

SECTION III – Local Waterfront Revitalization Program Policies

Section III presents the waterfront revitalization policies and their associated standards that are used in guiding appropriate development actions for a community. These policies consider the physical, economic, environmental and cultural characteristics of the community. They are comprehensive and reflect existing laws and authority regarding development and environmental protection. Together, these policies and their standards are to be used to determine an appropriate balance between economic growth and development and preservation that will permit the beneficial use of waterfront resources in the Town of Somerset without undue impacts. The following is a list of the Town of Somerset LWRP policies.

DEVELOPED WATERFRONT POLICIES

Policy 1

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

Policy 2

Preserve historic resources

Policy 3

Enhance visual quality and protect outstanding scenic resources.

NATURAL WATERFRONT POLICIES

Policy 4

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

Policy 5

Protect and improve water resources.

Policy 6

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

Policy 7

Protect and improve air quality.

Policy 8

Minimize environmental degradation from solid waste and hazardous substances and wastes.

PUBLIC WATERFRONT POLICIES

Policy 9

Improve public access to and use of public lands and waters.

WORKING WATERFRONT POLICIES

Policy 10

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

Policy 11

Promote sustainable use of fish and wildlife resources.

Policy 12

Protect agricultural lands in the Somerset LWRP study area.

Policy 13

Promote appropriate use and development of energy and mineral resources.

DEVELOPED WATERFRONT POLICIES

POLICY 1

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

Somerset's waterfront area is a key component to the character of the Town. The Town of Somerset waterfront is characterized by rural landscape with small enclaves of residential development along the shoreline of Lake Ontario. The vitality of the waterfront, and the preservation of the rural character of the area, is a critical component of the land use strategy for this area. Focusing future investment to sustain the community and protects the remaining open landscape that provides

agricultural, ecological and scenic value. The intent of this policy is to foster a pattern of development that protects and improves stable residential development, improves recreational opportunities, preserves open space and agricultural uses, and reinforces the rural character of the area.

Policy Standards

- 1.1 Concentrate development and redevelopment in order to revitalize and enhance the waterfronts and strengthen the traditional rural waterfront focus of a the community

New development should be located where infrastructure is adequate or can be upgraded to accommodate new development. Future development within the LWRA should be directed to occur within the existing sewer service areas.

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

- A. Scale development to be appropriate to the setting;
- B. Design development to highlight existing resources, such as local history and important natural and man-made features to reinforce community identity;
- C. Design the waterfront as a focus for activity that draws people to the shoreline and links the waterfront to upland portions of the community;
- D. Meet community and regional needs and market demands in making development choices;
- E. Recognize environmental constraints as limiting development; and
- F. Recognize the lack of sewer service as a constraint limiting development.

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

- A. Using building and site design to make beneficial use of a waterfront location and associated lakeshore resources;
- B. Minimizing consumption of waterfront lands and potential adverse impacts on natural resources;
- C. Limiting shoreline alteration and surface water coverage;
- D. Incorporating recreational activities, public access, open space, or amenities, as appropriate to the use, to enhance the site and the surrounding community, and to increase visual and physical access to the coast;
- E. Attracting people to the lakefront, as appropriate to the use;
- F. Ensuring that design and siting of uses and structures complements the surrounding community and landscape;

- G. Using indigenous plants as components of landscape design to improve habitat and water quality, and to lessen water demand; and
- H. Reinforcing community identity by highlighting local history and important natural and man-made features.

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

The amount of waterfront and its associated resources are limited. All uses should relate to the unique qualities associated with a waterfront location. Consideration should be given to whether a use is appropriate for a waterfront location. When planning waterfront development or redevelopment, the waterfront location should be reflected in the siting, design, and orientation of the development.

Water-dependent uses

Water-dependent uses should be promoted where appropriate and given precedent over other types of development at suitable waterfront sites. Existing water dependent uses should be protected.

Water-dependent uses are activities which require a location in, on, over, or adjacent to the water because the activities require direct access to water and the use of water is an integral part of the activity.

Development which is not dependent on a waterfront location or which cannot make beneficial use of a waterfront location should be avoided in the currently vacant areas along the waterfront.

It is recognized that the AES power generating station is a long-term water dependent use that will continue its operations Somerset. However, expansion or addition of non-water dependent uses should be avoided along the waterfront.

Water-enhanced uses

Water-enhanced uses may be encouraged where they are compatible with surrounding development and are designed to make beneficial use of their waterfront location.

Water enhanced uses are activities that do not require a location on or adjacent to the water to function, but whose location on the waterfront could add to public enjoyment and use of the water's edge, if properly designed and sited. Water-

enhanced uses are generally of a recreational, cultural, commercial, or retail nature.

To ensure that water-enhanced uses make beneficial use of their waterfront location, they should be sited and designed to:

- A. Attract people to or near the waterfront and provide opportunities for access that is oriented to the coast;
- B. Provide public views to or from the water;
- C. Minimize consumption of waterfront land; and
- D. Not interfere with the operation of water-dependent uses.
- E. not cause significant adverse impacts to community character and surrounding land and water resources
- F. where appropriate, improve public access to waterfront

Uses should be avoided that would:

- A. Result in unnecessary and avoidable loss of lakeshore resources;
- B. Ignore their waterfront setting as indicated by design or orientation; and
- C. By their nature, not derive an economic benefit from a waterfront location.

The existing camps and campgrounds are water-enhanced uses. Due to the lack of significant pressure for new development, it is anticipated that the camps will remain in operation. However, in the future, if the camps and campgrounds are proposed for re-development, priority should be given to water-dependent and water-enhanced uses over or non-water dependent commercial or industrial uses. This policy is reflected in the recently adopted (2003) Comprehensive Plan, which presents a Vision map promoting waterfront uses along the shoreline. Proper site planning (to protect the shoreline and promote public access) is facilitated by the Town's authority to utilize its existing cluster development regulations.

Since much of the existing waterfront land use is residential, in-fill development in existing residential areas should continue to be allowed in existing sewer service areas.

When deemed necessary by the Town, an overlay district should be established in order to provide enhanced use and design controls while maintaining the underlying residential and agricultural designations within the LWRA.

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

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

To enhance community character and maintain the quality of the natural and man-made environments, potential adverse impacts on existing development, physical environments, and economic factors should be addressed and mitigated. Development requirements should reflect site characteristics, limit the disturbance of land and water, and foster visual compatibility of the development with surrounding areas.

Adverse impacts on natural resources should be avoided, including:

- A. Deterioration of water quality;
- B. Loss, fragmentation, and impairment of habitats and wetlands; and
- C. Alterations to natural protective features and changes to the natural processes of erosion and accretion that lead to increased erosion rates, damage by lake storms, and tidal flooding.

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

The expansion of infrastructure into undeveloped areas should be avoided where such expansion would promote growth and development detrimental to natural resources and agricultural productivity.

At this time the Town does not have the funds available to develop the recreation features in the Multi-use Plan. Nor does the Town believe that there is sufficient demand for a park at this time in that location. However, The Town should retain its options to implement the Multi-use Plan in the future to meet the recreation needs of the Town. At such time as demand and fund are in place, development of the Multi-use Plan should focus on public access to the waterfront.

- 1.4 Minimize potential adverse land use, environmental, and economic impacts that would result from proposed development

To enhance community character and maintain the quality of the natural and man-made environments of the waterfront area, potential adverse impacts on existing development, physical environments, and economic factors should be addressed and mitigated. Development requirements should reflect existing site characteristics, limit the disturbance of land and water, and foster visual compatibility of development with surrounding areas.

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

Potential adverse impacts on existing development should be minimized, as follows:

- A. Avoid introduction of discordant features which would detract from the community by comparing the proposed development with existing mass and distribution of structures, scale, intensity of use, architectural style, land use pattern, or other indicators of community character;
- B. Mitigate adverse impacts among existing incompatible uses by avoiding expansion of conflicting uses, promoting mixed-use development approaches which would reduce potential for conflict, mitigating potential conflicts by segregating incompatible uses, and providing buffers, or using other design measures to reduce conflict between incompatible uses;
- C. Protect the surrounding community from adverse impacts due to substantial introductions of or increases in visually intrusive uses, odors, noise or traffic;
- D. Integrate waterfront areas with upland communities by: providing physical linkages between the upland community and the waterfront, matching uses to community needs, particularly as related to demographic characteristics, and limiting exclusion of the waterfront from the surrounding community; and
- E. Prevent displacement or impairment of the operation of water-dependent and water-enhanced uses.

Potential adverse economic impacts should be minimized, as follows:

- A. Prevent deterioration of the site and surrounding area by preventing derelict or dilapidated conditions, avoiding detracting from community character, and preventing isolation of community and people from the waterfront;
- B. Protect and enhance the community's economic base;
- C. Promote a diverse economic base; and

- D. Where expansion of infrastructure or services is necessary:
- (1) increase existing facility and service capacity and efficiency to foster concentration of development,
 - (2) where feasible, expand sewer service areas to currently un-served residential areas, and
 - (3) avoid expansion of improvements and services into previously undeveloped areas.

1.5 Protect stable residential areas

New development located in or adjacent to existing residential areas should be compatible with neighborhood character. New development can result in a reduction of informal public access points, which may be of significance to a residential area. The potential loss of these informal public access points emphasizes the need to foster opportunities to provide new public access points for the community.

New non-residential uses in a stable residential area should be avoided when the use, its size and scale will significantly impair neighborhood character. New construction, redevelopment, and screening, such as fences and landscaping, should not reduce or eliminate vistas that connect people to the water.

POLICY 2

PRESERVE HISTORIC RESOURCES.

Archaeological sites and historic structures are tangible links to the past development of a community-both its cultural and economic life-providing a connection to past generations and events. In the Town of Somerset, there are few identified archaeological or historical resources of statewide significance. Those that are known (Thirty-Mile Point Lighthouse and Babcock House), as well as those that may be identified in the future, are important components in defining the community's distinctive identity and heritage. Therefore, the effective preservation of historic resources must include efforts to identify, document restore and revitalize important resources, where appropriate.

The intent of this policy is to preserve the historic and archaeological resources of the Somerset LWRA. Concern extends not only to the specific site or resource, but with the area adjacent to and around specific sites or resources. The quality of adjacent areas is often critical to maintaining the quality and value of the resource. Effective

preservation of historic resources must also include active efforts, when appropriate, to restore or revitalize. While the Somerset LWRP addresses all such resources within the waterfront area, it actively promotes preservation of historic, archaeological, and cultural resources that have a waterfront relationship.

In addition to the above noted historic structures, historic resources that would be covered under this policy include those structures, landscapes, districts, areas or sites, or underwater structures or artifacts, which are listed or designated as follows:

- A. Any historic resource in a federal or state park established, solely or in part, in order to protect and preserve the resource;
- B. Any resource on, nominated to be on, or determined eligible to be on the National or State Register of Historic Places;
- C. Any cultural resource managed by the New York State Nature and Historic Preserve Trust or the New York State Natural Heritage Trust;
- D. Any archaeological resource which is on the inventories of archaeological sites maintained by the New York State Department of Education or the Office of Parks, Recreation, and Historic Preservation; and
- E. Any locally designated historic or archaeological resources protected by a local law or ordinance.

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

- A. Time, place, and use;
- B. Materials, features, spaces, and spatial relationships;
- C. Setting within its physical surroundings and the community; and
- D. Association with historic events, people, or groups.

The value of the historic resource as indicated by:

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

Policy Standards

2.1 Maximize preservation and retention of historic resources

Preserve and retain the historic character-defining elements of the resource. Use the following standards to achieve the least degree of intervention.

- A. Protect and maintain historic materials and features according to the following approach:
 - (1) Evaluate the physical condition of important materials and features;
 - (2) Stabilize materials and features to prevent further deterioration;
 - (3) Protect important materials and features from inadvertent or deliberate removal or damage; and
 - (4) Ensure the protection of historic elements through a program of non-intrusive maintenance of important materials and features.
- B. Repair historic materials and features according to recognized preservation methods when their physical condition warrants.
- C. When a historic feature is missing or the level of deterioration or damage precludes maintenance or repair:
 - (1) Limit the replacement of extensively deteriorated features or missing parts to the minimum degree necessary to maintain the historic character of the resource.
 - (2) Maintain historic character where a deteriorated or damaged feature is replaced in its entirety. In replacing features, the historic character of the resource can be best maintained by replacing parts with the same kind of material. Substitute materials may be suitable if replacement in kind is not technically or economically feasible and the form, design, and material convey the visual appearance of the remaining parts of the feature.
 - (3) When re-establishing a missing feature, ensure that the new feature is consistent with the historic elements of the resource. If adequate historical, pictorial, and physical documentation exists so that the feature may be accurately reproduced, use available documentation to

design and construct a new feature. If adequate documentation does not exist, design and construct a new feature that is compatible with the remaining features of the resource. The new design should be based on research, pictorial, and other evidence so that a true historical appearance is created.

- D. Provide for efficient, compatible use of the historic resource.
- E. Foster uses that maximize retention of the historic character of the resource:
 - (1) Maximum retention of historic character is best achieved by using the resource as it was historically used; and
 - (2) If the resource cannot be used as it was historically used, adapt a use to the historic resource that maximizes retention of character-defining materials and features.
- F. Minimize alterations to the resource to preserve and retain its historic character.
 - (1) Minimize potential negative impacts on the resource's historic character due to necessary updates in systems to meet health and safety code requirements or to conserve energy.
 - (2) Make alterations to the resource only as needed to ensure its continued use and provided that adverse impact on the resource is minimized. Alterations should not obscure, destroy, or radically change character-defining spaces, materials, features, or finishes in order to minimize adverse impact on the resource. Alterations may include selective removal of features that are not historic elements of the resource and its setting and that detract from the overall
 - (3) historic character of the resource.
 - (4) Construct new additions only after it is determined that an exterior addition is the only viable means of assuring continued use of the resource.
 - (5) In constructing new additions, use appropriate design and construction to minimize adverse impact on the resource's historic character. Adverse impact can be minimized in new additions by: clearly differentiating from historic materials and features; using design compatible with the historic materials, forms and details, size, scale and proportion, and massing of the resource to protect the integrity of the resource and its setting. In addition, new additions should be designed such that, if removed in the future, the essential form and integrity of the historic resource and its setting would not be impaired.
- G. Minimize loss of historic resources or the historic character of the resources of the waterfront when it is not possible to completely preserve and retain the resource.
- H. Relocate an historic resource when it cannot be preserved in place and the resource is imperiled:

- (1) directly by a proposed activity which has no viable alternative which would not result in adverse effects on the resource, or
 - (2) indirectly by surrounding conditions which are likely to result in degradation or inadequate maintenance of the resource
 - (3) the resource cannot be adapted for use on the existing site which would result in preservation of the resource,
 - (4) a suitable site for relocation is available, and
 - (5) it is technically and economically feasible to move the resource.
- I. Allow for demolition of the resource only when:
- (1) it is not feasible to protect the resource through relocation, and
 - (2) the resource has been officially certified as being imminently dangerous to life or public health, or
 - (3) the resource cannot be adapted for any use on the existing site or on any new site
- J. Document in detail the character-defining elements of the historic resource in its original context prior to relocation or demolition of the resource.
- K. Avoid potential adverse impacts of development on adjacent or nearby historic resources.
- L. Protect historic resources by ensuring that development is compatible with the historic character of the affected resource.
- M. Design development to a size, scale, proportion, mass, and with a spatial relationship compatible with the historic resource.
- N. Design development using materials, features, forms, details, textures, and colors compatible with similar features of the historic resource.
- O. Limit adverse cumulative impacts on historic resources.
- (1) Minimize the potential adverse cumulative impact on a historic resource, which is a member of a group of related resources that may be adversely impacted by the loss or diminution of any one of the members of the group.
 - (2) Minimize the potential cumulative impacts of a series of otherwise minor interventions on a historic resource.
 - (3) Minimize potential cumulative impacts from development adjacent to the historic resource.

2.2 Protect and preserve archaeological resources

Conduct a cultural resource investigation when an action is proposed on an archaeological site, fossil bed, or in an area identified for potential archaeological sensitivity on the archaeological resources inventory maps prepared by the New York State Department of Education.

- A. Conduct a site survey to determine the presence or absence of cultural resources in the project's potential impact area.
- B. If cultural resources are discovered as a result of the initial survey, conduct a detailed evaluation of the cultural resource to provide adequate data to allow a determination of the resource's archaeological significance.

If impacts are anticipated on a significant archaeological resource, minimize potential adverse impacts by:

- A. Redesigning the project;
- B. Reducing direct impacts on the resource; and
- C. Recovering data prior to construction.

Avoid disturbance or adverse effects on any object of archaeological or paleontological interest situated on or under lands owned by the State of New York. These resources may not be appropriated for private use.

2.3 Preserve and enhance the historic Thirty Mile-Point lighthouse.

The Thirty-Mile Point lighthouse adds significantly to the character of the Somerset waterfront community.

Provide for the long-term protection of Thirty-Mile Point lighthouse, which is listed in the National or State Register of Historic Places through the least degree of intervention.

- A. Protect the historic lighthouses from erosion hazards.
- B. Use nonstructural methods such as beach nourishment as the first choice in providing protection from erosion hazards
- C. Relocate the historic lighthouse if imperiled by erosion hazards that cannot be managed by nonstructural methods. The lighthouses should be relocated to an adjacent sites, whenever feasible, as determined by economics and

engineering constraints. In relocating the lighthouse, particular attention should be given to preserving the original context and function. In addition, any decision to relocate the lighthouse should provide for a sufficient period of protection to warrant the expenditure of funds for relocation.

D. Use hard structural erosion control measures to preserve the lighthouse only if:

- (1) The lighthouse is clearly imperiled by erosion hazards;
- (2) Relocation is not feasible based on economic or engineering constraints;
- (3) Nonstructural approaches would not provide sufficient protection; and
- (4) Hard structures would not adversely affect coastal processes.

2.4 Preserve and enhance the historic Babcock House Museum on Lake Road.

Provide for the long-term protection of the Babcock House Museum. In the event that AES Somerset, LLC proposes to develop or sell the 178-acre parcel, on which the Babcock House is located, measures must be put into place to ensure the continued preservation and maintenance of the museum, its associated out-buildings and a surrounding parcel large enough to ensure that their historic significance is not significantly diminished.

POLICY 3

ENHANCE VISUAL QUALITY AND PROTECT OUTSTANDING SCENIC RESOURCES.

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

From various points along the Somerset waterfront, there are excellent views of Lake Ontario and its shoreline. Significant views are available from Thirty-Mile Point within Golden Hill State Park, Lower Lake Road and from some vantage points along Lake Road (Route 18). The New York Seaway Trail follows Route 18 through the Town of Somerset. The Seaway Trail is the only National Scenic By-way in New York State. National Scenic By-ways are areas that possess outstanding qualities that exemplify the regional characteristics of our nation. This designation for the corridor through

Somerset is important and should be recognized as such. Efforts should be taken to protect and where possible, to improve the visual quality and visual accessibility of the waterfront area.

3.1 Protect and improve visual quality throughout the waterfront.

The visual quality of Town of Somerset waterfront is an important component in the character of this area. Waterfront uses often include residential and recreational activities, infrastructure, and changes to the landscape that add visual interest. Some of these uses include elements that may not in themselves be considered scenic, yet contribute interest to the landscape. Structures or activities that introduce visual interruptions to the natural landscape along the shoreline, such as intrusive artificial lighting or massive structural elements in open areas, should be discouraged.

The Thirty-Mile Point Lighthouse in Golden Hill State Park represents a structure that is significant both culturally and scenically and should be preserved and protected.

Wetlands, important open space, including upland areas and the expanse of water, and shorelines in natural conditions all contribute to scenic quality. Along the Somerset shoreline, the bluffs are the most significant natural feature adding to the scenic value of waterfront. These resources should be protected.

3.2 Protect aesthetic values associated with recognized areas of high scenic quality

There are no designated Scenic Areas of Statewide Significance; designated areas under Protection of Natural and Man-made beauty (Article 49 of ECL), designated scenic rivers, or other governmentally recognized scenic resource areas in the Somerset LWRA.

Route 18 runs through the western portion of the Somerset LWRA. Route 18 is part of the New York Seaway Trail, the only National Scenic By-way in New York State. National Scenic By-ways are areas that possess outstanding qualities that exemplify the regional characteristics of our nation. This designation for the corridor through Somerset is important and should be recognized as such. Efforts should be taken to protect and where possible, to improve the visual quality and visual accessibility of the waterfront area.

NATURAL WATERFRONT POLICIES

POLICY 4

MINIMIZE LOSS OF LIFE, STRUCTURES, AND NATURAL RESOURCES FROM FLOODING AND EROSION.

This policy seeks to protect life, structures and natural resources from the hazards of flooding and erosion. The policy reflects State flooding and erosion regulations and provides measures for the reduction of hazards and protection of resources. The Town of Somerset contains flood zones that have been designated by the Federal Emergency Management Agency and are depicted on Flood Insurance Rate Maps. The Town participates in the National Flood Insurance Program and development in the floodplain is regulated under Chapter 104 of the Town Code – Flood Damage Prevention. This law is designed to promote the public health, safety and general welfare and to minimize public and private loss due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Pursuant to Chapter 104, any development action that is proposed within regulated flood zones requires a permit from the Town Code Enforcement Officer and must be in compliance with the standards outlined in the law (see Appendix B).

In the Town of Somerset, flooding has been known to occur along Fish Creek and Golden Hill Creek and the shoreline of Lake Ontario is subject to high velocity wind and wave action from lakefront storms. Portions of the lakeshore have experienced erosion problems and required reinforcement due to the impacts of lake storm events.

In response to existing or perceived erosion and flood hazards, many landowners construct erosion control structures. While some erosion control structures are necessary to protect development, there are many erosion control structures located along the shoreline are not necessary for erosion protection.

Although some sections of the coast have been heavily fortified, significant stretches remain in a natural state. Other areas have been hardened in the past, but those structures are now in disrepair. The natural shoreline has an inherent natural, social, and economic value that should be respected to ensure continuing benefits. Consequently, those portions of the Lake Ontario shoreline that are not fortified should generally remain in a natural condition to respond to coastal processes. Where

feasible and appropriate, portions of the shoreline that have been hardened should be returned to a natural condition.

Development and redevelopment in hazard areas needs to be managed to reduce exposure to flooding and erosion hazards. Hardening of the shoreline is to be avoided except when alternative means, such as soft engineering alternatives, beach nourishment or revegetation, are impractical to protect principal structures or extensive public investment (land, infrastructure, facilities).

This policy seeks to protect life, structures, and natural resources from flooding and erosion hazards. The policy reflects State flooding and erosion regulations and provides measures for reduction of hazards and protection of resources.

Policy standards are divided into seven sections. Section 1 presents standards directed at protection of life and property, including measures for minimizing losses from flooding and erosion arranged in order of priority, ranging from avoidance to hard structural approaches. Section 2 addresses natural protective features. Section 3 addresses protection of public lands or public trust lands. Section 5 establishes conditions for expenditure of public funds for management of flood and erosion hazards contingent on public benefit.

Policy Standards

4.1 Minimize losses of human life and property damage by locating structures and other development away from flooding and erosion hazards

A. Use hard structural erosion protection measures for control of erosion only where:

- (1) Vegetative approaches to control erosion are not effective;
- (2) Construction of a hard structure is the only practical design consideration and is essential to protecting upland uses;
- (3) The proposed hard structural erosion protection measures are limited to the minimum scale necessary and are based on sound engineering practices; and
- (4) Practical vegetative methods have been included in the project design and implementation.

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

Anchoring -

- (1) All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement of the structure.

- (2) All manufactured homes shall be installed using methods and practices that minimize flood damage. Manufactured homes must be elevated and anchored to resist floatation, collapse and lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

Construction materials and methods -

- (1) All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

Utilities -

- (1) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Subdivision proposals -

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage
- (2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.

Encroachments -

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in Section 104-13A(3) of the Flood Damage Prevention Law. This may require the submission of additional data to assist in the determination.

- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to the provisions of Sections 104-13B or 104-14d(4) of the Flood Damage Prevention Law, and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 104-13B, the requirements of Section 104-16 of the Flood Damage Prevention Law shall apply.

C. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Sections 104-6 104-13B of the Town of Somerset Flood Damage Prevention Law, the following standards are required.

Residential construction - New construction and substantial improvements of any residential structure shall comply with the following:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch shall be provided for every square foot of enclosed area subject to flooding;
 - b. The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - c. Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

Non-residential construction - New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation, or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevations shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - a. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all such openings shall be not higher than one (1) foot above the lowest adjacent finished grade; and

- c. Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
- a. A licensed professional engineer or architect shall develop and/or review structural designs, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - b. A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
- (3) The Town of Somerset Local Flood Law Administrator shall maintain, on record, a copy of all such certificates noted in this policy.

Construction standards for areas of special flood hazards without base flood elevations, include the following:

- (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated to or above the base flood elevation as may be determined in Section 104-13B of the Flood Damage Prevention Law or two (2) feet above the highest adjacent grade where no elevation data is available.
- a. New construction or substantial improvements of structures, including manufactured homes shall have the lowest floor (including basement) elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.
 - b. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - a minimum of two (1) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding
 - the bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade
 - openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

4.2 Maintain erosion protection structures to protect public health and safety and reduce erosion hazards

The erosion protection structures located along the central portion of the lakefront are in various states of disrepair. To protect public health and safety, and reduce

erosion hazards, lakefront property owners are encouraged to repair or replace concrete seawalls, rock rip rap and other erosion protection structures, to the greatest extent possible. The New York State Department of Environmental Conservation will work with residents and continue to permit the replacement of these structures or the installation of new structures in accordance with 6 NYCRR Part 505 (Coastal Erosion Management Regulations) and Part 608 (Protection of Water).

4.3 Minimize loss of structures and natural resources in floodways

Located within areas of special flood hazards are areas designated as floodways. The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces.

When floodway data is available for a particular site (as provided by Subsections 104-6 and 104-13B of the Flood Damage Prevention Law, all encroachments, including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

4.4 Preserve and restore natural protective features

Natural protective features along Lake Ontario and the tributary creeks and streams include beaches, dunes, bluffs, and wetlands, and associated natural vegetation.

A. Maximize the protective capabilities of natural protective features by:

- (1) Avoiding alteration or interference with areas of the Lake Ontario shorelines currently in a natural condition;
- (2) Enhancing existing natural protective features;
- (3) Restoring the condition of impaired natural protective features, wherever practical; and
- (4) Using practical vegetative approaches to stabilize natural shoreline features.

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

- ##### A. Retain ownership of public trust lands that have become upland areas due to fill or accretion resulting from erosion control projects.

- B. Avoid losses or likely losses of public trust lands or use of these lands, including public access along the shore, which can be reasonably attributed to or anticipated to result from erosion protection structures.
- C. Provide and maintain compensatory mitigation of unavoidable impacts to ensure that there is no adverse impact to adjacent property, to natural coastal processes and natural resources, or to public trust lands and their use.

4.6 Expend public funds for management or control of flooding or erosion hazards only in areas of the lakeshore that will result in proportionate public benefit

Give priority in expenditure of public funds to actions that protect public health and safety, mitigate past flooding and erosion, protect areas of intensive development, and protect substantial public investment (land, infrastructure, facilities).

- A. The expenditure of public funds for flooding or erosion control projects:
 - (1) Should be limited to those circumstances where public benefits exceed public costs;
 - (2) Is prohibited for the exclusive purpose of flooding or erosion protection for private development; and
 - (3) May be apportioned among each level of participating governmental authority according to the relative public benefit accrued.
- B. Factors to be used in determining public benefit attributable to the proposed flood or erosion control measure include:
 - (1) Economic benefits derived from protection of public infrastructure and investment and protection of water-dependent commerce;
 - (2) Extent of public infrastructure investment; or
 - (3) Extent of existing or potential public use.

POLICY 5

PROTECT AND IMPROVE WATER RESOURCES.

The purpose of this policy is to protect the quality and quantity of water in the Somerset LWRP area. Water quality considerations include the management of both point and nonpoint pollution. Water quality protection and improvement must be accomplished by the combination of managing new and remediating existing sources of pollution.

Four sections present the standards for this policy. The first section deals with both point and nonpoint sources of pollution. These standards reflect the state regulations for point source discharge, treatment of sanitary and industrial wastes, and discharges into navigable waters. Section 2 presents specific approaches for managing nonpoint source pollution according to the land use or pollution source categories. Section 3 summarizes existing regulations for protection of lake water quality. Section 4 specifically addresses cumulative and secondary impacts as related to water quality.

Policy Standards

5.1 Prohibit direct or indirect discharges that would cause or contribute to the contravention of water quality standards and targets

A. Prevent point source discharges into lake waters and manage or avoid land and water uses which would:

- (1) Exceed applicable effluent limitations, or cause or contribute to contravention of water quality classification and use standards; or
- (2) Adversely affect receiving water quality.

B. Ensure effective treatment of sanitary sewage and industrial discharges by:

- (1) Maintaining efficient operation of sewage and industrial treatment facilities;
- (2) Providing, at a minimum, effective secondary treatment of sanitary sewage;
- (3) Modifying existing sewage treatment facilities to provide improved nitrogen removal capacity;
- (4) Incorporating into the design for new or upgraded wastewater treatment facilities the capacity for treatment beyond secondary treatment, if and when funding is available;
- (5) Reducing the demand on sewage treatment facilities by:
 - a. Reduce infiltration of excess water in collection and transport systems
 - b. Prevent unauthorized collection system hookups
 - c. Pretreat industrial wastes
 - d. Limit discharge volumes and pollutant loadings to or below authorized levels
 - e. Installing low-flow water conservation fixtures in all new development, and when replacing fixtures in existing development;
- (6) Controlling, and to the greatest extent possible, reducing the loadings of toxic materials into lake waters by including limits on toxic metals as part of wastewater treatment plant (WWTP) effluent permits and by enforcing any pretreatment requirement; and

(7) Use of on-site disposal systems only when it is impractical to connect with public sewer systems. Encourage residential development in areas served by sewer before non-sewer service areas.

- C. Protect surface and groundwater against contamination from pathogens and excessive nutrient loading by keeping septic effluent separated from groundwater and by providing adequate treatment of septic effluent.

This standard addresses performance of septic systems. Factors to include in assessing septic systems include water table elevation, soil porosity, and system design. Septic system capacity is an important factor, which can be controlled by reducing unnecessary organic loads. Nutrient loading to groundwater is of concern based on cumulative effects and resulting contamination of potable groundwater water and excessive nutrient loadings into surface waters including through springs and groundwater lens ponds.

- D. Encourage evaluation and remediation of on-site systems that currently do not adequately treat or separate effluent.

A desire to protect and improve water quality in the LWRA is one of the main goals of the LWRP. This goal may be achieved by continuing to encourage the implementation of best management practices in areas subject to non-point source pollution, in particular failing septic systems. Over the long-term, further water quality improvement can be achieved by extending sanitary sewers to locations with older, failing systems, such as the Lakeshore and Somerset Drive area, where there is denser residential development that utilizes on-site sanitary disposal systems. These systems may require maintenance, and in some cases replacement, to ensure the protection of water quality. The installation of public sewers into this area would eliminate the potential threats to water quality from failing septic systems. Until such time that sewer extensions can be accomplished, property owners should work with the Niagara County Health Department to obtain guidance and assistance with acceptable designs for septic system maintenance and replacement.

5.2 Minimize nonpoint pollution of lake waters and manage activities causing nonpoint pollution

- A. Minimize nonpoint pollution of lake waters using the following approaches, which are presented in order of priority.

(1) Limit non-point source pollution by:

- a. Reducing or eliminating the introduction of materials that may contribute to nonpoint pollution;
 - b. Avoiding activities that would increase off-site stormwater runoff and transport of pollutants;
 - c. Controlling and managing stormwater runoff to:
 - minimize transport of pollutants,
 - restore degraded stormwater natural stormwater runoff conditions and
 - achieve no-net increase of runoff where unimpaired stormwater runoff conditions exist;
 - d. Retaining or establishing vegetation to maintain and provide soil stabilization, and filtering capacity;
 - e. Preserve natural hydrologic conditions to maintain natural surface water flow characteristics and retain natural watercourses and drainage systems where present; and
 - f. Where natural drainage systems are absent or incapable of handling the anticipated runoff demands:
 - develop open vegetated drainage systems as the preferred approach and design these systems to include long and indirect flow paths and to decrease peak runoff flows; and
 - use closed drainage systems only where site constraints and stormwater flow demands make open water systems infeasible.
- (2) Reduce pollutant loads to lake waters by managing unavoidable nonpoint sources and use appropriate best management practices as determined by site characteristics, design standards, operational conditions, and maintenance programs.
- B. Reduce nonpoint source pollution using specific management measures appropriate to specific land use or pollution source categories.

This section presents summary management measures to apply to specific land use or pollution sources. These management measures are to be applied within the context of the prioritized approach of avoidance, reduction, and management presented in the previous policy section. Further information on specific management measures is contained in Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters (U.S. EPA, 840-B-92-002).

(1) Agriculture

- a. Control soil erosion and contain sediment in order to avoid entry of soils into the waters of Lake Ontario and Fish and Golden Hill Creeks.
- b. Manage nutrient loadings by applying nutrients only in amounts needed for crop growth, avoiding nutrient applications that will result in nutrient loadings to lake waters and tributaries creeks and streams.
- c. Limit contamination of lake and creek waters from pesticides to the extent possible by applying pesticides only when economically appropriate and in a safe manner.

- (2) Urban
 - a. For new development, manage total suspended solids in runoff to remain at predevelopment loadings.
 - b. For site development, limit activities that increase erosion or the amount or velocity of stormwater runoff.
 - c. For construction sites, reduce erosion and retain sedimentation on site, and limit and control use of chemicals and nutrients.
 - d. For new on-site sewage disposal systems, ensure that siting, design, maintenance, and operation prevent discharge of pollutants.
 - e. Plan, site, and design roads and highways to manage erosion and sediment loss, and limit disturbance of land and vegetation.
 - f. Plan, site, and design bridges to protect ecosystems.
 - g. For roads, highways, and bridges, minimize to the extent practical the runoff of contaminants to lake waters.
- (3) Hydromodifications
 - a. Maintain the physical and chemical characteristics of surface waters, reduce adverse impacts, and, where possible improve the physical and chemical characteristics of surface waters in the lake and creek corridors.
 - b. Use vegetative means, where possible, to protect stream banks and shorelines from erosion.
- (4) Floatables and litter
 - a. Prohibit all direct or indirect discharges of refuse or litter into surface waters of Lake Ontario and Fish and Golden Hill Creeks, or upon public lands contiguous to and within 100 feet of the lake or creek waters.
 - b. Limit entry of floatables to surface waters through containment and prevention of litter.
 - c. Remove and dispose of floatables and litter from surface waters and shorelines of the lake and creeks.
 - d. Implement pollution prevention and education programs to reduce discharge of floatables and litter into roadside ditches, creek corridors and the lake.

5.3 Protect and enhance surface water quality

- A. Protect water quality of Lake Ontario and Fish Creek and Golden Hill Creek based on an evaluation of physical factors (pH, dissolved oxygen, dissolved solids, nutrients, odor, color and turbidity), health factors (pathogens, chemical contaminants, and toxicity), and aesthetic factors (oils, floatables, refuse, and suspended solids).
- B. Minimize disturbance of creeks and streams, including their bed and banks, in order to prevent erosion of soil, increased turbidity, and irregular variation in velocity, temperature, and level of water.
- C. Protect the surface water quality of Fish and Golden Hill Creeks from the potential adverse impacts due to excavation, placement of fill, dredging and the

disposal of dredged materials, using avoidance and minimization methods including reduction in scope of work and use of clean fill.

5.4 Limit the potential for cumulative and secondary impact of watershed development and other activities on water quality and quantity

A. Protect water quality by ensuring that watershed development results in:

- (1) Protection of areas that provide important water quality benefits;
- (2) Maintenance of natural characteristics of drainage systems; and
- (3) Protection of areas that are particularly susceptible to erosion and sediment loss.

B. Limit the individual impacts associated with development to prevent cumulative water quality impacts that would lead to a failure to meet water quality standards.

5.5 Protect and conserve quality and quantity of potable water

Limit cumulative impact on groundwater recharge areas to ensure replenishment of potable groundwater supplies

POLICY 6

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

Policy Standards

6.1 Protect Locally Significant Waterfront Fish and Wildlife Habitats

No Significant Coastal Fish and Wildlife Habitats have been identified or mapped by the Department of Environmental Conservation within the Somerset LWRA. However, 18-Mile Creek represents a locally significant habitat that should be offered a similar level of protection and therefore, must be protected for the habitat values they provide and to avoid permanent adverse changes to the local ecosystem.

The standards for this section are to be applied to any activity that is subject to consistency review under federal and state laws. Examples of generic activities that

could destroy or significantly impair habitat values are provided within the impact assessment section of the narrative for each designated habitat.

Significant fish and wildlife habitats are those habitat areas which:

A. Exhibit, to a substantial degree, one or more of the following characteristics:

- (1) Is essential to the survival of a large portion of a particular fish or wildlife population; and
- (2) Supports a species which is either endangered, threatened, or of special concern as those terms are defined at 6 NYCRR Part 182.

B. Uses or activities should be avoided which would:

- (1) Destroy habitat values through direct physical alteration, disturbance, or pollution, or the indirect effects of actions that would result in a significant loss of habitat.
- (2) Significantly impair the viability of a habitat beyond the tolerance range of fish and wildlife species through:
 - a. Degradation of existing habitat elements;
 - b. Change in environmental conditions;
 - c. Functional loss of habitat values; or
 - d. Adverse alteration of physical, biological, or chemical characteristics.

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

- (1) Avoidance of potential adverse impacts, including:
 - a. Avoiding ecologically sensitive areas;
 - b. Scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions; and
 - c. Preventing fragmentation of intact habitat areas.
- (2) Minimization of unavoidable potential adverse impacts, including:
 - a. Reducing scale or intensity of use or development;
 - b. Designing projects to result in the least amount of potential adverse impact;
 - c. Choosing alternative actions or methods that would lessen potential impact; and
 - d. Specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment.

6.2 Support the restoration of locally significant fish and wildlife habitat wherever possible so as to foster their continued existence as natural, self-regulating systems

A. Measures that can be undertaken to restore significant habitats include:

- (1) Reconstructing lost physical conditions to maximize habitat values;
- (2) Adjusting adversely altered chemical characteristics to emulate natural conditions; and
- (3) Manipulating biological characteristics to emulate natural conditions through re-introduction of indigenous flora and fauna.

6.3 Protect and restore freshwater wetlands

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

- (1) Compliance with the statutory and regulatory requirements of the Stream Protection Act.
- (2) Prevention of the net loss of wetlands by:
 - a. Avoiding placement of fill or excavation of wetlands;
 - b. Minimizing adverse impacts resulting from unavoidable fill, excavation or other activities;
 - c. Providing compensatory mitigation for adverse impacts that may result from unavoidable fill, excavation or other activities remaining after all appropriate and practicable minimization has been accomplished; and
 - d. Providing and maintaining adequate buffers between wetlands and adjacent or nearby uses and activities in order to ensure protection of the wetlands character, quality, values and functions.
- (3) Through the existing local review and approval processes for Site Plan, Subdivision, and Clustering, the Town should protect identified wetlands depicted in the Environmental Features Map. New development should first be designed to avoid wetlands. When avoidance is determined to be impracticable, disturbance to wetlands should be minimized and when disturbance is necessary the impact should be mitigated to the greatest extent possible.

POLICY 7 - Protect and improve air quality

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

Policy Standards

7.1 Control or abate existing, and prevent new air pollution

New land uses and development in the Town of Somerset should comply with the following standards.

- A. Limit pollution resulting from new or existing stationary air contamination sources, consistent with:
 - (1) Attainment or maintenance of any applicable ambient air quality standard
 - (2) Applicable New Source Performance Standards
 - (3) Applicable control strategy of the State Implementation Plan, and
 - (4) Applicable Prevention of Significant Deterioration requirements
 - B. Recycle or salvage air contaminants using best available air cleaning technologies.
 - C. Limit pollution resulting from vehicular or vessel movement or operation, including actions which directly or indirectly change transportation uses or operation, consistent with attainment or maintenance of applicable ambient air quality standards, and applicable portions of any control strategy of the State Implementation Plan.
 - D. Restrict emissions of air contaminants to the outdoor atmosphere that are potentially injurious to human, plant, or animal life or property, or that would reasonably interfere with the comfortable enjoyment of life or property.
 - E. Limit new facility or stationary source emissions of acid deposition precursors consistent with achieving final control target levels for wet sulfur deposition in sensitive receptor areas, and meeting New Source Performance Standards for the emissions of oxides of nitrogen.
- 7.2 Limit discharges of atmospheric radioactive material to a level that is as low as practicable
- State air quality standards regulate radioactive materials and pollutants. For actions with a potential impact on air quality, the Town shall provide necessary information, as appropriate, to the State to enable the State to effectively administer its air quality statutes pertaining to atmospheric radioactive material.
- 7.3 Capture and recycle chloroflourocarbon compounds during service and repair of air-conditioning and refrigeration units to the greatest extent possible

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

- 7.4 Limit sources of atmospheric deposition of pollutants to Lake Ontario, particularly from nitrogen sources

State air quality standards regulate sources of nitrogen pollution. For actions with a potential impact on air quality, the Town shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to the atmospheric deposition of pollutants in the region, particularly nitrogen sources.

POLICY 8 - Minimize environmental degradation in the waterfront area from solid waste and hazardous substances

The intent of this policy is to protect people from sources of contamination and to protect lakeshore resources in the Town of Somerset from degradation through proper control and management of wastes and hazardous materials. In addition, this policy is intended to promote the expeditious remediation and reclamation of hazardous waste sites in developed centers to permit redevelopment.

Policy Standards

- 8.1 Manage solid waste (as defined under ECL §27-0701 and 6 NYCRR Part 360-1.2) to protect public health and control pollution
- A. Plan for proper and effective solid waste disposal prior to undertaking major development or activities generating solid wastes.
 - B. Manage solid waste in accordance with the following solid waste management priorities:
 - (1) Reduce the amount of solid waste generated;
 - (2) Reuse material for the purpose for which it was originally intended or recycle material that cannot be reused; and
 - (3) Use land burial or other approved methods to dispose of solid waste that is not being reused or recycled.

- C. Create and support a market for maximum resource recovery by using materials and products manufactured with recovered materials, and recovering materials as a source of supply for manufacturing materials and products.
- D. Prevent the discharge of solid wastes into the environment by using proper handling, management, disposal and transportation practices.

8.2 Manage hazardous wastes to protect public health and control pollution

- A. Hazardous wastes are those materials defined under ECL §27-0901 and 6 NYCRR Part 371.
- B. Manage hazardous waste in accordance with the following priorities:
 - (1) Eliminate or reduce generation of hazardous wastes to the maximum extent practical;
 - (2) Recover, reuse, or recycle remaining hazardous wastes to the maximum extent practical; and
 - (3) Use detoxification, treatment, or destruction technologies to dispose of hazardous wastes which cannot be reduced, recovered, reused, or recycled.
- C. Ensure the maximum safety of the public from hazards associated with hazardous wastes through the proper management and handling of industrial hazardous waste treatment, storage, and disposal.
- D. Remediate inactive hazardous waste disposal sites. While there are no known inactive hazardous waste disposal sites within the Somerset waterfront area, should any be identified in the future they should be investigated and remediated in the appropriate manner to minimize impact on the environment.

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

- A. Substances hazardous to the environment are defined under ECL §37-0101. Toxic pollutants are defined under ECL §17-0105.
- B. Prevent release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources.
- C. Prevent environmental degradation due to persistent toxic pollutants and limit discharges of bioaccumulative substances.
- D. Avoid resuspension of toxic pollutants and hazardous substances and wastes and reentry of bioaccumulative substances into the food chain from existing environmental sources.

- E. Prevent and control environmental pollution due to release of radioactive materials as defined under 6 NYCRR Part 380.
- F. Protect public health, public and private property, and fish and wildlife from inappropriate use of pesticides.
 - (1) Limit use of pesticides (substances defined under ECL §33-0101 and 6 NYCRR Part 325) to effectively target actual pest populations as indicated through integrated pest management methods.
 - (2) Prevent direct or indirect entry of pesticides into waterways.
 - (3) Minimize exposure of people, fish, and wildlife to pesticides.
- G. Report, respond to, and take action to correct all unregulated releases of substances hazardous to the environment.

8.4 Prevent and remediate discharge of petroleum products

- A. Prevent discharges of petroleum products by following methods approved for handling and storage of petroleum products and using approved design and maintenance principles for storage facilities.
- B. Clean up and remove any petroleum discharge.

Undertake clean-up and removal activities in accordance with the guidelines contained in the New York State Water Quality Accident Contingency Plan and Handbook and the procedures specified in the New York State Water Quality Accident Contingency Plan and Handbook.

8.5 Transport solid waste and hazardous substances and waste using routes and methods which protect the safety, well-being, and general welfare of the public and the environmental resources of the state; and protects continued use of all transportation corridors and highways and transportation facilities

8.6 Site solid and hazardous waste facilities to avoid potential degradation of lakeshore resources.

The siting of solid and hazardous waste facilities in the Town of Somerset LWRA is considered an inappropriate use of land and shall be prohibited. This prohibition does not apply to SWDA I, SWDA II and SWDA II for waste generated on site by the existing electrical generating facilities.

PUBLIC WATERFRONT POLICIES

POLICY 9 - Provide for public access to, and recreational use of, coastal waters, public lands, and public resources in the coastal area

Along many stretches of the Lake Ontario shoreline physical and visual access to the waterfront is limited for the general public. Limitations on reaching or viewing the lakefront are further heightened by a general lack of opportunity for diverse forms of recreation at those sites that do provide access. Often access and recreational opportunities that are available are limited to local residents. Because of the residential nature of much of the waterfront and due to the fact that much of the waterfront is in private ownership, with few exceptions, much of the shoreline is only accessible to local residents. In addition to the loss of opportunities for physical access, in some instances visual access has also been lost due to the elimination of vantage points.

Given the limitations on public access and recreation, this policy incorporates measures needed to improve and protect public access throughout the Somerset waterfront area. The need to maintain and improve existing public access and facilities is the first of these measures, and is necessary to ensure that use of existing access sites and facilities is optimized in order to accommodate existing demand. The second measure is to capitalize on all available opportunities to provide additional visual and physical public access along with appropriate opportunities for recreation.

Policy Standards

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

The following standards should be utilized to guide future decision making with regard to public access and the expansion of recreational opportunities along the Somerset lakefront.

- A. Provide a level of public access and type of recreational use that takes into account the following factors:
 - (1) Public demand for access and recreational use;
 - (2) Type and sensitivity of natural resources affected;
 - (3) Purpose of public institutions which may exist on or near the site;

- (4) Accessibility to the public access site or facility;
 - (5) The needs of special groups such as the elderly and persons with disabilities; and
 - (6) The potential for adverse impacts on adjacent land uses.
- B. Provide convenient, well-defined physical public access to and along the waterfront for water-related recreation.
- C. Protect and maintain existing public access and water-related recreation facilities.
- (1) Support the prevention of physical deterioration of facilities at the Village of Barker Bicentennial Park and Golden Hill State Park due to lack of maintenance or overuse.
 - (2) Prevent any on-site or adjacent development project or activity from directly or indirectly impairing physical public access and recreation or adversely affecting its quality.
 - (3) Protect and maintain established access and recreation facilities.
 - (4) Protect and maintain the infrastructure supporting public access and recreation facilities.
 - (5) Encourage and allow the continued operation of the YMCA Camp Kenan and private campgrounds.
- D. Provide additional physical public access and recreation facilities at public sites along the lakefront.
- (1) Continue to maintain the Town's position supporting the development of the recreational components of the AES multi-use recreation plan.
 - (2) Where feasible, provide for public access and recreation facilities on non-public waterfront lands as a secondary use.
 - (3) Provide for public access at streets terminating at the shoreline.
 - (4) Provide access and recreation facilities to all members of the public whenever access or recreation is directly or indirectly supported through federal or state projects or funding.
 - (5) Any transfer of public land holdings immediately adjacent to the lake should retain a public interest that will be adequate to preserve public access and recreation opportunities.
- E. Provide physical public access to, and/or water-related recreation facilities on, the waterfront whenever development or activities are likely to affect the public's use and enjoyment of public coastal lands and waters. Provide incentives to private development projects which provide public access and/or water-related recreation facilities.
- F. Restrict public access and recreation only where incompatible with public safety and protection of natural resources.

- 9.2 Provide public visual access to the lake or open space at all sites where physically practical

The following standards should be applied with respect to increasing visual access to Lake Ontario:

A. Avoid loss of existing visual access.

- (1) Limit physical blockage of existing visual access to the lake by development or activities due to the scale, design, location, or type structures.
- (2) Protect view corridors provided by streets and other public areas leading to the coast.
- (3) Protect visual access to open space areas associated with natural resources.

B. Minimize adverse impact on visual access.

- (1) Provide for view corridors to the lake in those locations where new structures would block views of the lake from inland public vantage points.
- (2) Use structural design and building siting techniques to preserve or retain visual access and minimize obstruction of views.
- (3) Visual access requirements may be reduced where site conditions, including vegetative cover or natural protective features, block potential views.
- (4) Vegetative or structural screening of an industrial or commercial waterfront site is allowed if the resulting overall visual quality outweighs the loss of visual access.

C. Provide compensatory mitigation for loss of visual access.

- (1) Provide public visual access from vantage points on the site where development of the site would block visual access from inland public vantage points.
- (2) Provide for additional and comparable visual access at nearby locations if physical access cannot be provided on-site.

D. Increase visual access to the lake whenever practical.

- (1) Provide an interpretative exhibit at an appropriate location for visual access to enhance public understanding and enjoyment of views of waterfront lands and waters and associated water-dependent uses.
- (2) Provide visual access to areas of high visual quality including community waterfronts, water-dependent uses, agriculture, natural resources, and panoramas of Lake Ontario.

- 9.3 Preserve public interest in and use of lands and waters held in public trust by the state and other government levels

A. Limit grants, leases, easements, permits or lesser interest in lands underwater in accordance with an assessment of potential adverse impacts of the proposed use, structure, or facility on public interest in public lands under water. Use the following factors in assessing potential adverse impact:

- (1) Environmental impact;
- (2) Values for natural resource management, public recreation;
- (3) Size, character, and effect of the transfer in relation to neighboring uses;
- (4) Potential for interference with navigation, public uses of waterway, and riparian rights;
- (5) Effect of the transfer of interest on the natural resources associated with the lands;
- (6) Water-dependent nature of use;
- (7) Adverse economic impact on existing commercial enterprises; and
- (8) Consistency with the public interest for purposes of navigation and commerce, fishing, bathing, and access to navigable waters and the need of the owners of private property to safeguard development.

B. Provide for free and unobstructed use of all navigable waters of Lake Ontario for navigation, recreation and other public trust purposes, including the incidental right of public anchoring.

C. Access and reasonable recreational use of navigable waters and public trust lands underwater should be provided.

D. Avoid substantial loss of public interest in public trust lands by assessing the cumulative impact of individual conveyances of grants, easements, and leases of public trust lands.

9.4 Provide access and recreation which is compatible with natural resource values

A. Provide appropriate access and associated recreational activity that will avoid potential adverse impacts on natural resources.

B. Limit public access and recreational activities where uncontrolled public use would lead to impairment of natural resources.

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

WORKING WATERFRONT POLICIES

POLICY 10 Protect water-dependent uses and promote siting of new water-dependent uses in suitable locations, and support efficient harbor operations

Policy Standards

10.1 Protect water-dependent uses

A. Actions should be avoided which would adversely impact or interfere with existing water-dependent uses. Examples of water-dependent uses include:

- (1) Water-related public and quasi-public utilities; and
- (2) Navigational aids and structures.

10.2 Promote the siting of new water-dependent uses at suitable locations and provide for their safe operation

A. Adverse impacts of new and expanding water-dependent uses should be minimized. Water-dependent uses should be sited in locations where:

- (1) The need for dredging is minimized;
- (2) Waterside and landside access, as well as upland space for parking and other facilities, is adequate;
- (3) The necessary infrastructure exists or is easily accessible, including adequate shoreline stabilization structures, roads, water supply and sewage disposal facilities, and vessel waste pump-out and waste disposal facilities; and
- (4) Water quality classifications are compatible.

B. Due to the residential nature of much of the Somerset shoreline and due to the fact that the natural conditions of the shoreline, steep bluffs and shallow bottom, the Somerset shoreline is not appropriate for the location of marinas or other commercial transportation facilities such as passenger ferries, sight-seeing tour boat operators and charter recreational fishing operations.

10.3 Improve the economic viability of water-dependent uses

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

- (1) Accessory uses are subordinate and functionally related to the principal water-dependent use and contribute to sustaining the water-dependent use;

- (2) Mixed uses subsidize the water-dependent use and are accompanied by a demonstrable commitment to continue operation of the water-dependent use;
- (3) Uses are sited and operated so as not to interfere with the principal operation of the site for a water-dependent use; and
- (4) Uses do not preclude future expansion of a water-dependent use.

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

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

- (1) Improve the working waterfront and its character;
- (2) Do not interfere with the efficient operation of another water-dependent use; and
- (3) Make beneficial use of a waterfront location through siting and design to increase public enjoyment of the waterfront.

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

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

- (1) The use would provide an economic incentive to prevent the loss of a water-dependent use;
- (2) The use would be sited and operated so as not to interfere with water-dependent uses;
- (3) The use would be sited in a manner that does not preclude future expansion of a water-dependent use; and
- (4) The activity makes beneficial use of a shoreline location through siting and design to increase public enjoyment of the waterfront and enhance community character.

POLICY 11 - Promote sustainable use of living marine resources

This policy refers primarily to commercial and recreational fisheries, neither of which are significant features within the Somerset LWRA.

Living marine resources play an important role in the social and economic well being of waterfront communities. Recreational uses of living marine resources constitute an important contribution to the economy of the state. These resources provide recreational experiences and important accompanying economic activity. Although

Lake Ontario is widely utilized for recreational fishing, there are no significant support facilities along the Somerset shoreline.

Policy Standards

11.1 Provide for and promote the recreational use of marine fisheries.

As the only public means of access for recreational fishing, the boat launch ramp at the State Park should be maintained and protected. To better promote the use of marine resources in Lake Ontario, adequate infrastructure should be provided for, where feasible and appropriate, to meet recreational fishing needs, including dockage and parking.

POLICY 12 - Protect agricultural lands

The intent of this policy is to conserve and protect agricultural land in the waterfront area by preventing the conversion of farmland to other uses and protecting existing and potential agricultural production. Existing agricultural lands significantly add to the community character within the Somerset LWRA.

This policy contains four sections. The first section presents a definition of agricultural lands and contains standards to address conversion of agricultural lands and interference in agricultural operations. Section 2 directs the conditions that support agriculture be maintained and enhanced. Management of the impacts of unavoidable conversion of agricultural land is provided for by the standards in section 3. The last section recognizes the scenic and open space value of agricultural land and operations and provides for their protection within the framework of efficient farm operation.

Policy Standards

12.1 Protect existing agriculture and agricultural lands from conversion to other land uses that would eliminate agricultural production or potential agricultural production

- A. Avoid conversion of agricultural lands used or with the potential to be used in agricultural production to non-agricultural uses. The following order of priority presents the importance of existing or potential use of agricultural lands:

- (1) Lakeshore -related agriculture, particularly vineyard, vegetables, fruits, sod farms, and nursery and greenhouse products;
 - (2) Other lands actively used in agricultural production; and
 - (3) Agricultural lands not actively used in agricultural production.
- B. Prevent encroachment of commercial, industrial, institutional, or residential development on existing agricultural lands.
- C. Protect existing agricultural use and production from adverse impacts due to:
- Public infrastructure and facility development including:
- (1) Unnecessary encroachment of public projects into agricultural lands;
 - (2) Introduction of infrastructure or facilities, such as public roads or water or sewer facilities into agricultural lands;
 - (3) Dividing active farms with obstacles, such as highway construction and maintenance right-of-ways;
 - (4) Creation of other conditions which are likely to lead to conversion of agricultural lands, such as loss of necessary support services; and
 - (5) Environmental changes which are likely to reduce agricultural productivity or quality, including, but not limited to, changes in groundwater quantity and quality.
- D. New development located adjacent or in proximity to agricultural land or uses should provide sufficient buffer between agricultural and non-agricultural lands to protect agricultural uses from interference from non-agricultural uses, and protect non-agricultural lands from potentially offensive agricultural practices.
- E. Conversion of agricultural lands for public uses may be allowed provided that no other site is available or suitable for the intended public purpose and loss of agricultural lands and production is minimized.
- 12.2 Establish and maintain favorable conditions that support existing or promote new lakeshore agricultural production
- A. Promote new and maintain existing local support services and commercial enterprises necessary to support agricultural operations.
 - B. Provide economic support of existing agriculture by allowing mixed uses which would assist in retention of the agricultural use.
 - C. Promote activities and market conditions that would likely prevent conversion of farmlands to other land uses.

- (1) Avoid activities which would likely result in real estate market conditions that would be unfavorable to continued agricultural use.
 - (2) Promote activities that protect and expand agricultural commodity markets.
 - (3) Promote production and marketing of local agricultural products.
- 12.3 Minimize adverse impacts on agriculture from unavoidable conversion of agricultural land or agricultural production to other land uses
- A. Minimize encroachment of commercial, industrial, institutional, or residential development of agricultural lands.
 - B. Retain or incorporate opportunities for continuing agricultural use.
 - C. Locate and site development to maximize protection of the highest quality agricultural land in large contiguous tracts for efficient farming.
- 12.4 Preserve scenic and open space values associated with agricultural lands

Development shall be located and arranged to maximize protection of agricultural land in large contiguous tracts to protect associated scenic and open space values.

POLICY 13 - Promote appropriate use and development of energy and mineral resources

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

13.1 Conserve energy resources

- A. Promote energy efficient modes of transportation.
 - (1) Promote and maintain remaining rail freight facilities.
 - (2) Integrate modes of transportation (pedestrian, bicycle and vehicular).
 - (3) Discourage the location of cargo or passenger transportation terminal along the Somerset waterfront.

- B. Plan and construct sites using energy efficient design. Energy efficient design includes consideration for solar utilization, protection from wind, and landscaping for thermal control.
 - C. Promote greater energy generating efficiency through design upgrades of existing facilities.
- 13.2 Promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation
- A. Avoid interference with lakeshore resources and processes, including interference with migratory birds, when siting wind farm developments.
 - B. There are no existing hydroelectric power generation facilities on Lake Ontario in Somerset. There are no sites on Lake Ontario, in Somerset where the benefits of developing hydroelectric generating facilities are not outweighed by the economic costs and the potential adverse impacts on natural resources.
- 13.3 Ensure maximum efficiency and minimum adverse environmental impact when siting major energy generating facilities
- A. A major energy generating facility (the AES power generating facility) is currently located on the Lake Ontario shoreline. Although it is understood that the original approval included an additional generating unit, at this time, expansion has not been proposed. However, if future need arises, siting of additional major energy generating facilities or expansion of existing facilities should be encouraged to be developed in the area north of Lake Road, but in a manner that minimizes impact along the bluffs and shoreline and a clear public benefit is established using the following factors:
 - (1) There is a demonstrated need for the facility or facility expansion;
 - (2) The facility or facility expansion will satisfy additional electric capacity needs or electric system needs;
 - (3) Alternative available methods of power generation and alternative sources of energy cannot reasonably meet the public need;
 - (4) Upgrades of existing facilities cannot reasonably meet the public need;
 - (5) The facility expansion project includes construction and maintenance of feasible public recreational uses, including development of the existing recreational components of the multiple use plan; and
 - B. Due to its high likelihood to significantly impact the steep slopes, highly erodible shoreline, and scenic resources, the establishments of off-shore loading/unloading of material is strongly discouraged. Should the establishment of off-shore loading/unloading facilities be proven to be required for the continued operation of the power generating station it must be designed and constructed in a manner that minimizes disturbance of the shoreline and bluff areas and minimize the impact on the scenic resource of the LWRA.

- C. Achieve maximum transmission efficiency by siting major energy generating facilities close to load centers.
- D. Preclude the potential degradation of lakeshore resources by siting and constructing new or expanded electric energy generating and transmission facilities so that they would not adversely affect:
 - (1) Agricultural lands;
 - (2) Habitats critical to vulnerable fish and wildlife species, vulnerable plant species, and rare ecological communities;
 - (3) Wetlands;
 - (4) Historic resources; and/or
 - (5) Scenic resources.

13.4 Minimize adverse impacts from fuel storage facilities

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

- A. Ensure that the production, storage, or retention of petroleum products in the Town of Somerset LWRA is performed in accordance with NYS Department of Conservation standards.
- B. Liquefied Natural Gas facilities must be safely sited and operated. Factors to be used in determining the appropriateness of a location for Liquefied Natural Gas facilities include:
 - (1) The density of population in neighboring areas;
 - (2) The density of population of areas neighboring the delivery route;
 - (3) The risk of accident during transportation;
 - (4) The maximum distance that a liquefied natural or petroleum gas vapor cloud is projected to expand and pose a threat to the public;
 - (5) The flammability or explosiveness of a cloud formed by vaporizing liquefied natural or petroleum gas;
 - (6) One hundred-year flood zones;
 - (7) Areas with soils that cannot support static and dynamic loading without excessive lateral or vertical movement;
 - (8) Areas exposed to severe wave and wind forces;
 - (9) The geologic stability of the site;
 - (10) The need for the facility;
 - (11) The potential environmental impacts; and
 - (12) Reasonable alternative locations for the proposed facility.

Because of the high potential for hazard associated with liquid natural gas facilities, these facilities are subject to stringent regulation. The standards listed

here are derived from federal and state regulations that have been instituted to protect public safety.

- C. Protect natural resources by preparing and complying with an approved oil spill contingency plan.

- 13.5 Ensure that mining, excavation and dredging do not cause an increase in erosion, any adverse effects on natural resources or degradation of visual resources.

This sub-policy regulates land excavation and dredging activities in the Town of Somerset. All excavation activities shall be designed, permitted and conducted in conformance with the standards and procedures set forth in Chapter 96 of the Town of Somerset Code, regulating Excavations. Due to the disruptive nature of these activities, caution must be exercised to ensure that such activities do not adversely affect natural resources or disturb the human environment. The impact on visual resources is also important since the scenic character of the lakefront is important to preserving the rural character of the area.

- A. Additional factors to be used in determining the appropriateness of a commercial excavation operation within the LWRA include:
 - (1) Compatibility with adjacent uses;
 - (2) Loss of use of the site for other potential uses;
 - (3) Alteration of coastal geological landforms;
 - (4) Adverse impact on natural resources; and
 - (5) Degradation of visual quality.
- B. Removal of soils and overburden requires appropriate site preparation and subsequent site reclamation in accordance with an approved plan for the suitable use of affected lands, including:
 - (1) Drainage and water control to reduce soil erosion;
 - (2) Proposed future use of the affected lands; and
 - (3) Specific activities, including:
 - a. Revegetation;
 - b. disposal of refuse or spoil;
 - c. drainage and water control features;
 - d. grading and slope treatment; and
 - e. proposals for the prevention of pollution and the protection of the environment.
- C. Limit subaqueous sand and gravel extraction to activities necessary for erosion control.