

WORKING WATERFRONT POLICIES

POLICY 10 - Protect water-dependent uses and promote siting of new water-dependent uses in suitable locations.

Land use along the shore is predominately residential and will remain as such for the foreseeable future. There are limited water-dependent uses in the Wheatfield LWRA. These consist of pipelines and outfall facilities for local utility companies. Niagara County owns narrow parcels along the waterfront for the routing of the outfall structures for the wastewater treatment plant and the water treatment plant.

There are also two locations where National Fuel Gas has routed pipelines for natural gas transmission, which extend along the bottom of the Niagara River, from the upland areas of the Town of Wheatfield over to Grand Island, on the opposite side of the Niagara River. These uses shall remain. Priority in the use of any property adjacent to the shoreline that may become available for development or redevelopment will be given to appropriate water-dependent use over equally qualified water-enhanced uses, and to either of these in preference to a use that is in no way water-related.

10.1 Protect water-dependent uses

1. Actions should be avoided that would adversely impact or interfere with existing water-dependent uses. Examples of water-dependent uses include:
 - a) Water-related public and quasi-public utilities; and
 - b) Navigational aids and structures.

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

1. Adverse impacts of new and expanding water-dependent uses should be minimized. Water-dependent uses should be sited in locations where:
 - a) The need for dredging is minimized;
 - b) Waterside and landside access, as well as upland space for parking and other facilities, is adequate;
 - c) 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
 - d) Water quality classifications are compatible.
2. Due to the residential nature of much of the Wheatfield shoreline and due to the fact that the natural conditions of the shoreline, steep bluffs and shallow bottom, the Wheatfield 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

1. Non-water-dependent accessory or mixed-use developments may be allowed, provided:
 - a) accessory uses are subordinate and functionally related to the principal water-dependent use and contribute to sustaining the water-dependent use;
 - b) Mixed uses subsidize the water-dependent use and are accompanied by a demonstrable commitment to continue operation of the water-dependent use;
 - c) Uses are sited and operated so as not to interfere with the principal operation of the site for a water-dependent use; and
 - d) Uses do not preclude future expansion of a water-dependent use.
2. Locations that exhibit important natural resource values and significant resources, such as wetlands and fish and wildlife habitats, should be avoided.
3. Other uses may be incorporated in the waterfront, particularly water enhanced and marine support services, provided that these uses:
 - a) Improve the working waterfront and its character;
 - b) Do not interfere with the efficient operation of another water-dependent use; and
 - c) 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

1. When determining if a water-enhanced use is appropriate for siting along a waterfront, the following factors should be considered:
 - a) The use would provide an economic incentive to prevent the loss of a water-dependent use;
 - b) The use would be sited and operated so as not to interfere with water-dependent uses;
 - c) The use would be sited in a manner that does not preclude future expansion of a water-dependent use; and
 - d) 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

Living marine resources play an important role in the social and economic well being of waterfront communities. Commercial and recreational use of living marine resources along the Niagara River and Erie Canal constitute an important contribution to the economy of the region and State. The continued recreational use of these resources depends on maintaining long-term health and abundance of fisheries resources and their habitats, and on ensuring that the resources are sustained in usable abundance and diversity for future generations. This requires the State's active management of fisheries, protection and conservation of habitat, restoration of habitats in areas where they have been degraded, and maintenance of water quality at a level that will foster the occurrence and abundance of these resources. Allocation and use of the available resources must: 1) be consistent with the restoration and maintenance of healthy stocks and habitats, and 2) maximize the benefits of resource use so as to provide valuable recreational experiences and viable business opportunities for commercial and recreational fisheries.

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

11.1 Ensure the long-term maintenance and health of living marine resources in the Niagara River and Erie Canal (Tonawanda Creek).

1. Ensure that recreational use of living marine resources is effectively managed in a manner that:
 - a) Eliminates contaminant threats to local marine communities.
 - b) Places primary importance on maintaining the long-term health and abundance of fisheries.
 - c) Results in sustained useable abundance and diversity of the resource.
 - d) Does not interfere with population and habitat maintenance and restoration efforts.
 - e) Uses best available scientific information in managing the resources.
 - f) Minimizes waste and reduces discard mortality of fishery resources.
2. Protect and manage native stocks and restore sustainable populations of indigenous fish and wildlife species and other living marine resources.
3. Foster the occurrence and abundance of marine resources in the Niagara River and Erie Canal through the protection and enhancement of water quality; and the protection, enhancement and restoration of spawning grounds and other breeding habitat.

11.2 Provide for and promote the recreational use of marine fisheries in the Niagara River and Erie Canal (Tonawanda Creek).

1. Maximize the benefits of resources to provide valuable recreational resource experience and viable opportunities for recreational fisheries.
2. Where fishery conservation and management require actions that would result in resource allocation impacts, ensure equitable distribution of impact among user groups, giving priority to existing fisheries in the state.
3. Protect public health and ensure the marketable fisheries resources are not contaminated.
 - a) Inform the public regarding health risks of consuming fish contaminated with toxics.
 - b) Restrict the harvest of fish when they are contaminated with toxics exceeding established public health thresholds.
 - c) Maintain water quality and wholesomeness of the fishery and marketable marine resources to protect public health.
4. Provide adequate infrastructure to meet recreational needs including appropriate fishing access, dockage, and parking (where appropriate).
 - a) Foster direct public recreational use of marine resources from the shoreline.
 - b) Encourage the provision of areas suitable for shoreline fishing, where feasible, when considering public access as a part of development and redevelopment plans for waterfront properties.

POLICY 12 - Protect 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.

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

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

This policy calls for conservation of energy resources in the Town of Wheatfield LWRA. It addresses alternative energy sources, provides guidelines 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.

There are no existing hydroelectric power generation facilities located within the Wheatfield LWRA. In determining the appropriateness of any new hydroelectric energy generating facility, the following factors should be considered.

1. There is a demonstrated need for the facility.
2. Upgrades of existing facilities cannot reasonably meet the public need.
3. The facility is compatible with existing adjacent uses.
4. The facility is designed to minimize environmental and visual impacts to the Town's environmental, scenic, historic and cultural resources.
5. The facility does not adversely affect commercial navigation, commercial and recreational fishing and boating, water quality, habitats critical to fish and wildlife species, plant species, and rare ecological communities.

There are also no sites along the Niagara River where the benefits of developing hydroelectric generating facilities are not outweighed by the economic costs and the potential adverse impacts on the community, existing natural resources and the public.

Chapter 198 of the Town Code promotes the effective and efficient use of wind energy conversion systems and regulates the design, placement, construction, installation and/or modification of such systems for the purpose of protecting the health and safety of neighboring property owners and the general public, as well as the natural resources and aesthetics of the community. The only zoning district in the LWRA where such a system could be permitted by special use permit is the Industrial 1 (M-1) District in Sub-Area 1. In siting such facilities, visual and physical interference with waterfront resources, wildlife species and habitat, including migratory bird and bat populations, important scenic and gateway views, public recreational resources, must be avoided. Off-shore wind energy conversion systems are not considered appropriate within the waters included in the LWRA as these facilities would adversely impact navigation, fish and wildlife habitat and public recreational resources.

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

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

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

13.2 Major energy generating and transmission facilities, which utilize non-renewable resources, shall not be sited in the LWRA.

Major non-renewable energy generating and transmission facilities are considered inappropriate uses that would adversely impact existing land uses, and natural and waterfront resources. Therefore, these facilities shall not be sited in the LWRA.

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

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

- a) ensure that storage and retention of petroleum products along the Town of Wheatfield waterfront is performed in accordance with NYSDEC regulations;
- b) because of the high potential for hazard associated with liquefied natural gas facilities, these facilities are considered inappropriate and would not provide significant public benefit along the Wheatfield waterfront and, thus, such uses should not be sited in this area; and
- c) natural resources must be protected by complying with local, county and state regulations and oil spill contingency plans.

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

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

Ice build up on the Niagara River is not formally managed along the Wheatfield waterfront. To keep ice from interfering with the hydroelectricity generation, the power authorities conduct coordinated ice management operations that include regular icebreaker patrols, surveillance of river conditions and the use of the Lake Erie-Niagara River ice boom at the mouth of Lake Erie. Ice management activities in the vicinity of the Wheatfield waterfront shall comply with this policy.