

**SECTION III**

**WATERFRONT REVITALIZATION PROGRAM POLICIES**

## **DEVELOPMENT POLICIES**

**POLICY 1            THE STATE COASTAL POLICY REGARDING THE REDEVELOPMENT OF DETERIORATED WATERFRONT AREAS IS NOT APPLICABLE TO THE CITY OF RYE.**

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

### **Explanation of Policy**

There is a finite amount of waterfront space suitable for development purposes. Consequently, while the demand for any given piece of property will fluctuate in response to varying economic and social conditions, on a statewide basis the only reasonable expectation is that long-term demand for waterfront space will intensify.

The traditional method of land allocation, i.e., the real estate market, with or without local land use controls, offers little assurance that uses which require waterfront sites will, in fact, have access to the State's coastal waters. To ensure that such water dependent uses can continue to be accommodated, State, federal and local agencies will avoid undertaking, funding, or approving non-water dependent uses when such uses would preempt the reasonably foreseeable development of water dependent uses; furthermore, State, federal and local agencies will utilize appropriate existing programs to encourage water dependent activities.

The following uses and facilities are considered to be water dependent:

1.     Uses which depend on the utilization of resources found in coastal waters (for example: fishing, mining of sand and gravel, mariculture activities);
2.     Recreational activities which depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing);
3.     Uses involved in the sea/land transfer of goods (for example: docks, loading areas, pipelines, short-term storage facilities);
4.     Structures needed for navigational structures (for example: locks, dams, lighthouses);
5.     Flood and erosion protection structures (for example: breakwaters bulkheads);
6.     Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards);

7. Uses requiring large quantities of water for processing and cooling purposes (for example: hydroelectric power plants, fishing processing plants, pumped storage power plants);
8. Uses that rely heavily on the waterborne transportation of raw materials or products which are difficult to transport on land, thereby making it critical that a site near to shipping facilities be obtained (for example: coal export facilities, cement plants, quarries);
9. Uses which operate under such severe time constraints that proximity to shipping facilities becomes critical (for example: firms processing perishable foods);
10. Scientific/educational activities which, by their nature, require access to coastal waters (for example: certain meteorological and oceanographic activities); and
11. Support facilities which are necessary for the successful functioning or permitted water dependent uses (for example: parking lots, snack bars, first aid stations, short term storage facilities). Though these uses must be near the given water dependent use, they should as much as possible be sited inland from the water dependent use rather than on the shore.

In addition to water dependent uses, uses which are enhanced by a waterfront location should be encouraged to locate along the shore, though not at the expense of water dependent uses. A water enhanced use is defined as a use that has no critical dependence on obtaining a waterfront location, but the profitability of the use and/or the enjoyment level of the users would be increased significantly if the use were adjacent to, or had visual access to, the waterfront. A restaurant which uses good site design to take advantage of a waterfront view and a golf course which incorporates the coastline into the course design, are two examples of water enhanced uses.

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

Available space along the Rye waterfront suitable for development is limited. Because long-term expectations are for increased demands for waterfront property, the properties identified in this policy will be retained for water-dependent and water enhanced uses. To insure that the desired mix of water dependent and water enhanced uses are maintained in the City of Rye, the following uses on the following properties are permitted:

## **A. Membership Club District**

### **Properties**

American Yacht Club  
Shenorock Shore Club  
Coveleigh Club  
Westchester Country Club  
Manursing Island Club

### **Permitted Main Uses**

Membership clubs such as beach, yacht, and other similar water related and water enhanced clubs are the permitted main uses, but only if incorporated as not-for-profit corporations pursuant to New York State Law.

### **Uses Permitted Subject to Additional Standards and Requirements**

A single detached residence on its own lot for not more than one family may be permitted if the following standards are met:

1. The proposed use will be appropriate in the proposed location and will have no material adverse effect on existing or prospective conforming development and the proposed site is adequate in size for the use.
2. In cases where conversion is proposed of a structure designed and built originally for other uses, the structure will be adaptable.
3. The proposed use will be provided with adequate off-street parking to meet its needs, properly screened from adjoining residential uses, and entrance and exit drives are to be laid out to minimize traffic hazards and nuisance.
4. The potential generation of traffic will be within the reasonable capacity of the existing or planned streets and highways providing access to the site.
5. There are adequate public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent that may be caused or created as a result of the use.
6. A conventional subdivision or grouped subdivision will accomplish the following:
  - a. Preserve all wetlands and floodplains.

- b. All buildings and facilities shall be so arranged as to preserve, to the maximum extent practicable, the view of the shoreline from public streets.
- c. The open space to be reserved shall include, where applicable, wetlands, and floodplains, and scenic natural and ecological features. Structures shall be sited to preserve views of the shoreline from public streets. If the foregoing does not require the full 50% of the required open space, then the remaining required open space to be reserved shall be located between the shoreline and an inland line essentially parallel to the shoreline as a buffer area to protect surface water quality.

For list of Permitted Accessory Uses, refer to p.A-7 of this document the following accessory uses are permitted when associated with a membership club or public recreational use:

**Building Height and Parking Requirements**

Building heights are limited to two and one-half stories. Parking requirements are as follows:

Use	Number of Spaces Per Unit	Unit of Measurement and Conditions
Small boat facilities	8	10 berths or mooring spaces
And, in addition	1	Each person to be employed on the premises
Tennis and badminton courts	8	Court
Restaurant or similar use	2	200 square feet of floor area devoted to patron use
Home for 1 or 2 families	1	Dwelling unit

**B. Waterfront Recreation District**

**Properties**

- Rye Golf Club
- Playland (excluding nature preserve)
- Rye Town Park

### Permitted Main Uses

1. Public recreational uses. Municipal recreation buildings, playgrounds, parks and reservations, provided that no buildings, parking areas or grounds for picnicking or organized games or sports shall be located within the specified distance of any lot line, subject to the same regulations as 2 below.
2. Private recreational uses. Outdoor and indoor recreational uses, including but not limited to golf, badminton, tennis, paddle tennis, bathing, swimming and boating, with appurtenant clubhouses, except those where a chief activity is carried on primarily for gain, provided:
  - a. A minimum site of seven and five-tenths (7.5) acres shall be provided.
  - b. Fifty percent (50%) of any such site shall be natural ground cover, to include but not be limited to grass, trees, shrubs, plants and other natural surfaces such as rock outcroppings and sand.
  - c. No green or fairway shall be located within one-half (1/2) the specified distance from any lot line.
  - d. No building, parking area or grounds for organized games or sports shall be located within the specified distance from any side or rear lot line adjoining property zoned for residence and that such buffer space shall be so densely landscaped as to provide effective visual and sound screening of such activities or left in its natural state if this will fulfill the screening objectives.

### Permitted Accessory Uses

Restaurants and lunch rooms, excluding drive-in car service stands and any outdoor service, except window-counter stands and table service in the required front yard.

### Building Height and Parking Requirements

Building heights are limited to two and one-half stories. Parking requirements are as follows:

<b>Use</b>	<b>Number of Spaces Per Unit</b>	<b>Unit of Measurement and Conditions</b>
Small boat facilities	8	10 berths or mooring spaces
And, in addition	1	Each person to be employed on the premises
Restaurant or similar use	2	200 square feet of floor area devoted to patron use
Tennis and badminton courts	9	Court
Skating rink or other place of amusement, the capacity of which is not measurable in seats	1	200 square feet of floor area devoted to patron use
Public buildings other than schools	1	200 square feet of gross floor area

### C. Conservation District

#### Properties

Marshlands Conservancy  
Playland Park (existing conservation area)  
Northern portion of Disbrow Park

#### Permitted Main Uses

Nature preserves, wildlife conservation areas and natural areas.

#### Permitted Accessory Uses

Appurtenant service buildings including caretakers and equipment housing, pavilions, auxiliary facilities for providing educational and instructional services, walkways,

bridges, service and access roadways, or other accessory transportation facilities which may be required as accessory to a permitted use.

#### Building Height and Parking Requirements

Building heights are limited to two and one-half stories. There are no parking standards.

#### D. Waterfront Business District

The following properties within Milton Harbor will provide for commercial water dependent and water enhanced development.

#### Properties

City Marina  
Rye Fish and Game Club  
Shongut Marine  
Brailsford Inc.

#### Permitted Uses Subject to Additional Standards and Requirements

1. Small boat facilities. Structures, docks, wharves, piers and boat basins for the berthing of recreational small craft and boatyards, storage and repair facilities for the storage, maintenance and servicing of recreational small craft.
2. Marine hardware, fuel and supply sales and services, furnishing commodities or services for recreational small craft or other recreational activities.
3. Public recreational uses. Municipal recreational buildings, playgrounds, parks and reservations.
4. Private recreational uses. Private boating, fishing or game club and appurtenant clubhouses.

#### Permitted Accessory Uses

1. Accessory uses customarily incidental to and on the same lot with a permitted use, but not including any use customarily conducted as a main use of land not requiring waterfront access, nor any restaurant or bar except accessory to a membership club not open to the general public.



### Building Height and Parking Requirements

Building heights are limited to two and one-half stories. Parking standards are as follows:

Use	Number of Spaces Per Unit	Unit of Measurement and Conditions
Small boat facilities	8	10 berths or mooring spaces
And, in addition	1	Each person to be employed on the premises
Public buildings other than schools	1	200 square feet of gross floor area
Retail trade of goods	2	200 square feet of gross floor area

Also, Tide Mill Boat Basin will be encouraged to remain a water dependent use to provide docking for pleasure boats and winter storage through an exception in the zoning regulations. This exception allows for reconstruction and restoration of non-conforming structures.

**POLICY 3            THE STATE COASTAL POLICY REGARDING DEVELOPMENT OF MAJOR PORTS IS NOT APPLICABLE TO THE CITY OF RYE.**

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

### Explanation of Policy

This policy recognized that the traditional activities occurring in and around numerous smaller harbors throughout the State's coastal area contribute much to the economic strength and attractiveness of these harbor communities. Thus, efforts of State agencies shall center on promoting such desirable activities as recreational and commercial fishing, ferry services, marinas, historic preservation, cultural pursuits, and other compatible activities which have made smaller harbor areas appealing as tourist destinations and as commercial and residential areas. Particular consideration will be given to the visual appeal and social benefits of smaller harbors, which, in turn, can make significant contributions to the State's tourism industry.

The following guidelines shall be used in determining consistency:

1. The action shall give priority to those traditional and/or desired uses which are dependent on or enhanced by a location adjacent to the water.
2. The action will enhance or not detract from or adversely affect existing traditional and/or desired anticipated uses.
3. The action shall not be out of character with, nor lead to development which would be out of character with, existing development in terms of the area's scale, intensity of use and architectural style.
4. The action must not cause a site to deteriorate, e.g., a structure shall not be abandoned without protecting it against vandalism and/or structural decline.
5. The action will not adversely affect the existing economic base of the community e.g., waterfront development designed to promote residential development might be inappropriate in a harbor area where the economy is dependent upon tourism and commercial fishing.
6. The action will not detract from views of the water and smaller harbor areas, particularly where the visual quality of the area is an important component of the area's appeal and identity.

In the City of Rye, the City Marina and surrounding waterfront business district in Milton Harbor contributes to the economic strength and attractiveness of the coastal community by providing recreational and limited commercial fishing. Current uses of this area will be maintained (See Policy 2, 10).

**POLICY 5                    ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE, EXCEPT WHEN SUCH DEVELOPMENT HAS SPECIAL FUNCTIONAL REQUIREMENTS OR OTHER CHARACTERISTICS WHICH NECESSITATE ITS LOCATION IN OTHER COASTAL AREAS.**

**Explanation of Policy**

Development in the coastal area will be limited to areas where public services, facilities and infrastructure are adequate.

The following points shall be considered in assessing the adequacy of the infrastructure for development in the coastal area:

1. Streets and highways serving the proposed site can safely accommodate the peak traffic generated by the development;
2. Water needs (consumptive and fire fighting) can be met by the existing water supply system;
3. Sewage disposal system can accommodate the wastes generated by the development;
4. Energy needs of the proposed land development can be accommodated by existing utilities systems;
5. Stormwater runoff from the proposed site can be accommodated by on-site and/or off-site facilities;
6. Schools, police and fire protection, and health and social services are adequate to meet the needs of the population expected to live, work, shop, or conduct business in the area as a result of the development.

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

**Explanation of Policy**

For specific types of development activities and in areas suitable for such development, State agencies and local governments participating in the Waterfront Revitalization Program will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, as long as the integrity of the regulations' objectives is not jeopardized. These procedures and programs will be coordinated within each agency. Also, efforts will be made to ensure that each agency's procedures and program are synchronized with other agencies' procedures at each level of government. Finally, regulatory programs and procedures will be coordinated and synchronized between levels of government and, if necessary, legislative and/or programmatic changes will be recommended.

When proposing new regulations, any agency will determine the feasibility of incorporating the regulations within existing procedures, and if this reduces the burden on a particular type of development and will not jeopardize the integrity of the regulations' objectives.

## **FISH AND WILDLIFE POLICIES**

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

### **Explanation of Policy**

Habitat protection is recognized as fundamental to assuring the survival of the fish and wildlife populations. Certain habitats are critical to the maintenance of a given population and therefore merit special protection. Such habitats exhibit one or more of the following characteristics: (1) are essential to the survival of a large portion of the particular fish or wildlife population (e.g., feeding grounds, nursery areas); (2) support populations of rare and endangered species; (3) are found at a very low frequency within a coastal region; (4) support fish and wildlife populations having significant commercial and/or recreational value; and (5) would be difficult or impossible to replace.

A **habitat impairment test** must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If that proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific **habitat impairment test** that must be met is as follows:

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

- destroy the habitat; or
- significantly impair the viability of a habitat.

**Habitat destruction** is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area, or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

**Significant impairment** is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include, but are not limited to, reduced carrying capacity, change in

community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The **tolerance range** of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species' population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters which should be considered in applying the habitat impairment test include:

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

Significant coastal fish and wildlife habitats are evaluated, designated and mapped pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas.

**POLICY 7A            THE MARSHLANDS CONSERVANCY HABITAT SHALL BE PROTECTED, PRESERVED, AND WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**

#### **Explanation of Policy**

Marshlands Conservancy is located on Milton Harbor, in the City of Rye. The fish and wildlife habitat is an approximate 250 acre area, encompassing all of the County-owned Marshlands

Conservancy property, and some adjacent tidal flats and shallows. Marshlands Conservancy is a wildlife sanctuary and environmental education center operated by the Westchester County Department of Parks, Recreation and Conservation. This area contains a diversity of fish and wildlife habitats, including an approximate 40-acre salt marsh, tidal flats, mature woodlands, rocky islands, fields, and freshwater ponds. The land area bordering Marshlands Conservancy is predominantly residential, including the Rye golf course on the northeast side.

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

Despite its current status as a nature preserve and environmental education center, Marshlands Conservancy remains vulnerable to a number of potential impacts. Surrounding land uses may be the most important factor affecting the fish and wildlife resources of this area. Encroachment of human disturbance, including industrial, commercial, or residential development, would have significant impacts on various species using the area. Discharges of polluted runoff (containing sediments or chemical pollutants, such as pesticides) from adjacent areas could degrade the wetland and aquatic habitats in Marshlands Conservancy.

Other forms of water pollution that would adversely affect the area include oil spills, waste disposal, and sewage discharges. Alteration of tidal patterns in wetland areas would have major impacts on fish, shellfish, and wildlife use of these areas. Dredging to maintain existing boat channels in Milton Harbor should be scheduled in late fall and winter to minimize potential impacts on aquatic organisms. Elimination of salt marsh and intertidal areas, through excavation or filling, would result in a direct loss of valuable habitat area. Construction of shoreline structures such as docks, piers, bulkheads, or revetments, in areas not previously disturbed by development (i.e., natural salt marsh or mudflats), may have a significant impact on the fish and wildlife resources of Marshlands Conservancy. Opportunities for compatible public uses of the area should be maintained or enhanced to utilize this valuable fish and wildlife resource.

**POLICY 7B            PLAYLAND LAKE AND MANURSING ISLAND FLATS SHALL BE PROTECTED, PRESERVED AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**

**Explanation of Policy**

Playland and Manursing Island Flats is located on Long Island Sound, in the City of Rye. The fish and wildlife habitat includes all of Playland Lake, Kirby Mill Pond, the southern portion of Port Chester Harbor and various interconnecting channels, below mean high water. This approximate 220-acre area is comprised primarily of tidal mudflats, shallow open water, and limited amounts of salt marsh. Playland Lake was formed by dredging tidal marshes and mudflats between the mainland and Manursing Island; it is located within Playland Park (owned by Westchester County), and has been set aside as a conservation area. A portion of the

Parkland south of Playland Lake has been set aside as the Edith G. Read Nature Preserve and Wildlife Sanctuary. Kirby Mill Pond and the tidal flats west of North Manursing Island are privately owned and remain in a relatively natural condition. The lands bordering Playland Lake and Manursing Island Flats include the heavily used Playland amusement park to the south and predominantly low density residential areas. (See Chapter II and Figure II-4).

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

Any activity that would substantially degrade the water quality in Playland Lake and Manursing Island Flats would result in significant impairment of the habitat. All species of fish and wildlife may be affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, waste disposal, and sewage discharges.

Tidal mudflats are sensitive to such impacts because their biological activity is concentrated at the soil surface, where pollutants would tend to accumulate. Efforts should be made to improve water quality in the area, by reducing waste discharges from recreational boats and upland sources. Alteration of tidal patterns in Playland Lake and Manursing Island Flats could have major impacts on fish, shellfish, and wildlife use of these areas.

Dredging to maintain existing boat channels should be scheduled in late fall and winter to minimize potential impacts on aquatic organisms; no new navigation channels should be constructed in the area. Elimination of salt marsh and intertidal areas, through excavation or filling, would result in a direct loss of valuable habitat area, although creation of small open water areas within the tidal flats may increase suitability of the habitat for certain fish or wildlife species.

Efforts to restore natural tidal wetland communities in Playland Lake could enhance the productivity of this area. Construction of shoreline structures, such as docks, piers, bulkheads, or revetments, in areas not previously disturbed by development (i.e. natural salt marsh or mudflats), may have a significant impact on the fish and wildlife resources of Playland Lake and Manursing Island Flats.

**POLICY 8                    PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIO-ACCUMULATE IN THE FOOD CHAIN OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECTS ON THOSE RESOURCES.**

**Explanation of Policy**

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive or toxic. More specifically, hazardous

waste is defined in Environmental Conservation Law [27-0901 (3)] as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed." The list of DEC-defined hazardous wastes is provided in 6 NYCRR Part 371.

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

Other pollutants are those conventional wastes, generated from point and non-point sources, and not identified as hazardous wastes but controlled through other State law (see Policies 30,33,34,37,39,40).

**POLICY 9                    EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILDLIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.**

**Explanation of Policy**

Recreational uses of coastal fish and wildlife resources include consumptive uses such as fishing and hunting, and non-consumptive uses such as wildlife photography, bird watching and nature study.

Any efforts to increase recreational use of these resources will be made in a manner which ensures the protection of fish and wildlife resources in marine and freshwater coastal areas and which takes into consideration other activities dependent on these resources. Also, such efforts must be done in accordance with existing State law and in keeping with sound resource management considerations. Such considerations include biology of the species, carrying capacity of the resource, public demand, costs and available technology.

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



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

**POLICY 10                    FURTHER DEVELOP COMMERCIAL FINFISH, SHELLFISH AND CRUSTACEAN RESOURCES IN THE COASTAL AREA: 1) BY ENCOURAGING THE CONSTRUCTION OF NEW, OR IMPROVEMENT OF EXISTING ON-SHORE COMMERCIAL FISHING FACILITIES; II) INCREASING MARKETING OF THE STATE'S SEAFOOD PRODUCTS; III) MAINTAINING ADEQUATE STOCKS AND EXPANDING AQUACULTURE FACILITIES. SUCH EFFORTS SHALL BE IN A MANNER WHICH ENSURES THE PROTECTION OF SUCH RENEWABLE FISH RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.**

**Explanation of Policy**

Commercial fishery development activities must occur within the context of sound fishery management principles developed and enforced within the State's waters by the New York State Department of Environmental Conservation and the Management Plans developed by the Regional Fisheries Management Councils (Mid-Atlantic and New England) and enforced by the U.S. National Marine Fisheries Service within the Fishery Conservation Zone. (The Fishery Conservation Zone is the area of coastal waters extending from three mile State waters boundary to the 200 mile offshore boundary of U.S. waters. The Conservation Zone is authorized by the U.S. Fishery Conservation and Management Act of 1976.) Sound resource management considerations would include optimum sustained yield levels developed for specific commercial fish species, harvest restrictions imposed by State and Federal governments, and the economic, political (uses conflicts) and technological constraints to utilizing these resources.

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

1. A public agency's commercial fishing development initiative should not preempt or displace private sector initiative.
2. A public agency's efforts to expand existing or create new on-shore commercial fishing support facilities should be directed towards unmet development needs rather than merely displacing existing commercial fishing activities from a nearby port. This may be accomplished by taking into consideration existing State or regional commercial fishing development plans.
3. Consideration should be made by State and Federal agencies whether an action will impede existing utilization or future development of the state's commercial fishing resources.
4. Commercial fishing development efforts should be made in a manner which ensures the maintenance and protection of the renewable fishery resources.

Commercial fishing facilities should be encouraged in the City of Rye (see Policy 4).

### **FLOODING AND EROSION POLICIES**

**POLICY 11 BUILDINGS AND OTHER STRUCTURES WILL BE SITED IN THE COASTAL AREA SO AS TO MINIMIZE DAMAGE TO PROPERTY AND THE ENDANGERING OF HUMAN LIVES CAUSED BY FLOODING AND EROSION.**

#### **Explanation of Policy**

This policy applies to Flood Hazard and Coastal High Hazard Areas of the City, pursuant to the National Flood Insurance Program administered by the Federal Emergency Management Agency, and applies to the Erosion Hazard Areas of the City, pursuant to the Coastal Erosion Hazard Management Program administered by the New York State Department of Environmental Conservation.

Standards shall be met for development in Special Flood Hazard Zones as defined on the Flood Boundary and Flooding Map (see Figure II-7) as follows:

1. New construction and substantial improvements shall be securely anchored on pilings or columns which are designed and anchored so as to withstand all applied loads of the base flood flow and shall have the lowest floor two (2) feet above the evaluation of the base flood.

2. All new construction of substantial improvements shall be constructed with materials and utility equipment resistant to flood damage and constructed by methods and practices recognized for minimizing flood damage.
3. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and constructed by methods and practices recognized for minimizing flood damage.
4. All new and replacement septic systems, on-site sanitary waste disposal systems and sanitary sewers shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into the floodwaters and constructed by methods and practices recognized for minimizing flood damage.
5. New construction and substantial improvements shall be elevated so that the lowest horizontal supporting member is above the elevation of the base flood, with all space below said member so as not to impede the flow of water, except for breakaway walls, provided that they are not a part of the structural support of the building, are designed to break away under abnormally high flow of the base flood discharge, flood tides or wave action without damage to the structural integrity of the structure and that the space enclosed shall not be used for human habitation.
6. Upon completion of a structure, certification from a civil engineer with a professional engineering license that the structure as built meets the requirements of (1).
7. No fill shall be used for structural support of a structure.
8. Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the lowest supporting member.
9. There shall be no placement of fill, construction of walls or dikes or other encroachments, other than the pilings and columns needed to support a building, structure or other improvement, except in the following specific cases:
  - a. Fill may be placed for the purpose of construction of roads and utility systems, provided that such roads will be above the elevation of the base flood, will not result in the ponding of water or will not significantly effect the runoff of surface waters.
  - b. Placement of fill in order to provide a safe means of access from one entrance of a habitable structure to the closest approved improved street for pedestrians and emergency and ordinary vehicles, provided that such

fill is designed so as not to result in the ponding of water or significantly affect the runoff of surface waters and is the minimum fill needed to provide such access.

- c. In coastal high-hazard areas fill may be placed only as part of an approved plan for the construction of a seawall or similar protective barrier, which has been designed by a civil engineer, with a professional engineering license, except that no structure shall be erected on such fill until the Flood Boundary and Floodway Map or Flood Insurance Rate Map has been amended to show that the land on which the structure is to be erected has been designated as an A, AO, AH, A1-A30, A99, B, C, or D Flood Insurance Zone.
  - d. Regrading of a site which does not involve the placement of fill.
  - e. Normal lawn and landscaping maintenance, to include the spreading of topsoil, provided that such topsoil shall not increase the elevation any place on the site by more than four (4) inches.
10. All buildings and structures shall be located landward of the reach of the mean high tide.

Standards for Development in Coastal Erosion Hazard Areas.

- 1. Areas. The Coastal Erosion Hazard Areas in the City of Rye are based upon shoreline recession rates or the location of natural protective features. The boundaries are established on the "Coastal Erosion Hazard Area Map of the City of Rye", prepared by the New York State Department of Environmental Conservation.
- 2. Requirements. No person may engage in any regulated activity in an Erosion Hazard Area as depicted on the Coastal Erosion Hazard Areas Map of the City of Rye, without first obtaining a Coastal Erosion Management Permit. No Coastal Erosion Management Permit is required for unregulated activities.
- 3. Standards.
  - (1) A Coastal Erosion Management Permit will be issued only with a finding by the Administrator that the proposed regulated activity:
    - a. Is reasonable and necessary, considering reasonable alternatives to the proposed activity and the extent to which the proposed activity requires a shoreline location.

- b. Is not likely to cause a measurable increase in erosion at the proposed site and at other locations.
  - c. Prevents, if possible, or minimizes adverse effects on natural protective features and their functions and protective values, existing erosion protection structures, and natural resources.
- (2) The installation of public service distribution, transmission or collection systems for gas, electricity, water or wastewater must be located landward of the shoreline structures.
  - (3) The construction of non-movable structures or placement of major non-movable additions to an existing structure is prohibited.
  - (4) Permanent foundations may not be attached to movable structures, and any temporary foundations are to be removed at the time the structure is moved. Below grade footings will be allowed if satisfactory provisions are made for their removal.  
(See Policy 35).

**POLICY 12**

**ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION BY PROTECTING NATURAL PROTECTIVE FEATURES INCLUDING BEACHES, DUNES, BARRIER ISLANDS AND BLUFFS. PRIMARY DUNES WILL BE PROTECTED FROM ALL ENCROACHMENTS THAT COULD IMPAIR THEIR NATURAL PROTECTIVE CAPACITY.**

**Explanation of Policy**

In the City of Rye, the predominant natural feature protecting the coastal area from erosion are beaches, tidal wetlands, and nearshore areas. In addition, Hen Island, Spike Island, Pine Island, Flat Rock Island and Manursing Island act as barrier islands. There are no bluffs or dunes in the City of Rye Coastal Area. Excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize their fragile nature and high protective values, lead to the weakening or destruction of these landforms. Activities or development in, or in proximity to, natural protective features must ensure that all such adverse effects are minimized.

**In Coastal Erosion Hazard Areas, the following standards apply.**

**Beach Areas.** Beaches buffer shorelands from erosion by absorbing wave energy that otherwise would be expended on the toes of bluffs or dunes. Beaches that are high and wide protect

shorelands from erosion more effectively than beaches that are low or narrow. Beaches also act as reservoirs of sand or other unconsolidated material for longshore littoral transport and offshore sandbar and shoal formation.

The following restrictions apply to regulated activities in beach areas:

1. Excavating, grading, or mining which diminishes the erosion protection afforded by beaches is prohibited.
2. Clean sand or gravel of an equivalent or slightly larger grain size is the only material which may be deposited within beach areas. Any deposition will require a Coastal Erosion Management Permit which may be issued only for expansion or stabilization of beaches.
3. Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved in writing by the Department of Environmental Conservation.
4. All development is prohibited on beaches unless specifically provided for by the Coastal Erosion Hazard regulations.
5. Motor vehicles must not travel on vegetation and must operate waterward of the debris line.

Wetlands. Wetlands serve as a buffer against severe storms by absorbing wave energy and protecting the mainland from erosion. See Policy 44 for standards relative to the preservation of wetlands.

Nearshore Areas. Nearshore areas dissipate a substantial amount of wave energy before it is expended on beaches, bluffs, or dunes by causing waves to collapse or break. Nearshore areas also function as reservoirs of sand, gravel, and other unconsolidated material for beaches. Sandbars, which are located in nearshore areas, control the orientation of incoming waves and promote the development of ice cap formations which help protect shorelines during winter storms. The roots of aquatic vegetation in nearshore areas bind and grain silts, clays, and organic matter to form a fairly cohesive bottom that resists erosion. See Policy 15 for standards relative to the preservation of nearshore areas.

Barrier Island Restrictions. To ensure that the barrier islands will be protected, the standards for beaches, wetlands, and nearshore areas shall be met .

**POLICY 13**

**THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN ONLY IF THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.**

Explanation of Policy

Construction of erosion protection structures is expensive, often only partially effective over time, and may even be harmful to adjacent or nearby properties. However, in those instances where properly designed and constructed, erosion protection structures will be likely to minimize or prevent damage or destruction to public or private property, natural protective structures may be allowed. In such cases, the construction, modification, or restoration of erosion protection structures is subjected to the following requirements:

1. All erosion protection structures must be designed and constructed according to generally accepted engineering principles, or where sufficient data is not currently available, with a likelihood of success in controlling X erosion. The protective measures must have a reasonable probability of controlling erosion on the immediate site for at least 30 years.
2. All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering, and other effects of storm conditions for a minimum of 30 years. Individual component materials may have a working life of less than 30 years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required 30 years of erosion protection.
3. A long-term maintenance program must be provided for the construction, modification, or restoration of an erosion protection structure. The maintenance program must include specifications for normal maintenance of degradable materials.

The following are definitions of terms used in the above:

1. "Erosion" means the loss or displacement of land along the coastline due to the action of waves, currents, tides, wind-driven water, waterborne ice, or other impacts of storms. It also means the loss or displacement of land due to the action of wind, runoff of surface waters, or ground-water seepage.

2. "Erosion protection structure" means a structure specifically designed to reduce or prevent erosion such as a groin, jetty, seawall, revetment, bulkhead, breakwater, or artificial beach nourishment project.
3. "Modification" means a change in size or design.
4. "Reconstruction" means the reconstruction of an erosion protective structure, the cost of which equals or exceeds fifty percent (50%) of the estimated full replacement cost of the structure.

The design and construction of erosion control structures in the City of Rye along Playland Park Beach, club beaches, Blind Brook and other locations as necessary will conform to demonstrated technology to provide erosion protection for the thirty-year period.

**POLICY 14            ACTIVITIES AND DEVELOPMENT, INCLUDING THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES, SHALL BE UNDERTAKEN SO THAT THERE WILL BE NO MEASURABLE INCREASE IN EROSION OR FLOODING AT THE SITE OF SUCH ACTIVITIES OR DEVELOPMENT, OR AT OTHER LOCATIONS.**

Explanation of Policy

The purpose of this policy is to prevent activities which will increase erosion or flooding hazards in the development areas or create problems at other locations. Erosion and flooding are processes which occur naturally. However, certain activities may increase the severity and adverse effects of those processes, causing damage to, or loss of property, and endangering human lives. Those actions include: (1) the use of erosion protection structures such as groins, jetties and bulkheads, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; (2) the failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of shorelands; and (3) the placing of structures in identified floodways so that the base flood level is increased causing damage to otherwise hazard-free areas.

Within Coastal Erosion Hazard Areas, the following standards apply related to the construction, modification, or restoration of erosion protection structures:

- a. Not be likely to cause a measurable increase in erosion at the development site or at other locations.
- b. Minimize, and if possible, prevent adverse effects upon natural protective features, existing erosion protection structures, and natural resources such as significant fish and wildlife habitats.



**POLICY 15**

**MINING, EXCAVATION OR DREDGING IN COASTAL WATERS SHALL NOT SIGNIFICANTLY INTERFERE WITH THE NATURAL COASTAL PROCESSES WHICH SUPPLY BEACH MATERIALS TO LAND ADJACENT TO SUCH WATERS AND SHALL BE UNDERTAKEN IN A MANNER WHICH WILL NOT CAUSE AN INCREASE IN EROSION OF SUCH LAND.**

**Explanation of Policy**

Coastal processes, including the movement of beach materials by water, and any mining, excavation or dredging in nearshore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Mining, excavation and dredging should be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to shorelands.

Dredging of existing or necessary channels to support water dependent uses of Milton Harbor, Greenhaven, Kniffen Cove, Pine Island Cove, Playland Park, and Port Chester Harbor will be undertaken in accordance with Federal and State guidelines (See Policy 35).

Dredging and filling must conform to the following standards:

1. The applicant has produced evidence of marketable title to the area proposed to be dredged and/or filled.
2. The proposed dredging will not reduce the area or dimensions of an existing lot below the required minimum standards and/or the proposed filling will not create a building site not previously considered in the Rye Development Plan, unless a specific finding is made that such sites and their proposed use and structures would not adversely affect the area.
3. Such filling, dredging and proposed structures and uses are to improve such land, wetland or watercourse for reasonable activities and structures customarily incidental to a permitted use of abutting upland property of the applicant.
4. The proposed dredging, filling or development of a structure or facility shall not be of such a nature or undertaken in such a manner as to undermine, weaken or deprive of support other land or structures in the vicinity, substantially change the course of any channel, increase the danger of flooding, adversely affect navigation or cause or accelerate the drift of soil, shale, mud or bog, upland or underwater.
5. The proposed filling, dredging or development of structures shall be of such a nature and undertaken in such a manner as to have no substantial adverse impact

upon the natural movement or flow of any waters or upon a wetland or watercourse.

6. Excavating, grading, mining, or dredging which diminishes the erosion protection afforded by nearshore areas is prohibited, except construction or maintenance of navigation channels, bypassing sand around natural and man-made obstructions and artificial beach nourishment.
7. Clean sand or gravel of an equivalent or slightly larger grain size is the only material which may be deposited within nearshore areas.

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

Explanation of Policy

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

Maintenance of the beach erosion breakwaters at Playland Park and Rye Town Beach, which are not owned by the City, will be encouraged.

**POLICY 17 WHENEVER POSSIBLE, USE NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION. SUCH MEASURES SHALL INCLUDE: (1) THE SET BACK OF BUILDINGS AND STRUCTURES; (2) THE PLANTING OF VEGETATION AND THE INSTALLATION OF SAND FENCING AND DRAINING; (3) THE RESHAPING OF BLUFFS; AND (4) THE FLOOD-PROOFING OF BUILDINGS OR THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.**

### Explanation of Policy

This policy recognizes both the potential adverse impacts of flooding and erosion upon development and upon natural protective features in the coastal area, as well as the costs of protection against those hazards which structural measures entail.

This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with this policy, it must be determined if any one, or a combination of, non-structural measures would afford the degree of protection appropriate both to the character and purpose of the activity or development and to the hazard. If non-structural measures are determined to offer sufficient protection, then consistency with the policy would require the use of such measures, whenever possible.

The use of man-made flooding and erosion protection structure should be considered only after an evaluation of available non-structural measures has been made to determine if non-structural measures can satisfactorily minimize damage to natural resources from flooding and erosion.

Non-structural measures within identified flood hazard areas shall include, but are not limited to: the avoidance of risk or damage from flooding by the siting of buildings outside the hazard area; and the flood-proofing of buildings or their elevation about the base flood level.

### GENERAL POLICY

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

### Explanation of Policy

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

## **PUBLIC ACCESS POLICIES**

**POLICY 19                    PROTECT, MAINTAIN, AND INCREASE THE LEVEL AND TYPES OF ACCESS TO PUBLIC WATER RELATED RECREATION RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES. IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS AND WATERFRONT PARKS.**

### **Explanation of Policy**

This policy calls for achieving balance among the following factors: the level of access to a resource or facility, the capacity of a resource or facility, and the protection of natural resources. The imbalance among these factors is the most significant in the state's urban areas. Because this is often due to access related problems, priority will be given to improving physical access to existing and potential coastal recreation sites within the heavily populated urban coastal areas of the state and to increasing the ability of urban residents to get to coastal recreation areas by improved public transportation. The particular water related recreation resources and facilities which will receive priority for improved access are public beaches, boating facilities, fishing areas and waterfront parks. In addition, because of the greater competition for waterfront locations within urban areas, the Coastal Management Program and the Rye Waterfront Revitalization Program will encourage mixed use areas and multiple use of facilities to improve access. Specific sites recommended for access improvements include: increased parking at City Marina, Playland Boat Launch and Playland Breakwater and Pier.

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

1.     The existing access from adjacent or proximate public lands or facilities to public water related resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future from public lands or facilities to public water related recreation resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access or unless such actions are found to be necessary or beneficial by the public body having jurisdiction over such access as the result of a reasonable justification of the need to meet systematic objectives.

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

- a)     Access - the ability and right of the public to reach and use public coastal lands and waters.

- b) Public water related recreation resources of facilities - all public lands or facilities that are suitable for passive or active recreation that requires either water or a waterfront location or is enhanced by a waterfront location.
- c) Public lands or facilities - lands or facilities held by State or City in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including underwater lands and the foreshore.
- d) A reduction in the existing level of public access includes, but is not limited to, the following:
  - (i) The number of parking spaces at a public water related recreation resource or facility is significantly reduced.
  - (ii) The service level of public transportation to a public water related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting system-wide objectives.
  - (iii) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
  - (iv) There are substantial increases in the following: already existing special fares (not including regular fares in any instance) of public transportation to a public water related recreation resource or facility, except where the public body having jurisdiction over such fares determines that such substantial fare increases are necessary; and/or admission fees to such a resource or facility, and an analysis shows that such increases will significantly reduce usage by individuals or families and incomes below the State government established poverty level.
- e) An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:
  - (i) Construction of public facilities, which physically prevent the provision, except at great expense, of convenient public access to public water related recreation resources and facilities.
  - (ii) Sale, lease, or other transfer of public lands that could provide public access to a public water related recreation resource or facility.

- (iii) Construction of private facilities which physically prevent the provision of convenient public access to public water related recreation resources or facilities from public lands and facilities.
- 2. Any proposed project to increase public access to public water related recreation resources and facilities shall be analyzed according to the following factors:
  - a. The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
  - b. The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource of facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
- 3. The State and City will not undertake or fund any projects which increase access to a water related resource or facility that is not open to all members of the public.
- 4. In their plans and programs for increasing public access to public water related resources and facilities, agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation, within the boundaries of the Federal-Aid Metropolitan urban area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined urban Area boundary but not served by public transportation.

**POLICY 19A            MAINTAIN PUBLIC OWNERSHIP AND USE OF PLAYLAND PARK, MARSHLANDS CONSERVANCY, RYE TOWN PARK, DISBROW PARK AND RYE CITY MARINA.**

**Explanation of Policy**

Playland Park and the Marshlands Conservancy represent public properties in County ownership which currently provide both active and passive recreation uses and access to the shorefront. Continued operation of these facilities in their present use including existing public access, shall be encouraged. Rye Town Park is owned by the Town of Rye and shall also be encouraged to remain in its current use. Disbrow Park and the City Marina are presently owned by the City. In the event they are sold, their present uses, including public access, will be maintained (see Policy 2, 9). Review of waterfront recreation properties as they become available for sale will determine on a case by case basis whether they may be feasible for City purchase.

As existing waterfront recreation properties are sold, the City of Rye will review the feasibility of owning and operating such a facility or leasing it as a concession. This is intended to keep the existing land use of the City's waterfront as it is with a desirable mix of water recreation facilities and residential development. However, a financial analysis must be performed on each property as they become available to determine the financial feasibility of City purchase.

**POLICY 19B            PROTECT THE LEVEL OF PUBLIC ACCESS AND SAFETY IN MILTON HARBOR.**

**Explanation of Policy**

Public access to Milton Harbor will be protected, maintained, and where feasible increased. The harbor shall be kept sanitary and safe, making the best use of available mooring space within the waterway so as to accommodate more vessels, avoid congestion, and avoid obstruction of the channels.

To utilize Milton Harbor to its fullest, safest capacity as an active recreational resource and in an environmentally sensitive manner, certain use and safety standards are necessary:

- o No boats shall be moored within a channel, or in a manner to interfere with another mooring.
- o A maximum speed limit of five miles per hour has been imposed.
- o All vessels will operate in accordance with the Navigation Laws of the State of York.
- o No garbage, oil, sludge, paper, refuse, debris, sewage, or waste material of any kind is allowed to be discharged or permitted to fall from any boat.
- o Pumpout facilities are required at new and expanded existing marinas.

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

**Explanation of Policy**

In coastal areas where there are little or no recreation facilities providing specific water related recreational activities, access to the publicly-owned lands of the coast at large should be provided for numerous activities and pursuits which require only minimal facilities for their enjoyment. Such access would provide for walking along a beach or a city waterfront or to a vantage point from which to view the seashore. Similar activities requiring access would include bicycling, birdwatching, photography, nature study, beachcombing, fishing and hunting.

For those activities, there are several methods of providing access which will receive priority attention of the Coastal Management Program. These include: the development of a coastal trails system; the provision of access across transportation facilities to the coast; the improvement of access to waterfronts in urban areas; and the promotion of mixed and multi-use development.

While such publicly-owned lands referenced in the policy shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent onshore property owners are consistent with this policy, provided such easements do not substantially interfere with continued public use of the public lands on which the easement is granted. Also, public use of such publicly-owned under-water lands and lands immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety, military security, or the protection of fragile coastal resources.

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

1. Existing or future access from adjacent or proximate public lands or facilities to existing or future public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrated to be of overriding regional or Statewide public benefit or, in the latter case, estimates of future use of these lands and waters are too low to justify maintaining or providing increased access.

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

- a) (See definitions under Policy 19 for "access" and "public lands or facilities").
- b) A reduction in the existing or anticipated level of public access - includes, but is not limited, to the following:
  - (i) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
  - (ii) Pedestrian access is diminished or blocked completely by public or private development.
- c) An elimination of the possibility of increasing public access in the future - includes, but is not limited to, the following:



- (i) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water related recreation resources and facilities.
  - (ii) Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters.
  - (iii) Construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.
- 2. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated.
  - a) A reduction in the existing level of public access includes, but is not limited to, the following:
    - (i) Access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
    - (ii) Access is reduced or blocked completely by any public developments.
- 3. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where (a) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources; (b) adequate access exists within one-half mile; or (c) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.
- 4. The State will not undertake or directly fund any project which increases access to a water related resource or facility that is not open to all members of the public.
- 5. In their plans and programs for increasing public access, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

6. Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:
  - (a) The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
  - (b) The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

See Policies 2, 9, 19A, 19B.

### **RECREATION POLICIES**

**POLICY 21**            **WATER DEPENDENT AND WATER ENHANCED RECREATION WILL BE ENCOURAGED AND FACILITATED, AND WILL BE GIVEN PRIORITY OVER NON-WATER RELATED USED ALONG THE COAST, PROVIDED IT IS CONSISTENT WITH THE PRESERVATION AND ENHANCEMENT OF OTHER COASTAL RESOURCES AND TAKES INTO ACCOUNT DEMAND FOR SUCH FACILITIES. IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING PUBLIC TRANSPORTATION SERVICES AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.**

#### **Explanation of Policy**

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

Provided the development of water related recreation is consistent with the preservation and enhancement of such important coastal resources as fish and wildlife habitats, aesthetically significant areas, historic and cultural resources, agriculture and significant mineral and fossil deposits, and provided demand exists, water related recreation development is to be increased and such uses shall have a higher priority than any non-coastal dependent uses, including non-water related recreation uses. In addition, water dependent recreation uses shall have a higher priority over water enhanced recreation use. Determining a priority among coastal dependent uses will require a case by case analysis.

See Policies 2, 4, 5, 6, 9, 10, 19A, 19B.

**POLICY 22            DEVELOPMENT, WHEN LOCATED ADJACENT TO THE SHORE, WILL PROVIDE FOR Water related RECREATION, AS A MULTIPLE USE, WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.**

**Explanation of Policy**

Many developments present practical opportunities for providing recreation facilities as an additional use of the site or facility. Therefore, whenever developments are located along the shore, they should, to the fullest extent permitted by existing law, provide for some form of water related recreation use unless there are compelling reasons why any form of such recreation would not be compatible with the development, or a reasonable demand for public use cannot be foreseen.

The types of development which can generally provide water related recreation as a multiple use include, but are not limited to:

- parks
- highways
- power plants
- utility transmission rights of way
- sewage treatment facilities
- mental health facilities\*
- hospitals\*
- prisons\*
- schools, universities\*
- military facilities\*
- nature preserves\*
- residential subdivisions
- shopping centers
- office buildings

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

Prior to taking action relative to any development, state agencies should consult with the State Office of Parks, Recreation, and Historic Preservation, and with the City of Rye to determine appropriate recreation uses.

Appropriate recreational uses which do not require any substantial additional construction shall be provided at the expense of the project sponsor provided the costs does not exceed 2% of total project cost. In determining whether compelling reasons exist which would make recreation inadvisable as a multiple use, public safety should reflect a recognition that some risk is acceptable in the use of recreation facilities.

## **HISTORIC RESOURCES POLICIES**

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

### **Explanation of Policy**

Among the most valuable of the State's man-made resources are those structures or areas which are of historic, archaeological, or cultural significance. The protection of these structures must involve a recognition of their importance by all agencies. Protection must include concern not just with specific sites but with areas of significance, and with the area around specific sites. The policy is not to be construed as a passive mandate but must include effective efforts, when appropriate, to restore or revitalize through adaptive reuse. While the program is concerned with the preservation of all such resources within the coastal boundary, it will actively promote the preservation of historic and cultural resources which have a coastal relationship.

The structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation comprise the following resources:

1. A resource, which is in a Federal or State park established, among other reasons, to protect and preserve the resource.
2. A resource on, nominated to be on, or determined eligible to be on the National or State Registers of Historic Places. These areas include:
  - o Playland Amusement Park
  - o Knapp House
  - o Milton Cemetery
  - o Boston Post Road District
  - o Church Row
  - o Sound View Park

3. A resource designated by the State Nature and Historic Preserve Trust.
4. An archaeological resource which is on the State Department of Education's inventory of archaeological sites or identified by the State Office at Parks, Recreation and Historic Preservation.
5. A local landmark, park, or locally designated historic district that is located within the boundary of an approved local waterfront revitalization program. The following sites have been recognized as having historic significance and have been preserved as local landmarks:
  - o Alansten (Jay Estate)
  - o Hains/Robinson House
6. A resource that is a significant component of an Urban Cultural Park.

All practicable means to protect structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the Town, the State, its communities or the Nation shall be deemed to include the consideration and adoption of any techniques, measures, or controls to prevent a significant adverse change to such significant structures, districts, areas or sites. A significant adverse change includes but is not limited to:

1. Alteration of or addition to one or more of the architectural, structural, ornamental or functional features of a building, structure, or site that is a recognized historic, cultural, or archaeological resource, or component thereof. Such features are defined as encompassing the style and general arrangement of the exterior of a structure and any original or historically significant interior features including type, color and texture of building materials; entry ways and doors; fenestration; lighting fixtures; roofing, sculpture and carving; steps; rails; fencing; windows; vents and other openings; grillwork; signs; canopies; and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topographical features, earthworks, paving and signs located on the designated resource property. (To the extent they are relevant, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be adhered to.)
2. Demolition or removal in full or part of a building, structure, or earthworks that is a recognized historic, cultural, or archaeological resource or component thereof, to include all those features described in (a) above plus any other appurtenant fixtures associated with a building structure of earthwork.
3. All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archaeological resource and all actions within an historic district that would be incompatible with the objective of

preserving the quality and integrity of the resource. Primary considerations to be used in making judgement about compatibility should focus on the visual and locational relationship between the proposed action and the special character of the historic, cultural, or archaeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping and related items of the proposed actions. With historic districts, this would include infrastructure improvements or changes, such as street and sidewalk paving, street furniture and lighting.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthworks, or component thereof of a recognized historic, cultural or archaeological resource which has been officially certified as being imminently dangerous to life or public health. The policy shall not prevent the ordinary maintenance, repair, or proper restoration according to the U.S. Department of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" of any building, structure, site or earthwork, or component thereof of a recognized historic, cultural or archaeological resource which does not involve a significant adverse change to the resource, as defined above. These structures will be protected and maintained in accordance with the following standards:

1. A protected site, building or structure or a building or structure in a Preservation District shall be properly secured (including fire, smoke and/or entry alarms where necessary) from vandalism, malicious mischief, and unauthorized use or casualty.
2. Attached parts shall be affixed so they will not fall and injure members of the public or property.
3. Foundations shall be adequate and sound.
4. Flooring or floor supports shall be of sufficient size to carry imposed loads with safety.
5. Members of walls, partitions or other vertical supports shall be sound and upright so that they are not split and do not lead, list or buckle.
6. Members of walls, partitions or other vertical supports shall be of sufficient size to carry imposed loads with safety.
7. Members of ceilings, roofs, ceiling and roof supports or other horizontal members shall be sound and stabilized so they do not sag or buckle and are not split.

8. Members of ceilings, roofs, ceiling and roof supports or other horizontal members shall be of sufficient size to carry imposed loads with safety.
9. Fireplaces or chimneys must be maintained so as not to settle, list or bulge.
10. Fireplaces or chimneys are of sufficient size or strengthen to carry imposed loads with safety.
11. Plaster is not cracked or loose.
12. Exterior walls, roofs, foundations or floors, including windows or doors, shall be effectively waterproofed.
13. Effective weather protection shall be provided for exterior wall coverings, including paint or other protective covering.
14. Improvements shall be structurally sound and properly watertight so that interior portions are secure from the elements.
15. Improvements shall have sufficient heat source and temperature controls so as to protect the premises (including plumbing, etc.) from excessive deterioration or actual damage due to freezing.

Given the possibility of archaeological significant sites within the waterfront area of the City (see Section II Inventory and Analysis), public agencies shall contact the NYS Office of Parks, Recreation and Historic Preservation to determine appropriate measures to be incorporated into development decisions.

#### **SCENIC QUALITY POLICIES**

**POLICY 24            THE STATE COASTAL POLICY REGARDING THE IMPAIRMENT OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE IS NOT APPLICABLE TO THE CITY OF RYE.**

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

### **Explanation of Policy**

When considering a proposed action which would not affect a scenic resource of Statewide significance, agencies shall ensure that the action will be undertaken so as to protect, restore or enhance the overall scenic quality of the coastal area. The siting and design guidelines listed below should be considered for proposed actions in the coastal area:

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

More emphasis may need to be placed on removal of existing elements, especially those which degrade, and on addition of new elements or other changes which enhance. Removal of vegetation at key points to improve visual access to coastal waters is one such change which might be expected to enhance scenic quality.

In the City of Rye lot grouping and lot averaging is used to maintain and improve the scenic quality of the shorefront. Vista areas on and over publicly owned lands shall not be obstructed.

All proposed permanent signs having an area of three (3) square feet or more and all permanent signs whose aggregate area on one premises exceeds six (6) square feet, visible from any point off the premises, shall be approved by the City of Rye as to design, colors, illumination, location and size.



The City may disapprove signs which if erected or painted would be detrimental to the desirability, property values or harmonious development of the surrounding area by reason of:

1. A type of quality of design distinctively out of character with the existing development in the affected vicinity;
2. A size inconsistent with the size of other signs upon, or inconsistent with, the architectural detail of the surrounding buildings;
3. Colors which cover so large an area of the sign and which at the same time are so in conflict with the colors of the surrounding buildings as to appear inappropriate;
4. Lighting so intense and bright as to cause undue glare on the ground and in the sky around the nearby buildings or areas; or
5. Location in conflict with the character of the affected vicinity as established by conforming existing development or as clearly intended by the nature of other applicable zoning regulations.

In addition:

1. No sign shall be painted on a roof or mounted on or over a roof. No sign shall be mounted so that it extends above a parapet wall, protrudes more than twelve (12) inches from any wall or overhangs any right-of-way or public property. No sign shall be mounted or otherwise affixed to any tree, stone or other natural object.
2. Advertising signs, billboards, promotional decorations, searchlights, noisemaking devices, banners and moving signs shall not be permitted.
3. Any sign illuminated by other than indirect white light is prohibited.
4. In a residence district, no sign shall contain letters over three (3) inches in height.

### **AGRICULTURAL LANDS POLICY**

**POLICY 26            THE STATE COASTAL POLICY REGARDING THE CONSERVATION AND PROTECTION OF AGRICULTURAL LANDS IN THE STATE'S COASTAL AREA, IS NOT APPLICABLE TO THE CITY OF RYE.**

## **ENERGY AND ICE MANAGEMENT POLICIES**

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

### **Explanation of Policy**

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

A determination of public need for energy is the first step in the process for siting new facilities. The directives for determining this need are set forth in the New York State Energy Law. With respect to transmission lines, Article VII of the State's Public Service Law requires additional forecasts and establishes the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront location. With respect to electric generating facilities, environmental impacts associated with siting and construction will be considered by one or more State agencies or, if in existence, an energy siting board. The policies derived from these proceedings are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. The Act is used for the purposes of ensuring consistency with the Coastal Management Program and this Local Waterfront Revitalization Program.

In consultation with the City of Rye, the Department of State will comment on State Energy Office policies and planning reports as may exist; present testimony for the record during relevant certification proceedings under State law; and use the State SEQR and DOS regulations to ensure that decisions on other proposed energy facilities (other than those certified under the Public Service Law) which would impact the waterfront area, are made consistent with policies and purposes of the City of Rye Local Waterfront Revitalization Program.

The siting and construction of a major energy facility in the City of Rye is inappropriate because the City's coastal area is not a suitable location for such a facility based on the following: the City's waterfront is developed with residential, waterfront club or waterfront commercial businesses; undeveloped land areas consist of the following State designated significant Coastal Fish and Wildlife Habitats: Marshlands Conservancy, and Playland Lake and Manursing Island Flats. The City of Rye is dependent on its close association with Long Island Sound for its character and heritage. The construction of a major power facility would harm the City's environment and economy.

**POLICY 28**            **THE STATE COASTAL POLICY REGARDING ICE MANAGEMENT PRACTICES IS NOT APPLICABLE TO THE CITY OF RYE.**

**POLICY 29**            **ENCOURAGE THE DEVELOPMENT OF ENERGY RESOURCES ON THE OUTER CONTINENTAL SHELF (OCS), IN LAKE ERIE AND IN OTHER WATER BODIES, AND ENSURE THE ENVIRONMENTAL SAFETY OF SUCH ACTIVITIES.**

**Explanation of Policy**

The State recognizes the need to develop new indigenous energy resources. It also recognizes that such development may endanger the environment. Among the various energy sources being examined are those which may be found on the Outer Continental Shelf (OCS). The State has been encouraging its wise development.

Matters pertaining to the OCS are the responsibility of the Department of Environmental Conservation. In 1977, the Department, in cooperation with regional and local agencies, completed a study which identified potential sites along the marine coast for on-shore OCS facilities. To date, these sites have not been developed for this purpose. The Department also actively participates in the OCS planning process by reviewing and voicing the State's concerns about federal OCS oil and gas lease sales and plans. In its review of these proposed sales and plans, the Department considers a number of factors such as the effects upon navigational safety in the established traffic lanes leading into and from New York Harbor; the impacts upon important finfish, shellfish and wildlife populations and their spawning areas; economic and other effects upon commercial and recreational fishing activities; impacts upon public recreational resources and opportunities along the marine coast; the potential for hazards; impacts upon biological communities; and water quality.

**WATER AND AIR RESOURCES POLICIES**

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

**Explanation of Policy**

Municipal, industrial and commercial discharges include not only "end-of-the pipe" discharges into surface and groundwater but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial

discharges are both those which directly empty into receiving coastal waters and those which pass through the regional treatment system before reaching the State's waterways.

**POLICY 31 STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVERBURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.**

Explanation of Policy

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217) the State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment. Local Waterfront Revitalization Programs and State coastal management policies shall be factored into the review process for coastal waters. However, such consideration shall not affect any water pollution control requirement establishment by the State pursuant to the Federal Clean Water Act.

Water quality classifications for surface waters in the City of Rye are currently compatible with present and proposed uses and proposed projects. (See Policies 9, 19, 19A, 19B.) See Table 4-2 in the Inventory and Analysis.

**POLICY 32 THE STATE COASTAL POLICY REGARDING THE USE OF ALTERNATIVE OF INNOVATIVE SANITARY WASTE SYSTEMS IS NOT APPLICABLE TO THE CITY OF RYE.**

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

Explanation of Policy

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and combined sewer overflows. At present, structural approaches to controlling stormwater runoff (e.g., construction of retention basins) and combined sewer overflows (e.g., replacement of combined system with separate sanitary and stormwater collection systems) are not economically feasible. Proposed amendments to the Clean Water Act, however, will authorize funding to address combined sewer overflows in areas where they create severe water quality impacts. Until funding for such projects becomes available, non-structural approaches (e.g., improved street cleaning, reduced use of road salt) will be encouraged.

Infiltration and inflow testing and analysis has been completed in the Beaver Swamp Sanitary Sewer District and the Blind Brook Sanitary Sewer District, and corrective action is being taken in both districts with respect to the elimination of illegal connections and reconstruction and sealing of the mains. See Policy 37.

**POLICY 34            DISCHARGE OF WASTE MATERIALS INTO COASTAL WATERS FROM VESSELS WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS AND WATER SUPPLY AREAS.**

**Explanation of Policy**

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the State's waters is regulated. Priority will be given to the enforcement of this law in significant habitats and public water supply intakes which need protection from contamination by vessel wastes. Also, specific effluent standards for marina toilets have been promulgated by the Department of Environmental Conservation (6 NYCRR, Part 657). Pumpout facilities are required at expanded existing marinas and new marinas.

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

**Explanation of Policy**

Dredging often proves to be essential for maintaining navigation channels at sufficient depths, pollutant removal and meeting other coastal management needs. Dredging of existing or necessary channels to support water dependent uses of Milton Harbor, Greenhaven, Kniffen Cove, Pine Island Cove, Playland Park and Port Chester Harbor will be undertaken in accordance with federal and state guidelines. Such dredging projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands and other important coastal resources. Often these adverse effects can be minimized through careful design and timing of the dredging operation and proper siting of the dredge spoil disposal site. Dredging permits will be granted if it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to levels which satisfy State dredging permit standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15, 24, 25, and 34), and are consistent with policies pertaining to the protection of coastal resources (See Policies 7, 15, 24, 25, 26 and 44).

In the City of Rye:

1. No person, firm or corporation shall commence filling or dredging in any watercourse or wetland or change in any way the nature of a watercourse or wetland without first obtaining a filling and/or dredging permit.
2. A waiver of the requirement for filing plans and obtaining local approval may be granted for minor filling and or dredging necessary to restore an eroded shoreline or a silted or obstructed channel to its original state, provided that, in the case of restoring an eroded shore line, the activity 1) is a single and complete project; 2) is less than 500 feet in length; 3) is necessary for erosion protection; 4) is limited to less than an average of one (1) cubic yard per running foot placed along the shore line bank; 5) does not involve the placement of materials in excess of the minimum needed for erosion protection in any wetland area or in any manner so as to impair surface water flow into or out of any wetland area; and 6) includes the use of only clean material free of waste metal products, organic materials, unsightly debris, etc. In cases where dredge and/or fill activities are proposed, including shore line restoration, the total volume of material involved shall not exceed ten (10) cubic yards as part of a single and complete project. In addition, the dredge and fill activity shall not cause stream diversion or connect canals or other artificial waterways to navigable waters.
3. Upon completion of the work permitted by a permit a survey and topographic map shall be submitted to the City of Rye showing the depth of area from which material has been removed and/or in which it has been deposited and the slopes from which the material has been removed and/or on which it has been deposited connecting with adjoining lands, along with a certificate from a registered land surveyor or registered engineer duly licensed by the State of New York stating that the work has been completed in accordance with the local permit.

Sites for the disposal of dredge spoils will be limited to Federal and State approved disposal sites.

**POLICY 36**

**ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS; ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE THE CLEANUP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGES WILL BE REQUIRED WHEN THESE SPILLS OCCUR.**

### **Explanation of Policy**

See Policy 39 for definition of hazardous materials.

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

### **Explanation of Policy**

Best management practices used to reduce these sources of pollution could include, but are not limited to best management principles, soil erosion control practices, and surface drainage control techniques.

In the City of Rye, activities which alter the flow of stormwater must comply with the following requirements:

1.     A surface water control plan must be prepared and referred to the Westchester County Soil and Water Conservation District for their review and comments for all new construction, exclusive or buildings, additions, and accessory buildings, surfaces and structures for existing buildings.
2.     The natural drainage features of the site, including natural drainage ways and permanent and periodic ponding areas, shall be preserved, except for reasonable alterations.
3.     Surface water control facilities shall be constructed so as not to discharge waters onto adjoining property in such a manner as to impair the permitted use or development of that property. Surface water control facilities shall hereinafter be deemed to include pipes, ditches, culverts, water retention areas and structures, swales, slopes, and other conduits and reservoirs of water.
4.     Temporary surface water and soil erosion control facilities adequate to protect adjacent property shall be installed at the commencement of the construction, grading, excavation or removal of vegetation.
5.     To offset the increase in the rate and quantity of surface water runoff resulting from the proposed development, the following requirements shall be met:
  - a.     Sites of four (4) acres or more shall provide for a one hundred (100) year stormwater detention facility or facilities, designed using those methods contained in "Urban Hydrology for Small Watersheds Technical Release No. 55," prepared by the United States Department of Agriculture Soil Conservation Service. In the Beaver Swamp Brook Watershed, the City

Engineer may waive or modify this one-hundred-year detention requirement after consultation with the Westchester County Soil and Water Conservation District.

- b. Sites with a proposed seventy-five percent or more net increase in impervious surfaces shall provide for a one-hundred-year stormwater detention storage facility or facilities designed using those methods contained in "Urban Hydrology for Small Watersheds Technical Release No. 55," prepared by the United States Department of Agriculture Soil Conservation Service. In the Beaver Swamp Brook Watershed, the City Engineer may waive or modify this one-hundred-year detention requirement after consultation with the Westchester County Soil and Water Conservation District.
- c. Sites of less than four (4) acres with a proposed net increase of less than a seventy-five percent in impervious surfaces shall provide for a twenty-five year stormwater detention storage facility or facilities, except in the Beaver Swamp Brook Watershed in which locations of one-hundred-year stormwater retention shall be required, designed using those methods contained in "Urban Hydrology for Small Watersheds Technical Release No. 55," prepared by the United States Department of Agriculture Soil Conservation Service or another method specified by the City Engineer after consultation with Westchester County Soil and Water Conservation District. In the Beaver Swamp Brook Watershed, the City Engineer may waive or modify this one-hundred-year detention requirement after consultation with the Westchester County Soil and Water Conservation District.
- d. Rainfall depth used in calculating required stormwater detention facilities shall be seven and two-tenths (7.2) inches in twenty-four (24) hours for a one-hundred-year storm and five and seven-tenths (5.7) inches in twenty-four (24) hours for a twenty-five (25) year storm. In each case, a Type III distribution shall be used.
- e. Detention facility maximum discharge rates for preconstruction conditions for the one-hundred-year storm and the twenty-five-year storm shall be as follows:
  - (i) One-hundred-year storm: one-hundred-fifty, twenty-five-, ten- and two-year storms.
  - (ii) Twenty-five-year storm: twenty-five, ten-, five and two-year storms.



- f. When the City Engineer finds that the increase cannot be offset by on-site retention, he may permit the increment of the increase which cannot be retained to be carried away by the land's natural drainage, provided the increased rate and quantity of flow will not impair the permitted use or development of those lands over which such water will naturally flow.
- g. When the City Engineer finds that the increase cannot be offset by on-site retention or as provided for in Subsection A(5)(f) above, he may permit that increment of the increase that cannot be so controlled to be discharged into a city surface water control facility, provided he has determined that the city facility has sufficient capacity.
- h. The City Engineer may waive or reduce the requirements of this section if it is determined by him that existing storm drains or storm drains proposed to be constructed are of adequate size, and will discharge surface water runoff directly to Long Island Sound, Milton Harbor or Port Chester Harbor.

In the City of Rye, activities which could result in erosion and sedimentation must comply with the following requirements:

1. Development shall preserve salient natural features, keep cut and fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential based upon the Best Management Practices Manual.
2. Disturbed soils shall be stabilized as soon as practicable and in any event within the time specified in the permit.
3. Temporary vegetation and/or mulching shall be used to protect exposed land areas during development.
4. The permanent (final) vegetation and mechanical erosion control measures shall both be installed within the time specified in the permit.
5. Until a disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or similar measures, as more specifically may be determined in any particular instance by the City Engineer.
6. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills.
7. All fills shall be compacted to provide stability of material and to prevent undesirable settlement.

8. Fills shall not encroach on natural watercourses or constructed channels.
9. Fills placed adjacent to or having an impact upon natural watercourses, constructed channels or floodplains shall have suitable protection against erosion during periods of flooding.
10. During grading operations, appropriate measures for dust control shall be exercised.
11. Grading equipment shall not be allowed to enter into or cross any watercourse.

In the City of Rye, activities which could result in the removal of vegetation are subject to the following conditions:

Vegetation including but not limited to trees, ground cover and aquatic vegetation, is important for retention of soil and prevention of sedimentation. Permits for activities which will interfere with such vegetation shall be conditioned upon the following:

- A. The applicant shall be guided by the requirements of the Best Management Practices Manuals.
- B. Vegetative cover shall be restored in disturbed areas.
- C. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
- D. Whenever feasible, natural vegetation, and in particular trees, shall be retained, protected and supplemented.
- E. The permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practicable, but in no event after the time specified on the approved control plan.

**POLICY 38            THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUNDWATER SUPPLIES, WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE SUCH WATERS CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.**

**Explanation of Policy**

Surface and groundwater are the principle sources of drinking water in the State, and, therefore, must be protected. Groundwater is not used as a source of water supply in the City of Rye, nor

is the surface water. However, the quality of these waters will be protected and conservation measures implemented.

1. When it is determined that an emergency exists requiring the conservation of water, it is prohibited for any persons, firm, corporation or industry to use or permit the use of water derived from said water company's facilities for:
  - a. The washing of automobiles in any form until further notice, with the exception of windshields and glasses necessary for the proper operation of the vehicle.
  - b. The cleaning or washing of the outside of buildings or any structures involving the use of water or steam in any form until further notice.
  - c. The watering of gardens, lawns, shrubbery and trees involving the use of water.
  - d. The operation of air-conditioning systems using water.
  - e. Leaking plumbing fixtures and service pipes.
  - f. Any purpose in any dwelling or multiple residence building in excess of forty-five (45) gallons [six (6) cubic feet] per person per day or in excess of such other limit as may be specified.
2. No water supply lines shall be maintained with the "bleeds" on any dock, structure or in any building for the purpose of maintaining a constant flow to prevent freezing.
3. No outdoor skating rink nor indoor skating rink requiring the use of water for ice purposes shall be operated until further notice, with the exception of such skating rinks where all the water can be reused with a tolerance of five percent (5%) of makeup purposes.
4. No swimming pools shall be operated until further notice, except such swimming pools designed and used exclusively for medical treatment, except such pools where all water can be reused with a tolerance of five percent (5%) of makeup purposes.
5. No automatic plumbing flush fixtures or apparatus using a constant or fixed periodic flow shall be maintained or operated. The flow from such apparatus shall only be by individual operation when the fixture or apparatus is in actual use.
6. The use of hose, spout or similar pressure bathing apparatus is prohibited and no constant flow from showers or similar apparatus shall be maintained. Operation of such apparatus shall be individual and only when the apparatus is in actual use.

The City of Rye also requires sewer hookup where sewer lines are within 150 feet to eliminate septic contamination of waters. See Policies 33 and 37.

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

**Explanation of Policy**

No storage or treatment of hazardous or solid wastes is permitted within the City.

The definitions of terms "solid wastes" and "solid wastes management facilities" are taken from New York's Solid Waste Management Act (Environmental Conservation Law, Article 27). Solid wastes include sludges from air or water pollution control facilities, demolition and construction debris and industrial and commercial wastes.

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Section 27-0901[3]), as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, disposed, transported or otherwise managed." A list of hazardous wastes (NYCRR Part 366) has been adopted by DEC (6 NYCRR Part 371).

Examples of solid waste management facilities include resource recovery facilities, sanitary landfills and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

Present practices for solid waste disposal include pickup by private and City-contracted haulers. The wastes are delivered to the County-leased transfer station in Disbrow Park and ultimately out of the City to the County Resource Recovery Facility. All practices are undertaken consistent with New York State Solid Waste Laws.

**POLICY 40            THE STATE COASTAL POLICY REGARDING EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING AND INDUSTRIAL FACILITIES IS NOT APPLICABLE TO THE CITY OF RYE.**

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

**Explanation of Policy**

New York's Coastal Management Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clear Air Act and State laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

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

The Department of Environmental Conservation will allocate substantial resources to develop a regulatory and management program to identify and eliminate toxic discharges into the atmosphere. The State's Coastal Management Program will assist in coordinating major toxic control programming efforts in the coastal regions and in supporting research on the multi-media nature of toxics and their economic and environmental effects on coastal resources. The Cementon industrial area should be monitored for airborne pollutants, such as dust from the cement plants.

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

**Explanation of Policy**

The policies of the State and local coastal management programs concerning proposed land and water uses and the protection and preservation of special management areas will be taken into account prior to any action to change prevention of significant deterioration land classifications in coastal regions or adjacent areas. In addition, the Department of State will provide the Department of Environmental Conservation with recommendations for proposed prevention of significant deterioration land classification designations based upon State and local coastal management programs.

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

### **Explanation of Policy**

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

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

### **Explanation of Policy**

Tidal wetlands include the following ecological zones: coastal fresh marsh; intertidal marsh; coastal shoals, bars and flats; littoral zone; high marsh or salt meadow; and formerly connected tidal wetlands. These tidal wetland areas are officially delineated on the Department of Environmental Conservation's Tidal Wetlands Inventory Map.

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

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

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

Tidal wetlands (see Figure II-5) are protected under Department of Environmental Conservation Law, Article 25 and its implementing regulations. Freshwater wetlands are protected under Department of Environmental Conservation, Article 24 and its implementing regulations and Chapter 102 of the Rye City Code. (See Policies 7, 11, 12, and 35 for standards protecting wetlands in the City of Rye).