

Wheatfield sign regulations currently restrict off premises signs to directional signage for local businesses that cannot exceed three sq. ft. in size; billboards and other such off premises signage is prohibited. Efforts should be made to enhance and improve this corridor in recognition of this designation. Improved signage and the enhancement of gateway features should be considered and encouraged. The Town should work to phase out any existing billboard signage along River Road to improve visual quality and support the federal signage restrictions.

3.1 Protect and improve visual quality throughout the Wheatfield waterfront.

The visual quality of waterfront is an important component in the character of this area. Waterfront uses often include residential and recreational components, infrastructure, and other physical modifications 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 scenic quality of an area. Structures or activities that introduce visual interruptions to the natural landscape along the Wheatfield shoreline, such as intrusive artificial lighting, solid fencing that runs perpendicular to the shoreline or massive structural elements, should be discouraged, particularly in Sub-Area 1.

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

There are no areas designated under Protection of Natural and Man-made beauty Act (Article 49 of ECL) or designated Scenic Areas of Statewide Significance in the Wheatfield LWRA. As noted above, River Road (NYS Route 384/265) is a State and Nationally-designated Scenic By-Way. The designation for this corridor through Wheatfield 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 areas. In accordance with federal regulation, the erection of new off premise signs along designated state and national scenic by-ways is prohibited. The Town should also work to phase out any existing billboard signage along this thoroughfare to improve visual quality. This entry points into the Sub-Area 1 LWRA should be treated as gateway features, including aesthetic elements to welcome visitors and local residents to the 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 provisions of this policy are applicable to the floodplain areas adjacent to the Niagara River and the Erie Canal.

The Town of Wheatfield waterfront contains flood zones that have been designated by the Federal Emergency Management Agency and are depicted on Flood Insurance Rate Maps, which were updated in September 2010. The Town participates in the National Flood Insurance Program and development in the floodplain is regulated under Chapter 101 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 101, all construction and other development that is proposed within regulated areas of special flood hazards requires a permit from the Town Code Enforcement Officer and must be in compliance with the standards outlined in the law (which are included in the Appendix B).

The Town of Wheatfield adopted a Stormwater Management Law in November of 2007 to address the impacts of stormwater runoff that are associated with land development activities. Land development activities can result in flooding, stream channel erosion, and sediment transport and deposition in local waterways that impacts aquatic life and habitat. This law is aimed at controlling clearing and grading during construction, reducing loadings of waterborne pollutants, ensuring proper design and construction of stormwater control devices and implementation of stormwater management practices, and stemming economic losses that result from the impacts of faulty and unregulated stormwater discharges. To further address water quality and sediment and erosion problems in the community, the Town prepared a Stormwater Management Plan in 2009, as a compliment to the law. The Stormwater Management Plan addresses public education and outreach, public participation, illicit discharge detection and elimination, control of runoff from construction sites, post-construction stormwater management and pollution prevention, and other best management practices to address other sources of non-point source pollution that are conveyed by stormwater runoff. This plan should be followed and kept up to date.

In the Town of Wheatfield, the shoreline of Niagara River is subject to wind and wave action, which intensifies during severe weather events. Many residential property owners along the waterfront have experienced erosion problems and have hardened their shoreline with rip-rap, retaining walls or other structural measures to protect their property. Although many sections of the riverfront in Sub-Area 1 have been fortified, there are locations that remain natural. There are some areas in Sub-Area 1 that have been hardened in the past, but those structures are now in disrepair. The eastern half of Sub-Area 2 has a number of shoreline structures, while the area to the west has a significant stretch of shoreline that remains in a natural state.

The natural shoreline has an inherent natural, social, and economic value that should be respected to ensure continuing benefits. Hardening of the shoreline should be avoided except when alternative means, such as soft engineering alternatives and revegetation, are impractical to protect principal structures or extensive public investment (land, infrastructure, and facilities). Therefore, those portions of the Niagara River and Erie Canal shorelines that are not fortified should generally remain in a natural condition to respond to natural processes. Areas of the shoreline that have been hardened

should be returned to a natural condition where feasible and appropriate. Necessary shoreline protection structures that are in disrepair should be renovated.

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

1. Use hard structural erosion protection measures for control of erosion only where:
 - a) It has been documented that vegetative approaches to control erosion are not effective;
 - b) Construction of a hard structure is the only practical design consideration and is essential to protecting upland uses;
 - c) The proposed hard structural erosion protection measures are limited to the minimum scale necessary and are based on sound engineering practices; and
 - d) Practical vegetative methods have been included in the project design and implementation.
 - e) Adequate mitigation is provided and maintained to ensure that there is no adverse impact to adjacent properties or to natural coastal processes and natural resources and, if undertaken by a private property owner, does not incur significant direct or indirect public costs.
2. Develop best management practices and sediment and erosion control guidelines to further manage sedimentation and stream bank erosion in Bull Creek and other waterways that lead to the Niagara River and Tonawanda Creek.
3. Avoid developing new structures and uses, or reconstructing structures that are damaged by 50 percent or more of their value, in areas that are likely to be exposed to hazards unless:
 - a) the structure or use functionally requires a location along the shoreline or in coastal waters,
 - b) the new development would be located in an area of substantial public investment, or
 - c) the new structure or use is necessary for shoreline development that:
 - Reinforces or revitalizes areas along the waterfront that support important water-dependent uses or a concentration of mixed uses and other development (such as the inner harbor area), and
 - would not result in impairment of natural resources
4. Where practical, the relocation of existing structures and development that are exposed to flooding hazards away from the hazard is preferred over maintaining structures and development in place. Maintaining existing development and structures in hazard areas may be warranted for:
 - a) structures that functionally require a location on the coast or in coastal waters,
 - b) water dependent uses which, by the nature of the use, cannot avoid exposure to hazards;or

- c) sites in areas with extensive public investment, public infrastructure, or major public facilities.
- 5. Provide public infrastructure in or near identified natural protective features only if the infrastructure:
 - a) is designed in a manner that will not impair the protective capacities of natural protective features; and
 - b) is designed to avoid or withstand damage from flooding and erosion.
- 6. The following standards shall apply to new development, including new and substantially improved structures, in areas of special flood hazards.

Anchoring -

- a) All new construction and substantial improvements to structures in areas of special flood hazard shall be anchored to prevent floatation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring standards to resist wind forces of the structure.

Construction materials and methods -

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

For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH and also Zone A, if base flood elevation date is available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which 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 openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b) The bottom of all such openings shall be no higher than one-foot above the lowest adjacent finished grade.
- c) Opening may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

Utilities -

- a) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.
- b) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters.
- c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.
- d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Subdivision proposals (including proposals for manufactured home and recreational vehicle parks and subdivision) -

- a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- b) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems located and constructed so as to minimize flood damage.
- c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

Encroachments -

- a) Within Zones A1 - A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-foot at any locations, or
 - The Wheatfield Town Board agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Wheatfield for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Wheatfield for all costs related to the final map revision.
- b) On streams with a regulatory floodway, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

- A technical evaluation by a licensed professional engineer shows that such an encroachment will not result in any increase in flood levels during the occurrence of the base flood, or
- The Wheatfield Town Board agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Wheatfield for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Wheatfield for all costs related to the final map revision.

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.

- a) If the structure is to be elevated, fully enclosed areas below the base flood elevations shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - The bottom of all such openings shall be not higher than one (1) foot above the lowest adjacent finished grade; and
 - Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- b) If the structure is to be floodproofed:
 - A licensed professional engineer or architect shall develop and/or review structural designs, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - 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.
- c) The Town of Wheatfield Local Flood Law Administrator shall maintain, on record, a copy of all such certificates noted in this policy.

Manufactured homes and recreational vehicles

- a) Recreational vehicles placed on sites within Zones A1 through A30, AE and AH shall either be on site fewer than 180 consecutive days, be fully licensed and ready for highway use or meet the requirements for manufactured homes, as outlined below. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- b) A manufactured home that is placed or substantially improved in Zones A1 through A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision, on which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor is elevated to or above one foot above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors.
- c) A manufactured home to be placed or substantially improved in Zone A1 through A30, AE and AH in an existing manufactured home part or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be elevated in a manner such as required in b) or elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation piers consisting of dry stacked blocks is prohibited.
- d) Within the A Zone, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- e) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as one foot more than the depth number specified on the FIRM enumerated in Section 115-6 of the Flood Damage Prevention Law (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

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

The erosion protection structures associated with residential uses along the riverfront in Sub-Area 1 are in various states of disrepair. 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 608 (Protection of Water) and other applicable requirements.

Erosion control structures can be both beneficial and detrimental. While they may protect the immediate land behind the structure, they often contribute to erosion both on and off site. Poor design and siting can result in accelerated erosion, aesthetic impairments, loss of public recreational resources, loss of valuable marine and wetland habitats, and water quality degradation. The cumulative impact of these structures can be large in area and significant in impacts. Therefore, before approval and permitting is granted for erosion control structures, the purpose, function, impacts and alternatives to the project must be carefully evaluated to determine whether the structures are necessary and whether potential adverse impacts can be avoided or minimized. Hard structural erosion protection measures should only be used as a last alternative, where there is a documented erosion problem and where alternative measures have been proven to be inadequate to protect the principal use.

4.3 Preserve and restore natural protective features

Natural protective features along Niagara River and Erie Canal (Tonawanda Creek) include wetlands, and associated natural vegetation.

1. Maximize the protective capabilities of natural protective features by:
 - a) Avoiding alteration or interference with areas of the Niagara River and Erie Canal that are currently in a natural condition;
 - b) Enhancing existing natural protective features;
 - c) Restoring the condition of impaired natural protective features, wherever practical; and
 - d) Using practical vegetative approaches to stabilize natural shoreline features.

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

1. Retain ownership of public trust lands that have become upland areas due to fill or accretion resulting from erosion control projects.
2. 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.

3. 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.

4.5 Expend public funds for management or control of flooding or erosion hazards only in areas of the waterfront 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).

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

New York State classifies surface waters based on best usage. The Niagara River is designated as Class A-Special. The best uses for Class A-Special waters include drinking water supply, food processing, primary and secondary contact recreation and fishing (and fish and wildlife propagation and survival). Tonawanda Creek and Bull Creek (Sawyer Creek) in Sub-Area 2 are classified C, with best uses including fishing, as well as primary and secondary contact recreation (although other factors may limit this use).

These classifications, however, do not necessarily reflect all water quality issues. Per the Federal Clean Water Act, the State has developed an inventory of specific waterbodies that characterizes general water quality, and publishes a list of the surface waters that cannot be fully used as a resource or have problems that can damage their environmental integrity. The Niagara River, Tonawanda Creek and Bull Creek are all considered impaired based on the resulted of this inventory and analysis. Shoreline development, bulkheading, dredging and other stream modifications have also impacted habitat and waterfront quality along the Niagara River.

Another primary source of water quality degradation in the Wheatfield LWRA is non-point source pollution, which reaches surface water bodies through unconfined or indiscrete means. The best way to control the rate of non-point contaminant generation and transport in upland areas is through the use of best management practices, such as reductions in fertilizer and pesticide usage, proper disposal of automobile waste oils, etc. Public education is an important means of implementing best management practices.

The following 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 protecting water quality in the river, canal and creeks. Section 4 specifically addresses cumulative and secondary impacts as related to water quality.

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

1. Prevent point source discharges into surface waters and manage or avoid land and water uses which would:
 - a) Exceed discharge limits specified by State Pollution Discharge Elimination System (SPDES) permits for municipal discharges.
 - b) Exceed applicable effluent limitations, or cause or contribute to contravention of water quality classification and use standards; or
 - c) Materially or adversely affect the quality of receiving waters.
2. Ensure effective treatment of sanitary sewage and industrial discharges by:
 - a) Maintaining efficient operation of sewage and industrial treatment facilities;
 - a) Providing, at a minimum, effective secondary treatment of sanitary sewage;
 - b) Modifying existing sewage treatment facilities to provide improved nitrogen removal capacity;
 - c) Incorporating into the design for new or upgraded wastewater treatment facilities the capacity for treatment beyond secondary treatment, if and when funding is available; and
 - d) Reducing the demand on sewage treatment facilities by:

- Reduce infiltration of excess water in collection and transport systems
 - Prevent unauthorized collection system hookups
 - Pretreat industrial wastes
 - Limit discharge volumes and pollutant loadings to or below authorized levels, and
 - Installing low-flow water conservation fixtures in all new development, and when replacing fixtures in existing development.
3. Control, and to the greatest extent possible, reduce the loadings of toxic materials discharged into Niagara River waters by including limits on toxic metals as part of wastewater treatment plant (WWTP) effluent permits and by enforcing any pretreatment requirements.

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

1. Minimize nonpoint pollution of surface waters using the following best management practices and approaches, which are presented in order of priority.
- a) Limit non-point source pollution by:
- Reducing or eliminating the introduction of materials that may contribute to nonpoint pollution;
 - Avoiding activities that would increase off-site stormwater runoff and transport of pollutants;
 - 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;
 - Retaining or establishing vegetation to maintain and provide soil stabilization, and filtering capacity;
 - Preserve natural hydrologic conditions to maintain natural surface water flow characteristics and retain natural watercourses and drainage systems where present;
 - And, where natural drainage systems are absent or incapable of handling the anticipated runoff demands:
 - developing open vegetated drainage systems as the preferred approach and designing these systems to include long and indirect flow paths to decrease peak runoff flows; and
 - using closed drainage systems only where site constraints and stormwater flow demands make the use of open water systems infeasible.
2. Reduce pollutant loads to surface waters by managing unavoidable nonpoint sources and use appropriate best management practices as determined by site characteristics, design standards, operational conditions, and maintenance programs.

3. 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) 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 surface waters.

(2) 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 river and canal.
- b. Use vegetative means, where possible, to protect stream banks and shorelines from erosion.

(3) Floatables and litter

- a. Prohibit all direct or indirect discharges of refuse or litter into surface waters of Niagara River, Tonawanda Creek (Erie Canal) and Bull Creek, or upon public lands contiguous to and within 100 feet of these surface 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 along shorelines of the surface waters.

- d. Implement pollution prevention and education programs to reduce discharge of floatables and litter into roadside ditches, creek corridors and other local surface waters.

5.3 Protect and enhance surface water quality

1. Protect water quality of Niagara River, Tonawanda Creek (Erie Canal) and Bull 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).
2. Minimize disturbance of upland 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.

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

1. Protect water quality by ensuring that watershed development results in:
 - a) Protection of areas that provide important water quality benefits;
 - b) Maintenance of natural characteristics of drainage systems; and
 - c) Protection of areas particularly susceptible to erosion and sediment loss.
2. Limit the individual impacts associated with development to prevent cumulative water quality impacts that would lead to a failure to meet water quality standards.

POLICY 6 - Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities

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 Wheatfield LWRA. However, the Niagara River in Sub-Area 1 and Tonawanda Creek (Erie Canal) and Bull Creek in Sub-Area 2 represent locally significant habitats that should be offered a similar level of protection and, therefore, must be recognized and protected for their habitat value to avoid permanent adverse changes to local ecosystems.

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

Significant fish and wildlife habitats are those habitat areas which:

1. Exhibit, to a substantial degree, one or more of the following characteristics:
 - a) Is essential to the survival of a large portion of a particular fish or wildlife population; and
 - b) Supports a species which is either endangered, threatened, or of special concern as those terms are defined at 6 NYCRR Part 182.
2. Uses or activities should be avoided which would:
 - a) 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.
 - b) Significantly impair the viability of a habitat beyond the tolerance range of fish and wildlife species through:
 - Degradation of existing habitat elements;
 - Change in environmental conditions;
 - Functional loss of habitat values; or
 - Adverse alteration of physical, biological, or chemical characteristics.
3. 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:
 - a) avoidance of potential adverse impacts, including:
 - Avoiding ecologically sensitive areas;
 - Scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions; and
 - Preventing fragmentation of intact habitat areas.
 - b) minimization of unavoidable potential adverse impacts, including:
 - Reducing scale or intensity of use or development;
 - Designing projects to result in the least amount of potential adverse impact;
 - Choosing alternative actions or methods that would lessen potential impact; and
 - 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 habitats, wherever possible, particularly aquatic habitat in Bull Creek, so as to foster their continued existence as natural, self-regulating systems

1. Measures that can be undertaken to restore locally significant habitats include:
 - a) Reconstructing lost physical conditions to maximize habitat values;
 - b) Adjusting adversely altered chemical characteristics to emulate natural conditions; and

- c) Manipulating biological characteristics to emulate natural conditions through re-introduction of indigenous flora and fauna.

6.3 Protect and restore freshwater wetlands

1. The following measures can further the protection or restoration of wetlands:
 - a) Compliance with the statutory and regulatory requirements of the Stream Protection Act.
 - b) Prevention of the net loss of wetlands by:
 - Avoiding placement of fill or excavation of wetlands;
 - Minimizing adverse impacts resulting from unavoidable fill, excavation or other activities;
 - 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
 - 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.
 - c) 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 Maps](#). 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 Wheatfield.

7.1 Control or abate existing, and prevent new air pollution

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

1. Limit pollution resulting from new or existing stationary air contamination sources, consistent with:
 - a) Attainment or maintenance of any applicable ambient air quality standard
 - b) Applicable New Source Performance Standards
 - c) Applicable control strategy of the State Implementation Plan, and
 - d) Applicable Prevention of Significant Deterioration requirements

2. Recycle or salvage air contaminants using best available air cleaning technologies.
3. 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.
4. 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.
5. 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 chlorofluorocarbon compounds during service and repair of air-conditioning and refrigeration units to the greatest extent possible

State air quality standards regulate chlorofluorocarbon 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 Niagara River, 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 waterfront resources in the Town of Wheatfield 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.

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

1. Plan for proper and effective solid waste disposal prior to undertaking major development or activities generating solid wastes.
2. Manage solid waste in accordance with the following solid waste management priorities:
 - a) Reduce the amount of solid waste generated;
 - b) Reuse material for the purpose for which it was originally intended or recycle material that cannot be reused; and
 - c) Use land burial or other approved methods to dispose of solid waste that is not being reused or recycled.
3. 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.
4. 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

1. Hazardous wastes are those materials defined under ECL §27-0901 and 6 NYCRR Part 371.
2. Manage hazardous waste in accordance with the following priorities:
 - a) Eliminate or reduce generation of hazardous wastes to the maximum extent practical;
 - b) Recover, reuse, or recycle remaining hazardous wastes to the maximum extent practical; and
 - c) Use detoxification, treatment, or destruction technologies to dispose of hazardous wastes which cannot be reduced, recovered, reused, or recycled.
3. Remediate inactive hazardous waste disposal sites. While there are no known inactive hazardous waste disposal sites within the Wheatfield 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

1. Substances hazardous to the environment are defined under ECL §37-0101. Toxic pollutants are defined under ECL §17-0105.
2. Prevent release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources.
3. Prevent environmental degradation due to persistent toxic pollutants and limit discharges of bioaccumulative substances.
4. Avoid resuspension of toxic pollutants and hazardous substances and wastes and reentry of bioaccumulative substances into the food chain from existing environmental sources.
5. Prevent and control environmental pollution due to release of radioactive materials as defined under 6 NYCRR Part 380.
6. Protect public health, public and private property, and fish and wildlife from inappropriate use of pesticides.
 - a) 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.
 - b) Prevent direct or indirect entry of pesticides into waterways.
 - c) Minimize exposure of people, fish, and wildlife to pesticides.
7. 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

1. 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.
2. 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 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.