

8.5 Transport solid waste and hazardous substances and waste using routes and methods that protect the safety, well-being, and general welfare of the public and the environmental resources of the state; and protect continued use of all transportation corridors and highways and transportation 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 Niagara River, physical and visual access to the waterfront is limited for the general public. Limitations on reaching or viewing the waterfront 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 property owners. In addition to the limited opportunities for physical access, in some instances visual access has also been lost due to the elimination or lack of vantage points.

Given the limitations on public access and recreation, this policy incorporates measures needed to improve and protect public access throughout the Wheatfield 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.

Presently, the Niagara County Sewer District owns a small, vacant parcel where the outfall for the wastewater treatment plant is routed to the Niagara River. This site is situated immediately adjacent to the York Road residential community and could provide access for local residents. There are also two larger properties located at the western end of Sub-Area 1 that encompass a total of approximately 25 acres of land that have potential for development and redevelopment. These properties are an appropriate setting for development, with adequate access to public infrastructure, and consideration has been given to opportunities for mixed use development that would offer commercial and residential uses, along with public access along the waterfront. Public access should be included in any development or redevelopment proposals for these lands. Long term, any larger scale development or redevelopment on the waterfront should include provisions for public access along the shoreline.

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 Wheatfield waterfront.

1. Provide a level of public access and type of recreational use that takes into account the following factors:
 - a) Public demand for access and recreational use;
 - b) Type and sensitivity of natural resources affected;
 - c) Purpose of public institutions which may exist on or near the site;
 - d) Accessibility to the public access site or facility;
 - e) The needs of special groups such as the elderly and persons with disabilities; and
 - f) The potential for adverse impacts on adjacent land uses.
2. Provide convenient, well-defined physical public access to and along the waterfront for water-related recreation.
3. Protect and maintain existing public access and water-related recreation facilities.
 - a) Support the connection of Baisch Park, in Sub-Area 2, with the waterfront and improvements at this park that would enhance recreational use.
 - b) 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.
 - c) Protect and maintain established access and recreation facilities.
 - d) Protect and maintain the infrastructure supporting public access and recreation facilities.
4. Provide additional physical public access and recreation facilities at public sites along the waterfront.
 - a) Where feasible, provide for public access and recreation facilities on non-public waterfront lands as a secondary use.
 - b) Provide for public access at streets terminating at the shoreline.
 - c) 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.
 - d) Any transfer of public land holdings immediately adjacent to the shoreline should retain a public interest that will be adequate to preserve public access and recreation opportunities.
5. 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.

6. Restrict public access and recreation only where incompatible with public safety and protection of natural resources.

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

The following standards should be applied with respect to increasing visual access to Niagara River and Erie Canal:

1. Avoid loss of existing visual access.
 - a) Limit physical blockage of existing visual access to the waterfront by development or activities due to the scale, design, location, or type structures.
 - b) Protect view corridors provided by streets and other public areas leading to the coast.
 - c) Protect visual access to open space areas associated with natural resources.
2. Minimize adverse impact on visual access.
 - a) Provide for view corridors to the waterfront in those locations where new structures would block views of the waterfront from inland public vantage points.
 - b) Use structural design and building siting techniques to preserve or retain visual access and minimize obstruction of views.
 - c) Visual access requirements may be reduced where site conditions, including vegetative cover or natural protective features, block potential views.
 - d) 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.
3. Provide compensatory mitigation for loss of visual access.
 - a) Provide public visual access from vantage points on the site where development of the site would block visual access from inland public vantage points.
 - b) Provide for additional and comparable visual access at nearby locations if physical access cannot be provided on-site.
4. Increase visual access to the waterfront whenever practical.
 - a) 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.
 - b) Provide visual access to areas of high visual quality including community waterfronts, water-dependent uses, natural resources, and panoramas of the Niagara River and Erie Canal.

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

1. 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:
 - a) Environmental impact;
 - b) Values for natural resource management, public recreation;
 - c) Size, character, and effect of the transfer in relation to neighboring uses;
 - d) Potential for interference with navigation, public uses of waterway, and riparian rights;
 - e) Effect of the transfer of interest on the natural resources associated with the lands;
 - f) Water-dependent nature of use;
 - g) Adverse economic impact on existing commercial enterprises; and
 - h) 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.
2. Provide for free and unobstructed use of all navigable waters of Niagara River for navigation, recreation and other public trust purposes, including the incidental right of public anchoring.
3. Access and reasonable recreational use of navigable waters and public trust lands underwater should be provided.
4. 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

1. Provide appropriate access and associated recreational activity that will avoid potential adverse impacts on natural resources.
2. Limit public access and recreational activities where uncontrolled public use would lead to impairment of natural resources.
3. 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.