

### **SECTION III – Local Waterfront Revitalization Program Policies Overview**

Section III presents the waterfront revitalization policies and their associated standards that are to be used in guiding appropriate development and actions for the Village of Middleport. These policies consider the physical, economic, environmental and cultural characteristics of the Village. 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 the waterfront resources in the Village without undo impacts. The following is a list of the Village of Middleport LWRP Policies:

#### **Community Character**

Policy 1 - Foster a pattern of development in the Village of Middleport 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

#### **Economic Development**

Policy 2 – Protect existing water-dependent uses in the Village of Middleport and promote the siting of new water-dependent uses in suitable locations

Policy 3 – Protect existing agricultural lands in the Village of Middleport

Policy 4 – Protect sustainable use of living marine resources in the Village of Middleport

#### **Waterfront Natural Resources**

Policy 5 – Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands and rare ecological communities

Policy 6 – Protect and improve water resources

Policy 7 – Minimize loss of life, structures and natural resources from flooding and erosion

#### **Environmental Protection**

Policy 8 – Protect and improve air quality

Policy 9 – Promote appropriate use and development of energy and mineral resources

Policy 10 – Minimize environmental degradation from solid waste and hazardous substances and wastes

#### **Recreation and Cultural Resources**

Policy 11 – Improve public access to the waterfront and the use of public lands

Policy 12 – Enhance visual quality and protect outstanding scenic resources

Policy 13 – Preserve historic resources

## COMMUNITY CHARACTER

**POLICY 1       Foster a pattern of development in the Village of Middleport 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 Village of Middleport is defined by a pattern of Village residential and commercial development that is clustered around an historic business center and the Erie Canal. The long standing planning goals of the Village are aimed at preserving and enhancing the character of the central business district and its relationship to the Canal, and providing opportunities for the growth and expansion of the economic base of the Village that are compatible with the existing scale of development and the availability of services in the 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 Village of Middleport. The primary components of the desired development pattern are: strengthening activity in the central business district, encouraging water-dependent uses along the Canal that support tourist related activities, protecting and improving stable residential areas, improving recreational opportunities, and preserving and protecting open space and significant natural resources. Development that does not reinforce the traditional pattern of development in the Village would adversely impact the community character of the area.

### Policy Standards

**1.1       Concentrate development and redevelopment in order to revitalize deteriorated and underutilized uses and strengthen the traditional waterfront focus of the area in and adjacent to the central business district.**

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, and in other sections of the Village, should be appropriate to the setting and character of the Village and highlight existing resources, such as the local history and important natural or man-made features to reinforce community identity. The waterfront should be designed and developed as a focus for activity that draws people to the area and links the Canal to the central business district (CBD). 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 should be recognized as a limiting factor to the development or redevelopment of certain areas.

Revitalization efforts in the Village should focus on reducing the high vacancy rates in the CBD. The reuse and redevelopment of underutilized properties is vital to the economic vitality of this area and to improving tourism activity. The former Basket Factory Restaurant property and the former Lone Star Hotel site should be revitalized to improve and promote public access and tourism, and to help foster additional revitalization efforts. In addition to the CBD, revitalization efforts should be focused on the existing and former industrial properties located on the north side of the railroad corridor, both east and west of Main Street.

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

- using building and site design to make beneficial use of the Canal location and associated waterfront resources;
- 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;
- 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 Canal;
- attracting people to the waterfront, as appropriate to the use;
- reinforcing community identity by highlighting local history and important natural and man-made features;
- ensuring that design and siting of uses and structures complements the surrounding community and landscape, particularly the central business district;
- using indigenous plants as components of landscape design to improve habitat and water quality, and to lessen water demands; and
- using appropriate signage and other amenities to promote tourist activities.

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

The amount of waterfront area and associated resources in the Village of Middleport is limited. Thus, all uses proposed for the waterfront should relate to the unique qualities of the area and should be appropriate for the location. When planning waterfront development or redevelopment, the waterfront location should be reflected in the siting, design and orientation of the development. 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 Canal.

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

- attract people to or near the waterfront and provide opportunities for access;
- provide public views to or from the water;
- link the waterfront to the central business district;
- minimize consumption of waterfront land; and
- not cause significant adverse impacts to community character and surrounding land and water resources.

Uses should be avoided that would:

- result in unnecessary and avoidable loss of significant waterfront resources;
- ignore the waterfront setting as indicated by design or orientation; and
- 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 commercially or ecologically 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, unique forest cover types and habitats, and old fields. 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 Village community.

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

To enhance community character and maintain the quality of the waterfront and central business district in the Village of Middleport, the potential adverse impacts of new development and redevelopment on existing land uses, the natural environment and the local economy should be addressed and mitigated, as required. Development should reflect 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 rural character of the central business district, the adjacent canal corridor and the Village as a whole. Waterfront development and redevelopment should be integrated with the central business district and adjacent upland areas by providing physical linkages between these areas, matching uses to community needs, and limiting exclusion of the Canal area from the surrounding community.

Potential economic impacts should be minimized as follows:

- prevent deterioration of the waterfront and the surrounding area by not allowing derelict and dilapidated conditions to prevail;
- avoid uses that detract from community character of the Village;
- prevent the isolation of community uses and people from the waterfront; and
- 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 in the Village are important to the overall character 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.

## **ECONOMIC DEVELOPMENT POLICIES**

### **POLICY 2            Protect existing water-dependent uses in the Village of Middleport and promote the siting of new water-dependent uses at suitable locations**

Maritime activity in the Village of Middleport has traditionally concentrated along the Erie Canal. 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. The intent of this policy is to protect existing water-dependent uses along the Canal 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.

#### **Policy Standards**

##### **2.1      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, tour and charter boat establishments, ferry services, public and quasi-public utility uses, and marine education facilities). Such uses should be protected and promoted. Water-dependent uses in the Village of Middleport include the marina at the Basket Factory restaurant.

##### **2.2      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.

Water-dependent uses should be sited in locations where:

- waterside and upland access, as well as upland space for parking and other support facilities, is adequate;
- the 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;
- water quality classifications are compatible with the use; and
- the need for dredging is minimized.

New or expanding marinas should:

- incorporate marine services and boat repair, as feasible, to meet a range of boating needs;
- not encroach upon navigation channels or channel buffer areas;
- incorporate public access to the Canal through the provision of access from the upland, boat ramps, and transient docking facilities;
- limit discharges of vessel wastes by providing pump out facilities; and
- avoid or minimize adverse impacts on natural resources and the character of the surrounding area.

### **2.3 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 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.

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

- accessory uses are subordinate and functionally related to the principal water-dependent use and contribute to sustaining the water-dependent use;
- mixed uses subsidize the water-dependent use and are accompanied by a demonstrable commitment to continue operation of the water-dependent use;
- 1. uses are sited and operated so as not to interfere with the principal operation of the site for a water-dependent use; and
- uses do not preclude future expansion of a water-dependent use.

Locations that exhibit important natural resource values, such as wetlands and fish and wildlife habitats, should be avoided.

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

- improve the working waterfront and its character;
- do not interfere with the efficient operation of another water-dependent use; and
- make beneficial use of a canalside location through siting and design to increase public enjoyment of the waterfront.

### **2.4 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 Canal in the Village of Middleport. 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. Water-enhanced uses should be compatible with water-dependent uses, provide beneficial support, and have a positive impact on the waterfront. Water-enhanced uses should also be in concert with the character of the Village's central business district.

### **2.5 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, canals, 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.

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

- 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.);
- 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;
- marinas, in-water structures and surface water uses should not encroach upon navigation channels;
- uses that are not water-dependent (i.e., decks and platforms) should not be allowed on or over surface waters; and
- 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.

### **POLICY 3      Protect existing agricultural lands in the Village of Middleport**

This policy is not applicable in the Village of Middleport because the Village contains a very limited amount of farmland. This farmland is associated with farming operations situated outside of the Village and, as such, is not an important part of the Village economy.

### **POLICY 4      Protect the sustainable use of living marine resources in the Village of Middleport**

Living marine resources play an important role in the social and economic well being of waterfront communities. The commercial and recreational use of living marine resources constitutes an important contribution to the economy of the State. The continued recreational use of living marine resources in the Village of Middleport 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.

### **Policy Standards**

#### **4.1      Ensure the long-term maintenance and health of living marine resources.**

Native stocks should be protected and managed, and indigenous fish and wildlife and other marine living resources should be restored to sustainable populations. Protection of native stocks includes protecting the genetic integrity of recognizable native populations that can be placed at risk by inappropriate stocking. Native stocks also need to be protected from adverse impacts due to the introduction of non-indigenous species. Furthermore, the occurrence and abundance of marine resources should be fostered through the protection, enhancement and restoration of habitats and water quality.

#### **4.2 Provide for and promote the recreational use of marine fisheries.**

To better promote the use of marine resources in the Canal, adequate infrastructure should be provided to meet recreational fishing needs, including fishing piers, dockage, parking and livery services.

### **WATERFRONT NATURAL RESOURCES**

#### **POLICY 5 Protect and restore the quality of ecological resources throughout the Village of Middleport**

There are certain natural resources in the Village of Middleport that warrant protection and restoration. These resources, which include the Erie Canal, Jeddo Creek, wetland areas, and discrete plant and animal populations, contribute to the quality of life in the Village 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.

#### **Policy Standards**

##### **5.1 Protect and restore ecological quality throughout the Village of Middleport, including freshwater wetland resources.**

There are no State-designated significant coastal fish and wildlife habitats in the Village of Middleport. There are, however, 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. To further the protection and restoration of these resources, the excavation of 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.

Although Jeddo Creek is not a large and actively flowing stream corridor, it does provide certain ecological value to the area. This creek should be protected from adverse impacts that would degrade water quality, impede flow, alter its natural habitat characteristics or impair its ability to function as an intermittent stream. Wherever possible, Jeddo Creek should be enhanced and restored as an ecological resource.

##### **5.2 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.

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

1. compliance with the statutory and regulatory requirements of the Freshwater Wetlands Act and Stream Protection Act; and
2. prevention of the net loss of wetlands by:
  - a) avoiding placement of fill or excavation of wetlands;
  - b) minimizing adverse impacts resulting from unavoidable fill, excavation or other activities;



- c) providing compensatory mitigation for adverse impacts that may result from unavoidable fill, excavation or other activities remaining after all appropriate and practicable minimization has been accomplished; and
- d) providing and maintaining adequate buffers between wetlands and adjacent or nearby uses and activities in order to ensure protection of the character, quality, value and function of the wetlands area.

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:

1. avoidance of potential adverse impacts, including:
  - a) avoiding ecologically sensitive areas
  - b) scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions
  - c) preventing fragmentation of intact habitat areas;
2. minimization of unavoidable potential adverse impacts, including:
  - a) reducing the scale or intensity of the use or development
  - b) designing projects to result in the least amount of potential adverse impacts
  - c) choosing alternative actions or methods that would lessen potential impacts; and
3. specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment.

## **POLICY 6     Protect and improve water resources**

The purpose of this policy is to protect the quality and quantity of surface and groundwater in the Village of Middleport. Water quality considerations include the management of both point and non-point source pollution and wellhead protection measures. Water quality protection and improvement must be accomplished by managing new, and remediating existing, sources of water pollution.

### **Policy Standards**

#### **6.1     Prohibit direct or indirect discharges that would cause or contribute to the contravention of water quality standards and targets.**

Prevent point source discharges to local surface waters and manage or avoid land uses that would:

- exceed established and applicable effluent requirements or cause or contribute to the contravention of water quality classifications and use standards; or
- adversely affect the quality of receiving waters.

Ensure effective treatment of sanitary waste and industrial discharges by:

- maintaining efficient operation of sanitary wastewater and industrial waste treatment facilities;
- providing effective secondary treatment for sanitary sewage;

- modifying existing sewage treatment facilities to provide improved nitrogen removal capacity;
- 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;
- 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,
- installing low-flow water conservation fixtures in all new development and when replacing fixtures in existing development; and
- controlling the loadings of toxic materials into the surface waters of the Canal or Jeddo Creek by including limits on toxic metals as part of wastewater treatment plant effluent permits and by enforcing existing pre-treatment requirements.

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

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

1. Limit non-point sources of pollution by:
  - a) reducing or eliminating the introduction of materials that may contribute to non-point source pollution;
  - b) minimizing activities that would increase off-site stormwater runoff and the transport of pollutants;
  - c) controlling and managing stormwater runoff to minimize the transport of pollutants, restore degraded natural stormwater runoff conditions, and achieve a no-net increase of runoff where unimpaired stormwater runoff conditions exist;
  - d) retaining or establishing vegetation to maintain or provide soil stabilization and filtering capacity;
  - e) preserving natural hydrological conditions to maintain natural surface water flow characteristics and retain natural watercourses and drainage systems (where present); and
  - f) 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.

**6.3 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 pre-development loading levels.
  - b) For site development, limit activities that increase erosion or the amount or velocity of stormwater runoff.
  - c) For construction sites, reduce erosion and retain sedimentation on site, and limit and control the use of chemicals and nutrients.
  - d) For 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 vessel pumpout technologies.
  - c) Properly manage stormwater runoff, discharges of hazardous substances, and solid waste disposal.
3. Floatables and litter
  - a) Prohibit all direct and indirect discharges of refuse or litter into waters of the Canal and Jeddo Creek, or upon public lands contiguous to and within 100 feet of the Canal 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 Canal.
  - d) Implement pollution prevention and education programs to reduce the discharge of floatables and litter in the Canal and Village storm drains.
4. Agriculture
  - a) Control soil erosion and contain sediment in order to avoid entry of soils into canal waters.
  - b) Manage nutrient loadings and pesticide applications by applying only the amounts needed for crop growth, by applying these materials only when economically appropriate and in a safe manner, and avoiding applications that will result in loadings to canal waters.
  - c) Manage irrigation and use of chemicals to avoid contamination of return flows laden with fertilizers, pesticides and their residues, or accumulated salts, and prevent contamination of canal waters by avoiding backflow of waters used to apply chemicals through irrigation.

**6.4 Protect and enhance surface water quality.**

1. Protect the water quality of the Canal and Jeddo Creek 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 factors (oils, floatables, reuse and suspended solids).

2. Minimize the disturbance of streams, particularly Jeddo Creek, 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 Canal and Jeddo Creek from the adverse impacts associated with excavation, fill, dredging and the disposal of dredged materials.

#### **6.5 Protect and conserve the quality and quantity of groundwater resources**

1. Prevent contamination of groundwater resources by limiting discharges of pollutants to maintain water quality according to water quality classification and by limiting land use practices that are likely to contribute to the contravention of surface and groundwater quality classifications for potable water supplies.
2. Prevent the depletion of existing potable water supplies by allowing for the recharge of groundwater resources.

#### **POLICY 7 - 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 Village of Middleport contains flood zones that have been designated by the Federal Emergency Management Agency and are depicted on Map 7. The Village participates in the National Flood Insurance Program and development in the floodplain is regulated under Chapter 102 of the Village 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 102, any development action that is proposed within the regulated flood zones requires a permit from the Village Zoning Enforcement Officer and must be in compliance with the standards outlined in the law (see Appendix C).

In the Village of Middleport, the Erie Canal is a man-made cut channel and, as such, is not prone to flooding. The provisions of this policy are, however, applicable to the flood areas adjacent to Jeddo Creek.

In the Village of Middleport, localized flooding is a problem along Kelly Street and Francis Street, where undersized drainage culverts cannot accommodate the volume of stormwater runoff generated from significant rainfall events. Infrastructure improvements are required in this area to mitigate this problem. Erosion has not been a significant problem in the Village to date.

#### **Policy Standards**

##### **7.1 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.
2. In all areas of special flood hazards the following standards are required.
- a) Anchoring
    - All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement of the structure.
    - All manufactured homes shall be installed using methods and practices that minimize flood damage. Manufactured homes must be elevated and anchored to resist floatation, collapse and lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - b) Construction materials and methods
    - All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
    - All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - c) Utilities
    - Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
    - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
    - New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
    - On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
  - d) Subdivision proposals
    - All subdivision proposals shall be consistent with the need to minimize flood damage.
    - All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.
    - All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

- Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.
- e) Encroachments
- All proposed development in riverine situations where no flood elevation data is available (unnumbered A zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in Development Permit review procedures. This may require the submission of additional data to assist in the determination.
  - In all areas of special flood hazard in which base flood elevation data is available pursuant to the provisions of Subsections 12B and 13D(4) of the Village of Middleport Flood Damage Prevention Law, and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
  - In all areas of the special flood hazard where floodway data is provided or available, the requirements of this policy shall apply.
3. In all areas of special flood hazards where base flood elevation data has been provided, the following standards are required.
- a) New construction and substantial improvements of any residential structure shall comply with the following:
- Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
  - Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
    - a 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 shall be not 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.
- b) New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation, or be floodproofed to the base flood level.
- If the structure is to be elevated, fully enclosed areas below the base flood elevations shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following 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 shall be not 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.
  - If the structure is to be floodproofed:
  - a licensed professional engineer or architect shall develop and/or review structural designs, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relations to mean sea level) to which the structure is floodproofed.
  - The Zoning Enforcement Officer shall maintain on record a copy of all such certificates noted in this policy.
- c) Construction standards for areas of special flood hazards without basement flood elevations, include the following:
- new construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated at least two feet above the highest adjacent grade next to the proposed foundation of the structure.
  - fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
  - a minimum of two openings having a total new area of not less than one square inch for every square foot of enclosed area subject to flooding
  - the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade
  - openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.
4. Minimize loss of structures and natural resources in floodways

Located within areas of special flood hazards are areas designated as floodways. The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site (as outlined in Subsections 102-6 and 102-12B of the Flood Damage Prevention Law), all encroachments, including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

**7.2 Manage navigation channel infrastructure to limit adverse impacts on natural processes.**

Design construction and maintenance for the Erie Canal to prevent destabilization of adjacent areas by:

- using dredging setbacks from established channel edges and designing finished slopes to ensure their stability;
- locating channels away from erodible features, where feasible, and
- preventing adverse alteration of basin hydrology.

**7.3 Expend public funds for the management or control of flooding only in areas that will result in proportionate public benefit.**

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

- should be limited to those circumstances where public benefits exceed public costs;
- is prohibited for the exclusive purpose of flooding and erosion protection for private development; and
- may be apportioned among each level of participating governmental authority according to the relative public benefit accrued.

**ENVIRONMENTAL PROTECTION**

**POLICY 8 Protect and improve air quality**

This policy provides for the protection of the air quality in the Village of Middleport.

**Policy Standards**

**8.1 Comply with State standards that control and prevent the degradation of air quality in the Village.**

New land uses and development in the Village of Middleport should comply with the following:

1. Limit pollution resulting from new or existing stationary air contamination sources consistent with:
  - attainment or maintenance of any applicable air quality standards,
  - applicable New Source Performance Standards,
  - applicable control strategy of the State Implementation Plan, and
  - 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.

**8.2 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 Village 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.

**8.3 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 Village shall provide necessary information, as appropriate, to the State to enable the State to effectively administer its air quality statutes pertaining to atmospheric radioactive material.

**8.4 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 Village shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to chlorofluorocarbon compounds.

**POLICY 9 - Promote appropriate use and development of energy and mineral resources**

This policy calls for the conservation of energy resources in the Village of Middleport and addresses alternative energy sources. It provides standards to ensure maximum efficiency and minimum environmental impacts when siting energy facilities, presents standards to minimize the impact of large fuel storage facilities and sets standards for land excavation and dredging.

**Policy Standards**

**9.1 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:

- promoting an increased use of public transportation to the extent feasible, where practical;
- integrating modes of transportation (pedestrian, bicycle, auto and waterborne);
- promoting energy efficient design in new developments; and
- promoting greater energy generating efficiency through upgrades of existing public facilities.

## **9.2 Consider energy use and environmental impacts in the siting of energy generating facilities.**

Energy generating facilities may be sited in the Village of Middleport where a clear public benefit is established using the following factors:

- there is a demonstrated need for the facility;
- the facility will satisfy additional electric system or capacity needs;
- available alternative methods for power generation and alternative sources of energy cannot reasonably meet the public need;
- upgrades of existing facilities cannot reasonably meet the public need; and
- the facility incorporates feasible public recreational uses.

New energy generating and transmission facilities should not be sited so as to adversely impact commercial or recreational navigation, wetlands and important habitats, and historic and scenic resources.

## **9.3 Minimize adverse impacts from 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):

- ensure that production, storage and retention of petroleum products in the Village of Middleport is performed in accordance with State DEC regulations;
- Liquefied natural gas facilities must be safely sited and operated; and
- Natural resources must be protected by complying with local, county and state regulations and oil spill contingency plans.

## **9.4 Ensure that mining, excavation and dredging do not cause an increase in erosion, an adverse effect on natural resources or degradation of visual resources.**

This sub-policy regulates land excavation and dredging activities in the Village of Middleport. Due to the disruptive nature of these activities caution must be exercised to ensure these activities do not adversely affect natural resources or disturb the human environment. The impact on visual resources is also important since the scenic character of the waterfront is important to the vitality of the Village.

## **POLICY 10 - Minimize environmental degradation from solid waste and hazardous substances and wastes**

The intent of this policy is to protect people from sources of contamination and to protect the waterfront resources of the Village of Middleport 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 Village of Middleport.

### **Policy Standards**

#### **10.1 Manage solid waste to protect public health and control pollution.**

- Solid wastes are those materials defined under ECL §27-0701 and 6 NYCRR part 360-1.2.

- Plan for proper and effective solid waste disposal prior to undertaking major development or redevelopment activities that generate solid waste.
- Prevent the discharge of solid wastes into the Village environment by using proper handling, management and disposal practices.

## **10.2 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) phase out land disposal of industrial hazardous wastes.
3. Remediate inactive hazardous waste disposal sites.
  - a) Expedite the remediation of substances hazardous to developed areas in the Village 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.

## **10.3 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 Village.
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.
2. 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.

#### **10.4 Prevent and remediate the discharge of petroleum products.**

- 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.
- Clean up and remove any petroleum discharge that occurs in the Village or Village waters.

#### **10.5 Site solid and hazardous waste facilities to avoid potential degradation of coastal resources.**

Preclude the impairment of canal resources from solid or hazardous waste facilities by siting these facilities so that they are not located or would not adversely affect agricultural lands, surface waters and sources of potable water, fish and wildlife habitats and wetlands.

### **RECREATION AND CULTURAL RESOURCES**

#### **POLICY 11 Improve public access to the waterfront and the use of public lands**

Along many stretches of the Erie Canal, 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 waterfront inaccessible and new development can potentially reduce or eliminate remaining opportunities to provide meaningful public access along the Canal, particularly on the south side. In addition to the loss of opportunities for physical access, visual access has also been effected due to the reduction of vantage points or outright blockage of views. Given the lack of adequate public access and recreation, this policy incorporates measures necessary to provide enhanced access along the Canal 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 Village of Middleport has a number of access points along the Canal, some of which provide passive recreational opportunities. The main objective of the Village is to improve these facilities, to provide increased public access to the waterfront and enhance recreational opportunities for residents and visitors. Areas of particular importance include the area in the vicinity of the Village Department of Public Works (DPW) building, where shoreline improvements, as well as improvements to the existing amenities in the DPW garage, are warranted to improve public

access opportunities. In addition, on the north side of the Canal, the area immediately west of and including Margaret Droman Park requires improvements to promote and enhance opportunities for public access and recreation.

The Village of Middleport will take the necessary steps to maximize the appropriate use of the Canal waterfront and ensure public access in a manner that will not adversely impact significant natural resources. The Village will also make every effort to encourage and ensure that existing Canal infrastructure, which is owned and/or operated by the New York State Canal Corporation, will be maintained in a manner that will promote safe and improved public access and recreation along the Canal.

## **Policy Standards**

### **11.1 Promote appropriate physical access and recreation along the Canal and throughout the Village.**

Improving public access to the Erie Canal in the Village of Middleport is very important. Public access and recreation facilities can attract tourists, improve the quality of life for residents and help to enhance the economic vitality of the Village. The following standards should be utilized to guide future decision making with regard to public access and the expansion of recreational opportunities along the Canal waterfront.

1. Provide a level of public access and recreational uses that take into account proximity to the central business district, public demand, the type and sensitivity of natural resources that may be affected, accessibility, the needs of special groups such as the elderly or persons with disabilities, and the potential for adverse impacts to adjacent land uses.
2. Provide convenient, well-defined physical public access to and along the Canal for water-related recreation and throughout the Village 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.
4. Provide additional physical public access and recreational facilities where appropriate throughout the Village.
  - 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 Canal.
  - 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 Canal 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 Canal waters.
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.

**11.2 Provide public visual access to the Canal and adjacent shoreline open space at all sites where physically practical.**

To the greatest extent possible, views of the Erie Canal 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 Canal.

1. To avoid loss of existing visual access:
  - a) limit physical blockage of existing visual access to the Canal 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 Canal; 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 Canal 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. To increase visual access to the canal:
  - a) provide interpretative exhibits at appropriate locations for visual access to enhance public understanding and enjoyment of the Canal, its scenic features 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.

**11.3 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 Canal.
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.

#### **11.4 Provide access and recreation that is compatible with natural resource values.**

Limit public access and recreational activities where uncontrolled public use would lead to impairment of the canal or Jeddo Creek.

### **POLICY 12 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.

#### **Policy Standards**

#### **12.1 Protect and improve the visual quality of the Village of Middleport.**

The visual quality of the Village landscape is a major contributor to the community character of the Village of Middleport. The Village includes the historic central business district, which is the strongest visual element, along with characteristic residential areas, the well-defined Canal corridor, and open space. In addition, the Village contains a variety of cultural elements in the landscape. These resources should be protected and enhanced. In addition, wetlands, shorelines in natural condition, and open space along the upland all contribute to scenic quality. Structures or activities that introduce visual interruptions to the natural landscape along the shoreline, such as intrusive artificial light sources or massive structural intrusion into open areas, should be avoided.

#### **12.2 Protect and enhance the visual quality of the Village central business district.**

The Village's central business district offers a special visual ambience that should be preserved and enhanced. Many of the structures in this district are historic or worthy of historic designation. Efforts should be made to improve and enhance the visual quality of the central business district through appropriate streetscape design, characteristic signage and other aesthetic improvements. Such efforts would aid in

boosting the attractiveness of this area, thereby making the district a more inviting location for tourism and economic activity and improving its overall connection to the waterfront.

### **POLICY 13 - Preserve historic resources in the Village of Middleport**

The historic resources in the Village of Middleport are a reminder of the community's early development and its rich waterfront tradition. As identified in Section II.E, historic structures in the Village include: the James Northam boathouse, the Universalist Church, the Philip Freeman house, the Village Post Office, the group of twelve structures on the east side of Main Street in the central business district, the Basket Factory Restaurant, St. Stephens Church, the United Methodist Church, and the Town and Country Inn. The historic and architectural value of these resources has been recognized by the listing of three properties on the State and National Register of Historic Places. Others have been locally designated as historically significant. Furthermore, the New York State Archaeological Sensitivity Map (NYSOPRHP, 1992) identifies the entire Village of Middleport as a zone of archaeological sensitivity.

In addition to the above noted historic structures (also see Map 6), historic resources that would be covered under this policy include those structures, districts, areas and sites that are listed or designated as follows:

- any historic resource in a federal or state park established solely or in part to protect and preserve the resource;
- any resource on, nominated to be on, or determined to be eligible for listing on the National or State Register of Historic Places;
- any cultural resource managed by the New York State Natural and Historic Preserve Trust or the New York State Natural Heritage Trust;
- 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
- 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 Village. 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 Village of Middleport.

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:

- time, place and use;
- materials, features, spaces and spatial relationships;
- setting within the physical surroundings and community; and
- association with historic events, people or groups.



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

- its membership within a group of related resources, that would be adversely impacted by the loss of any one of the group;
- the rarity of the resource in terms of the quality of its historic elements or in the significance of it as an example; or
- the significance of events, people or groups associated with the resource.

## **Policy Standards**

### **13.1 Maximize the preservation and retention of historic resources in the Village.**

1. The historic character of significant resources identified in the Village 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
4. ensure the protection of historic elements through a program of non-intrusive maintenance of important materials and features.
2. Repair historic materials and features using recognized preservation methods when physical condition warrants such repair.
3. 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.
  1. Alterations should not obscure, destroy or radically change character defining spaces, materials, features or finishes in order to reduce adverse impacts to the resource.
  2. 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.
  3. 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.
  4. 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.
4. 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.
5. 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.
6. 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.

### **13.2 Protect and preserve archaeological resources.**

1. When a development action is proposed in the Village of Middleport 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.
2. 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.
3. 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.
4. With respect to activities that involve excavation in the Village of Middleport, 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.