlawn Beach State Park, the Town Beach, and the Seaway Trail Visitor's Center. In addition, there are many sections of these roadways that offer excellent views of Lake Erie, as well as Buffalo and Canada. 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 prohibition also applies to scenic by-ways designated under the National program.)

NATURAL WATERFRONT RESOURCES

POLICY 4

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

This policy seeks to protect life, structures and natural resources from the hazards of flooding and erosion. The policy reflects State flooding and erosion regulations and provides measures for the reduction of hazards and protection of resources. The Town of Hamburg contains flood zones that have been designated by the Federal Emergency Management Agency and are depicted on Maps 6A, 6B and 6C.

The Town participates in the National Flood Insurance Program and development in the floodplain is regulated under Chapter 115 of the Town Code – Flood Damage Prevention. This law is designed to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Pursuant to Chapter 115, all construction and other development that is proposed within the regulated areas of special flood hazard requires a floodplain development permit from the Building Inspector – Code Enforcement Officer and must be in compliance with the standards outlined in the law (see Appendix A).

In the Town of Hamburg waterfront area, the provisions of this policy are applicable to the floodplain areas adjacent to the Lake Erie shoreline, Blasdell Creek, Rush Creek, Foster Brook, Berricks Creek, Wanakah Creek, Pinehurst Creek and 18-Mile Creek.

The entire shoreline of the Town is also designated as a Natural Protective Feature area by the NYSDEC and is subject to the requirements of Coastal Erosion Hazard Areas Act (Article 34 of the Environmental Conservation Law). The shoreline of the Town is impacted by the continuing erosive action of Lake Erie, in particular significant winter storm forces, and certain areas of the shoreline have been impacted to the degree that intervention has been required. The Town should continue to seek the technical assistance of the Army Corps. of Engineers to effectively remediate the bluffs along Old Lake Shore Road and to protect the Athol Springs area, as required, to promote public welfare and safety.

4.1 Minimize potential loss and damage by locating development and structures away from flooding and erosion hazards.

1. 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 upland uses;
    c) the proposed hard structural erosion protection measures are limited to the minimum scale necessary and are based on sound engineering practices; and
    d) practical vegetative methods have been included in the project design and implementation.
    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, it undertaken by a private property owner, does not incur significant direct or indirect public costs.
2. 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 adjoining communities that lie within the watershed areas, in an effort to manage impacts resulting from actions undertaken in these areas.
3. Consider the development of a Town-wide erosion management strategy.

4. Avoid developing new structures and uses, or reconstructing structures damaged by 50 percent or more of their value, in areas that are likely to be exposed to hazards unless:

   a) the structure or use functionally requires a location along the shoreline or in coastal waters,

   b) the new development would be located in an area of substantial public investment, or

   c) the new structure or use is necessary for shoreline development that:

   - Reinforces or revitalizes areas along the waterfront that support important water-dependent uses or a concentration of mixed uses and other development (such as the inner harbor area), and
   - would not result in impairment of natural resources

5. Locate new structures that are not functionally dependent on a location on or in coastal waters, are not in areas of substantial public investment, or do not reinforce the role of a developed working waterfront, as far away from flooding and erosion hazards as possible.

   a) No development is permitted in natural protective feature areas (nearshore, beaches, and wetlands as defined under 6 NYCRR Part 505), except as specifically allowed under the relevant portions of 6 NYCRR 505.8.

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 coast or in coastal waters,

   b) water-dependent uses which, by the nature of the use, cannot avoid exposure to hazards; or

   c) sites in areas with extensive public investment, public infrastructure, or major public facilities.

7. Provide public infrastructure in or near identified natural protective features only if the infrastructure:

   a. is designed in a manner that will not impair the protective capacities of natural protective features; and

   b. is designed to avoid or withstand damage from flooding and erosion.

8. In all areas of special flood hazards the following standards are required:

Anchoring

a) All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

Construction materials and methods

a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

c) Enclosed areas with subgrade on all sides are considered basements and not permitted. For enclosed areas below the lowest floor of a structure within Zones A1 through A30, AE or AH, and also Zone A if the base flood elevation data are 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 which 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 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,
- the bottom of all such openings no higher than one foot above the lowest adjacent finished grade,
- openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

Utilities

a) 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 level, a professional engineer's or architect's certification of the design is required.

b) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration floodwaters into the system.

c) All 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.

d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Subdivision proposals

a) Proposals shall be consistent with the need to minimize flood damage.

b) Public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize flood damage.

c) Adequate drainage shall be provided to reduce exposure to flood waters.

Encroachments

a) Within Zones A1 through A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

- the applicant demonstrates 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
- the Town of Hamburg agrees to apply to the Federal Emergency Management (FEMA) for a conditional Flood Insurance Rate Map (FIRM) revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Hamburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Hamburg for all costs related to the final map revision.

b) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the FIRM adopted in Section 115-6 of the Flood Damage Prevention Law, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

- a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or

- the Town of Hamburg agrees to apply to FEMA for a conditional FIRM revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Hamburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Hamburg for all costs related to the final map revision.

Elevation for Residential structures

a) Within Zones A1 through A30, AE and AH, and also Zone A if the base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above one foot above the base flood level.

b) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest flood (including basement) elevated at least three feet above the highest adjacent grade.

c) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number specified in feet on the FIRM (at least two feet if not depth number is specified).

d) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

Nonresidential structures

a) Within Zones A1 through A30, AE and AH, and also Zone A if the base flood data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

- have the lowest floor, including basement or cellar, elevated to or above one foot above the base flood elevation; or
- be flood-proofed so that the structure is watertight below one foot above 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.

b) Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

- have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number

specified in feet on the FIRM (at least two feet if no depth number is specified); or

- together with attendant utility and sanitary facilities, be completely flood-proofed to that level to meet the flood-proofing standard specified under a) above.

c) 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 local administrator who certifies that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of a) above, including the specified elevation (in relation to mean sea level) to which the structure is to be flood-proofed.

d) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

e) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

Manufactured homes and recreational vehicles

a) Recreational vehicles placed on sites within Zones A1 through A30, AE and AH shall either be on site fewer than 180 consecutive days, be fully licensed and ready for highway use or meet the requirements for manufactured homes, as outlined below. A recreational vehicle is ready for highway use of it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

b) A manufactured home that is placed or substantially improved in Zones A1 through A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision, on which a manufactured 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 one foot 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 are not limited to use of over-the-top or frame ties to ground anchors.

c) A manufactured home to be placed or substantially improved in Zone A1 through A30, AE and AH in an existing manufactured home part or subdivision

that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be elevated in a manner such as required in b) or 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 piers consisting of dry stacked blocks is prohibited.

d) Within the A Zone, when no base flood elevation data are 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 rare 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.

e) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as one foot more than the depth number specified on the FIRM enumerated in Section 115-6 of the Flood Damage Prevention Law (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

4.2 Protect public lands and public trust lands and the use of these lands when undertaking all erosion or flood control projects

1. Retain ownership of public trust lands that have become upland areas due to fill or accretion resulting from erosion control projects.
2. 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.
3. 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.

4.3 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 past flooding and erosion impacts, protect areas of intensive development, and protect substantial public investment (land, infrastructure, facilities).

1. The expenditure of public funds for flooding and erosion control projects:

   a) should be limited to those circumstances where public benefits exceed public costs;

b) is prohibited for the exclusive purpose of flooding and erosion protection for private development; and

c) may be apportioned among each level of participating governmental authority according to the relative public benefit accrued.

d) Factors to be used in determining public benefits attributable to the proposed flood or erosion control measure include the:

- Economic benefits derived from protection of public infrastructure and investment and protection of water-dependent commerce.
- Extent of public infrastructure investment.
- Extent of existing or potential public use.

The application of these factors indicate that public expenditure for erosion and flood control projects may be warranted in developed centers.

4.4 Manage navigation infrastructure to limit adverse impacts on coastal processes

Design channel construction and maintenance 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, where feasible.
3. Preventing adverse alteration of basin hydrology.

Manage harbor operations and vessel speeds to prevent shoreline erosion from increased wave activity.

POLICY 5

Protect and improve water resources

The purpose of this policy is to protect the quality and quantity of surface water in the Town of Hamburg, including Lake Erie, Blasdell Creek, Rush Creek, Foster Brook, Berricks Creek, Wanakah Creek, Pinehurst Creek, Eighteen Mile Creek and their tributary streams. Water quality considerations include the management of both point and non-point source pollution. Water quality protection and improvement must be accomplished by managing new, and remediating existing, sources of water pollution.

5.1 Prohibit direct or indirect discharges that would cause or contribute to the contravention of water quality standards and targets in local surface waters.

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:

- reducing infiltration of excess water in collection and transport systems,
- eliminating unauthorized collection system hookups,
- pre-treating industrial waste,
- limiting discharge volumes and pollutant loadings to or below authorized levels,
- requiring the installation of low-flow water conservation fixtures in all new development and when replacing fixtures in existing development; and

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 (septic) systems by:

- using on-site systems only when impractical to connect with a public sewer system;
- 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
- 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.

5.2 Minimize non-point source pollution of local surface waters and manage activities that cause non-point source pollution.

1. Minimize sources of non-point source pollution to local surface waters by using the following approaches, which are presented in order of priority.

    a) Limit or eliminate non-point sources of pollution by:

    - reducing or eliminating the introduction of materials that may contribute to non-point source pollution;
    - prohibiting the outdoor or uncontained storage of materials that may contribute to the pollution of surface or groundwater in the waterfront area;
    - minimizing activities that would increase off-site stormwater runoff and the transport of pollutants;
    - controlling and managing stormwater runoff to minimize the transport of pollutants, restore (to the greatest extent possible) degraded natural stormwater runoff conditions, and achieve a no-net increase of runoff where unimpaired stormwater runoff conditions exist;
    - retaining or establishing vegetation to maintain or provide soil stabilization and filtering capacity;
    - preserving natural hydrological conditions to maintain natural surface water flow characteristics and retain natural watercourses and drainage systems (where present); and
    - where natural drainage systems are absent or incapable of handling the anticipated runoff demands, developing open vegetated drainage systems as a preferred approach, with long and indirect flow paths to decrease peak runoff flows, and using closed drainage systems only where site constraints and stormwater flow demands make open systems infeasible.

2. Reduce pollutant loads to surface waters by managing unavoidable non-point sources and using appropriate best management practices as determined by site characteristics, design standards, operational conditions, and maintenance programs.

5.3 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 predevelopment 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 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 the shoreline of the Lake.

d) Implement pollution prevention and education programs to reduce the discharge of floatables and litter in the Lake and Town storm drains.

e) Undertake regular maintenance and cleaning of storm drains that discharge to the Lake and tributary creeks.

5.4 Protect and enhance surface water quality in Lake Erie and its tributary creeks and streams.

1. To the greatest extent possible, improve the water quality of the Lake and the creeks that flow 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).
2. Minimize the disturbance of creeks and streams, including their beds and banks, in order to prevent erosion of soil, increased turbidity, and irregular variation in velocity, temperature, and level of water.
3. Protect the surface water quality of the Lake and creeks from the adverse impacts associated with excavation, fill, dredging and the improper disposal of dredged materials.
4. Utilize, as feasible and economically practicable, street sweeping resources to reduce the amount of pollutants, sediments and litter that enters surface waters through storm drains.
5. Encourage the use of best management practices to prevent non-point source pollution, including:
   a) limiting the application of fertilizers, herbicides and pesticides and avoiding the use of synthetic fertilizers that contribute nitrates and phosphorus to runoff;
   b) avoiding secondary discharges of pollutants, such as petroleum products to storm drains that discharge directly to surface waters; and
   c) properly cleaning up pet wastes and controlling litter.

POLICY 6

Protect and restore the quality of ecological resources throughout the Town of Hamburg

There are certain natural resources in the Town of Hamburg that warrant protection and restoration. These resources, which include the Lake Erie and its tributary creeks and streams, wetland areas, and discrete plant and animal populations, contribute to the quality of life in the Town and the diversity of the local ecosystem. The quality and biological diversity of the local ecosystem also depends on more common, broadly distributed natural resources, such as the extent of forest cover and the population of resident and overwintering birds, which collectively affect the system.

6.1 Protect and restore ecological quality throughout the Town of Hamburg, including freshwater wetland resources.

There are three State-designated significant coastal fish and wildlife habitats in or adjacent to the Town of Hamburg waterfront, including Eighteen Mile Creek, Smoke Creek Shoals and Seneca Shoals. There are also certain areas that should be restored and protected as habitat for fish and wildlife. Stream corridors and wetlands provide numerous benefits including, but not limited to, habitat for wildlife, erosion and flood control, natural pollution treatment and filtration, groundwater protection, and aesthetic open space. Wetlands in the waterfront area are primarily located along Rush Creek and Eighteen Mile Creek. The shoreline, from the vicinity of Wanakah to Eighteen Mile Creek also contains designated federal wetlands. To further the protection and restoration of these resources, the excavation of existing wetlands or the placement of fill in these areas should be avoided. Adequate buffers should be provided and maintained between wetlands and adjacent uses to ensure protection of their character, quality, value and function. Buffers areas should also be considered along creek corridors.

6.2 Protect Significant Coastal Fish and Wildlife Habitats

Significant Coastal Fish and Wildlife Habitats are areas that have been as identified by the NYSDEC as being critical to the maintenance or re-establishment of species of fish and wildlife in the coastal area. These habitats have been designated by the Secretary of State to be protected for the habitat value they provide and to avoid permanent adverse changes to the coastal ecosystem. State-designated Significant Coastal Fish and Wildlife Habitats are described in individual Significant Coastal Fish and Wildlife Habitat narratives and outlined on boundary maps prepared by the Department of State (see the Section II Inventory and Analysis for more detail on the habitats). Significant fish and wildlife habitats are those habitat areas which:

1. Exhibit to a substantial degree one or more of the following characteristics:
    a) is essential to the survival of a large portion of a particular fish or wildlife population
    b) supports a species which is either endangered, threatened, or of special concern as those terms are defined at 6 NYCRR Part 182
    c) supports fish or wildlife populations having significant commercial, recreational or educational value, or is of a type which is not commonly found in the state or a coastal region of the state, and are difficult, or even impossible, to replace in kind
2. Uses or activities should be avoided which would:
    a) Destroy habitat values through direct physical alteration, disturbance, or pollution, or the indirect effects of actions that would result in a loss of habitat.
    b) 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 physical, biological, or chemical characteristics.

c) 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 feasible alternative. Mitigation includes:

- avoidance of potential adverse impacts, including 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.
- minimization of unavoidable potential adverse impacts, including reducing scale or intensity of use or development; designing projects to result in the least amount of potential adverse impact; choosing alternative actions or methods that would lessen potential impact; specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment; and specific protective measures included in the narratives for each designated Significant Coastal Fish and Wildlife Habitat area.

3. For the Significant Coastal Fish and Wildlife Habitats in the Hamburg waterfront area, the following shall apply:

<u>Seneca Shoals</u>

a) Any activity that substantially degrades water quality, increased temperature or turbidity, or reduces physical diversity of bottom substrates around Seneca Shoals would affect the fisheries resources in this area.

b) Activities such as dredging, oil or gas drilling and waste disposal are all potential causes of habitat degradation.

c) Temporary habitat disturbances would be most detrimental during fish spawning and nursery periods (mid-March through July for most warm-water species). Any unavoidable human disturbance of the littoral zone should be schedule during late summer or fall to minimize potential impacts on fisheries in the area.

d) Thermal discharges, depending on time of year, may also have adverse effects on fish populations, especially walleye.

e) Installation and operation of water intakes near Seneca Shoals could have a significant impact on fish concentrations, through impingement of juveniles and adults, or entrainment of eggs and larval stages.

Smoke Creek Shoal

a) Any activity that substantially degrades water quality, increases temperature or turbidity, alters water depths or reduces physical diversity of bottom substrates at Smoke Creek Shoals would affect the fisheries resources of this area.

b) Discharges of sewage, stormwater runoff or industrial wastewater that contains heavy sediment loads or chemical pollutants would result in adverse impacts on fish populations.

c) Activities such as dredging, oil or gas drilling and solid waste disposal are all potential causes of permanent habitat degradation.

d) Construction of breakwalls or jetties in the area would increase sedimentation, resulting in loss of suitable spawning habitat of walleye.

e) Temporary habitat disturbances would be most detrimental during fish spawning and nursery periods (mid-March through July for most warmwater species). Any unavoidable human disturbance of the littoral zone should be scheduled during fall or winter to minimize potential impacts on fisheries use of the area.

f) Thermal discharges, depending on the time of year, would also have adverse effects on fish populations in the area, since spawning activities and survival are directly affected by water temperature.

g) Installation and operation of water intakes could have a significant impact on fish concentrations, through impingement of juveniles and adults, or entrainment of eggs and larval stages.

Eighteen Mile Creek

a) Any activity that substantially degrades water quality, increases temperature or turbidity, reduces flows or alters water depths in Eighteen Mile Creek would adversely impact on the fisheries resources of this area.

b) These impacts would be most detrimental during spawning period, and in the spring after salmonids are stocked in the creek.

c) Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides or insecticides) would adversely impact on fish populations.

d) Of particular concern are the potential effects of upstream disturbances, including water withdrawals, impoundments, stream bed disturbances and effluent discharges.

e) Barriers to fish migration, whether physical or chemical, would have a significant impact on fish populations in the creek.

f) Development of hydroelectric facilities on the creek should only be permitted with run-of-river operations.

g) Existing woodlands bordering Eighteen Mile Creek and its tributaries should be maintained to provide bank cover, soil stabilization and buffer areas.

h) Development of additional public access to the creek may be desirable 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 of refuge" could induce substantial development of this unusual natural area, directly resulting in the loss of habitat values.

6.3 Support the restoration of the Significant Coastal Fish and Wildlife Habitats wherever possible so as to foster their continued existence as natural, self-regulating system.

Measures that can be taken to restore significant habitats include:

a) reconstructing lost physical conditions to maximize habitat values;

b) adjusting adversely altered chemical characteristics to emulate natural conditions; and

c) manipulating biological characteristics to emulate natural conditions through reintroduction of indigenous flora and fauna.

6.4 Protect and restore freshwater wetlands

Wetlands provide numerous benefits, including, but not limited to, habitat for fish and wildlife, erosion and flood control, natural pollution treatment, groundwater protection, and aesthetic open space.

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

   a) compliance with the statutory and regulatory requirements of the Freshwater Wetlands Act and Stream Protection Act; and

   b) prevention of the net loss of wetlands by:

      - avoiding placement of fill or excavation of wetlands;
      - minimizing adverse impacts resulting from unavoidable fill, excavation or other activities;
      - 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
      - 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.

2. 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 lease 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.

6.5 Dredging shall be undertaken in a manner that meets existing State permit requirements and protects Significant Coastal Fish and Wildlife Habitats and other important resources.

Maintenance dredging in the vicinity of the boat launch ramp at the Town Beach is required on occasion for the efficient operation of this facility. 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.

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

POLICY 7

Protect and improve air quality

This policy provides for the protection of the air quality in the Town of Hamburg.

7.1 Comply with State standards that control and prevent the degradation of air quality in the Town of Hamburg.

New land uses and development in the Town of Hamburg 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 or 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.

7.2 Limit sources of atmospheric deposition of pollutants, particularly from nitrogen sources.

State air quality standards regulate sources of nitrogen pollution. 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 the atmospheric deposition of pollutants in the region, particularly nitrogen sources.

7.3 Limit discharges of atmospheric radioactive material to a level that is as low as practicable.

State air quality standards regulate radioactive materials and pollutants. For actions with a potential impact on air quality, the Town shall provide necessary information, as appropriate, to the State to enable the effective administration of air quality statutes pertaining to atmospheric radioactive material.

7.4 Capture and recycle chlorofluorocarbon compounds during service and repair of air conditioning and refrigeration units to the greatest extent practicable.

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 8

Minimize environmental degradation from solid waste and hazardous substances and wastes

The intent of this policy is to protect the public from sources of contamination and to protect the waterfront resources of the Town of Hamburg from degradation through proper control and management of wastes and hazardous materials. Attention is also required to identify and address sources of soil and water contamination resulting from landfill and hazardous waste sites and in-place sediment contamination in the Town of Hamburg.

8.1 Manage solid waste to protect public health and control pollution.

1. Solid wastes are those materials defined under ECL §27-0701 and 6 NYCRR part 360-1.2.
2. Plan for proper and effective solid waste disposal prior to undertaking major development or redevelopment activities that generate solid waste.
3. Prevent the discharge of solid wastes into the Town environment and lake water by using proper handling, management and disposal practices.

8.2 Manage hazardous wastes to protect public health and control pollution.

1. Hazardous wastes are those materials defined under ECL §27-0901 and 6 NYCRR Part 371.
2. Manage hazardous wastes in accordance with the following priorities:
   a) eliminate or reduce the generation of hazardous wastes to the maximum extent practicable;
   b) recover, reuse or recycle remaining hazardous wastes to the maximum extent practicable;
   c) use detoxification, treatment or destruction technologies to dispose of hazardous wastes that cannot be reduced, reused or recycled; and
   d) prohibit the siting of any new facility that would generate significant quantities of hazardous wastes, or the disposal of any hazardous wastes within the waterfront area.
3. Remediate inactive hazardous waste disposal sites.
   a) Expedite the remediation of substances hazardous to developed areas in the Town to permit redevelopment of these sites.
   b) Select a remediation remedy at a particular site to ensure that the public health and the environment will be protected. The future use of a site may determine the selected cleanup levels.

8.3 Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.

1. Substances hazardous to the environment are defined under ECL §37-0101. Toxic pollutants are defined under ECL §17-0105.
2. Prevent the release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources in the Town.
3. Report, respond to, and take action to correct all unregulated releases of substances hazardous to the environment.
4. Prevent environmental degradation due to persistent toxic pollutants and limit discharges of bioaccumulative substances.
5. Avoid the resuspension of toxic pollutants and hazardous substances and the re-entry of bioaccumulative substances into the food chain from existing environmental sources.
6. Prevent and control environmental pollution due to release of radioactive materials as defined under 6 NYCRR Part 380.
7. Protect public health, public and private property, and fish and wildlife from the inappropriate use of pesticides.
    a) Pesticides are those substances defined under ECL §33-0101 and 6 NYCRR Part 325.
    b) Limit use of pesticides to effectively target actual pest populations as indicated through integrated pest management.
    c) Prevent direct and indirect entry of pesticides into waterways.
    d) Minimize exposure of people, fish and wildlife to pesticides.

8.4 Prevent and remediate the discharge of petroleum products.

1. Prevent discharges of petroleum products by following methods approved for the handling and storage of such products, and by using approved design and maintenance principles for storage facilities.
2. Clean up and remove any petroleum discharge that occurs in the waterfront area or Town waters.

8.5 Site solid and hazardous waste facilities to avoid potential degradation of coastal resources.

1. Solid and hazardous waste facilities, including automobile scrap facilities, are not considered as appropriate uses for the waterfront and the siting of such uses in this area should be prohibited.

8.6 Transport solid waste and hazardous substances and waste using routes that protect the safety, well-being and general welfare of the public and the environmental resources of the

state; and methods that provide for the continued use of all transportation corridors, highways and facilities.

PUBLIC WATERFRONT POLICIES

POLICY 9

Improve public access to the waterfront and the use of public lands

Along many stretches of the Lake Erie, physical and visual access to waterfront lands and waters is limited for the general public. Limitations on reaching or, in certain locations, viewing the waterfront are further heightened by a general lack of opportunities for recreation at those sites that do provide public access. Existing residential development has made much of the Hamburg waterfront inaccessible and new development can potentially reduce or eliminate remaining opportunities to provide meaningful public access along the Lake. In addition to the loss of opportunities for physical access, visual access has also been affected due to the reduction of vantage points or outright obstruction of views. Given the lack of adequate public access and recreation, this policy incorporates measures necessary to provide enhanced access along the Lake Erie waterfront. The need to maintain and improve existing public access and facilities is necessary to ensure that the use of these sites and facilities is optimized in order to accommodate existing and future demand.

The Town of Hamburg has a number of access points along the Lake, some of which are provided along public rights-of-way or by easements for access to the shoreline. The objective of the Town is to improve and increase public access to the waterfront and enhance recreational opportunities for residents and visitors alike. Areas of particular importance include the easements and rights-of-way, where informal access to the beach is achieved but requires better oversight. A public education program and/or signage requiring proper disposal of litter should be instituted. Better markings and identification of the easement areas is also needed. In addition, the former Foit's restaurant property offers a good opportunity to provide both physical and visual access to the lake, and should be revitalized as a scenic overlook.

The Seaway Trail Visitor's Center presently provides access to the lake through a tunnel that runs beneath NYS Route 5. This tunnel should be maintained and painted at regular intervals, as needed by either the Town or the NYSDOT. There are also locations along the waterfront where improved access and parking is needed, including the foot of Amsdell Road and in Mt. Vernon. Parking is another amenity that is needed to enhance public access along the waterfront.

The Town of Hamburg should continue to pursue and promote the development of a multi-use trail along the full length of the waterfront, which is a designated segment of the New York State Seaway Trail. The Town has achieved funding for small portions of this amenity and should aggressively seek to secure funding and technical assistance from the County and State to achieve the remaining portions of the Trail. As the State examines alternative designs for the calming of traffic along NYS Route 5, the

selected alternative must include provisions for the safe passage of pedestrians and bicyclists through the entire study area.

9.1 Promote appropriate physical access and recreation along the Lake and throughout the waterfront area.

Public access and recreation facilities can attract tourists, improve the quality of life for residents and help to enhance the economic vitality of the Town. The following standards should be utilized to guide future decision making with regard to public access and the expansion of recreational opportunities along the Lake waterfront.

1. Provide a level of public access and recreational use that takes into account the following factors:
   - proximity to the business districts and adjacent residential areas,
   - public demand for access and recreational resources,
   - the type and sensitivity of natural resources that may be affected,
   - accessibility to the recreation site or facility,
   - the needs of special groups, such as the elderly or persons with disabilities, and
   - the potential for adverse impacts to adjacent land uses.
2. Where feasible, provide convenient, well-defined physical public access to and along the Lake for water-related recreation and throughout the Town for general recreational needs.
3. Protect and maintain existing public access and recreational facilities.
   a) Prevent 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) Prevent physical deterioration of existing access and recreation facilities due to lack of maintenance or overuse.
   c) Protect and maintain the supporting infrastructure for public access and recreational facilities.
   d) Improve existing pedestrian access to the waterfront.
4. Provide additional physical public access and recreational facilities, where appropriate, throughout along 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.

5. Provide and improve physical access linkages between public access sites, open space and Lake Erie waters.

a) Support and encourage the continued development of a waterfront trail system that extends along the full length of the waterfront.

6. Provide physical public access to water-related recreation facilities on the waterfront whenever development or activities are likely to affect the public's use and enjoyment of public waterfront lands and waters. Provide incentives for private development and redevelopment projects that provide public access and/or water-related recreational facilities.

7. Restrict public access and recreation only where it may be incompatible with public safety and the protection of natural resources.

9.2 Provide public visual access to the Lake and adjacent shoreline open space at all sites where physically practical.

To the greatest extent possible, views of the Lake Erie should be expanded to allow full appreciation of this resource and to increase the attractiveness of the waterfront for residents and tourists. The following standards should be applied with respect to increasing visual access to the Lake.

1. To avoid loss of existing visual access:

a) limit physical blockage of existing visual access to the Lake by development or activities due to the scale, design, location or type of structures;

b) protect view corridors provided by streets and other public areas leading to the Lake; and

c) protect visual access to open space areas associated with natural resources.

2. To minimize adverse impacts on visual access:

a) provide for view corridors to the shoreline in those locations where new structures would block views of the Lake from upland public vantage points;

b) use structural design and building siting techniques to preserve or retain visual access and minimize obstruction of views; and

c) visual access requirements may be reduced where natural vegetative cover blocks potential views.

3. Provide compensatory mitigation for loss of visual access.

a) provide public visual access from vantage points on the site where development blocks visual access from inland public vantage points.

b) provide for additional and comparable visual access at nearby locations if physical access cannot be provided on-site.

4. To increase visual access to the Lake:

a) provide interpretative exhibits at appropriate locations for visual access to enhance public understanding and enjoyment of the Lake, its scenic features, its history and associated water-dependent uses;

b) allow vegetative or other screening of uses that detract from the visual quality of the waterfront; and

c) clear excess or overgrown vegetation along the waterfront in areas where practical and environmentally acceptable. Under no circumstances should vegetation be cleared to the degree or in a manner that would threaten the stability of the bluff or result in erosion of the bluff face.

9.3 Preserve public interest in the use of lands and waters held in public trust by the State and other governmental entities.

1. Access and reasonable recreational use of navigable waters and public trust lands under water should be provided.

2. Provide for free and substantially unobstructed passage along the shoreline of the Lake.

3. Provide for free and unobstructed use of all navigable waters for navigation, recreation and other public trust purposes, including the incidental rights of public anchoring.

4. Allow obstruction of public use in navigable waters, including navigation:

a) for water-dependent uses involving navigation and commerce that require in-water structures or activities as part of the use; and

b) for commercial recreational boating facilities, provided that the loss of navigable waters and use of underwater lands is offset by sufficient public benefit.

5. Piers and docking facilities must not interfere with the use of public trust lands.

9.4 Provide access and recreation that is compatible with natural resource values.

1. Limit public access and recreational activities where uncontrolled public use would lead to impairment or erosion of the shoreline.

2. Provide public access for fish and wildlife resource related activities, including fishing, provided that the level of access would not result in a loss of resources necessary to continue supporting these uses.

9.5 Where feasible, establish and maintain ownership of the waterfront to ensure public use and access.

9.6 Where feasible, utilize conservation easements to provide public access and greenway trail development along the waterfront.

WORKING WATERFRONT POLICIES

POLICY 10

Protect existing water-dependent uses in the Town of Hamburg and promote the siting of new water-dependent uses at suitable locations

Maritime activity in the Town of Hamburg has traditionally concentrated along the Lake Erie. Policy 1 promotes a continuation of this traditional pattern of development and supports the development of an economic base to promote and maintain the maritime character of the area. Improvements and enhancements in Hamburg could include the re-establishment of the Hamburg Regatta, providing better services for divers, and providing fishing pier access to the lake. The intent of this policy is to protect existing water-dependent uses along the Lake waterfront by ensuring adequate provision of infrastructure for their efficient and orderly operation. This policy is also intended to address the management of conflicts, congestion and competition for space in the use of the waterfront and its adjoining surface waters.

10.1 Protect existing water-dependent uses.

Actions should be avoided that would interfere with or adversely impact existing water-dependent uses (e.g., marinas and docks, fishing facilities, beaches, public and quasi-public utility uses, and marine education facilities) that require a waterfront location to effectively operate. Such uses should be protected and promoted. Water-dependent uses in the Town of Hamburg include Woodlawn Beach State Park, the Southtowns Wastewater Treatment facility, the Town Beach and the Seaway Trail Visitor's Center.

10.2 Minimize adverse impacts of new and expanding water dependent uses and provide for their safe operation.

The adverse impacts of new and expanding water-dependent uses should be minimized.

1. Water-dependent uses should be sited in locations where:

   a) waterside and upland access, as well as upland space for parking and other support facilities, is adequate;

b) necessary infrastructure exists or is easily accessible, including adequate shoreline stabilization structures, roads, water supply and sewage disposal facilities, vessel pump-out services, and waste disposal services;

c) water quality classifications are compatible with the use;

d) impacts to important natural resources, such as wetlands and wildlife habitats, can be avoided or minimized to the greatest extent possible; and

e) the need for dredging is minimized.

2. New or expanding marinas should:

a) incorporate marine services and boat repair, as feasible, to meet a range of boating needs;

b) not encroach upon navigation channels or channel buffer areas;

c) incorporate public access to the Lake through the provision of access from the upland, boat ramps, and transient docking facilities;

d) limit discharges of vessel wastes by providing pump out facilities;

e) avoid or minimize adverse impacts on natural resources and the character of the surrounding area; and

f) are not sited at locations that possess important natural resource values, such as Significant Coastal Fish and Wildlife Habitats.

10.3 Protect and improve the economic viability of water-dependent uses.

Certain water-dependent uses contain and are supported by non water-dependent uses that are complementary and supportive to the water-dependent use and do not impair the ability of such a use to function. These non water-dependent uses often mix easily with water-dependent uses, provide beneficial support, and positively affect the character of the working waterfront.

1. Non water-dependent accessory or mixed use developments may be allowed, provided:

a) accessory uses are subordinate and functionally related to the principal water-dependent use and contribute to sustaining the water-dependent use;

b) mixed uses subsidize the water-dependent use and are accompanied by a demonstrable commitment to continue operation of the water-dependent use;

c) uses are sited and operated so as not to interfere with the principal operation of the site for a water-dependent use; and

d) uses do not preclude future expansion of a water-dependent use.

2. Locations that exhibit important natural resource values, such as wetlands and fish and wildlife habitats, should be avoided, or potential impacts must be effectively mitigated.

3. Other uses may be incorporated in the waterfront, particularly water-enhanced and marine support services provided these uses:

   a) improve the working waterfront and its character;

   b) do not interfere with the efficient operation of another water-dependent use;

   c) make beneficial use of a Lakeside location through siting and design to increase public enjoyment of the waterfront.

10.4 Allow water-enhanced uses that complement and improve the viability of water-dependent uses.

In addition to water-dependent uses, certain uses that are enhanced by a waterfront location may be appropriate to locate along the shoreline in the Town of Hamburg. Water-enhanced uses are activities that do not require a location on the waterfront to function, but such a location could add to the public enjoyment and use of the area. Water-enhanced uses are generally of a recreational, cultural, commercial or retail nature.

1. When determining if a water-enhanced use is appropriate for siting along a waterfront, the following factors should be considered:

   a) the use would provide an economic incentive to prevent the loss of a water-dependent use;

   b) the use would be sited and operated so as not to interfere with water-dependent uses;

   c) the use would complement a water-dependent use;

   d) the use would be sited in a manner that does not preclude future expansion of a water-dependent use;

   e) the activity makes beneficial use of a shoreline location through siting and design to increase public enjoyment of the waterfront, improve the economic viability of the area, and enhance community character; and

   f) the use would be sited and operated so as to not interfere with public access along the water's edge.

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

Lack of effective water use management contributes to congestion and competition for space within harbors, lakes, surface waters and underwater lands. As a result, natural resources can be degraded and communities are not able to take advantage of tourism and economic growth opportunities.

1. To promote effective water use management, traditional land use planning techniques can be applied to the water surface in the following manner:

a) if warranted, water use zones should be established for uses such as docks, moorings, navigation channels and any special recreational areas (bathing, water skiing, personal watercraft, etc.);

b) to insure safety, vessel speed zones can be established and zones for bathing, water skiing and other recreational uses should be located away from marinas and commercial boating facilities;

c) marinas, in-water structures and surface water uses should not encroach upon navigation channels;

d) for uses that are not water-dependent (i.e., decks and platforms) should not be allowed on or over surface waters; and

e) the establishment of future use zones and the siting of in-water structures should be done in a manner that minimizes potential impacts on sensitive resources such as wetlands and fish and wildlife habitats.

10.6 Enhance the Town's waterfront, particularly in Sub-Area 1, as a quality of life amenity to attract potential businesses, laborers and visitors to the Town and region.

1. The waterfront if one of the Town's greatest assets. It should be properly developed, consistent with the objectives of Policy 1, to make this area an important part of the Town's economy and a safe, healthy and enjoyable place to live, work and visit.

2. Efforts to improve the waterfront should be properly planned and should be consistent with the Town's overall vision for the area.

3. Significant waterfront development should be located in Sub-Area 1, and supported with essential public services. Adequate public access, sufficient parking facilities and other support services should be available.

4. Public access should be provided as an important component of waterfront development and redevelopment projects and be linked to the existing and proposed network of bicycle and pedestrian pathways.

POLICY 11

Protect the sustainable use of living marine resources in the Town of Hamburg

Living marine resources play an important role in the social and economic well being of waterfront communities. Commercial and recreational use of living marine resources in Lake Erie constitutes an important contribution to the economy of the region and State. The continued recreational use of these resources depends on maintaining long-term health and abundance of fisheries resources and their habitats, and on ensuring that the resources are sustained in usable abundance and diversity for future generations. This requires the State's active management of fisheries, protection and conservation of habitat, restoration of habitats in areas where they have been degraded, and maintenance of water

quality at a level that will foster the occurrence and abundance of these resources. Allocation and use of the available resources must: 1) be consistent with the restoration and maintenance of healthy stocks and habitats, and 2) maximize the benefits of resource use so as to provide valuable recreational experiences and viable business opportunities for commercial and recreational fisheries.

This policy provides standards to ensure maintenance and health of living marine resources. It recognizes the importance of commercial and recreational use of fisheries stocks in our local waters and calls for the equitable allocation of resources. This policy also focuses on providing adequate infrastructure and support facilities for recreational and commercial users.

11.1 Ensure the long-term maintenance and health of living marine resources in Lake Erie.

Ensure that commercial and recreational use of living marine resources is effectively managed in a manner that:

- Eliminates contaminant threats to local marine communities.
- Places primary importance on maintaining the long-term health and abundance of fisheries.
- Results in sustained useable abundance and diversity of the resource.
- Does not interfere with population and habitat maintenance and restoration efforts.
- Uses best available scientific information in managing the resources.
- Minimizes waste and reduces discard mortality of fishery resources.

1. Ensure that the management of the state's transboundary and migratory species is consistent with interstate, state, federal, and inter-jurisdictional management plans.
2. Protect and manage native stocks and restore sustainable populations of indigenous fish and wildlife species and other living marine resources.
3. Foster the occurrence and abundance of marine resources in Lake Erie through the protection and enhancement of water quality; and the protection, enhancement and restoration of spawning grounds and other breeding habitat.

11.2 Provide for and promote the recreational use of marine fisheries in Lake Erie.

1. Maximize the benefits of resources to provide valuable recreational resource experience and viable business opportunities for commercial and recreational fisheries.
2. Where fishery conservation and management require actions that would result in resource allocation impacts, ensure equitable distribution of impact among user groups, giving priority to existing fisheries in the state.
3. Protect public health and ensure the marketable fisheries resources are not contaminated.
    a) Advise the public regarding health risks of consuming fish contaminated with toxics.

b) Restrict the harvest of fish when they are contaminated with toxics exceeding established public health thresholds.

c) Maintain water quality and wholesomeness of the fishery and marketable marine resources to protect public health.

4. Provide adequate infrastructure to meet recreational needs including appropriate fishing piers, dockage, parking, and livery services.

a) Foster direct public recreational use of marine resources from the shoreline.

b) Promote commercial party and charter businesses in on Lake Erie.

c) Encourage the provision of areas suitable for shoreline fishing, where feasible, when considering public access as a part of development and redevelopment plans for waterfront properties.

POLICY 12

Protect existing agricultural lands

The intent of this policy is to conserve and protect important agricultural uses in the Town of Hamburg by preventing the conversion of prime farmland to other uses and protecting existing and potential agricultural production.

While agriculture is still considered an important part of the Town economy and there are still several farms and nurseries located in other areas of the Town, the LWRA contains no farmland or farming operations associated with activities conducted elsewhere in the Town. Therefore, Policy 12 is not applicable.

POLICY 13

Promote appropriate use and development of energy and mineral resources

Portions of the Town of Hamburg waterfront have a history of industrial use. Overtime there has been a shift in this emphasis, and the legacy of industrial use has provided a desire to develop the waterfront with cleaner, more acceptable uses that provide broader service to the public, shifting industrial use to more suitable inland locations. There are no existing hydroelectric power generation facilities along the Hamburg waterfront. There are also no sites along Lake Erie where the benefits of developing hydroelectric generating facilities are not outweighed by the economic costs and the potential adverse impacts on natural resources and to the public. In addition, land uses associated with mineral extraction are not considered desirable for the waterfront.

13.1 Conserve energy resources and promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation.

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

a) promoting an increased use of public transportation to the extent feasible, where practical;

b) integrating modes of transportation (pedestrian, bicycle, auto and waterborne);

c promoting energy efficient design in new developments; and

d) promoting greater energy generating efficiency through upgrades of existing public facilities.

13.2 Major energy generating and transmission facilities, which utilize non-renewable resources, are considered inappropriate uses that would not provide a significant benefit along the waterfront and should not be sited in this area.

13.3 Minimize adverse impacts from aboveground and underground fuel storage facilities.

In accordance with the standards of Title 17, Article 23 of the Environmental Conservation Law and the Federal Safety Standards (40 CFR Part 193):

a) ensure that storage and retention of petroleum products along the Town of Hamburg waterfront is performed in accordance with NYSDEC regulations;

b) because of the high potential for hazard associated with liquefied natural gas facilities, these facilities are considered inappropriate and would not provide significant public benefit along the Hamburg waterfront and, thus, such uses should not be sited in this area; and

c) natural resources must be protected by complying with local, county and state regulations and oil spill contingency plans.

13.4 Commercial mining and other mineral or gravel extraction activities are considered inappropriate uses for the Town of Hamburg waterfront and should be prohibited.

13.5 Ice management practices shall not interfere with infrastructure systems, impair significant fish and wildlife and their habitats or increase shoreline erosion or flooding.

13.6 Discourage the development of offshore energy resources in Lake Erie.

The Town recognizes the need to develop new indigenous energy sources but also recognizes that such development may endanger the environment. Thus, the Town discourages the development of offshore energy resources in Lake Erie. In addition, State law currently prohibits the development of 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 production of liquid hydrocarbons in Lake Erie, either alone or in association with natural gas.