



*Photos from the Waterfront Advisory Committee and the North Country Regional Economic Development Council*

# Town and Village of Cape Vincent Local Waterfront Revitalization Program

Adopted:

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Village of Cape Vincent Board of Trustees, [ Date ]

Approved:

NYS Secretary of State, Robert J. Rodriguez, [ Date ]

Concurred:

U.S. Office for Coastal Management, [ Date ]

TOWN AND VILLAGE OF CAPE VINCENT LOCAL WATERFRONT REVITALIZATION PROGRAM

March 2023

Prepared for the Town and Village of Cape Vincent, New York

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## INTRODUCTION AND OVERVIEW

A Local Waterfront Revitalization Program (LWRP) is a locally-prepared plan along with local implementing regulations and a management structure that sets the vision and goals for redevelopment and revitalization of a community's waterfront. An LWRP is prepared and implemented with guidance and financial assistance from the New York State Department of State through Title 11 of the New York State Environmental Protection Fund. An LWRP formulates waterfront development objectives by adapting statewide legislation and policies to the unique and individual requirements of a waterfront municipality. An LWRP also outlines specific projects to encourage environmental protection, foster economic development, protect valuable water resources, and improve public waterfront accessibility. More importantly, the LWRP is designed to establish a process to ensure that all actions proposed for a municipality's local waterfront area occur in an intentional fashion. The LWRP Program provides communities an opportunity to leverage state funds and technical assistance to develop a unique framework to revitalize their waterfront. Goals of the LWRP program include:

- Reflect community consensus regarding use of its waterfront to attract appropriate development that will respect the unique culture and natural characteristics of its waterfront.
- Establish a partnership between local governments and the State.
- Ensure unified consistency between the LWRP, State and federal permitting, funding, and direct actions.

More information on the Local Waterfront Revitalization Program can be found at <https://dos.ny.gov/local-waterfront-revitalization-program>.

### ***Town and Village of Cape Vincent LWRP Summary***

With this LWRP, the Town and Village of Cape Vincent will work together to take on the challenges facing its waterfront with the shared vision of a healthy and culturally vibrant waterfront for the Cape Vincent community. To embrace changes while further enhancing its desirability as a community in which to live, work, and play, the Town and Village of Cape Vincent have jointly focused their efforts on their unique waterfront resources. This LWRP celebrates the beauty and uniqueness of their extensive waterfront between two of New York State's key waterbodies: Lake Ontario and the St. Lawrence River. Ranging from beautiful natural areas, historic commercial nodes, and iconic locations like Tibbets Point, Cape Vincent's waterfront is a fundamental piece of its community fabric. For participants of this LWRP process and members of the Cape Vincent community, the waterfront is representative of both the local history and a collective desire to build upon existing strengths for the future. The key will be to balance Cape

Vincent's character and uniqueness with new and renewed development that can contribute to the vibrancy and resilience of the community. The LWRP will facilitate this dialogue. The following is a summary of the seven sections that comprise the Town and Village of Cape Vincent LWRP:

***Section I - Waterfront Revitalization Area Boundary***

This section provides a detailed narrative and graphic description of the Waterfront Revitalization Area (WRA) and boundary.

***Section II – Inventory and Analysis***

This section describes the existing conditions within the WRA, as well as an analysis of the needs and opportunities facing the waterfront.

***Section III – Waterfront Revitalization Policies***

This section presents the State Coastal Policies along with refinements of the policy explanations to reflect the unique conditions within the WRA in the Town and Village of Cape Vincent. These policies are based on the economic, environmental, and cultural characteristics of the Town and Village of Cape Vincent, and represent a balance between economic development and preservation, which will permit beneficial use of, and prevent adverse effects on, Town and Village of Cape Vincent waterfront resources. The policies serve as the basis for local, State, and federal consistency determinations for activities affecting the Town and Village of Cape Vincent WRA. No policy is more significant than another. These policies are implemented by State and federal laws as well as relevant Town and Village of Cape Vincent local laws.

***Section IV – Proposed Land and Water Uses and Proposed Projects***

This section describes proposed long-term land and water uses for the community. This section also includes short- and long-term projects the Town and Village of Cape Vincent propose to implement their LWRP. The proposed uses and initiatives outlined in this section have the potential to enrich the Cape Vincent WRA by building on the unique character of the community.

***Section V – Techniques for Implementation of the Local Program***

This section describes the local laws, management structure, and financial resources necessary to implement the policies and proposed uses set forth in Sections III and IV.

***Section VI - State and Federal Actions and Programs Likely to Affect Implementation***

This section consists of a list of State and Federal actions and programs which must be undertaken in a manner consistent with the Town and Village of Cape Vincent LWRP, as well as a description of specific State and Federal actions necessary to further implementation of the LWRP.

***Section VII – Local Commitment and Consultation***

The Town and Village of Cape Vincent LWRP will affect and be affected by the actions of adjacent municipalities and Federal, State, regional, and county agencies. This section summarizes the actions taken by the Town and Village of Cape Vincent to obtain local input and support for their LWRP, and the efforts made by the Town and Village of Cape Vincent to involve and/or inform other agencies regarding the development of their LWRP.

***Planning Process***

The LWRP process involved cooperation with State, county, local, and private agencies as well as an appointed LWRP Waterfront Advisory Committee (WAC) that included local business owners, municipal officials, and residents from the Town and Village of Cape Vincent. A key role of the WAC was to review and provide feedback on draft documents developed throughout the planning process. Additionally, the development of this LWRP also builds from the efforts of many previous planning projects and studies that have occurred over the past decades (see Section 2.1.4).

As part of the planning effort, an inclusive public outreach effort was conducted to gain feedback from the community on existing land and water use issues and to build consensus on the projects and policies to be supported by this LWRP. Public meetings were also held to share and explain drafts of the LWRP as they were being developed. Section VII of this LWRP summarizes the community engagement during this planning initiative.

# **SECTION I: WATERFRONT REVITALIZATION AREA BOUNDARY**

## ***1.1 Boundary Description***

The Village of Cape Vincent has an existing Local Waterfront Revitalization Program (LWRP), which was approved in 1988. The 1988 Village LWRP featured a Waterfront Revitalization Area (WRA) boundary that followed New York State's inland Coastal Management Area boundary. The 1988 WRA was approximately 0.1 square miles in area.

This joint Village and Town Waterfront Revitalization Program is a result of the Village updating its 1988 LWRP. In this new joint LWRP, the Waterfront Revitalization Area (WRA) boundary expands the State's inland Coastal Management Area boundary to include the entire incorporated limits of the Village of Cape Vincent, adding 0.6 square miles to the Coastal Area. The existing unmodified inland Coastal Management Area boundary of the Town of Cape Vincent is also included in this joint LWRP. On the waterside, the WRA follows the Town of Cape Vincent boundary into Lake Ontario and the St. Lawrence River. Included within the WRA are all islands within the Town of Cape Vincent: Fox Island, Little Grenadier Island, Grenadier Island, Linda Island, Carleton Island, and Roxy Islands. Several points and bays are located along the waterfront within the WRA, as well as tributaries. The WRA and existing Coastal Management Area Boundary extend up Kents Creek as well as the tributary flowing into Wilson Bay north of Merchant Road. The inclusion of the Town's WRA adds approximately 57.2 square miles to the WRA, which brings the total of the joint LWRP WRA to approximately 57.9 square miles. The land and water areas covered by this LWRP are described in the following sections and illustrated in Map 1 – Proposed Waterfront Revitalization Area.

## ***1.2 Existing Coastal Area Boundary***

New York State's Coastal Management Program (CMP) has established statewide coastal boundaries in accordance with the requirements of the Federal Coastal Zone Management Act of 1972. The Coastal Area Management Boundary, as defined in New York State Executive Law, Article 42, Section 911, encompasses land and water uses that have a direct and significant impact on coastal waters and shall be the area within which the coastal policies and purposes apply. The coastal shorelines of the Town and Village of Cape Vincent is approximately 28 miles long. The Coastal Area Management boundary within the Village of Cape Vincent and Town of Cape Vincent is illustrated on Map 1. The existing 1988 WRA is 0.1 square miles in area.

# Town and Village of Cape Vincent Local Waterfront Revitalization Program



**Cape Vincent Local Waterfront Revitalization Plan**  
 Cape Vincent, Jefferson County, New York  
**Map 1 : Proposed Waterfront Revitalization Area (WRA)**

Notes: 1. Basemap: ESRI Street Map North America, 2012. 2. This map was generated in ArcMap on May 14, 2021.

- Village of Cape Vincent
- Town Boundary
- Ferry Route
- Coastal Area Boundary
- Proposed WRA
- 1988 Village WRA
- Parcel Boundary
- Canada-US Boundary
- Proposed Harbor Management Area
- Vessel Activity Area



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***1.3 Rationale for the Expansion of the Inland Boundary of the New York State Coastal Management Area***

The Village of Cape Vincent and the Town of Cape Vincent propose extending the existing New York State Coastal Management Area boundary to include the entire incorporated limits of the Village of Cape Vincent in the Waterfront Revitalization Area (WRA), increasing the Coastal Area by 0.6 square miles. The existing Coastal Management Area boundary for the Town of Cape Vincent, encompassing an area of 57.8 square miles, will also be included in the WRA for this joint LWRP.. This expansion of the inland coastal boundary in the Village of Cape Vincent will support improved connectivity to the waterfront, cultural relationships with the Village, and revitalization activities. Both the Town and Village of Cape Vincent have a cultural relationship and history of water dependent uses, including boating activities and scuba diving, that the community values and aims to enhance. The Village seeks to strengthen the connection to the waterfront by improving the accessibility from the waterfront to the Village’s downtown through safe routes. Proposed routes for bicyclists, pedestrians, and boaters (see Section IV) will allow access from the waterfront to the main roads downtown, and from downtown to the waterfront and docks for residents and visitors. These paths will allow for revitalizing important sites, such as the former bass ponds that currently sit dry and unused adjacent to the municipal recreation complex within the Village (known as the Town of Cape Vincent Recreation Park). These ponds can be reconnected to the waterfront through the proposed paths and signage.

Of local interest is the Broadway Street Corridor, which currently acts as the gateway into the Village for vehicles, and which also falls outside of the existing Coastal Management Area. The Broadway Street corridor is a focal point of the Village, and the community wishes to extend the welcome to those entering the Village by water. Broadway Street also has views of the St. Lawrence River and proposed projects enhancing these views will further connect residents and visitors to the water. The expansion of this WRA boundary to include the inland Village boundary will provide for the possibility of establishing signage along the Broadway Street Corridor and nearby areas to direct people towards the waterfront. In doing so, potential future projects will further revitalize and enhance the waterfront and water use, improve the visibility of the St. Lawrence River, and encourage further development of existing and new water dependent businesses. These goals are closely in line with stimulating the cultural relationship, preserving historical sites, and the overall health of the Village to its waterfront. With these projects in mind, future inland land uses should be consistent with the LWRP policies.

***1.3.1 Landside Boundary of Cape Vincent WRA***

Beginning at a point approximately 1,600 feet south of Bison Ranch Drive, where the Town’s southern municipal boundary intersects the shoreline of Lake Ontario, the boundary of the Town of Cape Vincent’s WRA proceeds northeast along the Town of Cape Vincent municipal boundary

with the Town of Lyme, to the centerline of County Road 6. It extends northwest along County Road 6 until the intersection with Bedford Corners Road;

1. then, turns west, along the center line of Bedford Corners Road;
2. then, turns northwest, continuing along the center line of Bedford Corners Road parallel to County Road 6, continuing until Bates Road;
3. then, turns northeast along the center line of Bates Road, continuing until the intersection with NYS Route 12E;
4. then, turning northwest along the center line of NYS Route 12E, continuing until the intersection with Huff Road;
5. then, turning southwest along the center line of Huff Road and the Coastal Area Boundary, continuing until the intersection with the Coastal Area Boundary and Parcel 59.07-1-1.31;
6. then, turning northwest along the Coastal Area Boundary, continuing until approximately 994 feet northwest of Stony Point Road;
7. then, turning southwest to follow along the Coastal Area Boundary and maintaining approximately 1,100 feet inland from the shoreline as the boundary curves to the northeast approximately 1,100 feet inland from the shoreline, continuing until the intersection with Merchant Road;
8. then, turning east along the center line of Merchant Road, continuing until the intersection with County Road 6;
9. then, turning northwest along the center line of County Road 6, continuing until the intersection with Wilson Point Road;
10. then, turning southwest along the center line of Wilson Point Road, continuing until the intersection with Schmeer Road.
11. then, turning northwest along the Coastal Area Boundary and maintaining approximately 1,100 feet inland from the shoreline, continuing northwest of Fuller Bay until reaching a point approximately 1,860 feet inland from Tibbets Point located in the northeast corner of Parcel 49.13-1-8.3;
12. then, turning northeast along the Coastal Area Boundary and maintaining approximately 1,100 feet inland from the St. Lawrence River edge until reaching the intersection with County Road 6;
13. then, turning north along the center line of County Road 6 approximately 1,100 feet until reaching the Village of Cape Vincent municipal boundary;

14. then, turning east along the Village of Cape Vincent boundary and continuing until reaching S. Kanady Street;
15. then, turning south along the Village of Cape Vincent boundary and continuing until reaching the southern boundary of Parcel 49.06-1-28.1;
16. then, turning west along the Village of Cape Vincent boundary and continuing until reaching the western boundary of Parcel 49.33-1-1.31
17. then, turning south along the Village of Cape Vincent boundary and continuing until reaching the centerline of Stone Quarry Road,
18. then, extends linearly east along the southernmost Village of Cape Vincent municipal boundary until reaching the southeastern terminus of Parcel 49.26-1-7;
19. then, extends north along the westernmost Village of Cape Vincent municipal boundary until reaching its intersection with the Coastal Area Boundary approximately 400 feet south of E. Lake Street at Parcel 49.82-1-39;
20. then, extends east along the Coastal Area Boundary parallel to the shoreline and maintaining approximately 1,100 feet inland from the St. Lawrence River edge until reaching the eastern Town of Cape Vincent municipal boundary, at a point approximately 1,060 feet south of NYS 12E and 1,225 feet east of Park Drive/ State Park Drive;
21. then, proceeds linearly to the northwest along the eastern Town of Cape Vincent municipal boundary and US-Canada Boundary to its northeastern waterside terminus, approximately 4,500 feet north of the St. Lawrence River shoreline;
22. then, continues westerly along the northernmost Town of Cape Vincent municipal boundary and US-Canada Boundary to its western terminus, located approximately 1 mile southwest of Wolfe Island in Lake Ontario;
23. then, continues southwest-west along the western Town of Cape Vincent municipal boundary encompassing Carleton Island to a northwestern terminus south of Wolf Island
24. then, continue southeast to encompass Grenadier Island, Little Grenadier Island, and Fox Island at its southern terminus, located approximately 2.5 miles south of Grenadier Island and 2 miles southwest of Fox Island;
25. then, continues northeast along the southern Town of Cape Vincent municipal boundary to the point of beginning, the intersection with the Town of Cape Vincent municipal boundary with the Lake Ontario shoreline approximately 1,600 feet south of Bison Ranch Drive.



**1.3.2 Harbor Management Area Boundary - Waterside Boundary**

The waterside of the New York State coastal boundary is not modified by the Cape Vincent WRA. Pursuant to Part 46a of the NYS Navigation Law and Section 922 of Article 42 of the Executive Law, the waterside area of the Cape Vincent WRA follows the municipal waterside boundary of the Town of Cape Vincent. Map 1 illustrates the boundary of the Cape Vincent WRA. Pursuant to the same statutes, Table A-1 of Appendix A Harbor Management Plan (HMP) reflects where the LWRP incorporates these HMP components. The HMP addresses the level of competing surface water uses within the Harbor Management Area (HMA). The HMA includes all waterside areas within the WRA. Although the HMA includes the St. Lawrence shipping channel, the United States Coast Guard maintains authority over this channel. Map 1 illustrates the boundary of the Cape Vincent HMA.

## SECTION II: INVENTORY AND ANALYSIS

This section contains an inventory and analysis of significant coastal conditions that provides the foundation for the Cape Vincent Local Waterfront Revitalization Program. The content in this section is organized by each of the major areas addressed by the 44 State coastal policies: development (State coastal policies #1 – 6); fish, wildlife and wetlands (State coastal policies #7 – 10 and #44); flooding and erosion hazards (State coastal policies #11 – 17); public access and recreation (State coastal policies #19 – 22); historic and scenic resources (State coastal policies #23 – 25); agricultural lands (State coastal policy #26); energy and ice management (State coastal policies #27 – 29); and water and air resources (State coastal policies #30 - 43).

### ***2.1 Community Background***

The Town and Village of Cape Vincent, New York is a community characterized by its waterfront. As the only town in the United States with both the St. Lawrence River and Lake Ontario waterfront, the area is uniquely situated to provide its community experiences of sunsets over Lake Ontario along with experiences of boating along the St. Lawrence Seaway. Despite its unique characteristics, like many rural New York communities, Cape Vincent is decreasing in population size and local economic resources are limited. Over the past century, the local economy has shifted away from shipping, agriculture, coal transportation, and commercial fishing. This has resulted in a community that is more heavily dependent on the summer tourism season than it was during its establishment. The revitalization of the Cape Vincent waterfront will be critically important to reconnect residents and visitors and fully leverage the unique assets of the community for the local economy. Specifically, the goals of this Local Waterfront Revitalization Program (LWRP) are to provide safe and accessible active transportation options for residents, improve water quality, reconnect residents and visitors to historic resources, promote mixed development within the waterfront areas, and protect both the natural resources and the unique character of the WRA. The vision for Cape Vincent is for a healthy and culturally vibrant waterfront. Opportunities in the future should consider celebrating this sense of place through public amenities that both serve current residents and attract new residents, particularly families and young people.

The community of Cape Vincent, including both the Village and the Town, identified a strong quality of life as one of its top strengths, according to a 2017 community analysis of strengths, weaknesses, opportunities, and threats (“S.W.O.T. analysis”). This high quality of life is driven by the following characterization of Cape Vincent: small town atmosphere, community safety, aesthetic environment, location to water, a school system that includes facilities for K-12 within the Town, rehabilitation services for disabled residents, an array of local volunteers and community organizations, affordable housing, and a peaceful environment in a rural setting. The

Town and Village of Cape Vincent struggle with issues shared by rural New York communities face: lack of municipal water infrastructure, minimal year-round business opportunities, lack of family services (e.g., day care, mental health services, etc.), declining population, loss of local land use control due to state, national, and international river and lake management regulations. The results of the 2017 S.W.O.T. analysis and other documentation of community involvement in the LWRP planning process are described in Section VII Local Commitment and Consultation and further documented in Appendix B Community Comments.

### ***2.1.1 Community profile***

The Town of Cape Vincent is located at the eastern extreme of the Great Lakes system where Lake Ontario flows into the St. Lawrence River. Its unique historical setting, at the mouth of the St. Lawrence, made early travel and commerce possible westward to Lake Ontario and eastward to the Atlantic Ocean. Cape Vincent is rendered a choice location for a commercial town due to its proximity to Kingston, Ontario, Canada and to the adjacent River, which could be crossed by ferry in the summer and over ice in the winter. The Horne Transportation Ferry runs in conjunction with the Ontario Provincial ferry to provide direct transportation to and from Kingston, Ontario.

Throughout the early and mid-1800s, Cape Vincent became renowned as both an agricultural port and a tourism destination for well-to-do summer vacationers.<sup>1</sup> According to the same source, dairy farming and tourism have always been a key component of Cape Vincent's economy. Hunting, fishing, water-based recreational activities, rural quaintness, scenic vistas, and the mild summer weather have drawn visitors to the community for generations. Over time, and to the present day, properties along Lake Ontario and the St. Lawrence River have become, and remained, a desirable commodity. Lakeside homes and campgrounds have views of open water, while riverside homes and campgrounds have the tranquil setting of the River and the Thousand Islands Region. Given its historical connection to the water, Cape Vincent has extended its welcome for recreational use to visitors and residents alike along its shoreline for generations. The primary landside gateways into the Town and Village are located along NYS Route 12E to the south and east.

The population of the Cape Vincent community temporarily increases during the summer tourist season and decreases during the winter months. In addition to this seasonal fluctuation, the total populations in the Town and the Village of Cape Vincent have also experienced fluctuations over the years, both decreased since the early 1900s.<sup>2</sup> From 1910 through 1970, both populations decreased in size. By 1970 the Village population was 33.3% below 1910 levels, and the Town-

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<sup>1</sup>Local Historian Jeanne Ebert. (January 4, 2021). Village of Cape Vincent History. Available from: <https://www.villageofcapevincent.org/history.html#:~:text=Cape%20Vincent%20developed%20rapidly%20during,from%20the%20Town%20of%20Lyme>. (Accessed March 2022).

<sup>2</sup> For the purpose of comparison, the Town population reported here is Town-Outside Village. Town-Outside Village refers to the population of individuals residing in the Town but outside the Village.

Outside population declined by a nearly identical rate, -34.6%.<sup>3</sup> In the 1970s, the two communities began to diverge. The Village declined in population (-5.6%) from 1970 to 2010, while the Town-Outside Village increased in numbers (+34.4%) over 1970 levels.<sup>4</sup> Recently, however, the population in the Town-Outside Village has plateaued and both populations decreased between 2000 and 2010, with a -3.6% for the Town-Outside and -4.5% for the Village, according to US census data in the 2012 Joint Comprehensive Plan. This decrease in total population is related to shifts in younger and older generations throughout the years. Since 1980, the school-aged (<19 yrs.) population decreased in both the Village and Town-Outside Village (38.3% and 21.5%, respectively).<sup>5</sup> In contrast, according to this same source, from 1980 through 2010 the number of seniors (65 yrs. or older) increased approximately 58% in the Town-Outside Village; the Village had a slight decrease in seniors during this time but did experience an increase in older adults (45-64 yrs.), suggesting that the trend of aging is relevant to both communities.<sup>6</sup> According to the same source, although the Cape Vincent population has shifted to a relatively older community over the recent decades, there has been a noticeable recent upward trend in recent years of young families moving to the area due to the ability to work remotely, according to local community members.

### **2.1.2 Overview of waterfront area**

The study area for this LWRP document is referred to as the Waterfront Revitalization Area (WRA), which includes the Town and Village. As described in Section 1.3 and depicted in Map 1, the boundary of the Town and Village of Cape Vincent WRA follows the Coastal Management Boundary within the Town of Cape Vincent and includes the entirety of the Village of Cape Vincent. The WRA also includes all islands within the Town of Cape Vincent, including Fox Island, Little Grenadier Island, Grenadier Island, and Carleton Island. Along with the dense Village core, the WRA within the Village also includes an array of docks and landings, fulltime and seasonal residential homes, historic buildings, and park areas with scenic vistas overlooking the St. Lawrence River. Within the Town outside of the Village, private residential homes are the primary land use within the WRA throughout the Town. Apart from these residential areas, other land uses also occur intermittently along the Lake and River waterfronts, including commercial

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<sup>3</sup> US Census Data referenced by the Joint Comprehensive Plan Update Committee. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update to the 2003 Joint Comprehensive Plan*. Cape Vincent, NY. Available at: <https://www.villageofcapevincent.org/doc-center/policies-information-misc/137-2012-joint-comprehensive-plan.html>

<sup>4</sup> US Census Data referenced by the Joint Comprehensive Plan Update Committee. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update to the 2003 Joint Comprehensive Plan*. Cape Vincent, NY. |

<sup>5</sup> US Census Data referenced by the Joint Comprehensive Plan Update Committee. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update to the 2003 Joint Comprehensive Plan*. Cape Vincent, NY.

<sup>6</sup> US Census Data referenced by the Joint Comprehensive Plan Update Committee. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update to the 2003 Joint Comprehensive Plan*. Cape Vincent, NY.

marinas, small cottages and RV parks, agricultural fields, and public access areas such as Tibbetts Lighthouse, Cedar Point State Park, Burnham Point State Park, and Wilson's Bay.

The Village is approximately 0.7 square miles in total size and is bordered by the St. Lawrence River to the north-northwest, Pleasant Valley Road to the east, Stone Quarry Road along the south-southwest, and East End Park to the west. The Town is approximately 90 square miles in total size and is bordered by the Town of Lyme to the southeast and the Town of Clayton to the northeast. The coastal boundary of the Town is included in the WRA, as described in Section 1.2. The Town has four primary stream systems that flow within the WRA, which are Fox Creek, Kents Creek, Little Fox Creek, and Scotch Brook.

### ***2.1.3 Historical development of waterfront area***

In the early to mid-1800's, the development of homes, grain-mills, and cheese plants accompanied the expansion of farmed lands throughout the Town of Cape Vincent. An additional economic expansion came with the completion of the Cape Vincent and Rome Railroad in 1852.<sup>7</sup> According to the local history, the advent of rail transportation meant that passengers and goods could flow to and from regions across New York (e.g., Rochester, Syracuse, and New York City) into Cape Vincent. Additionally, ferry service developed in the 1800s and expanded travel and transportation between Cape Vincent and Kingston, Ontario, Canada.<sup>8</sup> The combined rail and water transportation network generated a boom in local business growth during its initial years of establishment and into the early part of the 20<sup>th</sup> Century. According to the Town of Cape Vincent historian,<sup>9</sup> the early history of Cape Vincent's bustling economy during this time is described below:

*"In 1900 Cape Vincent was a bustling town. There were seven grocery stores, three meat markets, a bakery, two drug stores, five hotels, a paint and wallpaper store, a bookstore, two clothing stores, two general stores, a hardware store, and a jewelry store. There were also five physicians, three dentists, two lawyers, two undertakers, and several dress makers. Businesses included boat builders, hay dealers, photographers, monument salesmen, blacksmiths, milliners, tailors, draymen, and several livery stables."*

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<sup>7</sup> US Census Data referenced by the Joint Comprehensive Plan Update Committee. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update to the 2003 Joint Comprehensive Plan*. Cape Vincent, NY. Available at: <https://www.villageofcapevincent.org/doc-center/policies-information-misc/137-2012-joint-comprehensive-plan.html>

<sup>8</sup> US Census Data referenced by the Joint Comprehensive Plan Update Committee. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update to the 2003 Joint Comprehensive Plan*. Cape Vincent, NY.

<sup>9</sup> Local Historian Jeanne Ebert. (January 4, 2021). *Personal Correspondence with Erica Tauzer (EDR) and Pamela Youngs (Village of Cape Vincent)*.

At the turn of the 20<sup>th</sup> century, Cape Vincent's economic vitality was dependent on both agriculture and tourism;<sup>10</sup> the characteristics of these two sectors however, changed over the next century. Based on historical knowledge, the small, family farms that were present in the Town in 1918 were nearly all gone by the latter part of the 20th Century.<sup>11</sup> The farms that remained were larger in size, fewer in count, and more productive and efficient.<sup>12</sup> Meanwhile, the numerous hotels that catered to wealthy seasonal tourists eventually subdivided their waterfront land for the sale of private individual cottages.<sup>13</sup> Nevertheless, Cape Vincent maintained its small-town atmosphere with world-class scenic and historical assets along with its agricultural and tourism roots. According to the 2012 Joint Comprehensive Plan, all this historic development has resulted in a community that is now more heavily dependent on the summer season and tourism dollars than it was during the initial years of establishment. The Village and Town prioritize the protection of this small-town atmosphere and historical agrarian community character.

### ***2.1.4 Summary of existing plans, projects, and initiatives***

Several existing plans developed by the Town and Village are discussed in this section. These plans include the 1988 Village of Cape Vincent LWRP, the 2010 Broadway Street Master Plan, the 2012 Club Street Waterfront Project (Club Street Revitalization Plan), and the 2012 Joint Town and Village Comprehensive Plan. In addition, there are county-led and region-led plans, including the 2011 Jefferson County Hazard Mitigation Plan and the 2011 North Country Regional Development Corporation (NCREDC) Strategic Plan. These plans are important as they shed light upon the priorities of the communities and are frequently used to guide funding resources necessary to implement projects identified in these plans.

Additionally, there have been projects and initiatives occurring within the WRA, including projects funded through NCREDC that align with the regional strategic plan, the Club Street Revitalization Project, and projects funded through the Lake Ontario Resiliency & Economic Development Initiative (REDI) after severe flooding across the region in 2017 and 2019. The relationship of these existing projects and plans to this LWRP are discussed in this section.

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<sup>10</sup> Joint Comprehensive Plan Update Committee. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update to the 2003 Joint Comprehensive Plan*. Cape Vincent, NY. Available at: <https://www.villageofcapevincent.org/doc-center/policies-information-misc/137-2012-joint-comprehensive-plan.html>

<sup>11</sup> Joint Comprehensive Plan Update Committee. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update to the 2003 Joint Comprehensive Plan*. Cape Vincent, NY.

<sup>12</sup> Joint Comprehensive Plan Update Committee. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update to the 2003 Joint Comprehensive Plan*. Cape Vincent, NY.

<sup>13</sup> Joint Comprehensive Plan Update Committee. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update to the 2003 Joint Comprehensive Plan*. Cape Vincent, NY.

*1988 Village of Cape Vincent Local Waterfront Revitalization Program (LWRP), 2016 Update*

The 1988 LWRP focus on the waterfront within the Village of Cape Vincent provided the foundation for this updated and joint LWRP effort between the Town and Village of Cape Vincent. The 1988 Village of Cape Vincent LWRP identifies the St. Lawrence River as the principal tourist draw and emphasizes the need to preserve and improve public access and use of the River. Many of the proposed projects in the 1988 plan have since been implemented. The Village of Cape Vincent has improved public access to the waterfront at East End Park and several other public park areas at streets ending at the River. The Village has also made improvements to the exterior façades and aesthetics of its downtown business area through building restoration projects and local investment in streetscaping and other beautification projects. These façade improvements have in turn spurred private investment in commercial properties.

Recommendations in the 1988 Village LWRP were evaluated in 2012 through a New York State Department of State (NYS DOS) LWRP monitoring report. The monitoring report identified four completed recommendations in the 1988 Village LWRP: East End Park water access improvements; the Club Street revitalization plan; rehabilitated Roxy Hotel and property improvements; and site amenities at the riverfront park access areas. Details on these completed projects are as follows:

- *Public Dock Expansion Design (T1000516)* – The NYS DOS LWRP awarded the Village of Cape Vincent, in partnership with the Cape Vincent Local Development Corporation (LCD) and the Town of Cape Vincent, a grant funded through the Environmental Protection Funds (EPF) in 2014. This grant was for the reconstruction of the seawall and boat ramp located along the western boat launch in the East End Park. Local non-profit organizations funded the design of a pavilion located in the central portion of the park, which was constructed with both Dormitory Authority of the State of New York (DASNY) funds and Town/Village funds.
- *Club Street Waterfront Project (T007008)* - NYS DOS LWRP awarded the Village of Cape Vincent a grant funded through EPF in 2009 to develop a Club Street conceptual master plan and implementation strategy for the street area as a tool to promote tourism, economic growth, and enjoyable living. The plan includes an inventory of the existing infrastructure and land uses surrounding Club Street, and then establishes a set of goals, recommendations, strategies, and conceptual diagrams to guide the enhancement and revitalization of the area. This plan helped guide the 2019 EPF grant that was awarded and contracted to implement improvements to Club Street under C1001637.
- *Roxy Hotel* – The LDC was awarded a grant in 2009 through the Restore NY and NYS Office of Community Renewal Main Street Grant programs to assist a private developer in rehabilitating the interior and exterior of the Roxy Hotel. Through the grant, the

developer added six garden apartments on the northeast side of the hotel property. This mixed-use building is a landmark historic building located on the main corner of the Village's business district.

- *Riverfront Public Access areas* – The Village has taken advantage of its right-of-way by providing public riverfront access at the end of each street that connects to the water. The Village undertook improvements to enhance these areas by installing signage to indicate public access areas to the water, park benches, and landscaping along Point, Market, Real, Kanady, and Murray Streets.

One remaining recommended action from the 1988 Village LWRP was to expand public transient dock space to encourage day visits to the Village of Cape Vincent by visitors. Recommendations for this expanded docking space in the 1988 Village LWRP included constructing deep-water docking capable of accommodating larger ships at East End Park. This proposal was carried forward in the early phases of the joint Village and Town of Cape Vincent LWRP planning process and ultimately was funded by the 2019 Resiliency & Economic Development Initiative (REDI) program, which provided State funds in 2019 for communities facing damages from storms. This project and other REDI projects are discussed in more detail later in the *2019 Resiliency and Economic Development Initiative Projects* in the latter portion of this section.

#### *2010 Broadway Street Master Plan*

The Village of Cape Vincent Improvement League received funding through the New York State Office of Community Renewal New York State Main Street Program to oversee the drafting of the Broadway Street Master Plan. This 2010 conceptual plan was used for the revitalization of Broadway Street. The plan provided design guidance and practical implementation approaches for the streetscape improvements along Broadway Street as it extended from Market Street to William Street. Portions of this plan's recommendations are carried forward by the 2019 Club Street Revitalization Project and the 2019 REDI projects. Other components of the master plan could be built into future projects by the Cape Vincent community when deemed a priority. Therefore, this project is not proposed in Section IV as a standalone project.

#### *2012 Club Street Waterfront Project (Club Street Revitalization Plan)*

In 2012, the Village sought funding for the revitalization of the Club Street area as promoted by the 1988 LWRP through the Consolidated Funding Application (CFA) and was awarded NYS DOS LWRP EPF funds. The Village contracted with the State for a project (T007008) to conduct a master plan to initiate the revitalization of the Club Street area since this important location served as a key Village gateway and activity node. The result of the project was the Club Street Revitalization Plan. This project is also discussed above under the *1988 Cape Vincent LWRP* subsection as it was identified in the plan as a recommendation.



The Town of Cape Vincent, in partnership with the Village, applied for EPF funding in 2019 to implement the Club Street revitalization master plan and was awarded \$843,750. This project is under contract C1001637 with the State to advance the first phase of these recommendations in the master plan. This project is discussed below under the *Club Street Revitalization Project (C1001637) – 2012* subsection.

#### *2012 Joint Town and Village Comprehensive Plan and 2017 Addendum*

The Joint Town and Village Comprehensive Plans represent the strong and continuous partnership between the municipalities. The plan was adopted by both the Village of Cape Vincent Board of Trustees and the Town Board of Cape Vincent in 2003. The Jefferson County Planning Department assisted in the development of the joint plan, a plan update in 2012, and an updated addendum in 2017. In the 2012 Comprehensive Plan update, the focus was on sustainable future growth and consistency with Cape Vincent’s rural character. The 2017 Comprehensive Plan addendum featured an analysis on the Strengths, Weaknesses, Opportunities, and Threats (“S.W.O.T.”) facing the Town and/or the Village of Cape Vincent. Results of this S.W.O.T. analysis have been incorporated into each sub-section of Section II of this LWRP. The full S.W.O.T. analysis is included in Appendix B - Community Comments.

#### *2011 Jefferson County Hazard Mitigation Plan*

Non-emergency disaster mitigation assistance is provided to local governments with an adopted hazard mitigation plan through the Disaster Mitigation Act of 2000 (DMA 2000).<sup>14</sup> Specifically, the Act states:

*“The Disaster Mitigation Act of 2000 (DMA 2000) (P.L. 106-390) provides an opportunity for States, Tribes, and local governments to take a new and revitalized approach to mitigation planning. ... This Rule (44 CFR Part 201) established the mitigation planning requirements for States, Tribes, and local communities.”*

Jefferson County municipalities, like many other local governments, were required to draft and adopt a hazard mitigation plan to receive assistance from the Hazard Mitigation Grant Program. In 2011 Jefferson County wrote and adopted the multi-jurisdictional Jefferson County Hazard Mitigation Plan (JCHMP). This plan features several broad, long-term, countywide goals that aim to reduce the possibility of property loss and landscape damage. The goals also promote

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<sup>14</sup> General information on the regulations and guidance, please see Federal Emergency Management Agency (FEMA). (August 2021). *Hazard Mitigation Grant Program (HMGP)*. Accessible from <https://www.fema.gov/grants/mitigation/hazard-mitigation> (Accessed January 2022), and FEMA. (September 2021). *Regulations and Guidance*. Accessible from <https://www.fema.gov/emergency-managers/risk-management/hazard-mitigation-planning/regulations-guidance> (Accessed January 2022). Information on the Disaster Mitigation Act of 2000, please see Disaster Mitigation Act of 2000, Public Law 106-390 106th Congress. (2000). Accessed from [https://www.fema.gov/sites/default/files/2020-11/fema\\_disaster-mitigation-act-of-2000\\_10-30-2000.pdf](https://www.fema.gov/sites/default/files/2020-11/fema_disaster-mitigation-act-of-2000_10-30-2000.pdf) (Accessed January 2022).

sustainable and resilient development and planning. These countywide goals include the following:

- *Promote disaster-resistant development.*
- *Build and support local capacity to enable the public to prepare for, respond to, and recover from disasters.*
- *Reduce the possibility of damage and losses due to extreme temperatures.*
- *Reduce the possibility of damages due to high winds (including tornados).*
- *Reduce the possibility of damage and losses due to lightning.*
- *Reduce the possibility of damage and losses due to winter storms.*
- *Reduce the possibility of damage and losses due to coastal erosion.*
- *Reduce the possibility of damage and losses due to ice jams.*
- *Reduce the possibility of damage and losses due to dam failures.*
- *Reduce the possibility of damage and losses due to drought.*
- *Reduce the possibility of damage and losses due to flooding.*
- *Reduce the possibility of damage and losses due to earthquakes.*
- *Reduce the possibility of damage and losses due to landslides.*
- *Reduce the possibility of damage and losses due to wildfires.*
- *Reduce the possibility of damages to emergency and critical facilities due to flooding, wildfires, and extreme winds.*

The JCHMP has identified potential hazards in Jefferson County as well as recommended projects. JCHMP listed the following hazards as relevant to both the Town and Village: extreme temperatures, extreme wind, tornados, lightning, winter storms, drought, floods, earthquakes, landslides, and wildfires. Of these hazards, the most prevalent events in Cape Vincent include floods and wind damage (specifically fallen trees) due to heavy rain or windstorms. According to the 1998 Federal Emergency Management Agency (FEMA) Q3 flood data used by the Jefferson County HMP to identify land in high flood risk areas, approximately 6% of the Town's land and 5% of the Village's land is within high flood risk areas (FEMA Risk Areas A or AE).<sup>15</sup>

Although the Village and Town of Cape Vincent were considered non-participating communities and not directly involved in the drafting of the 2011 Jefferson County HMP, the County has committed to ongoing outreach to these non-participating communities during the plan

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<sup>15</sup> Jefferson County. (2011). Multi-Jurisdictional Hazard Mitigation Plan for Jefferson County NY. Available at: <https://co.jefferson.ny.us/departments/EmergencyManagement/hazard-mitigation> (accessed March 2022)

maintenance phase. Municipalities choosing to participate later will still be provided with an opportunity to “opt-in” for subsequent plan updates. The JCHMP identifies FEMA funding to address flood hazard reduction projects in Cape Vincent. FEMA provides monetary aid through grants and provides other support to various governments in times of emergency, during situations, and rebuilding after disasters. Though the JCHMP expired in 2015, it can still serve as a guide for the Town and Village. Updating the JCHMP can be a potential future collaborative project for the Town and Village of Cape Vincent and Jefferson County in the future.

#### *2011 North Country Regional Economic Development Council (NCREDC) Strategic Plan*

The North Country Regional Economic Development Council (NCREDC) is one of ten established Regional Councils that form the Regional Economic Development Councils (REDC), which was a key component of Governor Cuomo’s transformative approach to State investment and economic development. NCREDC produced the 2011 NCREDC Strategic Plan that focuses on the development of long-term strategic plans to propel economic growth for the region, which includes the Counties of Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, and St. Lawrence. In this version of the strategic plan, the North Country’s Council identified the interest in leading a “*rural renaissance, leveraging its own natural and human capital with State and private investment.*”<sup>16</sup> To achieve the plan’s vision of creating a rural renaissance, the Council’s work capitalizes on the following: the region’s shared assets; the iconic Thousand Islands and Adirondacks; the opportunities presented by the border with Canada; the abundant clean energy possibilities; the incomparable four-season recreational opportunities; and the talented labor pool and entrepreneurial population.

#### *2012-2018 Strategic NCREDC Projects*

The NCREDC progress reports provides information on the region’s status on progress, implementation of strategies and updates on projects.<sup>17</sup> In each of the progress reports from 2018-2021 a list or table present the previously funded priority projects for the North Country Region.<sup>18</sup> The following projects occur in Cape Vincent and are listed in various progress reports (2018-2021):<sup>19</sup>

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<sup>16</sup> REDC. (2011). *2011 North Country Strategic Plan*. Accessed from [https://regionalcouncils.ny.gov/sites/default/files/2017-11/NCREDC\\_SMALL.pdf](https://regionalcouncils.ny.gov/sites/default/files/2017-11/NCREDC_SMALL.pdf) (Accessed January 2022).

<sup>17</sup> Additional information on the projects and the region can be found on the New York State Economic Development Council’s REDC Reports page, <https://www.nysedc.org/reports.php>. The 2018, 2019, and 2021 reports are available to download from this website.

<sup>18</sup> Additional information on the projects and the region can be found on the New York State Economic Development Council’s REDC Reports page, <https://www.nysedc.org/reports.php>. The 2018, 2019, and 2021 reports are available to download from this website.

<sup>19</sup> Additional information on the projects and the region can be found on the New York State Economic Development Council’s REDC Reports page, <https://www.nysedc.org/reports.php>. The 2018, 2019, and 2021 reports are available to download from this website.

***Cape Vincent Local Waterfront Revitalization Program Update (2016)***

NYS DOS LWRP has awarded funds through the EPF for this 2016 joint LWRP update and is overseeing this update. Please refer to the *1988 Village of Cape Vincent Local Waterfront Revitalization Program, 2016 Update* subsection of 2.1.4 above for more information on the LWRP.

***Village of Cape Vincent Public Dock Expansion Design (2014)***

NYS DOS LWRP awarded the Village of Cape Vincent EPF funds for the design project, Public Dock Expansion Design, in 2014. Please refer to the *1988 Village of Cape Vincent Local Waterfront Revitalization Program, 2016 Update* subsection of 2.1.4 above for more information on the design project.

***Cape Vincent Improvement League Club Street Waterfront Development (2012)***

The Cape Vincent Improvement League Club Street Waterfront Development priority project was awarded through the former HCR-Rural Area Revitalization Projects (RARP), which has been replaced by the Rural and Urban Community Investment Fund (RUCIF) program under the New York State Homes and Community Renewal Agency. These funds led to the development of the Club Street Revitalization Plan (see previous description in this section).

***Town of Cape Vincent Club Street Revitalization (2019)***

NYS DOS LWRP has awarded the Town of Cape Vincent funds through the EPF for the implementation project, Club Street Revitalization, in 2019. Please refer to the following *Club Street Revitalization Project (C1001637) - 2019* subsection for more information on this implementation project.

***Town of Cape Vincent Sewer District 1 Study (2021)***

The Town of Cape Vincent was awarded a NYSDEC Planning Grant, with funds provided by both the NYS Environmental Facilities Corporation (EFC) and the US Department of Agriculture. The grant was for an engineering study on the benefits of a public sewer system to determine the most feasible option for both residents and businesses within the existing Town of Cape Vincent Water District 1 boundary. More details about the results of this study are detailed in Section IV Proposed Water and Land Uses and Projects (4.3.6 Sewer District Improvements along the St. Lawrence River).

***2019 Club Street Revitalization Project (C1001637)***

The Club Street Revitalization Project supports the vision of the Cape Vincent community to improve access and viewshed of the River in the village core. The Town of Cape Vincent, in partnership with the Village, applied and was awarded \$843,750 funded by the EPF, Title 11, in

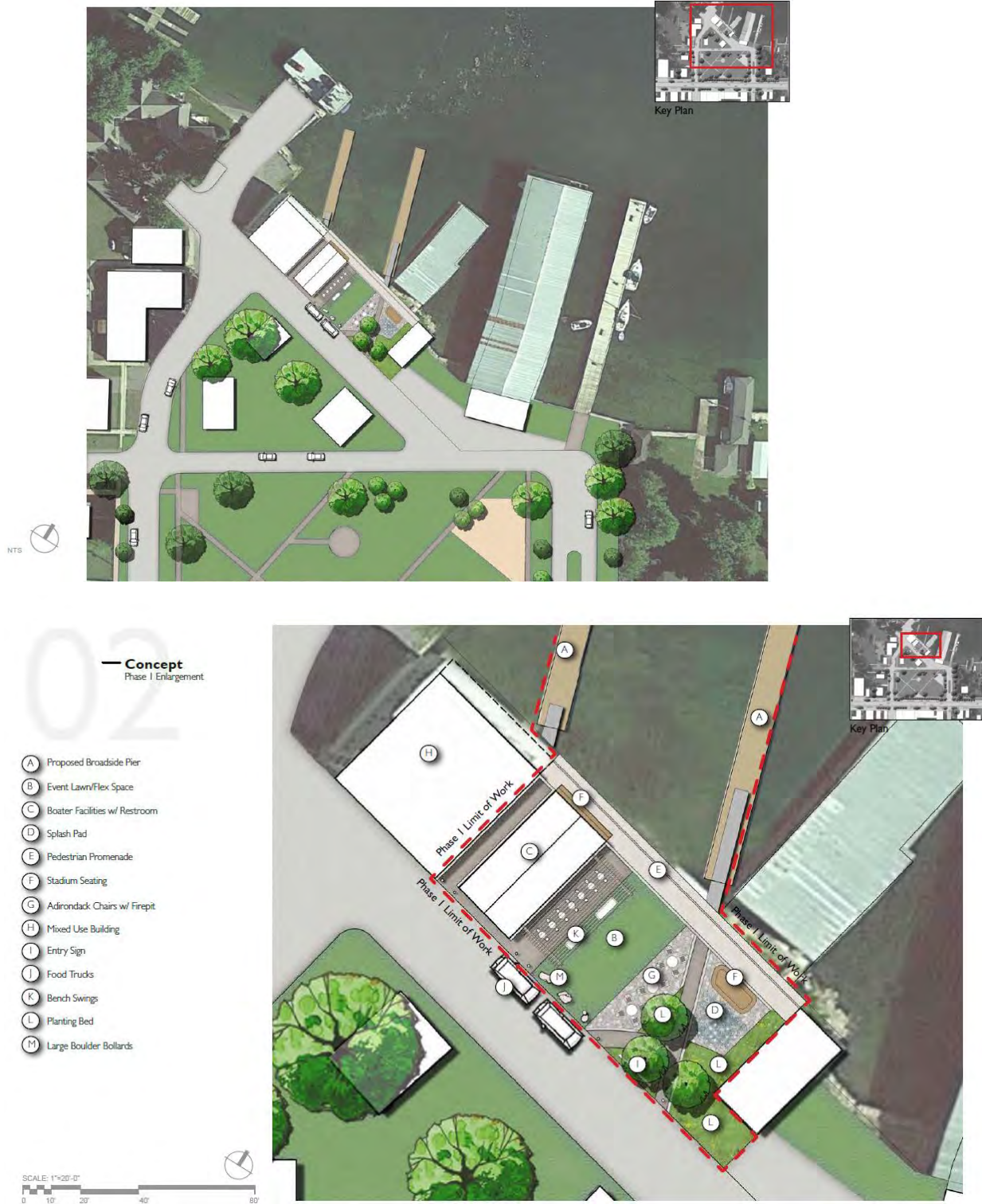


Figure 1: The Club Street Revitalization master plan designs, completed in 2021 by Edgewater Resources on behalf of the Village of Cape Vincent provides an overview and enlargement of improvements currently ongoing at the time of the preparation of this LWRP in efforts to initiate the proposed project for Club Street (see Section IV). Source: Village of Cape Vincent.

2019 to implement the Club Street revitalization feasibility study. Figure 1 shows the designs of the improvements provided in the Club Street Revitalization master plan.

This project is under contract C1001637 with the State to advance the first phase of these recommendations in the feasibility study. The recommendations included the design and construction of improvements to the Club Street area along the St. Lawrence River. The Town of Cape Vincent, in partnership with the Village of Cape Vincent, will implement the Village's Local Waterfront Revitalization Program and the Club Street Revitalization Plan through the design and construction of improvements to the Club Street area along the St. Lawrence River. Enhancements will include broadside pier, public docks and land acquisition to improve the impediments to public access. Other enhancements include wayfinding, public Wi-Fi access, utilities, streetscaping, landscaping, and conceptual planning for future development of the surrounding properties. As a result of this project, public access, viewshed, and connections to the St. Lawrence River will be improved through streetscaping, landscaping, and amenities. This project also aims to facilitate future planning focused on conceptual visioning and development within the Village Green area and northward towards the Club Street waterfront park. This project is shown on Map 11 - Proposed Projects. More description about future phases proposed for this site is found in Section IV. A copy of the feasibility study is available in Appendix G.

#### *2019 Lake Ontario Resiliency and Economic Development Initiative (REDI)*

The REDI was commissioned in 2019 by the office of former New York State Governor Andrew Cuomo to respond to the 2017 and 2019 flood damages that affected communities along the shores of Lake Ontario and the St. Lawrence River. REDI is comprised of eight counties that have been divided into five regions: 1) Niagara and Orleans Counties; 2) Monroe County; 3) Wayne County; 4) Cayuga and Oswego Counties; and 5) Jefferson and St. Lawrence Counties. According to the REDI website, the program aims to strengthen the resiliency and local economies of the communities rather than rebuilding in the same way.<sup>20</sup> The REDI Commission allocated a total of \$300 million to the regions, of which \$235 million has been allocated towards local and regional projects that support the REDI mission.

The Village of Cape Vincent, located in the Jefferson-St. Lawrence Region, received a \$5.3 million grant from REDI to fund seven projects affected by highwater events in 2017 and 2019. The reconstruction of these areas will enable the community to be more resilient toward future flood events. The following lists the seven projects funded through REDI, some of which are displayed on Map 11 - Proposed Projects in Section IV:

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<sup>20</sup> New York State Office of the Governor. (2022). Lake Ontario Resiliency and Economic Development initiative: Regional Projects Selected by the REDI Commission. Available at: <https://www.governor.ny.gov/lake-ontario-resiliency-and-economic-development-initiative-redi/regional-projects-selected-redi#jefferson-and-st-lawrence-counties> (Accessed September 2022).

**Asset: SJ.30 Market Street Sewer**

Displaced pipe joints and laterals of the Market Street sewer system were replaced. The sewer pipes experienced external pressure during flood events of 2017 and 2019 causing infiltration of groundwater that resulted in back-ups of sewer lines at residential and business properties. The sewer system is constructed on 8-inch asbestos cement pipe, which will be replaced with a 12-inch PVC pipe. The project has also redirected the flow of sewage away from along the waterfront and toward a new utility access hole at Market Street and Gouvello Street. This diversion will prevent future damage to the pipes from high-water. Not only will the Market Street Sewer system be more resilient to flooding but it will also be able to accommodate new development due to the increase in pipe size. The project was under construction in 2021-2022.

**Asset: SJ.92 East End Park**

East End Park will receive major upgrades which will increase resiliency to flooding, and will enhance the safety, usability, and aesthetics of the park, which will attract tourists and boost the economy. A new deep-water dock for large tour boats will be installed on the west side of the park. The 300-foot-long dock will be the sole deep-water dock in the Village of Cape Vincent. Increased tourism to the Village is anticipated from the enhanced docking capabilities of large cruise boats and ships and additional opportunities for fishing and sightseeing. The added length of the dock will also function as a wave break, which will protect the shoreline from erosion. On the eastern side of the park, an aluminum and concrete floating wave attenuator, which is designed to protect the new floating docks and shoreline from waves during high-water events and storm surges, will be installed. The wave attenuator will be installed extending from the bulkhead, which will be reconstructed for safety and usability. Additionally, a new paved parking area with sidewalks will be constructed, and the riverbank will be updated with amenities, such as a concrete observatory with lighting, landscape viewers and benches for people to rest and sightsee. This project is shown on Map 11 near East End Park in Section IV. The project will be under construction in 2023.

**Asset: SJ.98 Village-Owned Boat Ramp**

The updated Village-owned boat ramps will provide a safe area for the public to launch their boats. Additional fill will be placed at the end of the eastern most ramp and a new bumper will prevent the public from reversing too far and causing damage to their boats and trailers. This project is shown on Map 11 near East End Park in Section IV. The project will be under construction in 2023.

***Asset: SJ.99 Village-Owned Docks***

The existing damaged Village-owned fixed timber docks will be replaced with a floating aluminum framed, composite deck dock. These new docks will allow access to the River regardless of the water level. This project is shown on Map 11 near East End Park in Section IV. The project was completed in the Winter 2022.

***Asset: SJ.101 Esselstyne Public Dock***

This project is designed to enhance and improve the accessibility of the St. Lawrence River to the Village of Cape Vincent. This project is proposing to replace a stationary timber dock with a floating aluminum frame, composite wood dock. The floating feature of the dock will prevent it from becoming inundated, preventing damage to the dock, and allowing boating and fishing to remain accessible as water levels fluctuate. The new dock design includes features like recessed lighting, benches, and planter boxes. The new aluminum gangway will connect the dock to a stamped concrete observatory area with lighting, benches, and landscape viewers. The project was completed in late Fall 2022.

***Asset: SJ.102 Point Street Seawall, Sidewalk and Road Repair***

The damaged seawall, sidewalk, and road along Point Street will be reconstructed with new materials, such as flowable fill, new storm drain, new sidewalk, porous asphalt, and a coarse aggregate base. These permeable materials will allow water to run freely through the material rather than washing it away during storms and flood events. The new design of these structures will allow them to be more resilient and provide a greater level of safety for the community. The project has been completed in Fall 2022.

***Asset: SJ.103 Real Street Seawall***

The Real Street Seawall will be reconstructed to prevent erosion to the shoreline, provide protection to Real Street, and allow for safe recreation. The new seawall will be raised and constructed with stronger materials providing a greater level of protection and resiliency for the community. The seawall will be constructed with a limestone apron, geotextile fabric, bedding stone, and limestone quarry rock. This project has been completed Summer 2022.

*2021 Coastal Lakeshore Economy and Resiliency Initiative*

Communities along the Lake Ontario and St. Lawrence River are preparing for change and strengthening their resiliency through the Coastal Lakeshore Economy and Resiliency (CLEAR) Initiative<sup>21</sup>. In recent years, shoreline communities along Lake Ontario, the St. Lawrence River, and

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<sup>21</sup> Coastal Lakeshore Economy and Resiliency Initiative (CLEAR). 2022. What is CLEAR? Available at <https://www.northcountryclear.com/> (Accessed January 2023).



across the Great Lakes, have experienced significant variability, with extreme flooding and low-water level events occurring over shorter periods of time. CLEAR was initiated in late 2020 by the New York State Department of State (NYS DOS) to support local communities with adaptation to extreme water level variability (i.e., high and low water events) along Lake Ontario, the lower Niagara River, and the St. Lawrence River. This program aims to address community vulnerability and exposure to changes in lake levels through forward looking approaches that strengthen, complement, and/or facilitate economic development for the region. The intent is to help communities adopt more resilient approaches to shoreline management, land use, and development to reduce the recurrence of damages associated with changing water levels.

CLEAR Plans are intended to reflect the diverse perspectives, needs, interests, and watersheds within each region surrounding Lake Ontario and the St. Lawrence River. Each region developed these plans under the guidance of NYS DOS and a regional Steering Committee that reflected the socio-economic and geographic diversity of the region, including vulnerable and under-served populations. This planning effort utilized a robust community engagement process to learn from, educate, and empower the public and local representatives through a series of community workshops and stakeholder outreach. CLEAR plans are currently in the process of being finalized by NYS DOS to develop uniform approaches across each of the five regions. The North Country CLEAR Region includes the Town and Village of Cape Vincent, as well as all other shoreline communities in Jefferson and St. Lawrence Counties.

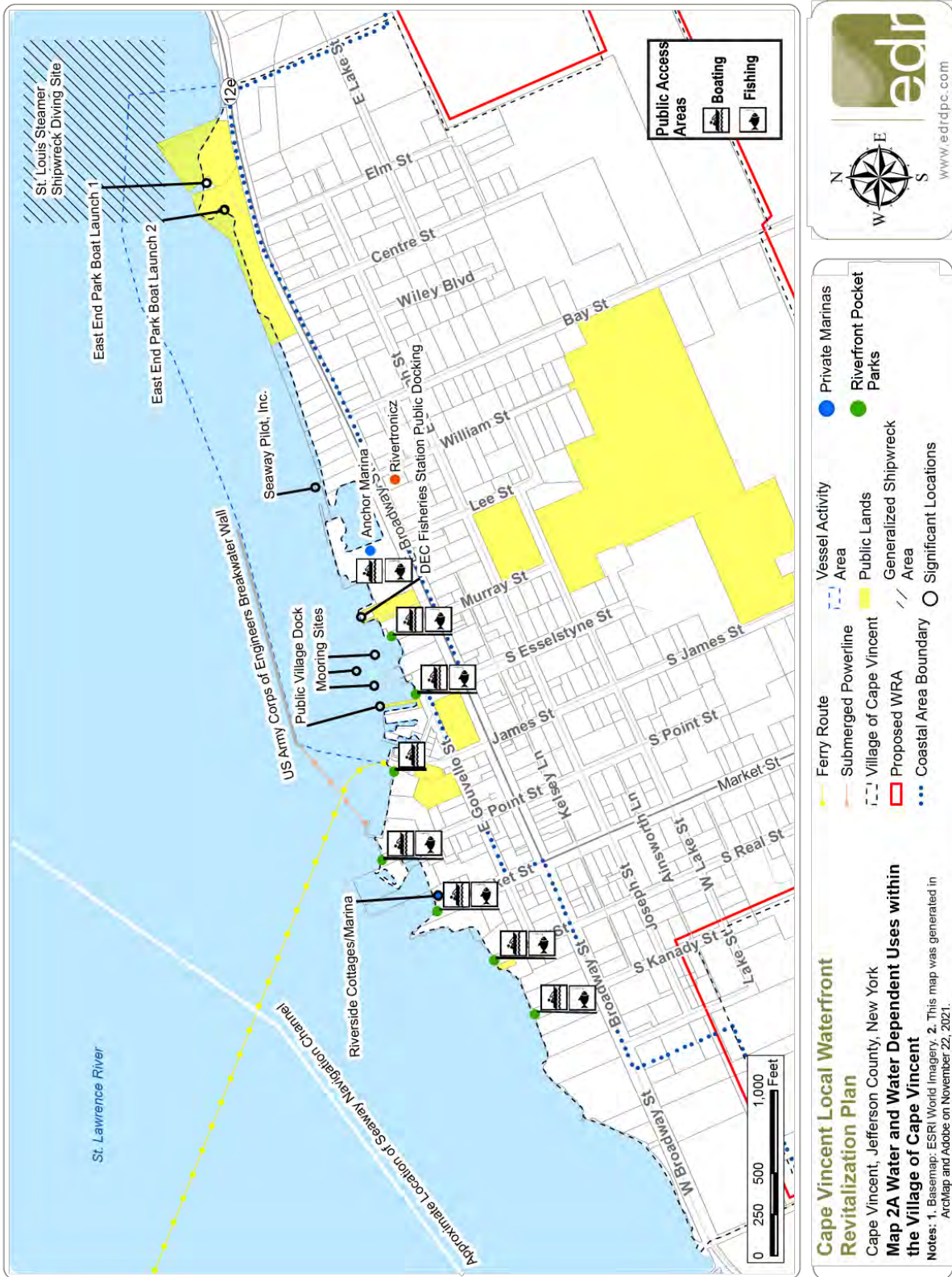
## ***2.2 Development***

The area within the Cape Vincent WRA consists of various types of development, public and private lands, and green spaces. Some of these lands facilitate water dependent and water enhancing uses, as described in the following subsections and demonstrated in Maps 2A and 2B. Map 2A depicts Water and Water Dependent Uses within the Village of Cape Vincent, and Map 2B depicts Water and Water Dependent Uses within the Town of Cape Vincent.

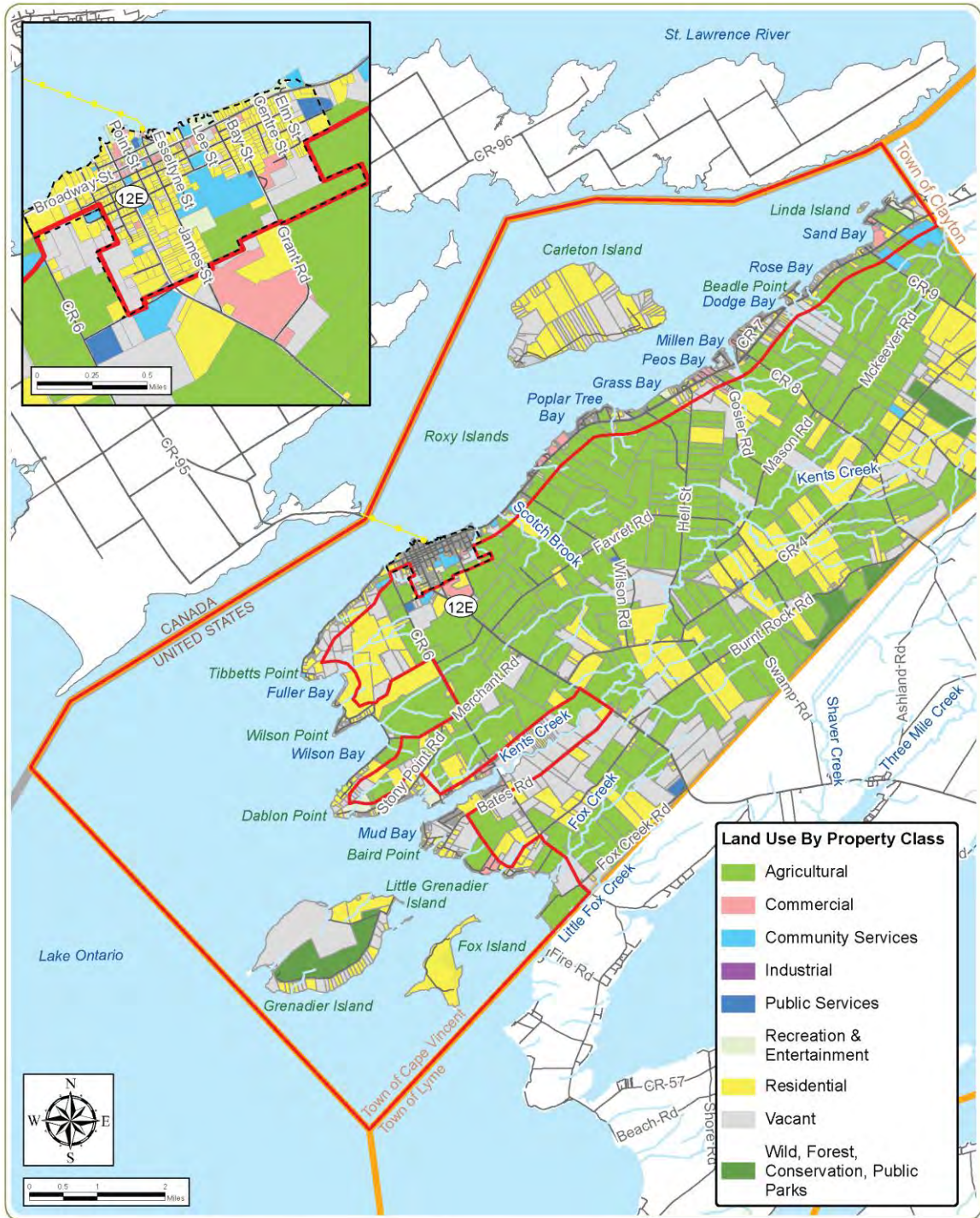
### ***2.2.1 Existing water and land use***

The Cape Vincent WRA contains the lakeshore and riverfront areas, which feature a mix of natural areas, private residences, recreation destinations, institutional uses, commercial businesses, working farmlands, and the international border with Canada. This section describes the land uses and water uses that are within the Cape Vincent WRA. Land use in Cape Vincent, including waterfront uses, is regulated by the Town Zoning Law and the Village Zoning Law. Existing land

Town and Village of Cape Vincent Local Waterfront Revitalization Program



Town and Village of Cape Vincent Local Waterfront Revitalization Program



**Cape Vincent Local Waterfront Revitalization Plan**

Cape Vincent, Jefferson County, New York

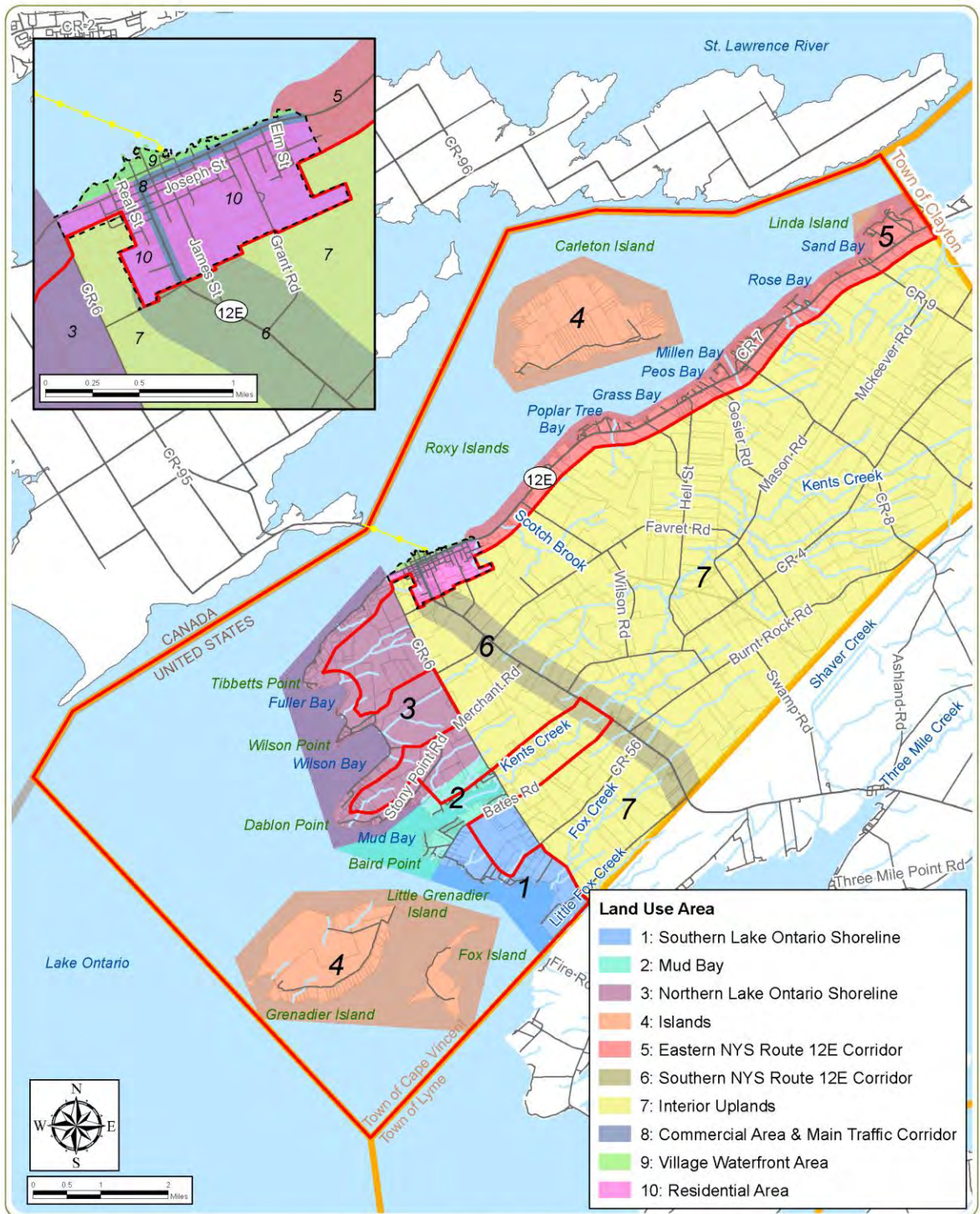
**Map 3A: Existing Land Use**

- Notes: 1. Basemap: ESRI Street Map North America, 2012.
- 2. This map was generated in ArcMap on March 25, 2021.
- 3. This map was generated with parcel data from 2017.

- Village of Cape Vincent
- Proposed WRA
- Parcel Boundary
- Town Boundary
- Canada-US Boundary
- Ferry Route



Town and Village of Cape Vincent Local Waterfront Revitalization Program



**Cape Vincent Local Waterfront Revitalization Plan**  
 Cape Vincent, Jefferson County, New York  
**Map 3B: Town and Village Land Use Areas**

Notes: Basemap: ESRI Street Map North America, 2012; parcel data from 2017; Land Use Areas identified in 2012 Town and Village Comprehensive Plan.

- Village of Cape Vincent
- Ferry Route
- Proposed WRA
- Parcel Boundary
- Town Boundary
- Canada-US Boundary



uses are identified by property class in Map 3A Existing Land Use. The 2012 Joint Comprehensive Plan identified specific land use areas (Map 3B Town and Village Land Use Areas) along with land use character descriptions for each area to inform local zoning and regulatory updates for the Town and Village. The land use character descriptions for each area are summarized in the following sub-sections. In describing each area, it is important to note that the 2012 Comprehensive Plan also identifies the types of development to encourage and discourage (Town and Village of Cape Vincent Comprehensive Plan, p. 40-46). In the 2012 Comprehensive Plan, the Town and Village's abundant natural and scenic resources were highlighted as important assets to stimulate future community growth. The 2012 Comprehensive Plan states,

*"As Town and Village planning boards guide this growth and development, they are encouraged to also protect these valuable natural and scenic resources to the maximum extent possible and to discourage any development that threatens or negatively impacts those valuable resources. We want growth, but not at the expense of adversely affecting our natural and scenic resources. This is not only a recommendation of the committee, but it also represents the collective values of Town and Village residents."*

The policies of this LWRP (see Policy 23, 24, and 25) are consistent with Cape Vincent's 2012 Comprehensive Plan focus on encouraging development while protecting natural and scenic resources of the Town and Village.

#### *Town of Cape Vincent land uses*

Existing Town land uses based on 2017 property classifications by parcel are shown in Map 3A. The communities existing land uses are similar, and in several cases, the same, as land use areas described in the Cape Vincent 2012 Town and Village Comprehensive Plan. The following ten land use areas, which are based on the areas described in the 2012 Comprehensive Plan, describe the existing water and land uses within the Town of Cape Vincent's WRA, and are depicted in Map 3B.

#### ***Area 1 - Southern Lake Ontario Shoreline: Bounded by Bates Rd to the North, County Road 6 to the East, Lake Ontario to the West, and the Town of Lyme to the South.***

Agriculture, year-round and seasonal residences, and marinas are the land uses within Area 1. The portion of the shoreline from the Town of Lyme to the former Pond's Marina remains undeveloped. The shoreline from the former Pond's Marina to the tip of Baird Point has continuous development consisting of marinas, seasonal mobile home parks, seasonal residences, and some year-round residences. The interior land is primarily undeveloped open space with some woodlands. The shores surrounding Fox and Grenadier Islands are productive fishing areas and are important spawning habitats designated as Significant Coastal Fish & Wildlife Habitats. Residents of Area 1 lack suitable artesian well water as discussed in the below subsection *Water and Sewer* under 2.2.4. A major concern with this waterfront area is the geologic

and soil features that limit the effective treatment of wastewater. The 2012 Comprehensive Plan recommended that future development of this Lake front area consider larger lot sizes and regulations that provide for the effective treatment of wastewater and engineered septic systems as Cape Vincent residents draw their domestic water from these waterbodies.<sup>22</sup> The recent 2019 zoning update increased lot sizes to address this recommendation. Like the 2012 Cape Vincent Joint Comprehensive Plan, the LWRP policies place an emphasis on preserving open space and protecting nearby fishing and spawning grounds, and the scenic and natural resources, property values, recreational opportunities, and tourism assets which includes controlling the discharge of waste. The Town has zoned this Area 1 as Lake Recreation District. Site Plan Approval and Special Use Permits have been established to ensure that further development or redevelopment in this District will not cause undesirable environmental impacts. The Town established a new water district, Water District 7, in the Bedford Corners area to address domestic water use in 2021.<sup>23</sup>

***Area 2- Mud Bay: Bounded by Bates Rd to the South, County Road 6 to the East, Lake Ontario to the West, and Humphrey Rd to the North.***

Current uses in Area 2 include marinas, restaurants, scattered small commercial uses, and year-round and seasonal residences. This area surrounds Kents Creek and Mud Bay. The existing development along the shoreline presents a situation that encourages boating pressure on the bay. Any new development to the shoreline will increase the potential for more use of Mud Bay and the potential for increased discharge of waste and pollution. The Cape Vincent municipalities will encourage more effective treatment and discharge of wastewater in this area through land use and zoning laws for residential and commercial uses. For example, zoning or land use strategies that improve wastewater management include consolidating lots, increasing lot sizes, and emphasizing permanent residential structures and engineered waste treatment systems.<sup>24</sup> Additionally, future destruction/modification of undeveloped natural shoreline and dredging is discouraged. Any commercial or utility development whose influence has a negative impact on health, safety, scenic and natural resources, property values, recreational opportunities and tourism assets are also discouraged.

This area is zoned as Lake Recreation Area District and Lake Front District. Commercial uses, such as marinas and restaurants, which could contribute to increased boat use are not allowed in the Lake Front District. In addition to permitted uses, parcels within the Lake Recreation District are subject to Site Plan Review and Special Use Permit uses that have been established

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<sup>22</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. P. 40. Available at <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>23</sup> Town of Cape Vincent. 2022. Personal correspondence between D. Wiley and E. Tauzer on May 3, 2022.

<sup>24</sup> Town of Cape Vincent. 2022. Personal correspondence between D. Wiley and E. Tauzer on May 3, 2022.

to ensure any further development or redevelopment in this District will not cause undesirable environmental impact.

***Area 3- Northern Lake Ontario Shoreline: Bounded by Humphrey Rd to the South, County Road 6 to the East, Lake Ontario to the West and the St. Lawrence River to the North.***

The land uses along the Northern Lake Ontario Shoreline, known as Area 3, include year-round and seasonal residences. The historic Tibbets Point Lighthouse with its museum and visitors center is in this area. Agricultural lands and municipal lands, including the water treatment facility and municipal equipment maintenance facility, are part of the shoreline. When the Town adopted zoning in 1989, this area was zoned as the Lakefront District and was intended to be used for high quality residential development. The area continues to attract high-end, new home construction. Area 3 is less densely developed than Areas 1 and 2 and thereby creates fewer concerns for water quality impacts from wastewater systems. Even so, stakeholders have expressed interest that future development be conducted in a way to adequately treat wastewater in this Northern Lake Ontario Shoreline area, along with all areas outside of water districts (see S.W.O.T. analysis Appendix B).

High quality residential development is still encouraged but an emphasis on preservation of open space and adequate treatment of waste discharges is now added. The Lakefront District promotes larger lot sizes and requires a minimum lot area of  $\frac{3}{4}$  acre to address wastewater treatment, which has increased from previous development on much smaller lots.

***Area 4- Islands: Fox and Grenadier Islands in Lake Ontario along with Carleton and Linda Islands in the St. Lawrence River.***

Grenadier, Little Grenadier, Carleton, Fox, and Linda Islands make up Area 4 - Islands. The shoreline of Grenadier, Little Grenadier, and Carlton Islands are presently subdivided into large parcels. The 2012 Joint Town and Village Comprehensive Plan highlights these islands for their natural setting, the scenic views, and the unique lifestyle that they offer to residents and visitors. Uses on islands include seasonal residential, hunting, and fishing. Access is limited to private boats and varies from parcel to parcel based on shoreline conditions; no public boat launches are located on the islands, nor is there public ferry service to the islands. There is potential for continued subdivision in some locations on these islands. Open spaces on Grenadier, Little Grenadier, and Carleton Islands are largely under conservation easements held by the Thousand Island Land Trust (TILT). The easements have restrictions on the development of structures other than duck blinds, docks, and boat houses. Easements occur across nearly the full extent of Carleton Island and the northern half of Grenadier Island. Fox Island has potential for the sale and subdivision of land as the island is under individual ownership and there are currently no

# Town and Village of Cape Vincent Local Waterfront Revitalization Program



**Cape Vincent Local Waterfront Revitalization Plan**  
 Cape Vincent, Jefferson County, New York  
**Map 4: Sensitive Environmental Features**

Notes: 1. Basemap: ESRI Street Map North America, 2012. 2. This map was generated in ArcMap on March 30, 2021. 3. IBA data is generalized for planning level purposes and more detailed information is available at Audubon.com. 4. Landscape conservation areas are derived from the New York Protected Areas Database. 5. This map was generated using parcel data from 2017. 6. Conservation easement data is from 2018.

- Ferry Route
- Proposed WRA
- Important Bird Area (IBA)
- NYS Significant Coastal Fish and Wildlife Habitat
- Steep Slope
- Conservation Easement
- Landscape Conservation Area
- Parcel Boundary
- Village of Cape Vincent
- Town Boundary
- Canada-US Boundary





conservation easements. Map 4 Sensitive Environmental Features presents the conservation easement locations. Linda Island is subdivided with limited available space for future subdivision or development. The Town Zoning Ordinance and the 2012 Joint Town and Village of Cape Vincent Comprehensive Plan provide guidance for the protection of unique island features including the Coastal Avian Migratory Corridor (see Section V). Carleton and Grenadier Islands contain historic areas of interest as confirmed by the New York State Office of Parks, Recreation, and Historic Preservation (NYS OPRHP). The islands are zoned as Island District. Parcels within the Island District are subject to Site Plan Review and Special Use Permit for many established uses to prevent future development or redevelopment from causing undesirable environmental impacts. Additionally, the proposed Project 4.3.8 (see Section IV) will evaluate the development and enforcement of strengthened septic standards for existing and new development. See Section V for ways in which the development near these historic areas of interest is reviewed during the approval process.

***Area 5- Eastern NYS Rte. 12E Corridor: The area along NYS Rte. 12E from the Town of Clayton Line to the Village. (Stemming from E. Broadway Street at the village boundary, following 12E parallel to St. Lawrence shoreline, ending at the Town of Clayton boundary)***

Area 5 includes the NYS Rte. 12E corridor along the St. Lawrence Riverfront. This route is the main corridor from the Village of Cape Vincent to the Town and Village of Clayton, a neighboring destination. This area has a variety of existing land uses, including recreational, agricultural, institutional, commercial, and both seasonal and year-round residential. NYS Rte. 12E has also been designated a "National Scenic Byway", specifically known as the "Seaway Trail". This designation as a National Scenic Byway requires local municipalities to improve and maintain a clean, attractive appearance, and to protect the views of the surrounding areas of the highway, where practical.

This area is zoned River Front District and Waterfront Overlay District (WOD). The Town provides opportunities for both commercial and residential development in this district; however, commercial development must be of high-quality design and is, therefore, subject to Site Plan Review procedures. The River Front District consists of all properties on the river side of Rte. 12E (North) and follows the naturally occurring mean high-water elevation of 247.3 feet above sea level (1985 International Great Lakes Datum, US Army Corps of Engineers (US ACOE)). The district also extends inland from Rte. 12E (South) 1,000 feet. The River Front District promotes larger lot sizes and requires a minimum lot area of  $\frac{3}{4}$  acre to address wastewater treatment.

The WOD was established to ensure compliance with the Village of Cape Vincent LWRP whereby new development and redevelopment will be reviewed for compatibility with the policies and purposes of this LWRP. As an overlay district, the WOD does not replace the existing land use districts and their provisions, but represents an additional level of review, superimposed on the

provisions of the existing underlying districts. All those uses designated as Site Plan Review uses in the underlying zoning districts also apply to the WOD, with the addition of review for compatibility with the joint LWRP. This is an important tool for protecting the waterfront from uses that may restrict public access or obstruct views.

Like residential lake waterfront properties, water treatment concerns exist in the residential river waterfront properties. Lot size and lot minimum area are a couple of mechanisms to address the water treatment concerns. Access to municipal water is an attractive asset for future residential development in this area.

***Area 6- Southern NYS Rte. 12E Corridor: The area along NYS Rte. 12E from the Village of Cape Vincent to the Town of Lyme line.***

Area 6 consists of a small portion of the southern NYS Rte. 12E Corridor inside the WRA, transecting the corridor in the upland reaches of Kents Creek and west of NYS Rte. 12E. This area includes agricultural land and farm operations with some residential and commercial developments, including used automobile sales and a gravel business. Like Area 5, this area is also recognized as the National Scenic Byway that features a scenic rural landscape and agricultural lands. The 2012 Comprehensive Plan encourages the protection and preservation of the rural character, agricultural use, and scenic resources of this area. The area is zoned as Agricultural Residential District, which requires Site Plan Review for commercial and other non-single family residential uses, such as manufactured (mobile) home parks, in some cases, Special Use Permits are required for large scale utilities such as Wind Energy Conversion Systems that can adversely affect scenic resources.

***Area 7- Interior Uplands: Interior areas not included in other areas from County Rt 6 to County Rt 9.***

Area 7 consists of a small portion of the interior uplands inside the WRA located at the mouth of Kents Creek, as it drains into Mud Bay. The land use in this area primarily consists of rural residential and agricultural, with scattered commercial development and a public school. This area may attract residential development, particularly around the newly developed municipal water districts. The open areas and municipal water resource may also draw interest from industrial and commercial developers. The 2012 Comprehensive Plan encourages residential development in this area to be located along the water district corridors and encourages small, alternative agriculture to offset the loss of local dairy operations. Commercial development should have minimal adverse agricultural, environmental, and human impacts. The area is zoned as Agricultural Residential District, which requires Site Plan Review for commercial and other non-single family residential uses, such as manufactured (mobile) home parks, in some cases, Special Use Permits are required for large scale utilities such as Wind Energy Conversion Systems that can adversely affect scenic resources.

*Village of Cape Vincent land uses*

Existing Village land uses based on 2017 data on property classifications by parcel are shown in Map 3A. The 2012 Town and Village Comprehensive Plan defines land use areas within both the Town and Village of Cape Vincent with the intention to guide growth and development while protecting existing natural and scenic resources. Land use areas within the Village of Cape Vincent's WRA are described in the following paragraphs and are depicted in Map 3B.

***Area 8- Commercial Area & Main Traffic Corridor: Broadway and Market Streets, (Traveling north up Market Street and then east along E. Broadway Street).***

Area 8 contains the main traffic corridors in the Village, Broadway Street (NYS Rte. 12E), and commercial properties intermixed with scattered residential properties. Market Street (also NYS Rte. 12E) connects with Broadway Street in the center of the Village and is predominantly residential with portions of commercial use concentrated near Broadway Street. The Village Green is in the center of the Village downtown area and is used for concerts and other community activities. The Village has a small-town charm that is made even more special with the visual influence and views to and from the St. Lawrence River. The aesthetics of the properties in this area are important, as is the transition from residential to commercial areas along these corridors.

This area contains both Commercial and Residential Districts. The existing zoning in the Commercial District encourages commercial development to utilize existing vacant buildings or for new construction to be on vacant property along Broadway Street. Market Street is zoned as Residential District. Most non-residential uses are regulated through Site Plan Review in both zoning districts to maintain the visual integrity of residential neighborhoods from being encroached upon by commercial and other uses.

***Area 9- Village Waterfront Area: From County Route 6 following coastline and ending at south boundary of East End Park***

Area 9 includes the waterfront of the St. Lawrence River in the Village and consists of mixed uses. These uses are light industry uses (i.e., metal work companies), marinas, ferry operations, US customs, Seaway Pilots (a transition point for barge captains), law enforcement facility, public dock, swimming area, and residential development. Light industry related to watercraft is desirable for this area of the waterfront, as evidenced by the existing company Metal Craft Marine. There are two public parks located along the waterfront in this area: the Village-owned East End Park and the New York State Department of Environmental Conservation (NYSDEC) Cape Vincent Fisheries Research Station (Cape Vincent Fisheries Station). More information on the East End Park can be found in 2.5 *Public Access and Recreation (Village East End Park subsection)*, 2.2.5 *Abandoned, Underutilized or Deteriorated Structures (East End Park subsection)*, and 2.2.7 *Water Dependent Uses (Water Oriented Recreation subsection)*. More information on

the Cape Vincent Fisheries Station is further described in 2.2.1 *Town and Village surface water uses and underwater land uses (Institutional water uses subsection)*.

Public access to the St. Lawrence River in Area 9 is also available at the pocket parks occurring at the termini of Real, Market, Point, and Murray Streets. However, public dock space in these areas is limited, and an increase in dock space could further encourage day trips from Islanders, Canadians, and other boaters along the St. Lawrence River to the Village. The funded Club Street project identified in Section 2.1.4 addresses the need for public access in this area of the waterfront, while the proposed project at East End Park described in 4.3.3 demonstrates additional enhancements desired by the community to improve the connectivity and visitor amenities in the area. Scenic vistas and visibility to and from the waterfront are important to the character of the Village and are encouraged to be preserved particularly near the Club Street area. This joint LWRP will continue to promote the protection and preservation of these scenic vistas and visibility through the scenic view policies of this LWRP in Section III, projects identified in Section IV, and implementation techniques in Section V.

Area 9 is zoned for residential and commercial uses. The area is also regulated by the WOD. As such, new development or any redevelopment will be reviewed for compatibility with this LWRP as defined by the Waterfront Consistency Review Law (Appendix D-1).

***Area 10- Residential Area: The interior area of the Village south of Broadway, excluding Market Street***

Area 10 includes most of the Village inland from the waterfront. This area is predominantly residential with some commercial uses and community services. The Cape Vincent Elementary School and the Town of Cape Vincent Recreation Park are also located in this area off Esselstyne Street. Residential uses include a mix of single family, multi-family, mobile homes, elderly, and low-income housing units. The streets in this area are in a traditional Village style grid pattern that promotes walkability. The Town's Recreation Park facilities have ample potential to enhance facilities for adults and seniors as well as youth. The former bass ponds, which are discussed in *Former Bass Ponds* subsection in Section 2.2.5, are in this area.

*Town and Village surface water uses and underwater land uses*

The Harbor Management Area (HMA) is intended to facilitate a variety of public and private water and water dependent uses along the St. Lawrence River and Lake Ontario (see Maps 1, 2a, and 2b). Public water dependent and water enhanced sites are concentrated within the Vessel Activity Area, including boat launches, Village-owned dockage, and a fisheries station. Commercial, institutional, and recreational water uses also occur within the HMA, including the Vessel Activity Area. These uses are described in the following subsections.

*Commercial water uses*

Commercial water uses within the HMA include private commercial marinas, an international ferry, and a Seaway pilot station. Marinas in both the Village and the Town are along the St. Lawrence River and Lake Ontario. These marinas contain over 400 slips available with gasoline, repairs, ramps, moorings, power supplies, restrooms, and showers.<sup>25,p39</sup> The variety of marinas are listed in the *Marinas, Boat Repair, and Boater Services* subsection under 2.2.7.

Horne Transportation is a small, family-owned operation that runs an international ferry service, called Horne's Ferry, between Cape Vincent and Wolfe Island, Canada. Operating since the early 1800s, Horne's Ferry is known as the oldest ferry in the United States.<sup>26</sup> The ferry is in operation from May to mid-October. On the Horne's Ferry social media page, it identifies that there are 11 round trips to Wolfe Island per day, depending on the traffic demand.<sup>27</sup> The ferry provides transportation for up to 12 vehicles<sup>28</sup> plus additional passengers/bikes to and from Wolfe Island International ferry dock, where there is a connector ferry crossing the St. Lawrence River to Kingston, Ontario. The operation serves as a gateway between Cape Vincent and Canada as the ferry runs in conjunction with the Ontario Provincial ferry for the connection to and from Kingston, Ontario. The international access provided by Horne's Ferry to Club Street in Cape Vincent offers a major advantage for promoting economic growth within the Village. The potential to draw visitors and stimulate the local economy is amplified by the Village's potential to gain business from Canadian visitors.

Another commercial use within the HMA includes the St. Lawrence Seaway Pilots' Association, which serves as a transition point for barge captains along the River and Lake. Shuttle services transport barge captains to their assigned ships as they travel along into Lake Ontario from the St. Lawrence River, or vice versa. The office is located at the end of Point St and operates twenty-four hours a day from April to December during the Lake and River navigation season.<sup>29</sup>

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<sup>25</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>26</sup> D'Imperio, C. (2019). Aboard Horne's Ferry to Wolfe Island, the oldest ferry in America (photos). NYup.com Available at: [https://www.newyorkupstate.com/thousand-islands/2016/05/hornes\\_ferry\\_wolfe\\_island\\_cape\\_vincent\\_schedule.html](https://www.newyorkupstate.com/thousand-islands/2016/05/hornes_ferry_wolfe_island_cape_vincent_schedule.html) (accessed March 2022)

<sup>27</sup> Hornes Ferry. (2022). Facebook Page. Available at: <https://www.facebook.com/hornesferry/about> (accessed August 2022)

<sup>28</sup> Town and Village of Cape Vincent Waterfront Advisory Committee. (April 23, 2019). *Personal correspondence with E. Tauzer*.

<sup>29</sup> Cape Vincent Historical Society. (n.d.). *Cape Vincent's History*. Available from <http://www.capevincent.org/history/> (Accessed April 2022).

*Institutional water uses*

Institutional water uses within the HMA occur at both the State and Federal level. At the State level, the Cape Vincent Fisheries Station and the Cape Vincent Fisheries Aquarium are owned by NYSDEC and are located within the Cape Vincent HMA.<sup>30</sup> The station includes the NYSDEC Bureau of Fisheries Lake Ontario Unit and the base for the NYSDEC Fisheries Research Vessel Seth Green.<sup>31</sup> The primary function of the vessel station is to provide annual information, sampling, and evaluation necessary to manage Lake Ontario's fishery resources in cooperation with the Ontario Ministry of Natural Resources or the USGS's Biological Resource Division.<sup>32,33</sup> The station functioned as a fish hatchery for a period in the early 2000s.<sup>34</sup> The station features an enclosed shelter deck for fish processing and a secondary steering station.<sup>35</sup> Public dockage is permitted at the designated areas of the NYSDEC's docks as a first come, first-serve basis when not in use by the State. The Cape Vincent Fisheries Station is open to the public from mid-May to October. The aquarium allows in-state, Canadian, and other international visitors an opportunity to learn and view various fish species common to Lake Ontario and the St. Lawrence River. As of 2007, 5,000 individuals visited the facility annually.<sup>36</sup> More information on the public facilities for recreational use of the Cape Vincent Fisheries Station can be found below in the *public land ownership* subsection under 2.2.2. This site where the station is located was previously the site of the old Carleton Hotel.<sup>37</sup>

Other institutional water uses occur at the federal level. The first of such uses is the US Customs Enforcement Office (Customs Office), which is located on the western shore near Club Street in the Village Dock area. The Customs Office is designed to safeguard the US-Canadian border through law enforcement. The second federal institutional use is an existing US Army Corps of Engineers breakwater that occurs approximately 500' offshore in the St. Lawrence River, starting

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<sup>30</sup> NYSDEC. (n.d.) *Public Facilities at the Cape Vincent Fisheries Station*. Accessible from <https://www.dec.ny.gov/outdoor/27069.html> (Accessed January 2022).

<sup>31</sup> NYSDEC. (n.d.) *Lake Ontario and St. Lawrence River Fisheries Research*. Accessible from <https://www.dec.ny.gov/outdoor/7969.html> (Accessed January 2022).

<sup>32</sup> NYSDEC. (n.d.) *Public Facilities at the Cape Vincent Fisheries Station*. Accessible from <https://www.dec.ny.gov/outdoor/27069.html> (Accessed January 2022).

<sup>33</sup> NYSDEC. (n.d.) *DEC Fisheries Research Vessel Seth Green*. Accessible from <https://www.dec.ny.gov/outdoor/95575.html> (Accessed January 2022).

<sup>34</sup> NYSDEC Bureau of Fisheries, Lake Ontario Unit and St. Lawrence River Unit. (2020). *2020 Annual Report*. Great Lakes Fishery Commission's Lake Ontario Committee. Accessible from [https://www.dec.ny.gov/docs/fish\\_marine\\_pdf/2020ontarioreport.pdf](https://www.dec.ny.gov/docs/fish_marine_pdf/2020ontarioreport.pdf) (Accessed January 2022).

<sup>35</sup> NYSDEC. (n.d.) *DEC Fisheries Research Vessel Seth Green*. Accessible from <https://www.dec.ny.gov/outdoor/95575.html> (Accessed January 2022).

<sup>36</sup> Balk, C. (2007). *Final Sportfishing Restoration and Spending Plan for the Lake Ontario System*. NYSDEC. Accessible from [https://www.dec.ny.gov/docs/wildlife\\_pdf/lkontfshrestspendplan07.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/lkontfshrestspendplan07.pdf) (Accessed January 2022).

<sup>37</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

from the west near the Village Dock and extending to the east near the St. Louis Steamer Shipwreck Diving Site. The breakwater is designed to provide protection from heavy waves from the open water and to protect the coastal lands within the HMA. This facilitates a safe harbor for both large and small watercraft vessels.

#### *Recreational water uses*

Recreational water uses within the HMA are focused primarily on boating, fishing, and scuba diving.<sup>38</sup> The location also facilitates large sport fishing tournaments. Boaters can use the Village-owned dock at the end of Esselstyne Street, which is further discussed in section 4.3.2 *Improve Riverfront Pocket Park Amenities* and improvements to the dock are discussed in *REDI Projects within the Village of Cape Vincent – 2019* subsection under 2.1.4. There are three buoyed mooring sites within the HMA that provide opportunities for sail boaters to dock and access the landside of the Village and the Town. The two East End Park boat launches at the eastern end of Broadway Street facilitate water access for boaters, anglers, and other watercraft users. The St. Louis Steamer Shipwreck, located off the east end of East End Park, offers scuba divers a chance to explore underwater history in relative proximity to the shoreline. There is parking for vehicles and boat trailers at East End Park for divers, boaters, or other recreational water users. During large events (e.g., bass fishing tournaments) overflow parking is available at the town recreation center if needed.

### **2.2.2. Ownership patterns**

#### *Public land ownership*

There are several municipally owned parcels within the WRA, and several parks located along the waterfront. The largest park, which is owned by the Village, is East End Park. This park has two boat launches, a picnic area, a fishing area, sites popular for scuba training, and a pavilion complete with bathrooms, showers, and changing rooms. Additional waterfront sites owned by the Village provide public access to the St. Lawrence River and are located at the end of Kanady, Real, Market, Point, and Murray Streets. The Town of Cape Vincent owns and maintains the Recreation Park, which is located inland on James Street near the former bass ponds. In addition to these public parks, the Town and Village own several other parcels within the WRA that are utilized for municipal operations. Finally, a State-owned site along the waterfront is the Cape Vincent Fisheries Station, which is owned and maintained by NYSDEC. The Cape Vincent Fisheries Station also offers restrooms, showers, and a covered pavilion.

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<sup>38</sup> Waterfront Advisory Committee. (April 12, 2018). *Review of surface water uses*. In-person meeting with EDR.

*Private land ownership*

Many areas along the waterfront are private seasonal or year-round residences. There are also several areas of the WRA under the protection of private conservation easements, including nearly the entirety of Carleton Island and the northern half of Grenadier Island (see 2018 conservation easements in Map 4). Other notable conservation areas include the southeastern portion along Wilson Bay.

*Public Trust Doctrine and underwater Lands*

New York, upon attaining Statehood, succeeded the King of England in ownership of all lands within the State not already granted away, including all rights and title to the navigable waters and the soil under them (Public Lands Law, Section 4; *People v. Trinity Church*, 22 N.Y. 44, 1860; *Langdon v. Mayor*, 93 N.Y. 129, 1883). Broadly speaking, the State holds title to all underwater lands not otherwise conveyed away by patents or grants. The State holds title to these tidelands and submerged lands in its sovereign capacity in trust for the use and enjoyment of the public under the Public Trust Doctrine (*People v. Steeplechase Park Co.*, 218 N.Y. 459, 1916; *Appleby v. City of New York*, 271 US364, 1926; *Coxey v. State*, 144 N.Y. 396, 1895). This legal doctrine emerged from the ancient concept that the sovereign had the right of way, an “incorporeal hereditament,” to all navigable streams and waterways; the underlying theory being the protection of the public interest in fisheries and navigation.

State title to the public foreshore and submerged lands, and the power of disposition, is incident and part of its sovereignty, which cannot be surrendered, alienated, or delegated, except for some public purpose or some reasonable use for the public benefit, and without impairing rights in the remaining lands and water. Inherent in public trust lands are that they support diversified and important ecosystems without which many public rights, including fishing, swimming, and the like, would be impossible to enjoy. The public interest demands the preservation and conservation of this vital natural resource against pollution, overuse, destruction, and infringement by others, whether public or private.

It is in the public interest that State and other governmental ownership of public trust lands be maintained and, when possible, recovered from private ownership. Where full public ownership no longer exists, the application of the Public Trust Doctrine requires that any remaining rights of the public to use such lands should be preserved and protected for present and future enjoyment.

Occupation of public trust lands by riparian owners for purposes of gaining access to navigable waters should be undertaken in a reasonable manner that does not unnecessarily interfere with the public’s right of passage upon, the use of the waters overlying such lands, and other public trust purposes. Considerations of public safety, resource protection and the need for access at a given location may be utilized as factors in determining the level and types of access to be



provided. Public use of publicly owned underwater lands and lands immediately adjacent to the shore shall be discouraged only where such use would be inappropriate for reasons of public safety, military security, or the protection of coastal resources.

#### *Underwater land ownership*

New York State-owned underwater lands are held in trust for public access by the New York State Office of General Services (OGS). OGS authority typically extends up to or below the high-water mark along the shorelines of the St. Lawrence River, while OGS jurisdiction of underwater lands typically extends to the low-water mark along the shorelines of Lake Ontario.<sup>39</sup> The exception is where lands beneath the Lake and the River have been granted to private owners. This commonly occurred within the Village of Cape Vincent on several parcels from the 1940s through the mid-1960s for marine uses, such as private docks.<sup>40</sup> The private parcels are in the vicinity north of Club Street, Point Street, and Market Street (granted as early as 1841).

In addition to the private ownership of underwater lands, both the Town and Village of Cape Vincent own areas of underwater lands. The Town of Cape Vincent exercises authority of the underwater property of the marina located on Club Street, extending the Town's ownership from the land into the water. The Village of Cape Vincent exercises authority over five parcels of underwater land along its waterfront. The Village owns the right of ways at the end of the streets, ending at the dead ends, towards the River, including the parcel extending into the water adjacent to the waterside terminus of Real Street to where the seawall is located. The municipality was granted the parcel of land for the Village dock north of Esselstyne Street in 1949.<sup>41</sup> The other three Village-owned underwater lands also include the two parcels comprising East End Park; and a parcel extending into the water along Tibbetts Road/County Road 6 (for the intake pipe to the municipal water filtration plant).

#### *Management of underwater lands*

As noted, State-owned underwater lands in the St. Lawrence River and Lake Ontario are managed by NYS Office of General Services (OGS). The NYS OGS issues grants, leases, easements, and other interests for the use and occupation of these underwater lands. They also investigate encroachments on littoral rights (the right of an upland owner to access the navigable waters of the lakes or River) and make sure there is no interference with navigable channels. The NYS OGS reviews all NYSDEC and US ACOE permit comments for proposed projects that affect State-owned bottomlands to ensure that the benefits of the public will not be deprived, and that the

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<sup>39</sup> NYS Office of General Services (OGS). 2002. Memorandum on State-owned freshwater lakes. Personal correspondence between Erica Tauzer (OGS) and Ralph Hill (OGS on August 1, 2022).

<sup>40</sup> NYS OGS. (2018). Cape Vincent Underwater Lands and Deeds: OGS Map Numbers 0202A and 0202B along with associated deeds. Personal correspondence between Jane Rice (EDR) and Barbara Kendall (NYSDOS) on July 30, 2018.

<sup>41</sup> NYS OGS. (2018). Cape Vincent Underwater Lands and Deeds: OGS Map Numbers 0202A and 0202B along with associated deeds. Personal correspondence between Jane Rice (EDR) and Barbara Kendall (NYSDOS) on July 30, 2022.

environment will not be adversely impacted. The NYS OGS strives to achieve satisfaction on the part of all parties involved prior to the issuance of an interest (grant, lease, or easement) for the use of State-owned underwater lands.<sup>42</sup>

Disturbance to the bed and bank of streams that are classified class CT or higher within the WRA are regulated by NYSDEC.<sup>43,44,45</sup> In addition, all waters meeting the definition of “Water of the United States” as defined by the U.S. Environmental Protection Agency (EPA) and the US ACOE are regulated under Section 404 of Clean Water Act; further, “navigable waters” are regulated by the US ACOE under Section 10 of the Rivers and Harbors Act.<sup>46</sup> Additional information on the federal definition of water and navigable water can be viewed on EPA and US ACOE websites.

According to the North-Central New York Public Fishing Rights Maps, the NYSDEC has not acquired public fishing rights for the creeks and their tributaries within the WRA, nor are there any public fishing access points along these creeks demarcated by the State.<sup>47</sup> According to the same source, public fishing rights are permanent easements purchased by NYSDEC.

### **2.2.3. Zoning**

Existing zoning districts for both the Village and the Town within the WRA are depicted in Map 5 – Existing Zoning Districts. Uses within each district are further broken down into uses permitted by right and uses permitted by special use permit or by Site Plan approval. Each zoning law regulates and restricts the use of lands within the Town and Village, including: the height, number of stories, and size of buildings and other structures; the lot uses; and the density of development. Full copies of these ordinances are provided in Appendix C - Village and Town Zoning Laws.

#### *Town Zoning*

In 1989, the Town of Cape Vincent adopted its first zoning law. The Town of Cape Vincent Zoning Law establishes specific zoning districts and sets forth specific uses permitted in each district, as well as dimensional and other standards. The Zoning Law has been amended and updated on several occasions since its original adoption, the most recent update was in 2019. Recent changes have included: decreasing the setbacks in the River Front District, clarifying language for wind

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<sup>42</sup> NYS OGS. (2002). Memorandum on State-owned freshwater lakes. Personal correspondence between Erica Tauzer (OGS) and Ralph Hill (OGS) on August 1, 2022.

<sup>43</sup> NYSDEC. (n.d.) *Protection of Waters: Disturbance of The Bed or Banks of a Protected Stream or Other Watercourse*. Accessible from <https://www.dec.ny.gov/permits/6554.html> (Accessed January 2022)

<sup>44</sup> US EPA. (n.d.). *Waters of the United States About Waters of the United States*. Accessed from <https://www.epa.gov/wotus/about-waters-united-states> (Accessed January 2022).

<sup>45</sup> US Army Corps of Engineers. (n.d.) *Section 10 of the Rivers & Harbors Act*. Accessed from Section 10 of the Rivers & Harbors Act (Accessed January 2022).

<sup>46</sup> US Army Corps of Engineers. (n.d.) *Section 10 of the Rivers & Harbors Act*. Accessed from Section 10 of the Rivers & Harbors Act (Accessed January 2022).

<sup>47</sup> NYSDEC. (n.d.) *Public Fishing Rights – Waters with Public Fishing Rights*. Accessible from <https://www.dec.ny.gov/outdoor/9924.html> (Accessed January 2022);

and solar development, and explaining other uses such as boathouses, covered docks, seasonal home parks, non-conforming lots, fences, etc.

The Town of Cape Vincent Zoning Law divides the Town into eight zoning districts. Zoning within the WRA includes primarily the Lake Front (LF) District, Lake Recreation (LR) District, Islands (I) District, and the River Front (RF) District. The WRA also contains small portions of the Municipal (M) District and the Agricultural Residential (AR) District.

*Town Lake Front (LF) District*

The Lake Front (LF) District is zoned to protect the waterfront along Lake Ontario and the mouth of the St. Lawrence River, which are valuable resources of the Town. The municipality aims to protect this land from development (except residential), to promote and attract more high-quality residential development, and to preserve the natural and scenic environment in these areas. Waterfront lots must have a minimum of 100' of water frontage and 100' of rear lot width and must have deeded or Homeowners' Association access to be considered a buildable lot.<sup>48</sup> More detail is provided in Section V and is in Appendix C.

*Town Lake Recreation (LR) District*

The Lake Recreation (LR) District area extends from Mud Bay south to the town line. The district is comprised of marinas, campgrounds, manufactured (mobile) home parks, residential structures of all types, a restaurant, and harbors for fishing and boating enthusiasts. The land along the Lake waterfront of the LR District is used for recreational, commercial, and various types of residential uses with less development restrictions than other Lake front zoning designations. The shoreline within this zoning designation is nearly completely developed.<sup>49</sup> The number of dwelling units, lot sizes, manufactured (mobile) home parks, and commercial development is of concern due to the shallow waters and shallow soils.<sup>50</sup> More detail is provided in Section V and Appendix C.

*Town River Front (RF) District*

The River Front (RF) District area extends from Route 12E to the St. Lawrence River. This major route provides immediate visual and physical access to the waterfront. Desired uses in the RF

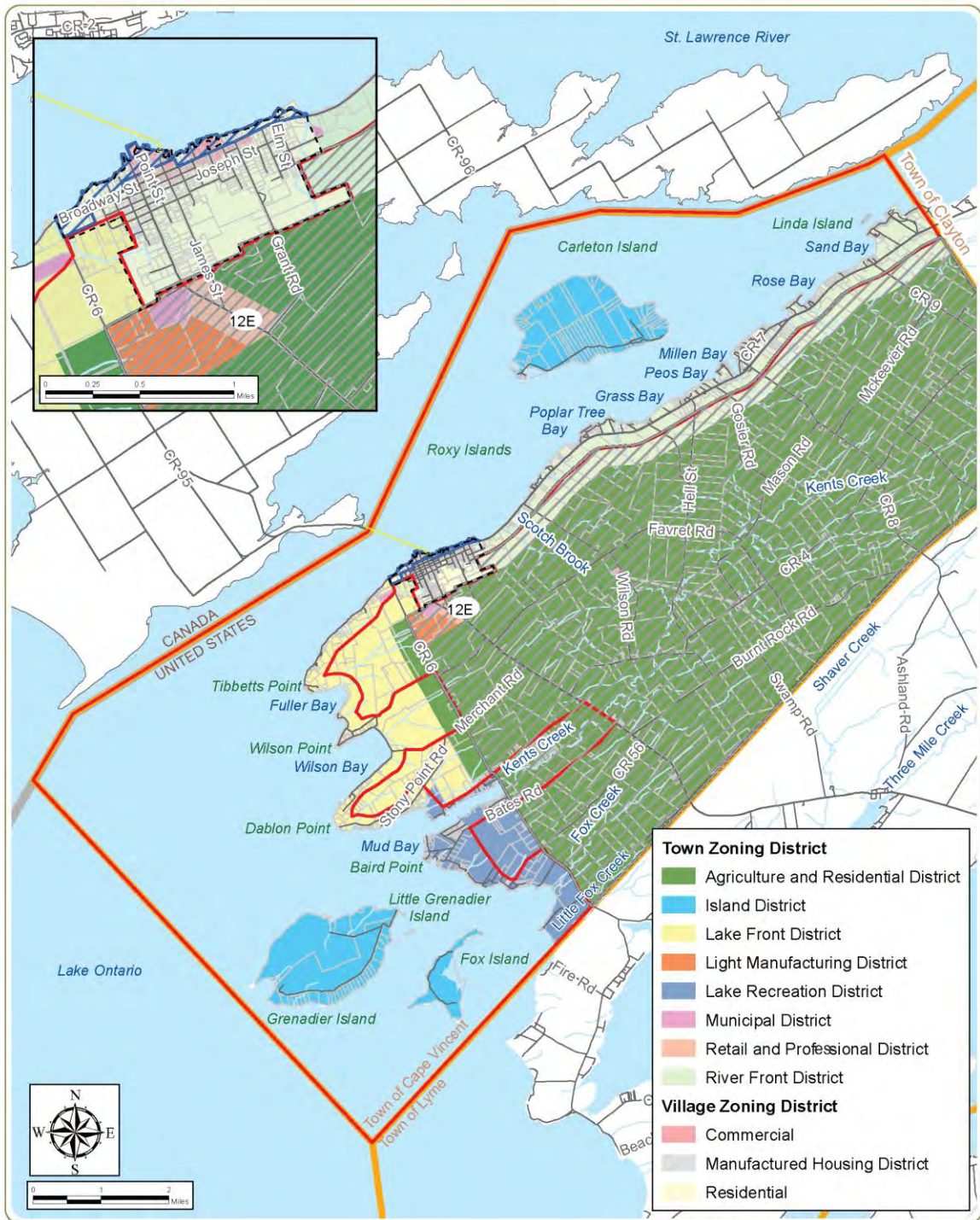
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<sup>48</sup> Town of Cape Vincent Town Board. (2019). *Town of Cape Vincent Zoning Law*. Town of Cape Vincent, NY. Accessible from <https://townofcapevincent.org/document-center/miscellaneous/522-bobpaul/file.html> (Accessed January 2022).

<sup>49</sup> Town of Cape Vincent Town Board. (2019). *Town of Cape Vincent Zoning Law*. Town of Cape Vincent, NY. Accessible from <https://townofcapevincent.org/document-center/miscellaneous/522-bobpaul/file.html> (Accessed January 2022).

<sup>50</sup> Town of Cape Vincent Town Board. (2019). *Town of Cape Vincent Zoning Law*. Town of Cape Vincent, NY. Accessible from <https://townofcapevincent.org/document-center/miscellaneous/522-bobpaul/file.html> (Accessed January 2022).

# Town and Village of Cape Vincent Local Waterfront Revitalization Program



## Cape Vincent Local Waterfront Revitalization Plan

Cape Vincent, Jefferson County, New York

### Map 5: Existing Zoning Districts

Notes: 1. Basemap: ESRI Street Map North America, 2012. 2. This map was generated in ArcMap on March 25, 2021. 3. This map was generated with parcel data from 2017.

- Village of Cape Vincent
- Ferry Route
- Proposed WRA
- Village Waterfront Overlay
- Town Wind Overlay
- Parcel Boundary
- Town Boundary
- Canada-US Boundary



District include both high quality commercial and residential development.<sup>51</sup> More detail is provided in Section V and Appendix C.

*Town Island (I) District*

The Islands (I) District consists of five islands within the Town's boundaries. These islands include Grenadier, Little Grenadier, Fox, Carleton, and Linda Islands. This district represents the most distinctive land use zone within the Town. These islands are discussed in the *Town of Cape Vincent land uses – Area 4* subsection under 2.2.1. More detail is provided in Section V and Appendix C.

*Town Agricultural and Residential (AR) District*

The Agricultural Residential (AR) District contains large, open spaces in the central area of the Town and is primarily used for various types of agriculture, rural residential, and several nonagricultural businesses. The WRA transects this area along the inland tributaries flowing into Lake Ontario near Wilson Bay and Mud Bay. The section of the WRA that falls within this district is currently either rural residential, farmland, or open space. There is also a marina and boat parking lot in this district. The AR District seeks to promote active farming and other development in this area that preserves the district's rural character.<sup>52</sup> These land uses contribute to scenic views along County Route 6. More detail is provided in Section V and Appendix C.

*Town Municipal (M) District*

Throughout the Town there are properties used for municipal or governmental purposes. These properties are located within the boundaries of the established Municipal (M) District. The Town recognizes that applicants should be made aware of the location of these properties to eliminate any confusion about land uses on municipal properties.<sup>53</sup> More detail is provided in Section V and Appendix C.

*Village Zoning*

In 1988, the Village of Cape Vincent adopted its first zoning law pursuant to the provisions of Municipal Home Rule Law, Articles Two and Three, and Article Seven of New York State Village Law. The Zoning Law has been amended and updated on several occasions since its original adoption. The most recent update was in September 2021. More information regarding the Village Zoning Law can be found in Section V and Appendix C.

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<sup>51</sup> Town of Cape Vincent Town Board. (2019). *Town of Cape Vincent Zoning Law*. Town of Cape Vincent, NY. Accessible from <https://townofcapevincent.org/document-center/miscellaneous/522-bobpaul/file.html> (Accessed January 2022).

<sup>52</sup> Town of Cape Vincent Town Board. (2019). *Town of Cape Vincent Zoning Law*. Town of Cape Vincent, NY. Accessible from <https://townofcapevincent.org/document-center/miscellaneous/522-bobpaul/file.html> (Accessed January 2022).

<sup>53</sup> Town of Cape Vincent Town Board. (2019). *Town of Cape Vincent Zoning Law*. Town of Cape Vincent, NY. Accessible from <https://townofcapevincent.org/document-center/miscellaneous/522-bobpaul/file.html> (Accessed January 2022).

The Village of Cape Vincent Zoning Law contains five zoning districts: Commercial (Com), Residential (Res), Manufactured Home District (MHD), Industrial (Ind) and Waterfront Overlay District (WOD).

*Village Commercial (Com) District*

The purpose of the Commercial (Com) District is to promote the business and commercial nature of the area. Historical, cultural, business, and recreational resources are anticipated to increase. Permitted uses are intended to reduce land use conflicts in commercial uses.<sup>54</sup> More detail, including a list of uses that require site plan review, is available in Section V and Appendix C.

*Village Residential (Res) District*

The purpose of the Residential (Res) District is to provide a stable location for residential living and development. To be consistent with this Law, it is expected that the character of housing will be preserved, new housing types be accommodated, building quality maintained, and land use conflicts reduced.<sup>55</sup> More detail, including a list of permitted uses and uses that require site plan review, is available in Section V and Appendix C.

*Village Manufactured Home (MHD) District*

The purpose of the Manufactured Home (MHD) District is to provide minimum standards for the placement and use of manufactured homes in the Village of Cape Vincent.<sup>56</sup> More detail is provided in Section V and Appendix C.

*Village Industrial (Ind) District*

The purpose of this floating Industrial (Ind) District is to promote light industry in acceptable areas of the Village.<sup>57</sup> More detail is provided in Section V and in Appendix C.

*Village Waterfront Overlay District (WOD)*

The WOD was established to ensure compliance with the 1988 Village of Cape Vincent LWRP. The WOD extends along the entire length of the St. Lawrence River in the Village. The purpose of the WOD is to delineate an area coterminous with the Cape Vincent LWRP Coastal Area

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<sup>54</sup> Village of Cape Vincent Village Board. (2021). *Village of Cape Vincent Zoning Law*. . Village of Cape Vincent, NY. Accessible from <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map/779-zoning-law-local-law-1-2021-1/file.html> (Accessed January 2022).

<sup>55</sup> Village of Cape Vincent Village Board. (2021). *Village of Cape Vincent Zoning Law*. . Village of Cape Vincent, NY. Accessible from <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map/779-zoning-law-local-law-1-2021-1/file.html> (Accessed January 2022).

<sup>56</sup> Village of Cape Vincent Village Board. (2021). *Village of Cape Vincent Zoning Law*. . Village of Cape Vincent, NY. Accessible from <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map/779-zoning-law-local-law-1-2021-1/file.html> (Accessed January 2022).

<sup>57</sup> Village of Cape Vincent Village Board. (2021). *Village of Cape Vincent Zoning Law*. . Village of Cape Vincent, NY. Accessible from <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map/779-zoning-law-local-law-1-2021-1/file.html> (Accessed January 2022).

whereby new development and redevelopment will be reviewed for compatibility with the policies and purposes of the LWRP. As an overlay district, the WOD does not replace the existing land use districts and their provisions, but rather, calls for an additional level of review that specifically relates to the policies and purposes of the LWRP.<sup>58</sup> More detail is provided in Section V and in Appendix C.

### **2.2.4 Public services and facilities**

The Town identified existing infrastructure, such as roads and water systems, as being well-maintained during the 2017 Comprehensive Plan update S.W.O.T. analysis. However, the community identified a declining and aging population as generating uncertainty about the future. Additionally, the rural nature of the Town leaves some areas lacking municipal water and lacking public wastewater infrastructure. The lack of wastewater infrastructure is a problem in the waterfront areas due to the potential for runoff. Another continued concern of the Village is the potential closure of Horne's Ferry. Further description of the existing condition of water and wastewater services and facilities within the WRA are included in this section, and solutions that the Town and Village are working towards to address these issues are proposed in Section IV.

#### *Water and sewer*

Water quality and quantity is important to the community of Cape Vincent.<sup>59</sup> The Lake Ontario and St. Lawrence River are highly valued as both natural resources and economic resources for Cape Vincent. Yet the quality of these waterbodies is harmfully impacted by current wastewater runoff as well as potential runoff from future development along the waterfront. Despite being surrounded by Lake Ontario and the St. Lawrence River, the Town of Cape Vincent has limited access to safe potable water sources.

In terms of drinking water, inland water sources are limited and are often of poor quality. The Town of Cape Vincent has thin clay and silt deposits overlying limestone bedrock,<sup>60</sup> which is not ideal for drilled wells. Municipal systems have been constructed to service more populated areas of the Town and are being considered for expansion to additional areas. The Village of Cape Vincent has water intake and filtration facilities sourced from the River that serve 1,500 people through 516 service connections, while also providing water to the Town of Cape Vincent and

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<sup>58</sup> Village of Cape Vincent Village Board. (2021). *Village of Cape Vincent Zoning Law*. Village of Cape Vincent, NY. Accessible from <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map/779-zoning-law-local-law-1-2021-1/file.html> (Accessed January 2022).

<sup>59</sup>Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. P. 58. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>60</sup> United States Department of Agriculture, Soil Conservation Service. (1981). *Soil Survey of Jefferson County, New York* (p. 5).

the Western Regional Water Line operated by the Development Authority of the North Country (DANC).<sup>61</sup> Since 1995, the Town has developed water districts, where economically feasible, to accommodate the needs for municipal water. In 2021, the Town established a seventh water district to serve approximately 200 additional parcels in the Bedford Corners area near Lake Ontario.<sup>62</sup> DANC purchases water from the Village of Cape Vincent and has a waterline from the Village's water facility to the Village of Glen Park in the Town of Brownville. This line runs under an abandoned railroad bed. It supplies water to the Villages of Chaumont, Dexter, Brownville, and Glen Park, as well as Water District 2 in the Town of Cape Vincent.<sup>63</sup> The Village of Cape Vincent's water system has a capacity of 2.1 million gallons per day (MGD).<sup>64</sup> As of November 2021, the breakdown of average usage is as follows: Village of Cape Vincent: 220,160 gallons per day (GPD); Town of Cape Vincent: 967,920 GPD and DANC: 928,720 GPD.<sup>65</sup> However, there still are areas without clean, safe, municipal water. Approximately 70% of the Town parcels and 76% of the combined Town and Village parcels receive water from public Water Districts 1-7.<sup>66</sup>

Wastewater treatment is also a challenge, particularly for the Town, as reflected in the 2012 Comprehensive Plan and reiterated by the community in the 2017 S.W.O.T. analysis. Cape Vincent contains shallow, impermeable soils that limit the adequate treatment of wastewater through traditional septic systems.<sup>67</sup> This situation is especially problematic for small parcels along the Town's waterfront that are located outside of sewer districts.<sup>68</sup> According to the same source, since 2012, the Town has prioritized improvements to wastewater management for new development along both the Lake and River waterfronts, as well as the need for a waterfront sewer district. The Town has identified a study area to prioritize improvements to wastewater treatment, which includes the properties within the WRA along the St. Lawrence River from the

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<sup>61</sup> Village of Cape Vincent. (2020). Annual Drinking Water Quality Report. Available at: <https://www.villageofcapevincent.org/doc-center/laws-information-miscellaneous/747-village-of-cape-vincent-2020-awqr-annual-water-quality-report/file.html> (Accessed March 2020).

<sup>62</sup> Village of Cape Vincent Department of Public Works. (Nov. 2021). *Personal correspondence with D. Wiley and E. Tauzer.*

<sup>63</sup> Town and Village of Cape Vincent. (2003). A Joint Comprehensive Plan for the Village and Town of Cape Vincent. Available at <https://townofcapevincent.org/document-center/miscellaneous/82-cape-comp-plan-2003/file.html> (Accessed April 2022).

<sup>64</sup> Village of Cape Vincent Department of Public Works. (Nov. 2021). *Personal correspondence with D. Wiley and E. Tauzer.*

<sup>65</sup> Village of Cape Vincent Department of Public Works. (Nov. 2021). *Personal correspondence with D. Wiley and E. Tauzer.*

<sup>66</sup> Dave Powers (Town Engineer). (Feb. 27, 2020). *Personal correspondence with E. Tauzer.*

<sup>67</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. P. 58. Available at <https://www.townofcapevincent.org/document-center/miscellaneous/99q-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>68</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. P. 58. Available at <https://www.townofcapevincent.org/document-center/miscellaneous/99q-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).



Village northward to the Cape Vincent/Clayton town line (Water District 1). This area is shown on Map 11 and is a project described in Section IV under 4.3.6 *Sewer District Improvements along St. Lawrence River waterfront*. Options for municipal sewer and wastewater treatment facilities could be further examined in other Lake and River waterfront areas in the future.

The Village, on the other hand, has wastewater treatment facilities and capacity for additional use. The Village invested approximately \$9.6 million dollars in their wastewater/sewage treatment plant in 2012.<sup>69</sup> During the flooding events in 2017 and 2019, portions of the public sewer system were submerged and weakened. This weakening led to significant infiltration of water into the sewer line at the north end of Market Street and caused back-ups and unsanitary conditions in nearby residences and businesses.<sup>70</sup> The New York State REDI program awarded the Village funds for replacing the sewer system on Market Street and Gouvello Street to alleviate these backups and to improve their resiliency. Refer to the *REDI Projects within the Village of Cape Vincent - 2019* subsection under 2.1.4 for more information on the Market Street REDI project.

Future development, or redevelopment, should meet stringent performance standards along the waterfront, specifically for septic tanks and leach fields. Development of these standards will be conducted through the Sewer District Improvements project identified in Section IV as 4.3.6. Moreover, future waterfront development standards will consider designs on larger lot sizes (e.g., an acre or more), innovative engineered systems (e.g., raised beds), and shared waste systems between neighboring properties as a replacement for older septic systems.<sup>71</sup> The LWRP supports updating the zoning law to require a septic system check when property owners apply for permits. This permit would apply to dense waterfront cottages and other residences with old septic systems requiring updates. The septic check could be prioritized for permits related to potential increases in water demand and/or the generation of additional wastewater (e.g., adding a bathroom, winterizing a cottage, or other additions that might increase the number of residents using the property). It has been identified that the potential need for a septic system check and needed logistics is important, which is being identified as Sewer District Improvements project in Section IV as 4.3.6. The Town and Village will continue to work closely with the Jefferson County and other involved agencies based on evolving health and safety regulations associated with septic systems.

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<sup>69</sup> P. Youngs. (Aug. 16, 2022). *Pers. Comm. with E. Tauzer and M. Mason (email)*.

<sup>70</sup> Bernier, Carr, and Associates. (February 2020). *Village of Cape Vincent REDI Waterfront Projects*. Preliminary Engineering Report.

<sup>71</sup> Bernier, Carr, and Associates. (February 2020). *Village of Cape Vincent REDI Waterfront Projects*. Preliminary Engineering Report.

*Vessel sewage and vessel waste facilities*

Neither the Village nor Town of Cape Vincent own public pump-out stations. Cedar Point State Park contains vessel waste disposal stations for trailered boats only. Privately owned pump-out facilities are located at Anchor Marina and Millens Bay Marina. The lack of public pump-out facilities is a problem for Cape Vincent, and publicly offered services and amenities, including pump-out and charging stations, are listed as prioritized needs by the Waterfront Advisory Committee. Please see 4.3.7 *Vessel Waste and Sewage – Pump-out Stations* subsection for more information on actions the Town and Village will be taking to address this need. Grants to address these stations and associated program assistance are also discussed in 4.3.7.

The United States Environmental Protection Agency (EPA) and the United States Coast Guard (Coast Guard) jointly regulate discharge and waste from vessels into waterbodies. The EPA implements Section 312 of the Clean Water Act (CWA) that regulates the waste and sewage from boats and other vessels, including the standards for marine sanitation devices (MSDs).<sup>72,73</sup> The Coast Guard implements Section 312 of the CWA, which involves the designs, construction, certification, installation and operations of the MSDs on vessels.<sup>74</sup> According to the same source, raw or untreated sewage is prohibited from being discharged within three miles from shore, within certain types of waterbodies, or within designated areas called “No Discharge Zones”.

Lake Ontario has been designated as a No Discharge Zone since 2011.<sup>75</sup> The St. Lawrence River, however, is currently not designated as a No Discharge Zone. Vessels with an MSD (either Type I or II)<sup>76</sup>, are allowed to discharge into the River. In 2016, New York State’s portion of the St. Lawrence River, including Cape Vincent, was proposed to be designated as a No Discharge Zone, and Millens Bay Maria was identified by the proposal as a pump-out station facility that would, along with facilities in other river communities, provide adequate service vessels for commercial vessels in the proposed zone.<sup>77</sup> To date, there has not been formal approval of the proposed No

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<sup>72</sup> EPA. (n.d.). *Vessel Sewage Discharges*. Accessible from <https://www.epa.gov/vessels-marinas-and-ports/vessel-sewage-discharges> (Accessed January 2022).

<sup>73</sup> EPA. (n.d.). *Vessel Sewage Discharged: Statutes, Regulations, and Related Laws and Treaties*. Accessible from <https://www.epa.gov/vessels-marinas-and-ports/vessel-sewage-discharges-statutes-regulations-and-related-laws-and> (Accessed January 2022).

<sup>74</sup> EPA. (n.d.). *Vessel Sewage Frequently Asked Questions*. Accessible from <https://www.epa.gov/vessels-marinas-and-ports/vessel-sewage-frequently-asked-questions> (Accessed January 2022).

<sup>75</sup> EPA. (n.d.). *No-Discharge Zones (NDZ) by State*. Accessible from <https://www.epa.gov/vessels-marinas-and-ports/no-discharge-zones-ndzs-state> (Accessed January 2022). (Also see: NYSDEC. (n.d.). *New York State’s No Discharge Zones*. Accessible from <https://www.dec.ny.gov/chemical/73875.html> (Accessed January 2022).

<sup>76</sup> EPA. (n.d.). *Marine Sanitation Devices (MSD)*. Accessible from <https://www.epa.gov/vessels-marinas-and-ports/marine-sanitation-devices-msds> (Accessed January 2022).

<sup>77</sup> Federal Registry. (2016). *New York State Prohibition of Discharges of Vessel Sewage; Notice of Proposed Determination*. A notice by the EPA 2016 March 24. Accessible from <https://www.federalregister.gov/documents/2016/03/24/2016-06701/new-york-state-prohibition-of-discharges-of-vessel-sewage-notice-of-proposed-determination> (Accessed January 2022).

Discharge Zone along New York State's portion of the St. Lawrence River; however, it is the goal of both New York State and EPA Region 2.<sup>78</sup>

### *Transportation*

The roads within the Cape Vincent WRA fall under the authority of the State, County, Town, and Village. The Town Department of Public Works maintains roads for both the Town and Village of Cape Vincent. The Town's Department of Public Works facility is located along NYS Rte. 12E as it enters the Village. Road maintenance, including snow plowing and deicing, is an ongoing cost for the Town and Village. The Village and the Town must facilitate various modes of access used by residents and visitors, including pedestrian, cycling, vehicular, and waterborne.

Bicycling is a popular transportation mode along the NYS Route 12E Scenic Byway. As quoted in the 2012 Town and Village of Cape Vincent Joint Comprehensive Plan, the 1994 Bicycle Master Plan for The Adirondack North Country Region lists Jefferson County's coastline as a tremendous bicycling asset, stating that "*the small towns, scenery, and views of water offer just what the cyclist is looking for.*"<sup>79</sup> The bicycle master plan was prepared by Holmes & Associates with funding from the New York State Department of Transportation (NYSDOT) and the Scenic Byways Program of the Federal Inter-modal Surface Transportation Efficiency Act, and a hardcopy is available at the Adirondack Experience Museum at Blue Mountain Lake.<sup>80</sup> The Town and Village of Cape Vincent identified the development of cycling amenities, infrastructure, and improvements within the WRA as a proposed project in Section IV as a way to encourage bicycling by all including cycling enthusiasts. The municipalities are proposing a bike-friendly waterfront that will incorporate scenic trails and paths. Trails will incorporate the unused former bass ponds to the routes. This project supports the vision of the LWRP by increasing activity and health opportunities for residents and by attracting bicycle tourists to the community. This in turn supports waterfront business and stimulate the local economy. More information on this project is discussed in 4.3.5 *Bike-Friendly Waterfront*.

### *Navigation channels/basins*

Horne Transportation is a ferry operation using the navigation channel and is discussed in subsection 2.2.1 *Commercial water uses*. Formal shipping channels (e.g., St. Lawrence Seaway)

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<sup>78</sup> NYSDEC. (2022). Future No Discharge Zones in New York. Available at <https://www.dec.ny.gov/chemical/73875.html> (Accessed August 2022).

<sup>79</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. P. 58. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>80</sup> Adirondack Experience: The Museum on Blue Mountain Lake. Library Record for Bicycle master plan for the Adirondack North Country region of New York State. 2022. Available at <https://adirondack.pastperfectonline.com/Library/6F123AEE-1E33-4F2D-B0CF-057601698610> (Accessed August 2022).

within the HMA are shown on Map 2A and 2B. The channel and ferry service are an important component of the local economy because they allow for residents and tourists to travel between the U.S. and Canada. The S.W.O.T. analysis conducted in the 2017 Comprehensive Plan Update cited the ferry service as an economic as well as a recreational strength of the community and the possible loss of its service as a threat to Cape Vincent.

### *Breakwater*

The US ACOE maintains a breakwater that protects the Cape Vincent Harbor and provides quiet waters for mooring sailboats, divers, and boaters. More discussion about the US ACOE breakwater is found in Section 2.2.8 Port or small harbor development.

### *Docks and docking facilities*

Marinas offering docks and docking facilities are located along the Lake and River in the Village and the Town. Docks have available gasoline, repairs, ramps, moorings, power, supplies, restrooms, and showers. These facilities are under both private and public ownership and are discussed in subsection 2.2.1 *Commercial water uses*.

Since the 1988 LWRP, the Village has improved public access to the River and public docks. Further enhancements are proposed to expand public transient dock space to encourage more day trips by Canadians and Islanders. Improvements to publicly owned docks are addressed previously under *Resiliency and Economic Development Initiative Projects within the Village of Cape Vincent (2019/2020)* in subsection 2.1.4.

The Village of Cape Vincent owns a public dock located at the foot of Esselstyne Street (referred to as Village Dock) and the docks located at East End Park. Improvements to publicly owned docks are addressed previously under *Resiliency and Economic Development Initiative Projects within the Village of Cape Vincent (2019/2020)* in subsection 2.1.4. The Amended Dock Law (Local Law 1 of 2016) provides clarity regarding the administration of public dock usage within the Village of Cape Vincent. This law pertains to the Village Dock and the use by private watercraft as a “first come, first serve basis” (Section 1 of the law). The law outlines the maximum length of stay for individual boaters as three consecutive days or 72 consecutive hours in any five-day period. Registration is upon arrival and after the vessel is secured. Watercraft size restrictions are noted in Section 3 and rafting restrictions are detailed in Section 4. Quiet hours are observed between 10:00pm and 6:00am, locally. The law also includes penalty fees and reasons for suspending dock use temporarily. Please refer to Appendix C for the law.

Local Law 1 of 2004 and Local Law 1 of 2016 provide laws to regulate public use of boat ramps and the associated docks in the Village. The ramp is in East End Park and is owned and operated by the Village Board of Trustees. The law indicates that boats must be attended to in the ramp area docks and the docks are to be used for unloading and loading purposes. Fishing from the

boat ramps is prohibited. The penalties for violation are in Section V. The full text of the local law is available in Appendix C.

The NYSDEC dock is located within the NYSDEC Cape Vincent Research Fisheries Aquarium area on the western shore end of the bay, near the Village Dock. This dock is also used by the public on a first come, first serve basis when not in use by NYSDEC staff. Please see Area 9 under subsection 2.2.1 for more information on the State dock.

### ***2.2.5 Abandoned, underutilized, or deteriorated areas, sites, and structures***

While most of Cape Vincent's waterfront area is in good condition, there are a few underutilized, abandoned, and deteriorated areas. Cape Vincent has no formally designated environmental remediation sites, such as areas with active cleanup occurring or those that have undergone cleanup under the oversight of the NYSDEC.<sup>81</sup> No Environmental Zones ("En-Zones") are present in Cape Vincent either, which are designated for cleanup under the NYS Brownfield Cleanup Program. The areas that need restoration and are underutilized include the Club Street area, Anchor Marina, East End Park, and the Riverfront Pocket Parks. One site, the former bass ponds, is underutilized and abandoned.

#### *Club Street Area*

The Club Street Area is bordered by and includes the streets of Esselstyne, James, and Gouvello. The area contains the Horne's ferry dock, U.S. Customs and Immigration Service office/ U.S. Border Patrol Post, the Village Chamber of Commerce office, and the Village Dock. However, over the years, the Club Street Area surrounding the ferry dock has become marred by dilapidated buildings and disconnected from local businesses and attractions. This area serves as the first impression for visitors entering the Village and is an underutilized gateway for tourists arriving from Horne's Ferry as well as those waiting for the ferry. This one-block area has the greatest accumulation of deteriorated structures within the Village, including covered boat slips and dock in need of maintenance and repair. The area also includes a mixture of commercial and residential uses, many of which are in various stages of visual decline and disrepair. The general lack of maintenance will be addressed through local code enforcement and a Club Street Revitalization Project to improve public access and viewshed to the St. Lawrence River. Please refer to *Club Street Revitalization Project (C1001637) – 2019* subsection under 2.1.4 and Section IV for more information on the revitalization project.

#### *Anchor Marina*

Anchor Marina is being used as a private docking and boat repair facility and was used historically as the New York City railroad depot and ferry landing. Anchor Marina is located on Broadway

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<sup>81</sup> NYSDEC Environmental Remediation Database (2021). Available from: <https://www.dec.ny.gov/cfm/xtapps/derexternal/haz/results.cfm?pageid=3> (Accessed October 2021).

Street, near the corner of Lee Street, and across from the eastern end of the breakwater. The marina is actively in use but is showing signs of deterioration which, in turn, detracts from the viewshed of the River. The outside breakwater wall needs repair. Parked boats onsite are stored onshore near NYS Rte. 12E right-of-way, blocking visibility of the St. Lawrence River. This marina is further discussed below in the *Anchor Marina* subsection under 2.2.7 *Water dependent uses*.

### *East End Park*

The East End Park is a seven-acre waterfront park owned by the Village of Cape Vincent. This Park is highly utilized for recreational purposes; however, major improvements are needed to the underwater structures. This Park has vestiges of former commercial piers and a coal dock, which need repair and are threats to public safety. Improvements for the park are being done through the East End Park Improvement project (See 4.3.3 *East End Park Improvements* section below).

### *Former Bass Ponds*

The former bass ponds are one-acre earthen berms previously used by U.S. Fish and Wildlife Service for a fish hatchery<sup>82</sup> but now owned by the NYSDEC; however, there are deed restrictions on that require the property be used for fish and wildlife purposes.<sup>83</sup> The 13 bass ponds were closed years ago (estimated by local representatives to be 10-20 years) and are currently fenced off from public access, emptied of water, and sitting unused. The unused bass ponds have the potential for public use as trails for bicycling, running, or cross-country skiing. Recommended uses for this area are specified in the Bike-Friendly Waterfront project (see section 4.3.5).

### *Riverfront Pocket Parks*

Public access point sites are found throughout the Village at the termini of streets that meet the waterfront along the St. Lawrence River. These access points are riverfront pocket parks, which are a unique and important resource of the community. There are six pocket parks, which are called the Murray Street Park, Esselstyne Street Park, Point Street Park, Market Street Park, Real Street Park, and Kanady Street Park. These parks are underutilized, lack public amenities, and would benefit from improved signage. Some improvements to these riverfront pocket parks have recently been funded and developed since initiating this LWRP. For example, improvements to the boat ramps, docks, seawalls, and the sewer system at Esselstyne, Point, Real, and Market Street Parks were underway as of 2022 (see *REDI Projects within the Village of Cape Vincent – 2019* subsection under 2.1.4). Additional proposed improvements to the landside amenities (e.g., benches, signage, etc.) at these parks are discussed in future proposed projects discussed in 4.3.2 *Improve Riverfront Pocket Park Amenities*). More detail on the aesthetic importance of these

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<sup>82</sup> Balk, C. (2007). *Final Sportfishing Restoration and Spending Plan for the Lake Ontario System*. NYSDEC. Accessible from [https://www.dec.ny.gov/docs/wildlife\\_pdf/lkontfshrestspendplan07.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/lkontfshrestspendplan07.pdf) (Accessed January 2022).

<sup>83</sup> NYSDEC Lake Ontario Unit. (November 11, 2022). *Email correspondence with DOS regarding ownership confirmation*.

pocket parks is included in *Riverfront Pocket Parks* subsection under 2.6.2 *Scenic Resources and Visual Quality*.

### **2.2.6 Hazards to navigation, such as abandoned barges and deteriorated pilings**

Four navigation hazards for watercrafts were identified within the WRA. These hazards are: 1) a deteriorating breakwater at the end of Real Street; 2) a submerged underwater pier at the end of Market Street; 3) former commercial piers near the East End Park Boat Launch; and 4) the deteriorated breakwater at Anchor Marina. Some of the hazards at Real, Market, and East End Park will be addressed through the REDI projects in 2022. Additional navigation hazards result from the shallow depth along the shoreline of the St. Lawrence River, particularly in shoals surrounding the southern portion of Carleton Island (Featherbed Shoals and Roxy Island), which remain unmarked for boaters headed east on the River from the eastern portion of the Town of Cape Vincent WRA. These shoal areas are natural rock hazards that are typically submerged just under the surface of the water and not visible to boaters.<sup>84</sup>

### **2.2.7 Water dependent uses**

The waterfront shorelines in the Town and Village feature water dependent uses. Water dependent uses are businesses or other activities that can only be conducted in, on, over, or adjacent to a water body. These activities or businesses require direct access to a water body, and involve, as an integral part of such activities, the use of the water. Uses detailed below include docks and piers; marinas, boat repair and boater services; commercial fishing operations or ports; and water-oriented recreation.

#### *Docks and Piers*

##### *Village Docks*

The Village of Cape Vincent owns public docks located at the foot of Esselstyne Street and at East End Park. More information is in the *Village Dock* subsection 2.2.4.

##### *NYSDEC Dock – Cape Vincent Fisheries Station and Aquarium*

The NYSDEC dock is located at the Cape Vincent Fisheries Station and Aquarium on the western shore of the bay, near the Village Dock. Please refer to *Institutional water uses* subsection under 2.2.1 and to *NYSDEC Dock* subsection under 2.2.4.

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<sup>84</sup> National Oceanic and Atmospheric Administration (NOAA). (n.d.). Nautical Charts. Available at: <https://wrecks.nauticalcharts.noaa.gov/viewer/> (Accessed October 2021).

*Marinas, Boat Repair, and Boater Services*

There are several commercial marinas within the Cape Vincent WRA. These marinas offer a wide array of boater-oriented services including boat sales, cottage rentals, repair services, commercial boat slips, fuel purchase, and pump-out services. Docking and storage is available on site. A list of marinas and their services is included below. Marinas are shown in Maps 2A and 2B. Note that marina businesses and their services may change and evolve.

*Anchor Marina*

Located on East Broadway Street, Anchor Marina offers transient dockage, 60' max boat length, 10' draft, shore power, lift, sales, pump out, storage, marine store, restrooms, and showers. This marina is one of the largest in the community and the site contains a renovated railroad depot converted into an office. More information on the marina is in the *Anchor Marina* subsection under 2.2.5. The marina contains 100 total slips, most of which are rented by the season. About 15 of these docks are available for overnight use. There is a fuel dock (diesel and gasoline) and pump-out facilities. The marina is also used for boat and engine repairs.

*Riverside Cottages and Marina*

Located on Market Street, the Riverside Cottages and Marina is a family-owned business. The business offers five cottages available from June to mid-September to rent. These cottages are equipped with heat, cooking utensils, a kitchen, and cable among other amenities. Dockage for guests in a protected basin is also available.

*Martin's Marina*

Located at two locations along Kents Creek as it flows into Mud Bay, Martin's Marina offers a total of 100 floating boat slips available for weekly, monthly, seasonal, & yearly rental. The business is also an authorized dealer for boats, docks, hoists, and boat engines. It is a full-service marina, offering a supply store, gas, indoor storage, campgrounds, boat rentals, gas and oil, mechanical services, and other services including shrink wrapping and other winterizing services. The marina also offers a boat launch and parking for trailers for a small fee.

*Snug Harbor Marina*

Located along Kents Creek as it flows into Mud Bay, Snug Harbor Marina offers approximately 40 boat slips available for summer and transient use. Marine supplies, winterization, repairs, and other maintenance services are available during the spring and fall. The marina is adjacent to the Snug Harbor Bar and Restaurant.



*Millens Bay Marina/Thousand Island Marina*

Located on County Road 7 along the eastern side of Millen Bay, Millens Bay Marina (Thousand Island Marina) is a full-service marina. The marina offers gas, live bait, licenses, housekeeping cottages, apartments, boat rentals, and daily/seasonal boat slips. A pavilion with grills is available for group gatherings as well as a lavatory and showers for boaters. A convenience mart is also located at the Millens Bay Marina.

*Vincent's Landing Marina*

Located east of the Village along the St. Lawrence River, Vincent's Landing offers 950 feet of waterfront with a protected marina and floating docks, along with a seasonal mobile home court. It is open from early May to mid-October.

*Docteur's Cottages & Seasonal Park*

Located east of the Village along the St. Lawrence River, Docteur's Cottages & Seasonal Park offers five small cottages with approximately 15 available boat slips. Boats are also available to rent. The cottages and park are open from mid-June through Labor Day weekend.

*Willow Shores Mobile Home Community & Marina*

Located east of the Village along the St. Lawrence River, Willow Shores Trailer Park & Marina offers 23 boat slips and 40 lots. It is open from early May to mid-October.

*Island Shadows Mobile Home Park*

Located on NYS Rte. 12 E near Popular Tree Bay, The Island Shadows Mobile Home Park community offers a 300' x 100' deep draft harbor with floating docks. These docks are adaptable to the varying seasonal water levels. The park also contains a 300' by 100' swimming area and a concrete fishing pier outside of the harbor breakwater.

*Precision Marine*

Located east of the Village along the St. Lawrence River at Peos Bay, Precision Marine offers a full-service marina, mechanical repair services, and a number of boat slips available for rent. A marine store and bathrooms are available for customers. The company also sells boats, motors, and trailers and offers winter storage and winterizing services.

*Commercial fishing operations or ports*

No large-scale commercial fishing operations are located within the HMA or the WRA of Cape Vincent. Small businesses do offer amenities for recreational fishing uses. There are a small number of small-scale recreational charter boat operators that use the Cape Vincent Harbor as

their base of operation.<sup>85</sup> These charter boat operators offer full day and half day charters. These charters bring tourism and revenue to Cape Vincent. According to Waterfront Advisory Committee members, these numbers have declined since 2013. Marina facilities conditions have declined deterring users and causing them to use facilities elsewhere. An aging generation of charter owners have closed operations due to a lack of family members interested in continuing this business. Proposed improvements to marinas and public access have been discussed and are being incorporated into projects listed in Section IV. Most of these fishing charters are for lake trout (*Salvelinus* sp.) and salmon (*Oncorhynchus* sp.), followed by steelhead (*Oncorhynchus mykiss*), smallmouth bass (*Micropterus dolomieu*), walleye (*Sander vitreus*), and yellow perch (*Perca flavescens*). The season typically is from the 15th of April to the 15th of September.<sup>86</sup> There are no ports in the HMA or WRA.

#### *Water-orientated recreation*

Various water-oriented recreational opportunities are offered within the Village and Town's WRA, such as fishing, scuba diving, boating, and swimming. Fishing licenses can be purchased at the Town of Cape Vincent's Clerk Office on Market Street, or at Martin's Marina in Mud Bay. Additionally, various sportfishing tournaments are promoted by the Cape Vincent Chamber of Commerce, such as the Annual Cape Vincent's Spring Fishing Derby. The chamber of Commerce also promotes New York State's free fishing days, which occur on limited days in June, September, and November.

Boating is another popular activity in the WRA. The East End Park and Cape Vincent's Village Dock area are ideal for water access for boaters and scuba divers. According to the US ACOE 2013 Economic Study of Cape Vincent, recreational boaters are the primary users of Cape Vincent Harbor, which corresponds to the Vessel Activity Area (See Map 2A). On average, each boat owner docked in Cape Vincent Harbor will use their boat approximately 45 days out of the year.<sup>87</sup> According to the same source, the harbor entrance channel is frequently unnavigable due to high wave action during the regular boating season, typically between April 15th to September 15<sup>th</sup>.

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<sup>85</sup> FishingBooker. 2022. Fishing Charters in or near Cape Vincent, NY. Available at: [https://fishingbooker.com/destinations/location/us/NY/cape-vincent?dest\\_title=&qclid=Cj0KCQjwxb2XBhDBARIsAOjDZ35ikJ2UMjGANGSmqLLYoDJuhHRMaGkp8IL4hbKPhsiNY67Gj-zDg IaAvOvEALw wcB \(Accessed August 12, 2022\).](https://fishingbooker.com/destinations/location/us/NY/cape-vincent?dest_title=&qclid=Cj0KCQjwxb2XBhDBARIsAOjDZ35ikJ2UMjGANGSmqLLYoDJuhHRMaGkp8IL4hbKPhsiNY67Gj-zDg IaAvOvEALw wcB (Accessed August 12, 2022).)

<sup>86</sup> FishingBooker. 2022. Fishing Charters in or near Cape Vincent, NY. Available at: [https://fishingbooker.com/destinations/location/us/NY/cape-vincent?dest\\_title=&qclid=Cj0KCQjwxb2XBhDBARIsAOjDZ35ikJ2UMjGANGSmqLLYoDJuhHRMaGkp8IL4hbKPhsiNY67Gj-zDg IaAvOvEALw wcB \(Accessed August 12, 2022\).](https://fishingbooker.com/destinations/location/us/NY/cape-vincent?dest_title=&qclid=Cj0KCQjwxb2XBhDBARIsAOjDZ35ikJ2UMjGANGSmqLLYoDJuhHRMaGkp8IL4hbKPhsiNY67Gj-zDg IaAvOvEALw wcB (Accessed August 12, 2022).)

<sup>87</sup> United States Army Corp of Engineers. (2013). *Section 107, Cape Vincent New York Economic Appendix*. Available upon request from the Town of Cape Vincent.

The total number of days that the Vessel Activity Area is navigable depends primarily on weather conditions and the amount of dredging that has been performed.<sup>88</sup> The 2013 economic study considered the economic feasibility of several alternatives to solve the wave action issues and to extend the season into November for charter boats and recreational boating.

Scuba diving and swimming also occur in the parks along the WRA. Scuba diving training and diving frequently occurs at the St. Louis Steamer Shipwreck Diving site. The site is located on the eastern shore of East End Park and the remnants of the propeller steamship built in 1864 lies 200 feet below the water.<sup>89</sup> The public can dive and swim at the site. The shipwreck falls under the Abandoned Shipwreck Act of 1987 that established ownership to the U.S. government.

### **2.2.8 Port or small harbor development**

The Cape Vincent Harbor, as the US ACOE designates it, overlaps with the Cape Vincent Vessel Activity Area as designated by this LWRP. This Vessel Activity Area currently serves as a location for two private marinas, several private docks that border the harbor, charter boat fishing operators, a ferry service, the NYSDEC research vessel, and St. Lawrence pilotage shuttle service.<sup>90</sup> The boating season within the Vessel Activity Area typically runs from mid-April to mid-September.

Waves and weather affect the Vessel Activity Area by creating poor and unsafe navigation conditions, specifically the east and west entrances to the channels of the Vessel Activity Area. The breakwater provides minimal protection from east and west storm events. The 2013 US ACOE Economic Report proposed improvements to provide a safer and more efficient Vessel Activity Area that is more protected from wave action during storm events. These improvements would extend the boating season into November for charter boats and recreational boating. Specific recommendations include the development of a long steel cell breakwater and long rubble mound stone breakwater near and offshore from the East End of the Vessel Activity Area.<sup>91</sup> Improvements to the West End of the Vessel Activity Area recommended by the 2013 report include steel sheet pile cell breakwater and a west end detached steel sheet pile cell breakwater.<sup>92</sup> These improvements would provide a safer and more efficient Vessel Activity Area to help protect

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<sup>88</sup> United States Army Corp of Engineers. (2013). *Section 107, Cape Vincent New York Economic Appendix*. Available upon request from the Town of Cape Vincent.

<sup>89</sup> McCarthy, D. (2018). *History Under Cape Vincent Waters*. Available from:

<https://tilife.org/BackIssues/Archive/tabid/393/articleType/ArticleView/articleId/2253/History-Under-Cape-Vincent-Waters.html>. (Accessed October 2022).

<sup>90</sup> United States Army Corp of Engineers. (2013). *Section 107, Cape Vincent New York Economic Appendix*. Available upon request from the Town of Cape Vincent.

<sup>91</sup> United States Army Corp of Engineers. (2013). *Section 107, Cape Vincent New York Economic Appendix*. Available upon request from the Town of Cape Vincent.

<sup>92</sup> United States Army Corp of Engineers. (2013). *Section 107, Cape Vincent New York Economic Appendix*. Available upon request from the Town of Cape Vincent.

the area from storm events and address the wave action issues. These alternatives would extend the boating season into November for charter boats and recreational boating.

The Cape Vincent Harbor, as the US ACOE designates it, currently serves as a location for two private marinas, several private docks that border the harbor, charter boat fishing operators, a ferry service, the NYSDEC research vessel, and St. Lawrence pilotage shuttle service. The harbor's boating season typically runs from mid-April to mid-September. The east and west entrance channels of the harbor experience severe wave setup that often creates poor and unsafe navigation conditions for crafts entering and exiting the harbor and within the harbor.

### ***2.2.9 Housing, economic, health and social services assets and locations of socially vulnerable populations***

In 2011, the Jefferson County Hazard Mitigation Plan presented information on social vulnerability within the county. Jefferson County's socially vulnerable populations are defined as residents under five years old or over 65 years old, since both age groups require extra medical care and additional resources during an emergency evacuation.<sup>93</sup> According to 2000 US Census demographic data, approximately 19% of the County's population can be identified as "vulnerable", with the highest proportion of vulnerable residents in the County located within the Village of Cape Vincent at 29%.<sup>94</sup> The Town, meanwhile, has one of the lowest percentages of vulnerable populations in the County (11%) according to the same source.

Emergency facilities play a critical role in providing adequate shelter in time of emergency situations. The 2011 Jefferson County Hazard Mitigation Plan identifies a total of 79 emergency facilities in 43 municipalities. Currently, Cape Vincent has 2 emergency facilities in the Village: a fire station located at 241 E. Broadway St. and a police station located at 177 North James St. The two municipalities share these emergency services. Other important facilities in the Town include the Thousand Islands Middle School and High School on Sand Bay Road and the Cape Vincent Elementary School at 410 S. Esselstyne St. in the Village.<sup>95</sup> The police and fire stations are identified in an area susceptible to flooding, earthquakes, and landslide damage due to soil characteristics. The two schools in the Town are susceptible to landslide damage and the elementary school in the Village is susceptible to earthquake and landslide damage.<sup>96</sup>

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<sup>93</sup> Jefferson County. (2011). Multi-Jurisdictional Hazard Mitigation Plan for Jefferson County NY. Available at: <https://co.jefferson.ny.us/departments/EmergencyManagement/hazard-mitigation> (accessed March 2022)

<sup>94</sup> Jefferson County Office of Fire and Emergency Management. (2011). *Multi-Jurisdictional Natural Hazard Mitigation Plan Jefferson County, New York*. Jefferson County.

<sup>95</sup> Jefferson County Office of Fire and Emergency Management. (2011). *Multi-Jurisdictional Natural Hazard Mitigation Plan Jefferson County, New York*. Jefferson County.

<sup>96</sup> Jefferson County Office of Fire and Emergency Management. (2011). *Multi-Jurisdictional Natural Hazard Mitigation Plan Jefferson County, New York*. Jefferson County.

Critical infrastructure and utilities include public works facilities, communication services, and airports. The 2011 Jefferson County Hazard Mitigation Plan identifies a total of 96 critical infrastructure and utility facilities in Jefferson County. Public works facilities are buildings that store and maintain vehicles and other equipment used to respond to emergency situations. The Hazard Mitigation Plan identifies two radio station towers in the Town as well as three garages in the Cape Vincent community. The Town Highway Garage is located at 1962 NYS Rte. 12E. The NYSDEC Garage is located at 555 Broadway St. The Village Highway Garage is located at 31317 Co. Rte. 6. Unfortunately, the radio station towers and Town and NYSDEC garages are all located in areas susceptible to earthquake and landslide damage.<sup>97</sup> The Village Highway Garage is also in an area susceptible to landslide damage, according to the Hazard Mitigation Plan. The last critical infrastructure in Cape Vincent is the Village Wastewater Treatment Plant and this building is susceptible to earthquake and landslide damage.<sup>98</sup> More refined analysis is necessary to determine if any of these critical infrastructure and utility facilities within the Town or Village of Cape Vincent are in floodplains or run the risk of being affected by floods.

Airports are critical facilities that can transport emergency personnel and equipment during times of crisis. No airports are in the Town or Village of Cape Vincent. An airfield is located at Fort Drum, a military base, located in Jefferson County approximately forty minutes away from the Town of Cape Vincent. This airfield would be suitable in an emergency to evacuate or transport emergency response personnel and equipment to or from the Village or Town. Currently, Fort Drum, however, is not open to the public.<sup>99</sup>

### **2.3 Fish, Wildlife and Wetlands**

Within the WRA, the waterways and shoreline provide critical habitat and natural resources for the ecosystems within the Town and Village of Cape Vincent, as well as an abundance of scenic natural beauty and wildlife observation areas. There are, however, challenges in managing these natural resources that warrant attention to protect the long-term ecological health of the streams, rivers, and smaller waterways. These challenges include managing non-point source runoff from aging septic systems that impair aquatic life. Waterbodies impacted by these non-point source pollutants are listed in Section 2.9.2 Water quality classifications and use standards, and proposed projects that address water quality issues are presented in Sections 4.3.6 through 4.3.8. The following sections provide insight on the natural resources within the WRA, including habitat and wetlands.

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<sup>97</sup> Jefferson County Office of Fire and Emergency Management. (2011). *Multi-Jurisdictional Natural Hazard Mitigation Plan Jefferson County, New York*. Jefferson County.

<sup>98</sup> Jefferson County Office of Fire and Emergency Management. (2011). *Multi-Jurisdictional Natural Hazard Mitigation Plan Jefferson County, New York*. Jefferson County.

<sup>99</sup> Jefferson County Office of Fire and Emergency Management. (2011). *Multi-Jurisdictional Natural Hazard Mitigation Plan Jefferson County, New York*. Jefferson County.

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Fish inhabiting the St. Lawrence River include catfishes; minnows, shiners, and suckers; salmon and trout; darters and sunfishes; sturgeons and paddlefish; mooneyes; perch, along with many others.<sup>100</sup> Panfish (sunfish or blue gill), bass, and pike are the most common fish observed by the New York State DEC Fisheries Station.<sup>101</sup> The WRA is home to important wildlife habitat, details of which are included in the following section. Several State-listed rare, threatened, or endangered (RTE) species and their ecological communities are found within the Cape Vincent WRA area, both along the Lake Ontario/Grenadier Island waterfront and St. Lawrence/Carleton Island waterfront.<sup>102</sup> Table 1 lists the rare, threatened, or endangered species (RTE) and the general location of the ecological community where they are found. The NYSDEC must be contacted prior to undertaking any activity in these areas to confirm the potential presence or absence of these RTE species. Depending on the specific locations of these RTE species and the nature of the proposed activity, permitting or mitigation measures may be required (e.g., seasonal restrictions on tree clearing).

Table 1: RTE Species within the Town and Village of Cape Vincent WRA

General Location	Taxonomy Group	Common Name	Scientific Name	State Listing
Lake Ontario/ Grenadier Island Waterfront Area	Birds	Short-Eared Owl	<i>Asio flammeus</i>	Endangered
		Black Tern	<i>Chlidonias niger</i>	Endangered
		Northern Harrier	<i>Circus hudsonius</i>	Threatened
		Pied-billed Grebe	<i>Podilymbus Podiceps</i>	Threatened
		Upland Sandpiper	<i>Bartramia longicauda</i>	Threatened
	Mammals	Northern Long-eared Bat	<i>Myotis septentrionalis</i>	Threatened
	Reptile	Blanding’s Turtle	<i>Emydoidea blandingii</i>	Threatened
	Community	Raptor Winter Concentration Area – Point Peninsula		

<sup>100</sup> Carlson, DM and LaPan, S.R. (1997). Fish Species Inhabiting the International Portion of the St. Lawrence River. Available at: [https://www.dec.ny.gov/docs/fish\\_marine\\_pdf/slrfish.pdf](https://www.dec.ny.gov/docs/fish_marine_pdf/slrfish.pdf) (accessed August 16, 2022).

<sup>101</sup> NYSDEC. (2022). Public Facilities at the Cape Vincent Fisheries Station. Available at: <https://www.dec.ny.gov/outdoor/27069.html> (accessed August 2022)

<sup>102</sup> Conrad, N. (May 10, 2019). Report of NYSNHP data for the Town and Village of Cape Vincent WRA. New York State Department of Environmental Conservation Division of Fish and Wildlife, New York Natural Heritage Program (NYNHP).

Town and Village of Cape Vincent Local Waterfront Revitalization Program

General Location	Taxonomy Group	Common Name	Scientific Name	State Listing
		Waterfowl Winter Concentration Area – Wilson Bay, Fox, and Grenadier Island Shoals		
St. Lawrence/ Carleton Island Waterfront Area	Birds	Short-Eared Owl	<i>Asio flammeus</i>	Endangered
		Bald Eagle	<i>Haliaeetus</i>	Threatened
		Upland Sandpiper	<i>Bartramia longicauda</i>	Threatened
	Mammals	Indiana Bat	<i>Myotis sodalis</i>	Endangered
		Northern Long-eared Bat	<i>Myotis septentrionalis</i>	Threatened
	Reptiles	Blanding’s Turtle	<i>Emydoidea blandingii</i>	Threatened
	Fish	Blackchin Shiner	<i>Notropis heterodon</i>	Threatened
Community	Waterfowl Winter Concentration Area – Carleton Island			

Source: Conrad, N. May 10, 2019. Report of NYNHP data for the Town and Village of Cape Vincent WRA. New York State Department of Environmental Conservation Division of Fish and Wildlife, New York Natural Heritage Program (NYNHP).

Invasive species challenge the long-term health of native species, including RTE species and endemic communities, by outcompeting local native populations and offsetting the balance of the natural ecosystems. Invasive species are found throughout the WRA, impacting recreational activities and tourism, and in turn the local economy. Various organizations and agencies have recorded these species on the NY iMapInvasives database and mapper.<sup>103</sup> Invasive flora species observed along the coast of Cape Vincent include: water chestnut (*Trapa natans*), pale swallow-wort (*Cynanchum rossicum*), starry stonewort (*Nitellopsis obtusa*), cattails (*Typha x glauca*), curly pondweed (*Potamogeton crispus*), reed canarygrass (*Phalaris arundinacea*), Eurasian watermilfoil (*Myriophyllum spicatum*), purple loosestrife (*Lythrum salicaria*), frogbit (*Hydrocharis morsus-ranae*), brittle naiad (*Najas minor*), and garlic mustard (*Alliaria petiolaris*).<sup>104</sup> Non-native fauna

<sup>103</sup> NYSDEC. (n.d.) Environmental Resource Mapper. (Natural resource and environmental database). Accessible from <https://gisservices.dec.ny.gov/gis/erm/> (Accessed January 2022).

<sup>104</sup> NYSDEC. (n.d.) Environmental Resource Mapper. (Natural resource and environmental database). Accessible from <https://gisservices.dec.ny.gov/gis/erm/> (Accessed January 2022).

observed along the community's shorelines in the St. Lawrence River and Lake Ontario include: round goby (*Neogobius melanostomus*), rudd (*Scardinius erythrophthalmus*), common carp (*Cyprinus carpio*), alewife (*Alosa pseudoharengus*), quagga mussel (*Dreissena bugensis*), zebra mussel (*Dreissena polymorpha*), and mud Bithynia (*Bithynia tentaculata*).<sup>105</sup> Organizations like the Thousand Islands Land Trust (TILT) and the St. Lawrence – Eastern Lake Ontario Partnership For Regional Invasive Species Management (SLELO PRISM ) are actively involved in local invasive species management.

The Town and Village of Cape Vincent contain significant natural communities north of Kents Creek near the intersections of Rosiere Road and Johnny Cake Road, and the intersections of Mason Road and McKeever Road with Johnny Cake Road.<sup>106</sup> Another significant natural community is located around Old Swamp Road south along the Town's southern boundary with the Town of Lyme and then extends west to the Town's boundary with the Town of Clayton.<sup>107</sup> Kents Creek itself provides a habitat for aquatic macroinvertebrates and other organisms being monitored by the NYSDEC.<sup>108</sup> More information about these NYS Significant Coastal Fish and Wildlife Areas is discussed in Section 2.3.1, and other important fish and wildlife habitats are discussed in Section 2.3.2.

Other important non-listed habitats are the wooded riparian areas along stream corridors where the federally listed, endangered Indiana bat (*Myotis sodalis*) migrates during the summer. These bats roost under loose tree bark of dead or dying trees during the summer months.<sup>109</sup> According to the same source, the bat hibernates in caves and mines during the winter. The Indiana bat also forages on flying insects, often considered pests, in or along the edges of forested riparian areas and the waterbodies of Cape Vincent.<sup>110</sup> Fragmentation and disruption of this habitat can have a negative effect on the already dwindling bat population.<sup>111</sup> Another bat listed on the federally listed Endangered Species Act (2015) as a Threatened is the northern long-eared bat (NLEB)

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<sup>105</sup> NYSDEC. (n.d.) Environmental Resource Mapper. (Natural resource and environmental database). Accessible from <https://gisservices.dec.ny.gov/gis/erm/> (Accessed January 2022).

<sup>106</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>107</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>108</sup> NYSDEC. (n.d.) DEC Info Locator. Accessible from <https://gisservices.dec.ny.gov/gis/dil/> (Accessed January 2022).

<sup>109</sup> US F&WS. (2006). *Threatened and Endangered Species - Indiana Bat (Myotis sodalis)*. Accessible from <https://www.fws.gov/midwest/endangered/mammals/inba/pdf/inbafactsht.pdf> (Accessed January 2022).

<sup>110</sup> US F&WS. (2006). *Threatened and Endangered Species - Indiana Bat (Myotis sodalis)*. Accessible from <https://www.fws.gov/midwest/endangered/mammals/inba/pdf/inbafactsht.pdf> (Accessed January 2022).

<sup>111</sup> US F&WS. (2006). *Threatened and Endangered Species - Indiana Bat (Myotis sodalis)*. Accessible from <https://www.fws.gov/midwest/endangered/mammals/inba/pdf/inbafactsht.pdf> (Accessed January 2022).



(*Myotis septentrionalis*)<sup>112</sup> that were frequently detected in the area. This bat, like many bats, feeds at dusk on moths, flies, beetles, and other insects within the understory of forested areas. According to the same source, these bats hibernate in caves and mines during the winter months and roost underneath bark, in cavities or in crevices of both live and dead trees during the summer months. According to the NYSDEC, any tree large enough to have a cavity or has loose bark may be utilized by this bat for roosting or rearing young.

### **2.3.1 NYS Significant Coastal Fish and Wildlife Habitat Areas**

Within the WRA, the St. Lawrence River and eastern Lake Ontario contain five State-designated Significant Coastal Fish and Wildlife Habitats as depicted in Map 4 Sensitive Environmental Features. Each of these areas have irreplaceable ecosystems and are unique to the North Country Region. In assessing these five habitats, the status of present species was examined based on the listing as rare (R), endangered (E), threatened (T), or of special concern (SC).<sup>113</sup> Habitat assessment forms for the five designated areas are included in Appendix H.

The five designated habitat areas in the Town of Cape Vincent are described by the Department of State OPD Gateway mapper below. These habitat areas are based on the dataset containing the boundaries of the Significant Coastal Fish and Wildlife Habitats identified by the NYS DOS to satisfy the requirements of Article 42 Executive Law and to implement regulations in 19 NYCRR 602.<sup>114</sup> The boundary is associated with text that details the “living resource values” causing the designation and this text is captured below for each of the habitats.<sup>115</sup>

#### 1. Fox Island – Grenadier Island Shoals:

This island and the shoals’ habitats are located southwest of the Village, in Lake Ontario, from Fox Island out to the shores of Cape Vincent and to the shores of Grenadier Island. According to the Gateway mapper:<sup>116</sup>

*“An extensive area of sheltered, shallow, and open water with beds of submergent aquatic vegetation; unusual for Lake Ontario, but somewhat common in Jefferson County. No endangered, threatened, or special concern species are known to reside in the area. An*

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<sup>112</sup> US F&WS. (2015). *Northern long-eared bat (Myotis septentrionalis)*. Accessible from <https://www.fws.gov/midwest/endangered/mammals/nleb/nlebfactsheet.html> (Accessed January 2022).

<sup>113</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>114</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>115</sup> NY Natural Heritage Program. NYSDEC. (2014). *Ecological Communities of New York State, Second Edition*. A revised and expanded edition of C. Reschke’s *Ecological Communities of New York State*. Accessible from <https://www.nynhp.org/documents/39/ecocomm2014.pdf> (Accessed January 2022).

<sup>116</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

*important recreational and commercial fishing area in eastern Lake Ontario, of regional significance. One of the major concentration areas for migrant and wintering waterfowl in the Eastern Ontario Plain ecological subzone. Irreplaceable.*<sup>117</sup>

2. Grenadier Island:

This island is located southwest of the Village, in Lake Ontario. According to the Gateway mapper:<sup>118</sup>

*"A very large, isolated, and undisturbed island, rare for the Great Lakes Plain ecological region. Northern harrier (T) [Circus cyaneus], and short-eared owl (E) [Asio flammeus], upland sandpiper (T) [Bartramia longicauda], vesper sparrow (SC) [Pooecetes gramineus], and grasshopper sparrow (SC) [Ammodramus savannarum] nesting area. No significant wildlife related human uses of the area. An important area for wintering raptors in the Great Lakes Plain ecological region. Irreplaceable."*<sup>119</sup>

3. Wilson Bay and Marsh:

This bay and marsh are located on the western part of the Town's boundary including the waters North of Dablen Point to Wilson Point. According to the Gateway mapper:<sup>120</sup>

*"One of the largest, undisturbed, scrub-shrub and forested wetlands in Lake Ontario; rare in the ecological subregion. Blanding's turtles (T) [Emydoidea blandingii] reside in the area; also, black terns (E) [Chlifonia niger] nesting. An important waterfowl hunting area in the Thousand Islands region. Regionally significant birdwatching area. Largest black tern colony in New York State; a major spawning and nursery area for northern pike in eastern Lake Ontario."*<sup>121</sup>

4. St. Lawrence River Shoreline Bays:

This stretch of shoreline bays is along the northeastern Town boundary of the St. Lawrence River towards Clayton, which includes the following three bays: 1) waters along the shores of Ross Lane to Peas Bay Drive; 2) water along the shores of Prudhon Lane to Route 12E, to

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<sup>117</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>118</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>119</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>120</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>121</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

Route 7/ Higgins Point Road (Millens Bay); and 3) waters along the shores of Beadles Point Road E, Beadles Point Road, and Route 12E eastbound. According to the Gateway mapper:<sup>122</sup>

*"Several shallow shoreline bays with dense beds of aquatic vegetation; rare in Jefferson County based on protected nature of the bays. No endangered, threatened, or special concern species are known to reside in the area. The St. Lawrence muskellunge fishery, which is dependent on these bays, attracts anglers from across New York State and beyond. These bays comprise statewide significance spawning and nursery areas for muskellunge [Esox masquinongy] on the St. Lawrence River. Irreplaceable."*<sup>123</sup>

#### 5. Carleton Island – Featherbed Shoals:

This island and shoals are located to the east of the Village in the St. Lawrence River. According to the Gateway mapper:<sup>124</sup>

*"An extensive area of riverine littoral zone, with beds of submergent aquatic vegetation ; unusual in the Great Lake Plain, but somewhat common in the Eastern Ontario ecological subzone. No endangered, threatened, or special concern species are known to reside in the area. The most popular walleye fishing area in the Thousand Islands region. One of about 5 major concentration areas for migrant waterfowl in the Eastern Ontario Plain ecological subzone. Irreplaceable."*<sup>125</sup>

### **2.3.2 Other important fish and wildlife habitat**

The New York State Natural Heritage Program uses the Ecological Communities of New York State classification system to identify high quality natural communities and in doing so, raise awareness of biodiversity significance. The Cape Vincent WRA includes ecological communities characterized by Great Lakes and St. Lawrence River systems,<sup>126</sup> including terrestrial grasslands and woodlands, wetlands, and transitioning into shoreward and deepwater aquatic communities.<sup>127</sup> Shoreward

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<sup>122</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>123</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>124</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

<sup>125</sup> NY Natural Heritage Program. NYSDEC. (2014). *Ecological Communities of New York State, Second Edition*. A revised and expanded edition of C. Reschke's Ecological Communities of New York State. Accessible from <https://www.nynhp.org/documents/39/ecocomm2014.pdf> (Accessed January 2022).

<sup>126</sup> NY Natural Heritage Program. NYSDEC. (2014). *Ecological Communities of New York State, Second Edition*. A revised and expanded edition of C. Reschke's Ecological Communities of New York State. Accessible from <https://www.nynhp.org/documents/39/ecocomm2014.pdf> (Accessed January 2022).

<sup>127</sup> NY Natural Heritage Program. NYSDEC. (2014). *Ecological Communities of New York State, Second Edition*. A revised and expanded edition of C. Reschke's Ecological Communities of New York State. Accessible from <https://www.nynhp.org/documents/39/ecocomm2014.pdf> (Accessed January 2022).

waterside areas include local bays, islands, or barrier bars, and typically support large areas of aquatic macrophytes.<sup>128</sup> Another shoreward community is along exposed shoals common along windswept shores of islands and points.<sup>129</sup> The deepwater communities of the St. Lawrence River and Lake Ontario are in open water. These aquatic communities provide habitat for fish, macroinvertebrates, plankton, and macrophytes. With respect to the Great Lakes ecosystem, Cape Vincent's shoreline contains primarily areas with shallow soils on flat limestone, known as alvars.<sup>130</sup> Alvars known to occur in Jefferson County include wet and dry alvars as well as grassland and shrubland alvars. These shoreline areas in the WRA may also include emergent and wet meadow/shrub marshes, marsh headwater streams, winter-stratified monomictic eutrophic ponds, and/or sinkhole wetlands.<sup>131</sup>

Several terrestrial habitats, known as macrogroups by the Northeastern Terrestrial Wildlife Habitat Classification System, occur within the interior portions of the WRA. These macrogroups include: Central Oak-Pine, Northern Hardwood and Conifers, Central Hardwood Swamp, Northeast Floodplain Forest, Northern Swamp, Glade and Savanna, Disturbed Land/Pioneer, Emergent Marshes, Wet Meadow/Shrub Marsh. In addition to these natural habitat areas, the following macrogroups also occur and offer habitat: Agricultural, Maintained Grasses and Mixed Cover, and Urban/Suburban.<sup>132</sup> More information on the ecological integrity and landscape condition of these macrogroups at a statewide level can be found in the New York State Wildlife Action Plan. Other general inland communities found across the Town of Cape Vincent, as mapped by the NYSDEC Environmental Resource Mapper, include woodlands and forested uplands.<sup>133</sup>

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<sup>128</sup> NY Natural Heritage Program. NYSDEC. (2014). *Ecological Communities of New York State, Second Edition*. A revised and expanded edition of C. Reschke's *Ecological Communities of New York State*. Accessible from <https://www.nynhp.org/documents/39/ecocomm2014.pdf> (Accessed January 2022).

<sup>129</sup> NY Natural Heritage Program. NYSDEC. (2014). *Ecological Communities of New York State, Second Edition*. A revised and expanded edition of C. Reschke's *Ecological Communities of New York State*. Accessible from <https://www.nynhp.org/documents/39/ecocomm2014.pdf> (Accessed January 2022).

<sup>130</sup> NY Natural Heritage Program. NYSDEC. (2014). *Ecological Communities of New York State, Second Edition*. A revised and expanded edition of C. Reschke's *Ecological Communities of New York State*. Accessible from <https://www.nynhp.org/documents/39/ecocomm2014.pdf> (Accessed January 2022).

<sup>131</sup> NYSDEC. (2015). *New York's Wildlife Action Plan: 2015 Plan Update*. [Terrestrial Habitat Chapter] (SWAP). Accessible from [https://www.dec.ny.gov/docs/wildlife\\_pdf/swapterrhab1.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/swapterrhab1.pdf) (Accessed January 2022). Please see other chapters from <https://www.dec.ny.gov/animals/7179.html>.

<sup>132</sup> NYSDEC. (2015). *New York's Wildlife Action Plan: 2015 Plan Update*. [Terrestrial Habitat Chapter] (SWAP). Accessible from [https://www.dec.ny.gov/docs/wildlife\\_pdf/swapterrhab1.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/swapterrhab1.pdf) (Accessed January 2022). Please see other chapters from <https://www.dec.ny.gov/animals/7179.html>.

<sup>133</sup> NYSDEC. (n.d.) Environmental Resource Mapper. (Natural resource and environmental database). Accessible from <https://gisservices.dec.ny.gov/gis/erm/> (Accessed January 2022).

*Grassland habitat*

The St. Lawrence Valley, which includes the Cape Vincent WRA, is an important grassland area in the northeastern United States, according to the U.S. Fish and Wildlife Service.<sup>134</sup> As such, the area has been designated as the St. Lawrence Wetland and Grassland Management District (WGMD). The goal of the St. Lawrence WGMD is to collaborate with and assist private landowners and other stakeholders in researching, restoring, and conserving wildlife populations and habitats, especially for waterfowl, within its 2-million-acre service area.<sup>135</sup> Similarly, Ducks Unlimited was awarded funds through the Great Lakes Restoration Initiative in 2012 for protecting approximately 182 acres of grassland habitat owned by NYSDEC and TILT in nearby communities in the St. Lawrence River Valley.<sup>136</sup>

The 2012 Comprehensive Plan discusses the endangered short-eared owl (*Asio flammeus*) that is known to overwinter in the grasslands of Jefferson County.<sup>137</sup> These populations have been observed, confirmed, and monitored by the NYSDEC. The number of overwintering owls in Cape Vincent is impressive. These owls also prey on meadow voles and other small mammals using or residing in the grasslands.<sup>138</sup> According to the same source, substantial alterations or loss of grasslands could impact the vole population cycles and affect the food source of the short-eared owls. Other fauna of these northern grasslands typically include: sparrow species, the golden eagle (*Aquila chrysaetos*), other owls and raptors, shorebirds, waders, bitterns, nightjars, songbirds or other passerine birds (e.g. warblers), woodpeckers, meadowlarks, grouse, amphibians (e.g. frogs), reptiles (e.g. turtles), rodents, shrews, rabbits, weasels, moths, butterflies, and beetles.<sup>139</sup> More information on birds and avian migration is available in the next subsection below (*Coastal avian migratory bird corridor*).

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<sup>134</sup> US F&WS. (2021). *St. Lawrence Wetland and Grassland Management District*. Accessible from <http://npshistory.com/brochures/nwr/st-lawrence-2000.pdf> (January 2022).

<sup>135</sup> US F&WS. (2021). *St. Lawrence Wetland and Grassland Management District*. Accessible from <http://npshistory.com/brochures/nwr/st-lawrence-2000.pdf> (January 2022).

<sup>136</sup> US F&WS. (2019). *US Fish and Wildlife Service announces \$850,000 for wetlands and wildlife habitat under Great Lakes Restoration Initiative*. Newsroom. Accessible from <https://www.fws.gov/midwest/news/538.html> (January 2022).

<sup>137</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>138</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>139</sup> NYSDEC. (2015). *New York's Wildlife Action Plan: 2015 Plan Update*. [Terrestrial Habitat Chapter] (SWAP). Accessible from [https://www.dec.ny.gov/docs/wildlife\\_pdf/swapterrhab1.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/swapterrhab1.pdf) (January 2022). Please see other chapters from <https://www.dec.ny.gov/animals/7179.html>.

### *Coastal avian migratory bird corridor*

The 2012 Joint Comprehensive Plan highlights the unique position the Town of Cape Vincent has in providing bird migration refuge within the northeast corner of Lake Ontario and adjacent to the head of the St. Lawrence Seaway.<sup>140</sup> The plan states, "*the east coast of Lake Ontario naturally channels the spring and fall migration of waterfowl,*" including geese and ducks. Cape Vincent is part of the avian migratory Atlantic Flyway, stretching from Wilson Bay where the Lake drains into the River to Chippewa Bay.<sup>141</sup> The Cape Vincent shoreline is an important waterfowl migratory, resting, and foraging areas in the avian Atlantic Flyway and is adjacent to a former Important Bird Area (IBA), Wolfe Island, Ontario.<sup>142</sup> Thus, Cape Vincent is a coastal area with large concentrations of birds. The breakwater offshore from the Village is a popular resting area for migratory birds.<sup>143</sup> The community has identified bird watching as important to local tourism and the economy of Cape Vincent, based on comments received during the S.W.O.T. analysis for the 2017 Comprehensive Plan Update.

As noted in the 2012 Comprehensive Plan, these birds also include large concentration of raptors (e.g., e.g., eagles, osprey, hawks, falcons) and songbirds. In addition, many other bird groups have been observed and recorded in the community or in the nearby area, which include: flycatchers; egrets, pelicans, herons, and bitterns; crows and jays; finches; coots, rails, and cranes; shorebirds; thrushes; bluebirds; owls; swallows; kingfishers; terns; herons; chickadees; swallows and towhees; wood-warblers; blackbird and orioles; kingfishers; cuckoos; gnatcatchers; vireos; creepers; wrens; waxwings; hummingbird and swift; loons; nightbirds; cormorants; woodpeckers and starlings; kinglets; mockingbirds and thrashers; grouse, pheasants, and turkeys; cardinal and bunting; shrikes; larks; old world sparrows; wrens; and pigeons and doves.<sup>144</sup>

### *Fish habitat*

The St. Lawrence River provides a wide variety of habitats for warm water fish species and opportunities for fishing adventures for inexperienced and professional anglers. Smallmouth and largemouth bass, northern pike, walleye, yellow perch, bullheads, and various types of panfish<sup>145</sup>

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<sup>140</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>141</sup> Audubon Society. (n.d.) *Upper St. Lawrence / Thousand Island New York*. Accessible at <https://www.audubon.org/important-bird-areas/upper-st-lawrencethousand-islands> (Accessed January 2022).

<sup>142</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>143</sup> Waterfront Advisory Committee. (April 12, 2018). *Review of surface water uses*. (in-person meeting with EDR).

<sup>144</sup> NYSDEC. (2014). Nature Explorer. (Biodiversity database). Available from: <https://www.dec.ny.gov/natureexplorer/app/> (Accessed January 2022).

<sup>145</sup> Department of Environmental Conservation, (2021). *Fishing the St. Lawrence River*. Available from: <https://www.dec.ny.gov/outdoor/29956.html> (Accessed October 2021).

are all common to the River. According to the NYSDEC, “protected bays provide good fishing for the small boat angler, while area docks and piers offer action for shore fishermen.”<sup>146</sup> Cape Vincent contains productive, protected bays that provide ice fishing opportunities during the winter months for yellow perch, northern pike, and a variety of panfish.<sup>147</sup>

The 2012 Joint Comprehensive Plan notes that “fishing has had a positive effect on attracting new residents to Cape Vincent. Many retirees have purchased properties along Cape Vincent’s waterfronts because of the very positive memories they had as children fishing with family and friends when they visited or summered in Cape Vincent. These experiences were one of the reasons why they kept coming back for years and why some have chosen to retire here as well.”<sup>148</sup> Some in the community have noted the decrease in fish populations as a threat to the community, based on comments received during the S.W.O.T. analysis for the 2017 Comprehensive Plan Update. Smallmouth bass is the most highly prized species of the area and is thus very important to sportfishing and associated businesses.<sup>149</sup> Northern pike supports a substantial winter sport fishery.<sup>150</sup> According to the same source, the muskellunge fishery is most noteworthy in the autumn, as evidenced by the presence of guides and sportsmen during that season. The presence of Cape Vincent Fisheries Aquarium substantiates the importance of the fisheries resources in this area of the Lake and River. The aquarium provides both educational opportunities and informational sources concerning the area’s fish populations.

### **2.3.3 Wetlands and habitats**

Wetlands, swamps, marshes, vernal pools, and similar areas contain soil saturated by surface or ground water that is sufficient to support distinctive vegetative habitats. Wetlands serve an important function in providing food and shelter for a variety of species, improving water quality, retaining floodwaters, and slowing the speed of moving water. Wetlands also filter stormwater runoff by allowing sediment and smaller plant debris, along with pollutants, to settle out of the

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<sup>146</sup> NYSDEC, (2021). *Fishing the St. Lawrence River*. Available from: <https://www.dec.ny.gov/outdoor/29956.html> (Accessed October 2021).

<sup>147</sup> NYSDEC, (2021). *Fishing the St. Lawrence River*. Available from: <https://www.dec.ny.gov/outdoor/29956.html> (Accessed October 2021).

<sup>148</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>149</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed August 16 2022). Verification from Waterfront Advisory Committee in 2018/2019.

<sup>150</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed August 16 2022). Verification from Waterfront Advisory Committee in 2018/2019.

water while clearer water runs off the wetland surface. There are many small areas of State-designated freshwater wetlands throughout the WRA, with the largest wetland along Wilson Bay. Existing wetlands, floodplains, and hydric soils are in Map 6 Wetlands and Floodplains. Surficial geology is in Map 7 Surficial Geology.

Cape Vincent contains State regulated freshwater wetlands and significant aqueous natural communities, as designated by the NYSDEC.<sup>151</sup> According to the same source, wetlands classified as Classes 2-4 are within the WRA near Kents Creek and the Mud Bay area as well as near Wilson Bay in Lake Ontario; state regulated wetlands are also in the center of Grenadier Island, over three-quarters of Fox Island, and at the mouth of Fox Creek. Freshwater forested and shrub wetlands and emergent wetlands are present in the WRA and in other parts of the Town.<sup>152</sup> A State regulated freshwater pond is present on Grenadier Island.<sup>153</sup> There are also areas of federal jurisdictional wetlands, which are regulated by the US ACOE. The US ACOE regulates the discharge of dredged or fill materials into navigable waters of the US, including federal wetlands under Section 404 of the Clean Water Act.

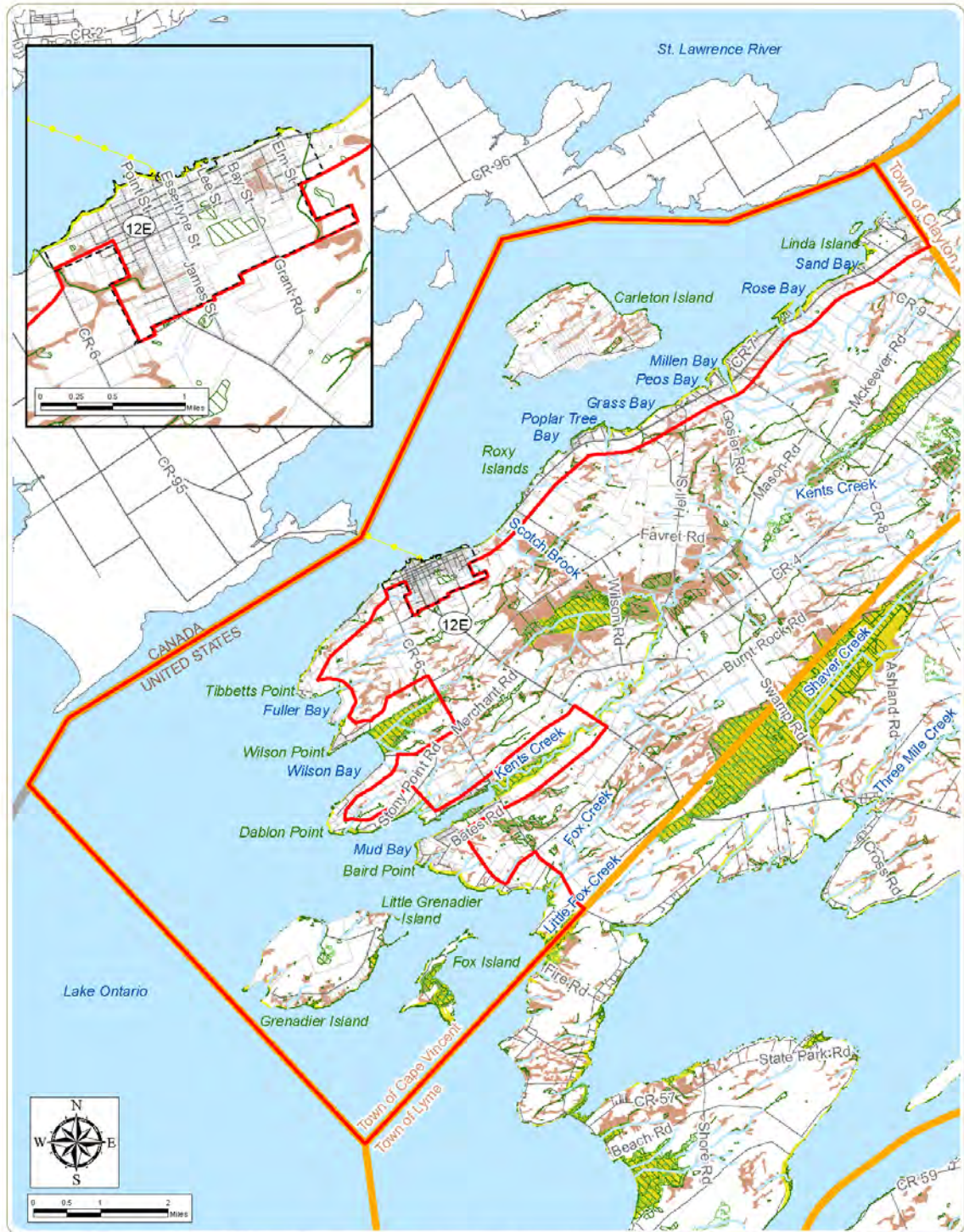
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<sup>151</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed August 16 2022). Verification from Waterfront Advisory Committee in 2018/2019.

<sup>152</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed August 16 2022). Verification from Waterfront Advisory Committee in 2018/2019.

<sup>153</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed August 16 2022). Verification from Waterfront Advisory Committee in 2018/2019.





**Cape Vincent Local Waterfront Revitalization Plan**

Cape Vincent, Jefferson County, New York

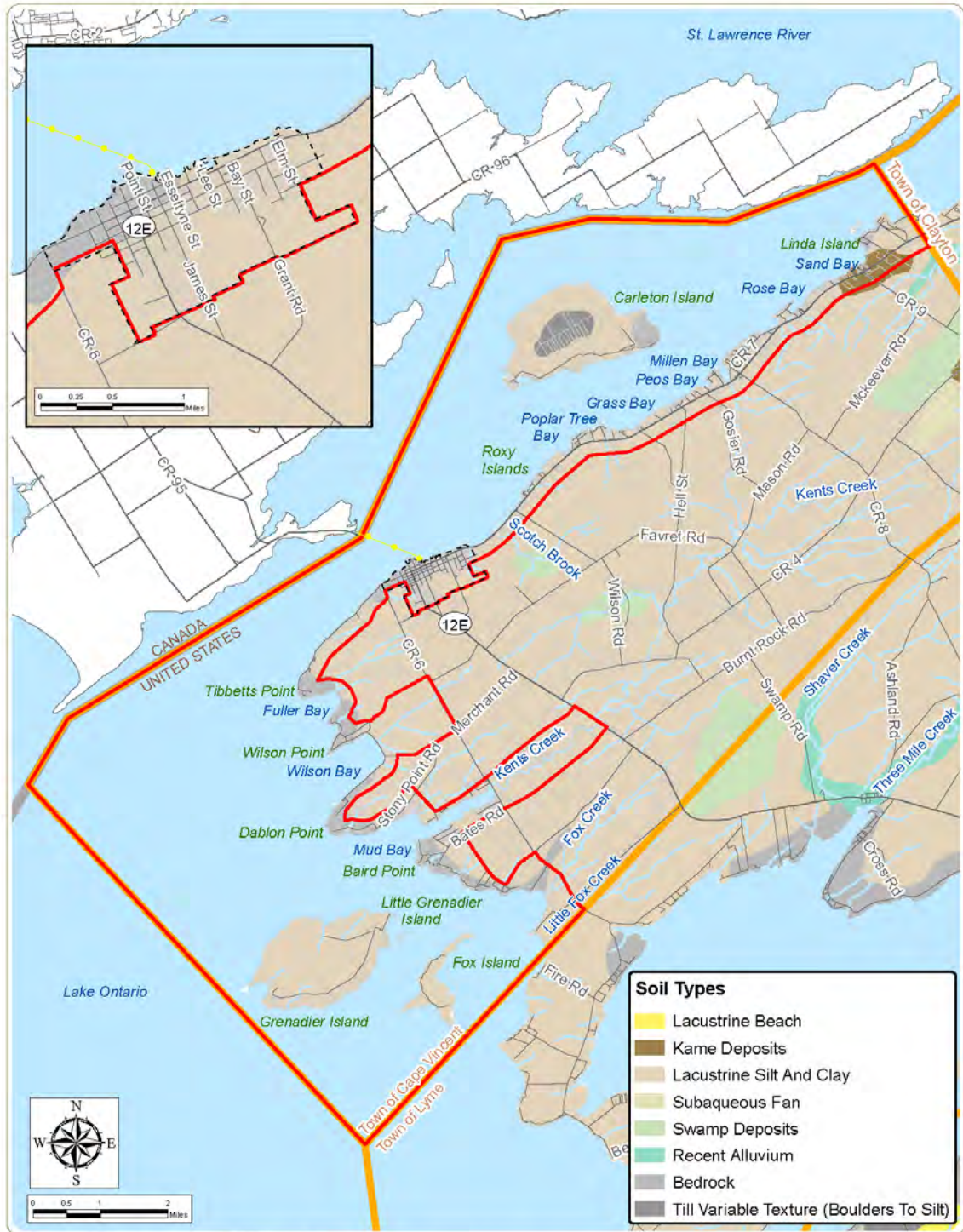
**Map 6: Wetlands and Floodplains**

Notes: 1. Basemap: ESRI Street Map North America, 2012. 2. This map was generated in ArcMap on March 25, 2021.

- Village of Cape Vincent
- Ferry Route
- Proposed WRA
- 100-Year Floodplain (A/AE Zones)
- DEC Wetland
- Federal Wetland
- Hydric Soil
- Parcel Boundary
- Town Boundary
- Canada-US Boundary



Town and Village of Cape Vincent Local Waterfront Revitalization Program



**Cape Vincent Local Waterfront Revitalization Plan**

Cape Vincent, Jefferson County, New York

**Map 7: Surficial Geology**

Notes: 1. Basemap: ESRI Street Map North America, 2012. 2. This map was generated in ArcMap on March 25, 2021. 3. Surficial Geology based on NYS Geological Survey data.

- Village of Cape Vincent
- Ferry Route
- Proposed WRA
- Parcel Boundary
- Town Boundary
- Canada-US Boundary



### 2.3.4 Commercial fishing and aquaculture

As noted in subsection 2.2.7 *Water dependent uses*, no large-scale commercial fishing operations exist in the Cape Vincent HMA or WRA. Charter boats for small-scale recreational fishing operations have used the WRA for their base operations. No aquaculture operations are currently present in the HMA or WRA.

The Town and Village of Cape Vincent's ecological and economic history relates to fishing since the time that it was first settled in the early 19th Century.<sup>154</sup> Initially commercial fishing predominated, but as commercial species declined (e.g., lake trout (*Salvelinus namaycush*), whitefish (*Coregonus clupeaformis*), and lake herring (*Coregonus artedii*)), recreational angling for smallmouth bass (*Micropterus dolomieu*), muskellunge (*Esox* sp.) and other warm water species flourished.<sup>155</sup> Recreational fishing became an important element of the tourism-based economy by the close of the 19th century.<sup>156</sup>

Today's recreational fishing is linked to stocked fish. New York State has a stocking program and reports annually on the fish stocked in the State's waters, which surround Cape Vincent. Fish are stocked into tributaries of Lake Ontario, Lake Ontario itself, and the St. Lawrence River upstream of Alexandria Bay.<sup>157</sup> In the region, there are two hatcheries: the Adirondack NYSDEC hatchery, and the Cape Vincent Fisheries Station. The Cape Vincent station, in collaboration with the Village of Cape Vincent and the Lake Ontario Fisheries Coalition, incubated and reared walleye eggs collected from adults in Mud Bay from 2005-2008; however, no walleye eggs were incubated or reared from 2009 to 2020 due to the lack of available staff.<sup>158</sup>

Stocked fish for the 2020 calendar year within the Jefferson County inland communities may include: brown trout (*Salmo trutta*), steelhead (*Oncorhynchus mykiss*), chinook salmon (*Oncorhynchus tshawytscha*), walleye (*Sander vitreus*), tiger muskellunge (*Esox masquinongy X E.*

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<sup>154</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. P21. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>155</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. P21. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>156</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*. P21. Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>157</sup> NYSDEC Bureau of Fisheries, Lake Ontario Unit and St. Lawrence River Unit. (2020). *2020 Annual Report*. Great Lakes Fishery Commission's Lake Ontario Committee. Accessible from [https://www.dec.ny.gov/docs/fish\\_marine\\_pdf/2020ontarioreport.pdf](https://www.dec.ny.gov/docs/fish_marine_pdf/2020ontarioreport.pdf) (Accessed January 2022).

<sup>158</sup> NYSDEC Bureau of Fisheries, Lake Ontario Unit and St. Lawrence River Unit. (2020). *2020 Annual Report*. Great Lakes Fishery Commission's Lake Ontario Committee. Accessible from [https://www.dec.ny.gov/docs/fish\\_marine\\_pdf/2020ontarioreport.pdf](https://www.dec.ny.gov/docs/fish_marine_pdf/2020ontarioreport.pdf) (Accessed January 2022).

*lucius*), lake trout, brook trout (*Salvelinus fontinalis*), and landlocked, or Atlantic, salmon (*Salmo salar*).<sup>159</sup> According to the same source, fish stocked in the waters of Lake Ontario and the upper St. Lawrence River for 2020 may include: Atlantic salmon, bloater (*Coregonus hoyi*), brown trout, chinook salmon, coho salmon (*Oncorhynchus kisutch*), lake sturgeon (*Acipenser fulvescens*), lake trout, rainbow trout (*Oncorhynchus mykiss*), and walleye. Based on commercial fishing harvest reported between 2000-2020, fish present in eastern Lake Ontario could include more species - such as yellow and white perch (*Morone americana* and *Perca flavescens*, respectively), brown bullhead (*Ameiurus nebulosus*), rock bass (*Ambloplites rupestris*), sunfishes (e.g., pumpkinseed (*Lepomis gibbosus*), bluegill (*L. macrochirus*)), black crappie (*Pomoxis nigromaculatus*), and cisco (*Coregonus artedi*) – that may enter the waters near Cape Vincent.<sup>160</sup>

## **2.4 Resiliency to Flooding and Erosion**

In recent years, shoreline communities along Lake Ontario, the St. Lawrence River, and across the Great Lakes, have experienced significant water level variability, with extreme flood and low-water level events occurring over shorter periods of time. This has led to issues of flooding and erosion for communities like Cape Vincent. Strengthening shoreline resiliency can help communities prepare for change due to extreme water level variability (i.e., high and low water events) along Lake Ontario and the St. Lawrence River. Resilient approaches to shoreline management, land use, and development can reduce the recurrence of damages associated with changing water levels. In addition to this section’s information about existing flooding and erosion hazards, natural protective features, and regulatory tools and actions to promote resiliency, this LWRP also includes policies to promote resiliency in Section III and proposed projects that promote resiliency in Section IV (see *Project 4.3.8 Create Resilient Wastewater and Stormwater Systems*).

### **2.4.1 Flooding and erosion hazards**

#### *Flood hazards*

Special Flood Hazard Areas represent areas that have a 1-percent or greater chance of being flooded each year (these areas are also referred to as the base-flood or 100-year flood zones).<sup>161</sup> The most recently formally mapped Special Flood Hazard Areas for Flood Insurance Rate Maps

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<sup>159</sup> NYSDEC Bureau of Fisheries, Lake Ontario Unit and St. Lawrence River Unit. (2020). *2020 Annual Report*. Great Lakes Fishery Commission’s Lake Ontario Committee. Accessible from [https://www.dec.ny.gov/docs/fish\\_marine\\_pdf/2020ontarioreport.pdf](https://www.dec.ny.gov/docs/fish_marine_pdf/2020ontarioreport.pdf) (Accessed January 2022).

<sup>160</sup> NYSDEC Bureau of Fisheries, Lake Ontario Unit and St. Lawrence River Unit. (2020). *2020 Annual Report*. Great Lakes Fishery Commission’s Lake Ontario Committee. Accessible from [https://www.dec.ny.gov/docs/fish\\_marine\\_pdf/2020ontarioreport.pdf](https://www.dec.ny.gov/docs/fish_marine_pdf/2020ontarioreport.pdf) (Accessed January 2022).

<sup>161</sup> FEMA. (n.d.) Glossary of Terms Frequently Used by FEMA. Available at <https://www.fema.gov/about/glossary> (Accessed April 2022).

were made effective April 17, 1985 for the Village of Cape Vincent and June 2, 1992 for the Town of Cape Vincent. Review of FEMA flood zones indicate that portions of the floodplains associated with Zones A and AE are within the WRA (see Map 6). These areas are subject to a 1% annual chance of flooding (also referred to as the 100-year flood zone).<sup>162</sup> Zone A areas have not been analyzed in detail and lack the base flood elevation data available for Zone AE areas.<sup>163</sup>

FEMA is in the process of creating revisions to the national flood hazard data, incorporating VE Zones, or areas of high velocity waters within the 100-year flood limits that include wave effects 3 feet or greater.<sup>164</sup> Working drafts of these maps are available on FEMA's website,<sup>165</sup> and include all coastal areas within the Town and Village of Cape Vincent. Due to the exposure of Cape Vincent's shoreline to eastern Lake Ontario, coastlines along the Lake and the mouth of the St. Lawrence River are mapped as VE zones.

In recent years, flooding has been and continues to be a concern for residents. According to a 2018 Fact Sheet on Jefferson County by FEMA's Great Lakes Coastal Flood Study, four National Flood Insurance Program claims have been made for Town properties, and three claims have been made for Village properties.<sup>166</sup> According to the same source, a total of nearly \$20,000 has been paid for these claims by FEMA. These figures do not capture the claims and payments from the 2019 flooding. Flooding in Lake Ontario and the St. Lawrence River had an enormous impact on the Town and Village's waterfront areas from May 2, 2017, to August 6, 2017, and again in the spring and summer of 2019. Specific challenges from these high-water events included damage to the Village sewer system along Market Street and shoreline facilities.<sup>167</sup> During these events, the combination of high water and extensive wave action overtopped the Village's docks, seawalls, sidewalks, and boat ramps, which caused safety issues and rendered these facilities temporarily unusable. According to the same source, the sewer system on Market Street was submerged and weakened, which disrupted the infiltration of water into the sewer line and caused back-ups and unsanitary conditions for nearby residences and businesses. Flooding and significant fluctuations in water levels remains a major issue of local concern. In response Cape Vincent has been working with New York State and their community's engineering consultants

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<sup>162</sup> FEMA. (n.d.) Glossary of Terms Frequently Used by FEMA. Available at <https://www.fema.gov/about/glossary> (Accessed April 2022).

<sup>163</sup> FEMA. (n.d.) Glossary of Terms Frequently Used by FEMA. Available at <https://www.fema.gov/about/glossary> (Accessed April 2022).

<sup>164</sup> FEMA. (2017.) Jefferson County Flood Risk Review Meeting. (p17) Presentation available at [https://www.greatlakescoast.org/pubs/presentations/GreatLakes\\_FRR\\_JEFFERSON\\_FINAL.pdf](https://www.greatlakescoast.org/pubs/presentations/GreatLakes_FRR_JEFFERSON_FINAL.pdf) (Accessed April 2022).

<sup>165</sup> FEMA Preliminary Coastal Work Maps and FIRMS for Lake Erie and Lake Ontario. (2021) Available at: <https://www.arcgis.com/home/webmap/viewer.html?webmap=e8c229a3c01448ebb75b7fde702f72e0> (Accessed January 2022).

<sup>166</sup> FEMA Great Lakes Coastal Flood Study. (2018). *Jefferson County Fact Sheet*. Available at: [http://greatlakescoast.org/pubs/presentations/JeffersonCounty\\_FactSheet.pdf](http://greatlakescoast.org/pubs/presentations/JeffersonCounty_FactSheet.pdf) (Accessed October 2021).

<sup>167</sup> Bernier, Carr, and Associates. (February 2020). *Village of Cape Vincent Market Street Sewer Replacement*. Preliminary Engineering Report.

to identify solutions. Funding through the REDI program for projects to address this sewer issue at Market Street and other damages are described in subsection 2.4.1 *Summary of existing plans, projects, and initiatives*, and proposed projects are described in Section IV.

#### *Erosion hazards*

Although no mapped Coastal Erosion Hazard Areas are in the Town or in the Village of Cape Vincent, erosion can occur along shorelines due to heavy wave action, inland along steep slopes (Map 4), or within certain soil types (Map 7).

#### **2.4.2 Natural protective features**

Natural protective features include nearshore areas, beaches, dunes, bluffs, or wetlands.<sup>168</sup> These features help improve resiliency by safeguarding coastal lands and property from damage, reducing the danger to human life, and limiting the damage resulting from flooding and erosion in nearshore areas. They also add ecological value by buffering damage from natural events to developed areas, specifically by absorbing storm energy and flood waters.

Natural protective features that occur within the WRA are depicted in Map 4 and Map 6. Within the Cape Vincent WRA, these features include 68 conservation easements,<sup>169</sup> steep slopes, and significant wetlands. Conservation easements are primarily located on Carleton Island and Grenadier Island and are managed through the Thousand Islands Land Trust and the Nature Conservancy. There are inland easements administered through the USDA Natural Resources Conservation Service Wetlands Reserve Program. Additionally, there are two steep slopes located in the area northwest and southwest of Mud Bay (Map 4). There are two prominent wetlands extending inland from Wilson and Mud Bay, smaller wetlands closer inland surrounding Fox Creek and Fox Island, and very minor wetlands extending up the tributaries from both Ontario Lake and the St. Lawrence River. More information on wetlands is discussed in 2.3.3 *Wetlands and habitats*.

#### **2.4.2 Regulations and actions to promote resiliency**

Steep slopes, wetlands, and floodplains are regulated through the Village and Town zoning laws, including the Waterfront Overlay District and Site Plan Review in the Village and General Zoning Regulations, Site Plan Review and Subdivision regulations in the Town (see Appendix C). The Village regulates floodplain development through Article 4, Section 4.5 of Village Zoning Law, which requires review of new development and redevelopment for compatibility with the LWRP policies. Article 6, Section 6.6 of Village Site Plan Review Criteria includes consideration of susceptibility to flooding and erosion and states that development shall conform to the policies of the LWRP. Section 6 of the Town's General Zoning Regulations regulates drainage and

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<sup>168</sup> NYSDEC. (2021). CEHA: Definitions. Available at: <https://www.dec.ny.gov/lands/86559.html> (Accessed August 2022).

<sup>169</sup> Conservation easement locations current as of 2018, managed through TILT or USDA-NRCS.

stormwater to prevent flooding and control of erosion and sedimentation. Site Plan Review also regulates drainage, flooding and erosion, and sedimentation in the four zoning districts along the Town's waterfront. These include the Lake Front District, Lake Recreation District, River Front District, and Island District. Article 5, General Design Standards of the Town's Subdivision Law address development in floodplains (Subsection 555) and development of steep slopes greater than 15% which requires erosion and sedimentation control (Subsection 560). Both communities further require floodplain and erosion control through the SEQRA process prior to Site Plan, Subdivision, Special Use Permits, or other project approvals.

Coastal erosion is addressed by the NYS Coastal Erosion Hazard Areas Law of 1981, ECL Article 34, which sets up a development permit system and requires NYSDEC to map all Coastal Erosion Hazard Areas. NYSDEC, however, has stated that they do not have plans to identify Coastal Erosion Hazard Areas in the Village of Cape Vincent. Because the Village of Cape Vincent has identified the aforementioned areas as erosion hazard areas of local concern, potential erodibility will be considered in the local site plan review of development actions occurring within or adjacent to these three erosion hazard areas as required by the Village's Zoning Law Amended in 2021. Erosion control recommendations by NYSDEC include using best management practices (BMPs) for soil stabilization and runoff and sediment controls that alleviate this issue, especially during redevelopment or construction.<sup>170</sup> NYSDEC also recommends reducing runoff and other BMPs to address stormwater management issues and water quality concerns.<sup>171</sup>

### **2.5 Public Access and Recreation**

Tourism and recreation are top priorities for the Village and Town of Cape Vincent.<sup>172</sup> These industries generate revenue for the community and local businesses. Specific tourism strengths of the Cape Vincent community include the following: the waterfront (including both the St. Lawrence River and Lake Ontario): state parks; recreation facilities; the Seaway Byway National Scenic Corridor; French Festival and other local events; the Village Green and outdoor concerts; abundance of wildlife viewing areas; and the ferry and its access to Canada. Cape Vincent also has public boat launches, Village/Town parks and other public spaces, NYS OPRHP facilities, and snowmobile trails integrated within its WRA. Public access areas within the WRA are provided in Map 8 Recreation Sites and Facilities. This section will discuss parks, facilities, and other resources that contribute to and provide opportunities for Cape Vincent tourism.

Previous sections in this LWRP discuss water uses and recreation as well as public access. Refer to the following: 2.2.1 subsection *Surface water uses and underwater land uses*; 2.2.2 *Ownership*

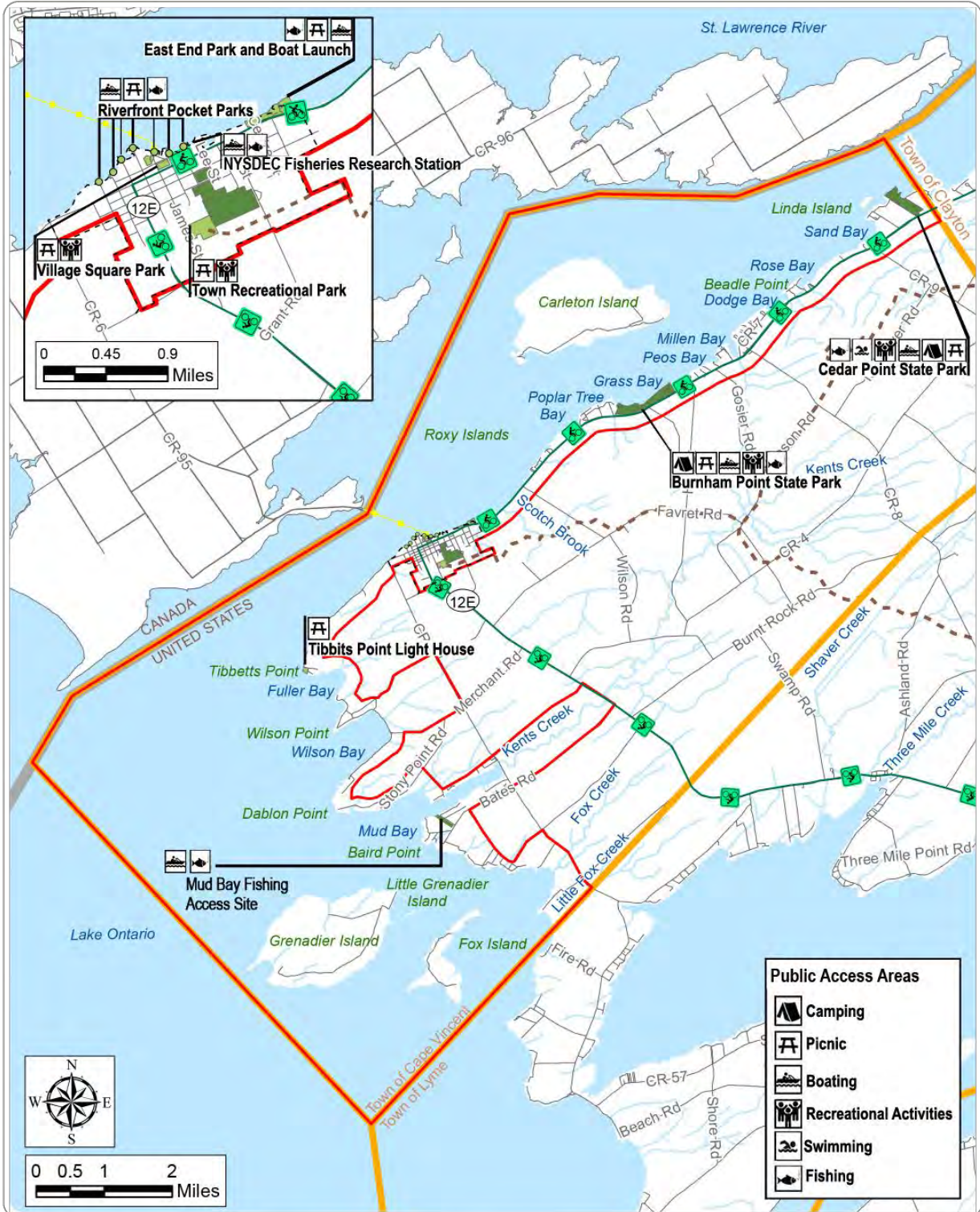
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<sup>170</sup> NYSDEC. (2016). *New York State Standards and Specifications for Erosion and Sediment Control*. Available from <https://www.dec.ny.gov/chemical/29066.html> (Accessed January 2022).

<sup>171</sup> NYSDEC. (2015). *New York State Stormwater Management Design Manual*. Available from <https://www.dec.ny.gov/chemical/29072.html> (Accessed January 2022).

<sup>172</sup> This information was collected during the 2017 S.W.O.T. analysis.

Town and Village of Cape Vincent Local Waterfront Revitalization Program



**Cape Vincent Local Waterfront Revitalization Plan**

Cape Vincent, Jefferson County, New York

**Map 8 Recreation Sites and Facilities**

Notes: 1. Basemap: ESRI ArcGIS Online "World Imagery" map service. 2. This map was generated in ArcMap on March 30, 2021.

- Village of Cape Vincent
- National and NYS Scenic Byway
- Proposed WRA
- Ferry Route
- NYS Recreational Lands
- Village and Town Parks
- Town Boundary
- Canada-US Boundary
- Snowmobile Trail

- Public Access Areas**
- Camping
  - Picnic
  - Boating
  - Recreational Activities
  - Swimming
  - Fishing



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*patterns* subsections; 2.2.4 subsections *Docks and docking facilities, Village Dock, and NYSDEC Dock*; and 2.2.7 *Water Dependent uses* subsections. Bird watching and wildlife viewing opportunities and fauna species are discussed in 2.3 *Fish, wildlife, and wetlands* subsections. Other plants, animals, biological communities or assemblages, and other valuable environmental features are detailed in 2.3 as well.

The aging population adds challenges to the tourism industry in Cape Vincent as activities and programming for families, teens, and seniors can present gaps for certain age groups. The lack of young volunteers for local organizations presents another challenge. Future efforts need to prioritize family-friendly events and activities and establish age-appropriate recreational amenities. Recreational and cultural projects should be designed to encourage these opportunities, such as performing arts, cultural events, and physical improvements to local assets (e.g., streetscaping or developing green space), to attract visitors and stimulate a higher quality of life for residents. Additional tourism opportunities and economic benefits are anticipated from the possible establishment of an Eastern Lake Ontario National Marine Sanctuary (boundary alternative 1),<sup>173</sup> which is discussed below in 2.6 *Historic and Scenic Resources*. This designation has the potential to act as a “regional economic engine”<sup>174</sup> that could draw in the international diving community, as it has in other national marine sanctuaries. Recent trends do indicate an upward incline of young families moving to the area due to the ability to work remotely.<sup>175</sup>

#### *Tibbetts Point*

Tibbetts Point is a famous point in Cape Vincent featuring a lighthouse built in 1854 known as the Tibbetts Point Light House. It is a prime tourist destination in the town. It is the only light house that features the original working Fresnel lens on Lake Ontario. Tibbetts Point is located where the St. Lawrence River and Lake Ontario meet, accessible by Route 6. Today, the Town of Cape Vincent owns the site. Tibbetts Point houses a newly added visitor center, and is continuously being renovated by the Tibbetts Point Historical Society. The site is listed on the National Register of Historic Places (NRHP). Walking paths wind through the point with ample parking available in front of the visitor’s center. The light house is open during the spring and fall

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<sup>173</sup> This information is found from two sources: National Marine Sanctuaries & National Oceanic and Atmospheric Administration (NOAA). (2021). *Help Shape the Future*. Accessible from <https://nmssanctuaries.blob.core.windows.net/sanctuaries-prod/media/lake-ontario/202107-proposed-lake-ontario-national-marine-sanctuary.pdf> (Accessed January 2022); and NOAA.(n.d.) *National Marine Sanctuaries – Proposed Lake Ontario National Marine Sanctuary*. Accessible from <https://sanctuaries.noaa.gov/lake-ontario/> (Accessed January 2022).

<sup>174</sup> National Marine Sanctuaries & National Oceanic and Atmospheric Administration. (2021) *Thunder Bay National Marine Sanctuary Socioeconomics Factsheet*. National Oceanic and Atmospheric Administration. Available at: <https://sanctuaries.noaa.gov/science/socioeconomic/factsheets/thunderbay.html> (Accessed October 2021).

<sup>175</sup> Town of Cape Vincent Waterfront Advisory Committee. February 2022. Personal correspondence between D. Wiley and E. Tauzer

months Friday through Monday from 10am-7pm. In the summer months, the lighthouse is open seven days a week from 10am-7pm. The property does provide public access to the water, but no formal swimming beaches or boat launch areas exist.

### *Village Green*

An important privately-owned park within the WRA that is accessible to the public is the Cape Vincent Village Green. This is an open green space with intersecting paths within the Village of Cape Vincent about 300 feet from the St. Lawrence River waterfront. The Village Green is accessible by Gouvello St. to the north, Esselstyne St. to the east, Broadway St. to the south, and S. James St. to the west. The park has multiple events that occur onsite throughout the year. These events include summer farmers markets, concerts, fall activities, Christmas activities, and even a winter volleyball tournament. The park features public amenities such as benches, walking paths, and sidewalks lined with trees. The park's recreation amenities include a bandstand and a historic area covered in brick with ample seating and a view of the St. Lawrence River. The public can rent out the park under temporary contract for additional events. The community has expressed the importance of Village Green to local recreation and tourism and the varied activities and events that occur at the park. The lack of future activities at Village Green was cited as a possible future threat during the S.W.O.T. analysis for the 2017 Comprehensive Plan Update. As a central event venue, Village Green provides an important location for residents and visitors to explore local businesses and other opportunities in the St. Lawrence waterfront area within walking distance.

### *Village East End Park*

Village East End Park is a small park primarily known for its two boat launches located on the shore of the St. Lawrence River. It is accessible from both the east and west by NYS Rte. 12E. The park has the following public amenities: a pavilion featuring handicap accessible restrooms, showers and changing rooms, parking, benches, picnic seating, grills, open green space, trashcans, walking paths, an overlook, and some educational historic signs. Its recreational amenities include two boat launches and a boat dock. Several fishing and diving events utilize this park due to its two boat launches and ample parking. As discussed in subsection 2.1.4, the REDI process identified the East End Park as a project in 2020. This project seeks to address damage caused by erosion to the seawall and docks at East End Park. Floodwaters overtopped the seawall, washing out the bedding stone, lawn, and soils beneath the wall and sidewalk, weakening the wall. The docks were also inundated and displaced from their supports.<sup>176</sup>

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<sup>176</sup> Lake Ontario Resiliency and Economic Development Initiative (REDI). (2020). *Project Profiles for Jefferson and St. Lawrence Region*. Accessible from [ny.gov/sites/default/files/atoms/files/REDI\\_Project\\_Profiles\\_SJ\\_20191025\\_Private.pdf](https://www.ny.gov/sites/default/files/atoms/files/REDI_Project_Profiles_SJ_20191025_Private.pdf) (Accessed January 2022).

Improvements to the park are discussed in *REDI Projects within the Village of Cape Vincent – 2019* subsection under 2.1.4 and other recreation and utilization applicable uses are found in *Water Oriented Recreation* subsection under 2.2.7. The East End Park area and boating facility has had funding for improvements through the EFP LWRP since 1999 (C005983).

### *Town Recreational Park*

The Town Recreational Park has the most recreational amenities of any other park in Cape Vincent. Town Recreational Park is located on South James St. within the Village. The park is located about four blocks (about one-half mile) south of the St. Lawrence River waterfront and Horne’s Ferry. This park draws people to the area who might also choose to experience and explore other venues in the Village and waterfront. This is important from the perspective of the LWRP in that adequate wayfinding, such as signage, is important to alert visitors to other area assets, including the waterfront. The Recreational Park features tennis courts, basketball courts, baseball fields, a playground, an ice rink, and a new pickle ball court. The park houses public amenities such as ample space for parking, seating for recreational viewing, restrooms, and trash receptacles. The Town Recreational Park building has public restrooms, a commercial kitchen, conference room, and large reception area. The park building can be rented out to the public for events or gatherings, such as wedding receptions. The park also hosts youth recreation camps in the summer months.

### *Burnham Point State Park*

Burnham Point State Park is located off Route 12E along Tripoli Shores Rd. This park features public amenities such as water fountains, picnic areas, benches, trashcans, and restrooms/showers. It features recreational amenities include fishing areas, playgrounds, trails, boat docks, boat launches, pavilions, hunting areas, pools, guarded beaches, and grills. The park pavilions, picnic tables, and tent/trailer sites are all fully accessible. The Burnham Point State Park provides open space for activities within the park as well as rentable shelters. It is open from mid-May to Labor Day. Despite the record high Lake Ontario and upper St. Lawrence water levels recently, tourism in Cape Vincent continues to increase. Burnham Park has continued to experience an increase in use during the summer months by residents and tourists.<sup>177</sup>

### *Cedar Point State Park*

Cedar Point State Park is one of the oldest state parks in New York and offers a variety of activities, most notably fishing, boating, and swimming. It is located on Route 12E along State Park Drive. This park features public amenities such as restrooms/showers, pavilions, picnic tables, and trash

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<sup>177</sup> New York State Office of Parks, Recreation and Historic Preservation. 2023. *OPRHP Facility Data: Burnham Pnt River Park in Jefferson County*. Available from <https://data.ny.gov/Recreation/State-Park-Annual-Attendance-Figures-by-Facility-B/8f3n-xj78>. (Accessed August 10, 2023)

receptacles. The park features recreational amenities, available for all users, including boat launches/rentals, campsites, docks, grills, a marina, marina pump out stations, playgrounds, playing fields, tent/trailer sites, and recreation programs. The park is open May through Columbus Day. The camping season is open from May until October, boat rentals are available from the end of May through October, and the swimming season is from June through September.

#### *Cape Vincent Fisheries Station and Aquarium*

The Cape Vincent Fisheries Station and Aquarium is open to the public from mid-May to October. A picnic area is provided for the public viewing as is an indoor aquarium that features native fish. The site is accessible to people with disabilities. Fishing is allowed off the station's dock, which is a designated accessible fishing access site. There are accessible restrooms and a shower building on site, as well as a gazebo and picnic tables overlooking the St Lawrence River. When not in use by the NYSDEC, public dockage is permitted on the outer sides of the NYSDEC docks on a first-come first-serve basis. The maximum stay is 48 hrs. The inner dock area is reserved for NYSDEC vessels only. The primary use for this facility is as a working research vessel station and public use is a courtesy extended by the NYSDEC. Amenities and services for the recreational boater are not provided but can be found at local marinas nearby. Publicly offered services and amenities, such as a pump out station and charging stations, have been listed as and discussed in *Marinas, Boat Repair, and Boater Services* subsection under 2.2.7 and listed as proposed projects in Section IV.

#### *Mud Bay Fishing Access Site*

The Mud Bay Fishing Access Site is a small area used as a fishing access site to Mud Bay and Lake Ontario. Access to the site is located next to the intersection of Bates Road and Kelly Road in the Town of Cape Vincent. Parking is available at the entrance with a small road leading to more parking and the designated fishing area at Mud Bay. It is run by the NYSDEC and has the capacity for approximately 30 cars and trailers. As common with boating activity, aquatic invasive species are prevalent in the bay. Invasive species of concern for this location include Eurasian watermilfoil (*Myriophyllum spicatum*.), curly-leaf pondweed (*Potamogeton crispus*), zebra mussel (*Dreissena polymorpha*), spiny water flea (*Bythotrephes longimanus*), and fishhook water flea (*Cercopagis pengoi*).<sup>178</sup>

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<sup>178</sup> NYSDEC. (n.d.) Boat Launch Sites for Jefferson County. Available at: <https://www.dec.ny.gov/outdoor/23890.html> (Accessed March 2022).

## **2.6 Historic and Scenic Resources**

### **2.6.1 Historic Underwater Sites and Structures**

The community of Cape Vincent is a genuinely historic community. The visible history of the community is expressed through the varied architectural styles and design features of its public and private buildings and residential neighborhoods. The historic buildings and sites of Cape Vincent contribute to the unique charm of the community that attracts visitors from Canada and from other parts of the US. These resources remain critical to the economic future of Cape Vincent and the area's rich architectural heritage must be maintained and preserved for telling the story of the community's development to visitors, new residents, and future generations. Cape Vincent residents have indicated the importance of its history through the S.W.O.T. analysis in 2017 and by participants at the Community Workshops for the LWRP, and this is a priority for preserving. The history of the community draws visitors and is seen as an economic opportunity. Although no direct projects are drawn from this need, the community will take efforts to maintain the charm and unique character.

The Cape Vincent area was first occupied by pre-agricultural hunter/gatherer indigenous civilizations around 10,000 BC during the Paleo-Indian period and continued through until about 900 AD.<sup>179</sup> Hunting and gathering continued to be an important part of the subsistence base of the region until the advent of agriculture during the Late Woodland period (AD 900-1650), when a large part of the daily subsistence was increasingly shifted towards agricultural production.<sup>180,p27</sup> From the early 1800s to the early 1900s, Cape Vincent was populated by American pioneers and prominent French immigrants that contributed to the area's growth as an agrarian community and added to reliance on the St. Lawrence River as a port.<sup>181</sup>

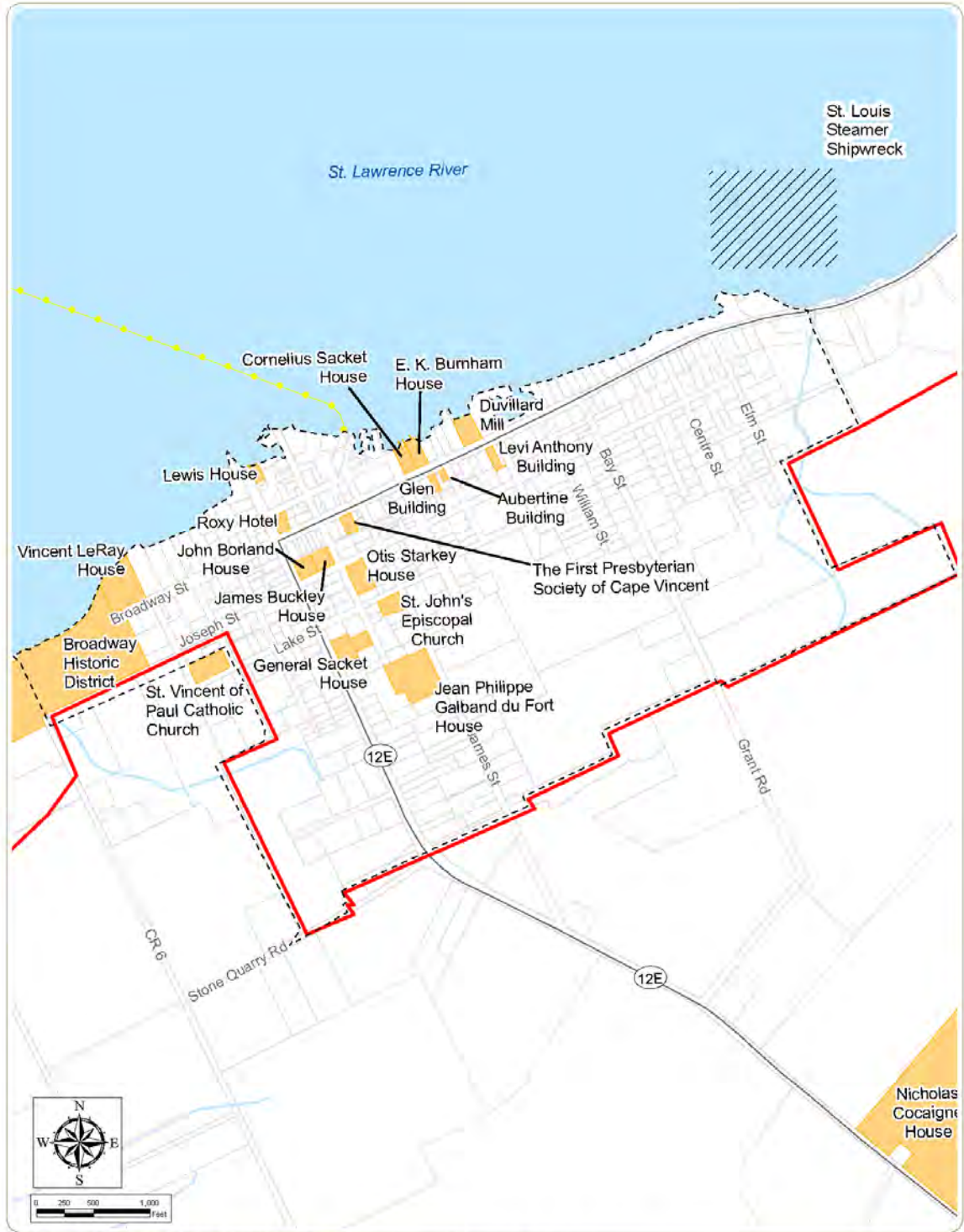
The Town and Village of Cape Vincent contain many properties listed on the National Register of Historic Places and numerous other historic properties that qualify for the listing on the register. Historic districts, sites, and structures, along with cultural landmarks are depicted in Maps 9A and 9B, Village and Town Historic and Cultural Resources, respectively. A key aspect of the historic properties is a sense of site. In many cases, beautiful architectural buildings overlook Lake Ontario or the St. Lawrence River and are part of the heritage of this community's development. This waterfront shows the remnants of Cape Vincent's transition from

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<sup>179</sup> Kudrle, S.M. (2007.) Cultural Resource Management Report: Phase 1A Cultural Resource Assessment. Cape Vincent Wind Power Project. Prepared for: BP & ERM- Southwest, Inc. 46 p. as referenced in the 2012 Town and Village of Cape Vincent Comprehensive Plan (p. 27).

<sup>180</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*.

<sup>181</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan, pages 7-8*. Accessed from (Accessed January 2022).



**Cape Vincent Local Waterfront Revitalization Plan**

Village of Cape Vincent, Jefferson County, New York  
**Map 9A: Historic and Cultural Resources**

**Notes:** 1. Basemap: ESRI Street Map North America, 2012 2. This map was generated in ArcMap on August 27, 2021 3. Data depicted on this map is intended for planning purposes only. This map is not intended to show accurate measurements and data may be incomplete or out of date 4. National Register of Historic Places (NRHP) Listed Resource dataset compiled by the National Park Service (NPS)

- Village of Cape Vincent
- Ferry Route
- National Historic Register Places - Listed Resources
- Proposed WRA
- Generalized Shipwreck Area
- Parcel Boundary



Town and Village of Cape Vincent Local Waterfront Revitalization Program



**Cape Vincent Local Waterfront Revitalization Plan**  
 Town of Cape Vincent, Jefferson County, New York  
**Map 9B: Historic and Cultural Resources**

**Notes:** 1. Basemap: ESRI Street Map North America, 2012. 2. This map was generated in ArcMap on March 30, 2021. 3. Data depicted on this map is intended for planning purposes only. This map is not intended to show accurate measurements and data may be incomplete or out-of-date. 4. National Register of Historic Places (NRHP) Listed Resource dataset compiled by the National Park Service (NPS).

- Village of Cape Vincent
- Ferry Route
- NHRP-Listed Resource
- Proposed WRA
- Generalized Shipwreck Area
- Parcel Boundary
- Town Boundary
- Canada-US Boundary



the pre-agricultural era to the establishment of Cape Vincent as a keystone settlement of the larger region, to the War of 1812, and eventually to the development of commerce and evolution of the community as it stands today.<sup>182</sup> More details about this transition in history are provided in the 2012 Joint Town and Village Comprehensive Plan.

#### *St. Louis Steamer Wreck and Box Stove Wreck Sites*

Two noteworthy underwater sites or structures are the sunken St. Louis Steamer Wreck and a sloop that de-masted known as the Box Stove Wreck. Both the St. Louis and the Box Stove wreck are located either within the Cape Vincent boundary or in the vicinity of the community. These two submerged remains provide opportunities for Cape Vincent to continue to attract the scuba diving community and bring in potential local revenue as these visitors explore the waterfront prior to or after their dives.

The St. Louis Steamer Wreck is a popular diving site. The sunken steamship was built in Cleveland, Ohio and launched at the end of the American Civil War in 1864.<sup>183</sup> The ship operated mainly in the Great Lakes; in 1908, the St. Louis ownership passed to the Atlantic Coast Steamship Company in Buffalo, NY.<sup>184</sup> According to the same source, in 1914, the ship was abandoned as a total loss in Cape Vincent and tied up to a former dock and sank at its current location near East End Park. During the LWRP Community Workshops, residents noted the importance of scuba diving and its promotion as a recreational opportunity for tourists and the community. Figure 2 shows a historic image of the St. Louis Steamer. This underwater site and other shipwrecks in Lake Ontario and the St. Lawrence River are part of the proposed Eastern Lake Ontario National Marine Sanctuary that is discussed later in this subsection.

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<sup>182</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan*, pages 7-8. Accessed from (Accessed January 2022).

<sup>183</sup> McCarthy, D. (2018). *History Under Cape Vincent Waters*. Thousand Islands Life Magazine. Available at: <http://tilife.org/BackIssues/Archive/tabid/393/articleType/ArticleView/articleId/2253/History-Under-Cape-Vincent-Waters.aspx> (Accessed October 2021).

<sup>184</sup> McCarthy, D. (2018). *History Under Cape Vincent Waters*. Thousand Islands Life Magazine. Available at: <http://tilife.org/BackIssues/Archive/tabid/393/articleType/ArticleView/articleId/2253/History-Under-Cape-Vincent-Waters.aspx> (Accessed October 2021).



The Box Stove Wreck is another diving site near the northeastern part of Lake Ontario within the upper St. Lawrence River. Sloops, or a fore-and-aft boat with one mast and a single jib,<sup>185</sup> were well-suited to the Great Lakes due to their great maneuverability and small size.<sup>186</sup>



Figure 2: Steamer St. Louis before conversion to a tow barge. (Thousand Islands Magazine, 2018)



Figure 3: These photos show the Box Stove Wreck by D. McCarthy of Blue Ledge Systems (Copyright Blue Ledge Systems Inc. 2011)

Although large numbers of sloops sailed on the Great Lakes, not much is known about their designs. Sloops were common during the mid-1800s, and these sailboats participated in commerce in ports, small rivers, bays, or harbors where the water was shallow.<sup>187</sup> At this wreck, a sloop contained a cast iron wood box stove as a key feature that still remains.<sup>188</sup> The Box Stove shipwreck illustrates a unique ship designed for the region. This rare discovery has been registered as an underwater archeological site with the New York State Department of Historic Preservation and is protected by State and Federal law from unauthorized disturbance. The Box Stove shipwreck area is shown on Map 9B and is generalized to protect site sensitivity. Figure 3 shows the current underwater condition of the shipwreck.

### *Fort Haldimand, Carleton Island*

Another noteworthy site with historical significance is the former Fort Haldimand on Carleton Island. Carleton Island was a key staging area and transshipment of supplies for the British Army during the American Revolution and had been known as Deer Island.<sup>189</sup> Eventually, the island was ceded to the US as the only land change resulting from



Figure 4: LiDAR imagery of Fort Haldimand prepared by D. McCarthy using Google Earth and NYS Orthos (2017)

<sup>185</sup> Merriam-Webster. (2022). *Sloop*. Available at: <https://www.merriam-webster.com/dictionary/sloop>. (Accessed 10/31/2022).

<sup>186</sup> McCarthy, D. (2011). <http://tilife.org/BackIssues/Archive/tabid/393/articleType/ArticleView/articleId/2253/History-Under-Cape-Vincent-Waters.aspx> Great Lakes Sloop Discovery, Shipwreck World. Available at: [Great Lakes Sloop Discovery \(shipwreckworld.com\)](http://shipwreckworld.com) Accessed August 2022

<sup>187</sup> McCarthy, D. (2011). <http://tilife.org/BackIssues/Archive/tabid/393/articleType/ArticleView/articleId/2253/History-Under-Cape-Vincent-Waters.aspx> Great Lakes Sloop Discovery, Shipwreck World. Available at: [Great Lakes Sloop Discovery \(shipwreckworld.com\)](http://shipwreckworld.com) Accessed August 2022

<sup>188</sup> McCarthy, D. (2011). <http://tilife.org/BackIssues/Archive/tabid/393/articleType/ArticleView/articleId/2253/History-Under-Cape-Vincent-Waters.aspx> Great Lakes Sloop Discovery, Shipwreck World. Available at: [Great Lakes Sloop Discovery \(shipwreckworld.com\)](http://shipwreckworld.com) Accessed August 2022

<sup>189</sup> St. Lawrence River Historical Foundation Inc. (2021). *For Haldimand – History*. Accessible from <http://www.forthaldimand.com/p/history.html> (Accessed January 2022).

the War of 1812.<sup>190</sup> Recently, archeologists and historians are researching this history using Light Detection and Ranging (i.e., LiDAR) imagery.<sup>191</sup> The Thousand Island Land Trust arranges access to the preserve<sup>192</sup> and, according to stakeholder groups, this arrangement is important to limit disturbance to sensitive historic resources. Figure 4 shows the Fort Haldimond imagery.

### *Proposed Eastern Lake Ontario National Marine Sanctuary*

In 2019, the National Oceanic and Atmospheric Administration (NOAA) announced its intent to designate a new national marine sanctuary in New York's eastern Lake Ontario called the Eastern Lake Ontario National Marine Sanctuary.<sup>193</sup> This sanctuary designation would protect historically significant shipwrecks and related maritime heritage resources. During February 2020, NOAA began conducting a detailed analysis to develop sanctuary alternatives and a management plan for a proposed national marine sanctuary in eastern Lake Ontario.<sup>194</sup> This process had a three-month public comment period, and two alternatives were proposed. Both alternatives extend along marine waters adjacent to Jefferson, Oswego, Cayuga, and Wayne counties.<sup>195</sup> The proposed Alternative 1 encompasses the waters and bottom lands bordered as follows: beginning at the western border of Wayne County (approximately 22 miles east from downtown Rochester), then due north to the mid-lake international boundary with Canada, following the international border east and northeastward to the turn of the US-Canada border southeast of Point Alexandria, Wolfe Island, Ontario, then southeast to the Village of Cape Vincent in Jefferson County (26 miles north of Watertown), and then following the Lake's shoreline south and east back to the western border of Wayne County.<sup>196</sup> Alternative 2 includes all of Alternative 1 but extends a spur to include all the US portion of the St. Lawrence River until reaching the eastern edge near Chippewa Bay, just past the St. Lawrence County border.

The Eastern Lake Ontario National Marine Sanctuary would protect a total of 21 known shipwrecks in this proposed sanctuary area and one military aircraft, all of which represents events spanning over 200 years of our nation's history.<sup>197</sup> Based on historical records, an

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<sup>190</sup> St. Lawrence River Historical Foundation Inc. (2021). *For Haldimand – History*. Accessible from <http://www.forthaldimand.com/p/history.html> (Accessed January 2022).

<sup>191</sup> N.A. Fort Haldimand (2021) Available at [Fort Haldimand. Accessed August 2022](#)

<sup>192</sup> Thousand Islands Land Trust. (n.d.). [Fort Haldimand on Carleton Island | Thousand Islands Land Trust \(tilandtrust.org\). Accessed August 2022](#)

<sup>193</sup> NOAA. (Nd) *Proposed Lake Ontario National Marine Sanctuary*. Accessed from <https://sanctuaries.noaa.gov/lake-ontario/> (Accessed January 2022).

<sup>194</sup> NOAA. (Nd) *Proposed Lake Ontario National Marine Sanctuary*. Accessed from <https://sanctuaries.noaa.gov/lake-ontario/> (Accessed January 2022).

<sup>195</sup> NOAA. (Nd) *Proposed Lake Ontario National Marine Sanctuary*. Accessed from <https://sanctuaries.noaa.gov/lake-ontario/> (Accessed January 2022).

<sup>196</sup> NOAA. (Nd) *Proposed Lake Ontario National Marine Sanctuary*. Accessed from <https://sanctuaries.noaa.gov/lake-ontario/> (Accessed January 2022).

<sup>197</sup> NOS Fiscal Year 2019 Year in Review. (2019). Office of National Marine Sanctuaries. Available at: [Office of National Marine Sanctuaries \(ONMS\): NOS Fiscal Year 2019 Year in Review \(noaa.gov\). Accessed August 2022](#)

additional 47 shipwrecks and two aircraft are also likely located within the proposed sanctuary area.<sup>198</sup> The locations under consideration also include a separate area surrounding: His Majesty's Ship, (HMS) Ontario. This ship is both the oldest confirmed shipwreck dating to 1780 and the only fully intact British warship discovered in the Great Lakes.<sup>199</sup> New York State, along with the City of Oswego, and four counties (Oswego, Jefferson, Wayne, and Cayuga) nominated the area for the following reason: to protect and increase awareness of a nationally significant collection of shipwrecks; to foster partnerships with education and research groups; and to increase opportunities for tourism and recreation as part of the regional Blue Economy.<sup>200</sup>

### ***2.6.2 Scenic Resources and Visual Quality***

The scenic views of Lake Ontario and the St. Lawrence River and the views from the bays and shoreline contribute greatly to the WRA's attraction to visitors and residents. The Cape Vincent community values the local scenic resources and visual quality of the area. Cape Vincent has historically placed importance on protecting the scenic view of the water that has continued to today, from the 1988 LWRP to the recent commentary from community members in the 2012 Comprehensive Plan and the 2017 community SWOT analysis. Due to the historic nature of its historical development, Cape Vincent has maintained more visual access to the river than many other St. Lawrence River villages.<sup>201</sup> The open views overlooking the waterfront areas are both nationally and locally important and have been considered valuable for a considerable amount of time. However, there are no formally designated Scenic Areas of Statewide Significance (SASS) within the Cape Vincent WRA, as designated by the New York State Secretary of State (existing SASS are currently six areas in the Hudson River Valley and on eastern Long Island.)

In addition to expressing the local community's prioritization of the scenic resources and visual quality of the area (see page 21 of the document), the original 1988 LWRP for the Village of Cape Vincent highlighted a 1983 U.S. Department of Interior National Park Service (NPS) study that recognized the St. Lawrence River-Thousand Islands area as one of the greatest landscapes in America. As reported in the 1988 LWRP, the 1983 NPS study describes the visual quality of the St. Lawrence River-Thousand Islands as unique and worthy of revitalization and preservation efforts. The community of Cape Vincent came together again in the 2012 Joint Comprehensive

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<sup>198</sup> NOS Fiscal Year 2019 Year in Review. (2019). Office of National Marine Sanctuaries. Available at: [Office of National Marine Sanctuaries \(ONMS\): NOS Fiscal Year 2019 Year in Review \(noaa.gov\). Accessed August 2022](https://www.nmfs.gov/sites/default/files/2019-08/Office_of_National_Marine_Sanctuaries_(ONMS)_NOS_Fiscal_Year_2019_Year_in_Review_(noaa.gov).pdf)

<sup>199</sup> NOS Fiscal Year 2019 Year in Review. (2019). Office of National Marine Sanctuaries. Available at: [Office of National Marine Sanctuaries \(ONMS\): NOS Fiscal Year 2019 Year in Review \(noaa.gov\). Accessed August 2022](https://www.nmfs.gov/sites/default/files/2019-08/Office_of_National_Marine_Sanctuaries_(ONMS)_NOS_Fiscal_Year_2019_Year_in_Review_(noaa.gov).pdf)

<sup>200</sup> Proposed Lake Ontario National Marine Sanctuary. 2019. Available at [Proposed Lake Ontario National Marine Sanctuary | Office National Marine Sanctuaries \(noaa.gov\) Accessed August 2022](https://www.nmfs.gov/sites/default/files/2019-08/Proposed_Lake_Ontario_National_Marine_Sanctuary_|_Office_National_Marine_Sanctuaries_(noaa.gov)_Accessed_August_2022.pdf)

<sup>201</sup> Village of Cape Vincent. (1988). Village of Cape Vincent Local Waterfront Revitalization Program. Available at: <https://dos.ny.gov/location/village-cape-vincent-local-waterfront-revitalization> (accessed August 2022).

Plan to support the value of its world-class scenic resources.<sup>202</sup> The plan also noted the importance of maintaining these scenic resources to provide a foundation for Cape Vincent's future growth and attraction.<sup>203</sup>

As cited in the 1988 Village of Cape Vincent LWRP (p.22), SUNY College of Environmental Science and Forestry (SUNY ESF) completed a St. Lawrence River Scenic Access Study in 1984, which assessed all scenic views to the River in a five-town area along NY Route 12E. According to the 1988 Village LWRP, the SUNY ESF report established criteria and methodology for assessing scenic access resources and outlined methods for preserving scenic access of significant quality. The study identified two high quality viewsheds from the Village of Cape Vincent out to the St. Lawrence River: 1) the view from the eastern end of the community along Route 12E, which contains an unobstructed view to the River, and 2) the view from the central portion of the Village, which is segmented by some structures.

Within these viewsheds, seven locally significant scenic access points were identified in the report and were confirmed by the WAC as important to the community as shown in Figure 5.

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<sup>202</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan, page 9*. Accessed from Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

<sup>203</sup> Town and Village of Cape Vincent. (2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan, page 9*. Accessed from Accessed from <https://www.townofcapevincent.org/document-center/miscellaneous/99-final-joint-comprehensive-plan-august-1-2012/file.html> (Accessed January 2022).

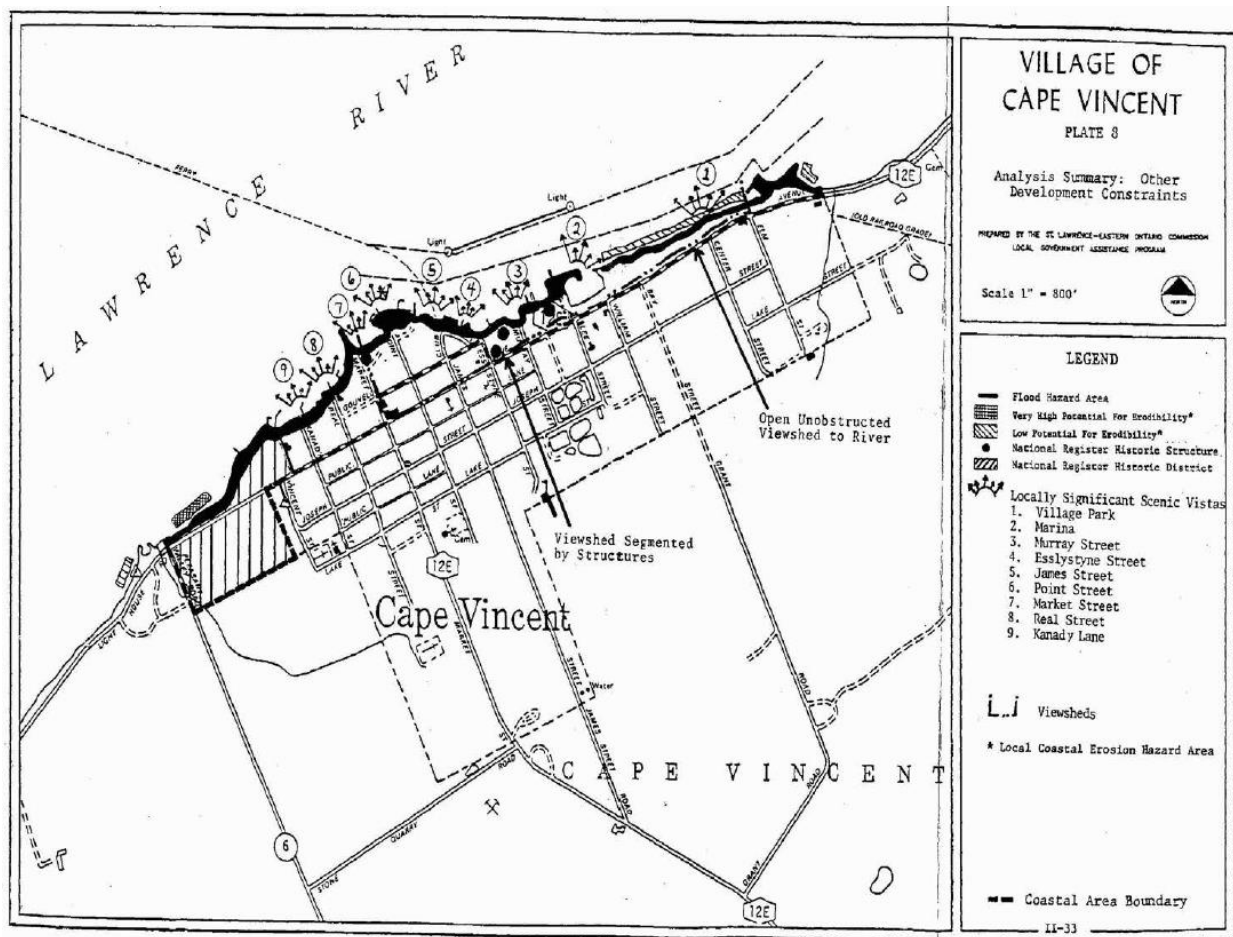


Figure 5: Locally Significant Scenic Areas and Viewsheds as conducted by SUNY ESF and reported in the 1988 Village of Cape Vincent LWRP. Source: p. 43 of the 1988 Village of Cape Vincent LWRP.

Additionally, two access points were identified as important by the committee located further west along the shoreline, along Kanady Street and Real Street. Streets terminating at the riverfront provide excellent views of the River with grassed areas and benches, harbors and marinas, and the Village East End Park. The tree lined shores and the harbor area of Cape Vincent provide boaters and ferry passengers with picturesque views from the River. These nine points are further described in Sections 2.1.4, 2.2.5, and 2.2.7 of the this LWRP and include:

1. *Village East End Park* - The open expanses of the Village East End Park provide an unobstructed view of the shoreline and the St. Lawrence River from Rt. 12E and throughout the park. Public ownership of the park ensures public access to this site.
2. *Anchor Marina* - Anchor Marina provides a picturesque setting for viewing the landscape from both land and water. Currently, however, the building needs repair, and boats stored

within NYS Route 12E right-of-way impair scenic views. See 2.2.5, 2.2.7, and 4.3.7 subsections.

3. *James Street/Club Street* - The James Street/Club Street area is an active waterfront area due to the ferry dock and tourist facilities. The Ferry's passengers can enjoy the scenic views of the Cape Vincent waterfront.
4. *Riverfront Pocket Parks (Murray Street)* - Murray Street ends approximately 100 feet before the shoreline, with a grassed area extending toward the River. This street has a right-of-way providing a scenic view of the harbor area inside the breakwater and a view of the historic building currently hosting the NYSDEC fisheries station.
5. *Riverfront Pocket Parks (Esselstyne Street)* – Esselstyne Street terminates with a concrete bulkhead at the Village's public dock. While the view from shore is constricted by surrounding marina structures, a linear corridor provides a view of the harbor area inside the breakwater.
6. *Riverfront Pocket Parks (Point Street)* - Point Street right-of-way provides pedestrian access to the riverfront and an excellent view of the St. Lawrence Seaway shipping channel.
7. *Riverfront Pocket Parks (Market Street)* - At the termination of Market Street are several park benches and a small beach area augment the waterfront views. The area has good visual access with an unrestricted view of the shipping channel.
8. *Riverfront Pocket Parks (Real Street)* – Real Street provides a visual corridor to the St. Lawrence River. The pump house was removed years ago, and a new limestone wall was built.
9. *Riverfront Pocket Parks (Kanady Street)* – The end of Kanady Street has park benches and an attractive site create a high-quality viewing area at the River.

The Cape Vincent waterfront offers a great deal of visual access to the St. Lawrence River and the Thousand Islands. The mostly residential nature of the community, especially along the riverfront, provides Cape Vincent residents and visitors with a look and feel of a far less commercialized lifestyle than many other resort villages and towns along the St. Lawrence River. In developing this updated LWRP, the WAC and community members upheld the 1988 Village LWRP analysis that maintaining the scenic views to the River and Lake is essential to the tourism industry. In branching out to include the Town of Cape Vincent, additional scenic resources outside of the Village were highlighted by the WAC. An example of a scenic area important to the Cape Vincent community is Tibbetts Point Lighthouse, which is one of the few remaining historical lighthouses

in the Thousand Islands/Lake Ontario Region.<sup>204</sup> From this lighthouse, the view to the water spans out over the open water to features like the East Charity Shoal Lighthouse and Wolfe Island. Both the East Charity Shoal Lighthouse and the Tibbetts Point Lighthouse are some of the few remaining historical lighthouses in the Thousand Islands/Lake Ontario Region.<sup>205</sup>

Future development and its potential impacts on scenic views to and from both waterways is regulated by the Village and Town Zoning Laws. In addition, views must be considered under Site Plan review and SEQRA in each community to protect development from blocking visual corridors. Site Plan criteria must also consider project design to maintain or enhance the scenic quality of the waterfront. The Village Waterfront Overlay District also requires consistency with the goals of this LWRP including those goals and policies that address scenic resources.

The deteriorated waterfront areas merit improvements and could directly enhance recreational and public access resources as well, as discussed previously. Town and Village leaders, in collaboration with private property owners, developers, and community organizations (e.g., the Cape Vincent Improvement League and the Chamber of Commerce), have the potential to foster needed efforts to enhance and protect the scenic resources and the overall visual quality of the waterfront area. The small, coastal village charm and appearance is a strength to the community, as identified in the S.W.O.T. analysis for the 2017 Comprehensive Plan Update and in public comments received from the Community Workshops (see Appendix A). It was identified that the protection of this small coastal village charm with visibility of the waterfront should be prioritized. Other factors enhancing the Village's character include: several historically and architecturally significant structures; a low-scale built environment that blends well with the surrounding natural resources; and several water-based recreational facilities, which lend a distinct maritime character. Improvements and maintenance of Cape Vincent's quaint appearance and scenic resources are vital to its tourist-based economy.

### **2.7 Agriculture and Agricultural Lands**

Agriculture remains another distinguishing characteristic of Cape Vincent in addition to its recognition as a waterfront community along Lake Ontario and the St. Lawrence River. Active farmland and agriculture contribute to the visual charm and landscape beauty of the area's countryside. Agriculture and agriculturally related services are a key component of the local economy in both the Town and Village. The location of agriculture as an existing land use is depicted in Map 3A. The Jefferson County Agricultural District Map (Map 10 Agricultural District) illustrates parcels within Agricultural District #2, as defined under article 25-AA of the Agricultural

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<sup>204</sup> D. McCarthy. (Jan. 16, 2020). *Pers. Comm. with E. Tauzer (email)*.

<sup>205</sup> D. McCarthy. (Jan. 16, 2020). *Pers. Comm. with E. Tauzer (email)*.



and Markets Law. There are numerous parcels in the Town included in the Agricultural District that are also within the WRA, especially along NYS Rte. 12E north of the Village of Cape Vincent.

Agricultural uses include dairy products, grain and soybeans fields, hay and silage, and beef cattle. In 2016 Jefferson County developed an Agricultural and Farmland Protection Plan to provide recommendations for the preservation of both the business of farming and farmland in the County. This plan indicated that the Town of Cape Vincent ranked 4<sup>th</sup> among towns in the County.<sup>206</sup> The Town contained a total of 19,173 acres farmed, or about 53% of the municipality's land area.<sup>207</sup> This also represents about 7% of the total farmland acreage in Jefferson County in 2016.<sup>208</sup> The plan also identified the TILT as a key stakeholder in protecting the nearly 3,000 acres of farmland on 95 parcels in towns along the St. Lawrence River.

As stated in the 2012 Joint Comprehensive Plan, dairy productivity is higher than it has ever been despite the decreasing number of dairy farms and the people working in the dairy industry. Over the years, different kinds of farming have been developing that are more diversified and an alternative to the traditional dairy farming in Cape Vincent. These diversified types include horse farms, goat farms, vineyards, and raising other animals and products for specialized niche markets (e.g., locally produced beef jerky). Whatever the direction future farming trends move towards, this LWRP recognizes the very important role agriculture plays in the local economy and provides continued support to its farm community and the preservation of farmland. Potential ways to support local agriculture within the WRA include, but are not limited to, the promotion of agricultural conservation easements and enrollment in Agricultural Districts along with other practices that may improve the viability of local agriculture. These programs are administered by Jefferson County Planning Department and Cornell Cooperative Extension of Jefferson County.

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<sup>206</sup> Jefferson County. (2022). Jefferson County Agricultural and Farmland Protection Plan: Part 1 Main Document. Accessible from <https://co.jefferson.ny.us/departments/Planning/jefferson-county-agricultural-and-farmland-protection-plan> (Accessed February 2022).

<sup>207</sup> Jefferson County. (2022). Jefferson County Agricultural and Farmland Protection Plan: Part 2 State of Agriculture in Jefferson County. Accessible from <https://evogov.s3.amazonaws.com/media/117/media/54802.pdf> (Accessed August 2022).

<sup>208</sup> Jefferson County. (2022). Jefferson County Agricultural and Farmland Protection Plan: Part 2 State of Agriculture in Jefferson County. Accessible from <https://evogov.s3.amazonaws.com/media/117/media/54802.pdf> (Accessed August 2022).

Town and Village of Cape Vincent Local Waterfront Revitalization Program



**Cape Vincent Local Waterfront Revitalization Plan**  
 Cape Vincent, Jefferson County, New York  
**Map 10: Agricultural District**

**Notes:** 1. Basemap: ESRI Street Map North America, 2012. 2. This map was generated in ArcMap on March 30, 2021.

- Village of Cape Vincent
- Town Boundary
- Ferry Route
- Proposed WRA
- Agricultural District
- Parcel Boundary
- Canada-US Boundary



These issues can be addressed in future land uses, policies, or projects when the Cape Vincent deems it a priority. Therefore, potential agricultural projects are not detailed in Section IV. Section V discusses how agriculture is encouraged in the existing rural areas of the community through local zoning regulations.

## ***2.8 Energy and Ice Management***

Portions of the WRA are subject to periodic flooding associated with snow melt, heavy rain, river water level changes, and high winds. In addition, the release of Lake Ontario and the St. Lawrence River ice flow has potential impacts on erosion, sedimentation, and waterfront structures.

### ***2.8.1 Major Energy-Generating Facilities and Transmission Lines***

Utility services available in the waterfront area include electric and telephone. Private carriers also provide cable, internet, and satellite television services. The 2017 community S.W.O.T. analysis identified high quality broadband and telecommunication services are strengths of the Village, while there are needs and opportunities for broadband expansion into the more rural areas of the Town. There are no major energy generating facilities within the WRA. This issue can be addressed in a future project when the Town of Cape Vincent deems it a priority. Therefore, the implementation of this project is not detailed in Section IV.

### ***2.8.2 Ice Management***

No formal ice management programs exist within the HMA. Other areas are managed by both the US and Canadian Coast Guard vessels. These vessels manage ice flow along parts of the Great Lakes and the St. Lawrence Seaway system in anticipation of the shipping season.

## ***2.9 Water and Air Resources***

### ***2.9.1 Water resources and water quality***

The major water resources within the Town include Lake Ontario and the St. Lawrence River. Streams flowing into Lake Ontario include Mud Creek, Kents Creek and small creeks and tributaries flowing into both the Lake and the River. The WRA is located within the New York and New England carbonate rock aquifer.<sup>209</sup> The Town abuts the St Lawrence River on one side, borders Lake Ontario on another, and contains a myriad of streams, creeks, wetlands, and aquifers that drain into the Lake or the River. The health of these waterways is crucial in maintaining water quality and the ecological environment within the Town.

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<sup>209</sup> United States Geological Survey (USGS). (2003). Principal Aquifers of the United States. Available at <https://water.usgs.gov/ogw/aquifer/map.html>. Accessed March 2022.

Cape Vincent and southern Jefferson County communities all along the St. Lawrence River and Lake Ontario shores draw their domestic water from these waterbodies. Activities which have the potential to contaminate any of these waterways and their watersheds require careful regulation by the NYSDEC and/or the Town and Village. Table 2 in subsection 2.9.2 *Water quality classifications and use standards* describes each major waterbody within the WRA and lists their water quality rating. Table 3 in 2.9.2 lists the impaired waterbodies within the WRA and specifies the water use impairments, sources of these water use impairments, and the severity of these impaired water uses.

Both the Village and Town regulate land use through their respective zoning laws, special use permits, site plan review, and subdivision regulations that address the need to protect groundwater and surface water quality as part of proposed development projects. These regulations address the adequacy of water supply and sewage disposal, site disturbance, erosion and sediment control, and prohibition of certain uses such as the manufacture and storage of hazardous materials. When storage facilities for petroleum or other hazardous waste are allowed by the Village and the Town of Cape Vincent zoning regulations, all such facilities in waterfront areas must comply with U.S. Coast Guard hazardous substance safety standards and New York State NYSDEC regulations regarding petroleum bulk storage regulations. The Coast Guard is responsible under Federal Water Pollution Control Act of 1948 (FWPCA). Section 311 of the FWPCA (33 U.S.C. 1251-1388), as amended by the CWA, prohibits discharges of oil or hazardous substances in quantities that may be harmful into or upon the navigable waters of the United States and adjoining shorelines. In addition, each municipality must comply with SEQRA and other applicable State or federal regulations, such as but not limited to wetland permits and water quality permits (e.g., Section 404 under US ACOE jurisdiction) prior to the approval of any projects that have the potential for adverse impacts on local water resources. Regulatory requirements in implementing this LWRP are addressed in Section V.

### *Lake Ontario Waterfront*

The shoreline of Lake Ontario is mostly land, which gently slopes into the water. Much of this coastal land is shallow bedrock, which extends out into the water for several miles. This extension creates the relatively shallow bays that are ideal for breeding grounds of many fish species found in the area. Recreational fishing in this area has long been a cultural and economic boon to the Town. Other areas along this shore present sandy bottom bays, which have long been used as family recreation spots. The protected bays between Grenadier and Fox Islands comprise an ecological habitat for the abundant waterfowl that reside in and migrate through the area. The shorelines of these two islands also further promote the propagation of both fish and birds vital to maintaining the ecologically friendly environment in the Town. Furthermore, both Fox and Grenadier Islands are recognized for their uniqueness given the scarcity of islands in Lake Ontario, as well as their current open space character. Map 4 depicts existing conservation easements on

the islands and mainland within the WRA as well as NYS Significant Coastal Fish and Wildlife Habitat in the vicinity of Grenadier Island, Fox Island, Carleton Island, and Wilson Bay. Opportunities for additional conservation easements may occur in the future as changes in ownership of private parcels take place. Consequently, consideration must be given to obtaining additional environmental open space easements on both islands, for example by the TILT.

When combined, the mainland and islands shorelines extend for more than 20 miles. This additional land is a unique asset of Cape Vincent and has brought wildlife, people, and prosperity to the Town. Protecting these shoreline areas and shallow waters from potential degradation from the adverse effects of flooding, erosion, sedimentation, and wastewater pollution is critically important to the continued wellbeing of this marine environment and those fish, native aquatic plants, and wildlife that depend on these areas for survival. Implementation of municipal land use development regulations, for example through Zoning, Subdivision and Site Plan Review, provides protection for these habitats, especially in combination with regulations at the county, state, and federal levels of government. Eastern Lake Ontario has been classified as a Class A water as shown in Table 2 indicating a best usage for a source of drinking water, swimming, contact recreation, and fishing.

Fish advisories in the St. Lawrence River and Lake Ontario in Jefferson County include white perch, white sucker, lake trout, carp, channel catfish, and brown trout.<sup>210</sup> This is due to possible contamination from PCBs, Mirex, and Dioxin.<sup>211</sup> Women under 50 and children under 15 should not consume any fish.<sup>212</sup> In most cases, the advisories for men over 15 and women over 50 limit consumption up to 1 meal per month for larger Brown trout over 20 inches and Lake trout over 25 inches.<sup>213</sup> According to the same source, smaller trout, the other fish listed, and fish not specifically listed can be consumed up to 4 meals per month, and carp and Channel catfish should not be eaten.

### *St. Lawrence River waterfront*

This shoreline is part of the nationally acclaimed Thousand Islands Region. In contrast to the Lake Ontario shoreline, the shorelines along the St. Lawrence River predominantly consist of rocky

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<sup>210</sup> NYDOH. (2021). *St. Lawrence Valley Region Fish Advisories*. Available at: [https://www.health.ny.gov/environmental/outdoors/fish/health\\_advisories/regional/st\\_lawrence.htm#table](https://www.health.ny.gov/environmental/outdoors/fish/health_advisories/regional/st_lawrence.htm#table) (Accessed October 2021).

<sup>211</sup> NYDOH. (2021). *St. Lawrence Valley Region Fish Advisories*. Available at: [https://www.health.ny.gov/environmental/outdoors/fish/health\\_advisories/regional/st\\_lawrence.htm#table](https://www.health.ny.gov/environmental/outdoors/fish/health_advisories/regional/st_lawrence.htm#table) (Accessed October 2021).

<sup>212</sup> NYDOH. (2021). *St. Lawrence Valley Region Fish Advisories*. Available at: [https://www.health.ny.gov/environmental/outdoors/fish/health\\_advisories/regional/st\\_lawrence.htm#table](https://www.health.ny.gov/environmental/outdoors/fish/health_advisories/regional/st_lawrence.htm#table) (Accessed October 2021).

<sup>213</sup> NYDOH. (2021). *St. Lawrence Valley Region Fish Advisories*. Available at: [https://www.health.ny.gov/environmental/outdoors/fish/health\\_advisories/regional/st\\_lawrence.htm#table](https://www.health.ny.gov/environmental/outdoors/fish/health_advisories/regional/st_lawrence.htm#table) (Accessed October 2021).

ledges that are as high as approximately 20 feet above Ordinary High Water.<sup>214</sup> While there are several shallow bays and areas between Carleton Island and the mainland, like Lake Ontario, the deeper water along the rocky ledges provides a different type of important fishery habitat. The ledges offer physical protection to the shore along the riverfront. As reflected by the 2012 Town and Village Joint Comprehensive Plan, any degradation of the ledges and the underwater structure would significantly reduce the stability of this shoreline. It should be noted that this important and very scenic shoreline is cited in the New York State 2016 Open Space Conservation Plan as a statewide area in need of open space protection.

Furthermore, the 2012 Comprehensive Plan recommends that specific attention be paid to these unique features along the river shore whenever reviewing an application for a project that is in this area, which this LWRP is in support of. This level of review is required through Village Site Plan Review and zoning requirements for the Waterfront Overlay District that require LWRP consistency review. Town Zoning and Site Plan Review requirements upon adoption of this LWRP will be aligned through the Consistency Review Law (see Appendix C). The review of projects that are set back from the River must also keep the potential impact on the shoreline in mind. Overall, this upper portion of the St. Lawrence River as shown in the Table 2 has Class A water quality.

### **2.9.2 Water quality classifications and use standards**

According to the 2020 St. Lawrence River Watershed Characteristic Report, *"the NYS DEC Division of Water conducts regular, periodic assessments of waterbodies in the state to fulfill certain requirements of the Federal Clean Water Act (CWA). Waters are assessed according to their designated best use such as drinking water, recreation, and aquatic life, as defined by 6 CRR-NY 910.6."*<sup>215</sup> The report defines the classes from the NYSDEC classification and is stated below:

- Class A, AA: Best Use: source of drinking water, swimming, contact recreation, and fishing
- Class B: Best Use: swimming, contact recreation, and fishing
- Class C: Best Use: fishing and non-contact activities
- Class D: Best Use: fishing, but these waters will not support fish propagation
- T: support trout populations
- TS: support trout spawning

Waters with AA, A, B, and C classifications could also have "T" or "TS" classifications or standards.

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<sup>214</sup> Joint Comprehensive Plan Update Committee. (Aug 1, 2012). *Town and Village of Cape Vincent Comprehensive Plan Update To the 2003 Joint Comprehensive Plan* (p. 20).

<sup>215</sup> Franklin County Soil & Water Conservation District. (2020). *St. Lawrence River Watershed Characterization Report*. Accessible from [https://fcsxcd.org/wp-content/uploads/2020/06/20200603\\_SLR\\_Characterization\\_Final-reduce.pdf](https://fcsxcd.org/wp-content/uploads/2020/06/20200603_SLR_Characterization_Final-reduce.pdf) (January 2020).

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Table 2: NYS Department of Environmental Conservation Waterbody Classification

Waterbody	Water Index No. (WIN)	Description	Class
St. Lawrence River, Main Stem	SL (portion 4)	From Ogdensburg to Lake Ontario	A
Minor Tributaries to St. Lawrence	SL-41 thru 55	Entire streams/tributaries, Alex Bay to Cape Vincent	C
Lake Ontario, Grenadier Island	Ont (Island Tribs)	Small streams, Grenadier Island	C
Lake Ontario Shoreline, Eastern	Ont (portion 1)	shoreline from Tibbetts Point to Point Peninsula	A
Mud Creek, Kents Creek, Tributaries	Ont 1	Entire streams/tributaries	C

Source: New York State Department of Environmental Conservation (NYSDEC). 2021. *Waterbody Inventory/ Priority Waterbodies List*. Available at <https://www.dec.ny.gov/chemical/36730.html> (Accessed February 2021).

Table 3: Impaired water bodies within Cape Vincent WRA

Waterbody	Waterbody Inventory/Priority Waterbodies Data				
	Impaired Uses	Severity of Use Impairment	Type of Pollutants	Cause/ Source	Overall Severity
St. Lawrence River, Main Stem (Revised 11/17/2017)	Water Supply	Unassessed	Pesticides (Mirex)*, priority organics (PCBs)*, priority organics (dioxin)*, algal/plant growth (suspected), water level/flow (suspected), pathogens (unconfirmed), nutrients	Toxic/ Contaminated Sediment (known)*, Agriculture (known)*, hydrological alteration (suspected), on-site septic system (suspected)	Impaired Segment
	Public Bathing	Unassessed			
	Recreation	Impaired (suspected)			
	Aquatic Life	Impaired (known)			
	Fish Consumption	Impaired (known)			

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Waterbody	Waterbody Inventory/Priority Waterbodies Data				
	Impaired Uses	Severity of Use Impairment	Type of Pollutants	Cause/Source	Overall Severity
			(unconfirmed), silt/sediment (unconfirmed)		
Minor Tributaries to St. Lawrence (revised 11/17/2017)	Water Supply	N/A	Pesticides, Priority Organics (suspected), unknown pollutants (biological impacts)	Other sources (migratory fish species, suspected)	Minor Impacts
	Public Bathing	N/A			
	Recreation	Stressed			
	Aquatic Life	Stressed			
	Fish Consumption	Stressed			
Lake Ontario, Grenadier Island	None reported	Unassessed	None reported	None reported	Unassessed
Lake Ontario Shoreline, Eastern (Revised 10/06/2004)	Fish Consumption	Impaired	Priority Organics (PCB's)*, Priority Organics (dioxin)*, Pesticides (Mirex)*	Toxic/Contaminated Sediment* (known)	Impaired Segment
Mud/Kents Creek and Tribs	None reported	Unassessed	None reported	None reported	Unassessed
Minor Tribs to Lake Ontario	None reported	Unassessed	None reported	None reported	Unassessed

Source: New York State Department of Environmental Conservation. (2021). *Waterbody Inventory/ Priority Waterbodies List*. Available at <https://www.dec.ny.gov/chemical/36730.html> (Accessed February 2021). \*Asterisk refers to major use impacts/pollutants/sources



### **2.9.3 Air quality**

According to the Cape Vincent Pollution Monitoring Station, fine particulate matter (PM2.5) is typically very low within all of Jefferson County.<sup>216</sup> Airborne fine particulate matter reduces visibility and causes the air to appear hazy when levels are elevated, according to the same source. In general air quality in Cape Vincent is rated as ‘Good’ throughout most of the year.<sup>217</sup> This is due in part to the fact that there are no major sources of local air pollution. In recent years Jefferson County had a few air quality health advisories when ozone levels were considered high for sensitive groups, but these events are relatively uncommon.<sup>218</sup>

### **2.10 Summary**

Cape Vincent’s waterfront has played a very important role in the history and development of the Village and the Town of Cape Vincent. Although portions of the St. Lawrence and Lake Ontario waterfront uses have changed over time, both waterways continue to play a major role in the local and regional economy and in the future of both communities. The geographic setting of the St. Lawrence River and Lake Ontario blends together the historical pathways for transportation, water dependent uses, and economic development. The location and environmental characteristics of these waterfronts contain an array of ecological habitats for migrating birds, unique plant and animal communities or assemblages, and RTE fauna and flora. Cape Vincent’s waterfront is a key draw for local tourism and recreation, whether it be at the State Parks, on the Seaway Scenic Byway, on Horne’s Ferry, at Tibbett’s Point Lighthouse, or for cultural events (e.g., concerts or French Festival) and bird watching. Cape Vincent is attractive for families of all ages due to its small-town atmosphere, active community, affordability, and quality public amenities. The communities’ waterfront also contributes to the local economy by supporting a variety of housing options and businesses and has the potential to provide economic access to international markets.

Despite the wealth of natural and cultural resources of the community, the waterfront contains underutilized areas. Over the past hundred years, there have been shifts in the regional economy away from agriculture, shipping, coal transportation, and commercial fishing that once provided an economic base for the Cape Vincent area. Today, the area’s two largest employers are the Cape Vincent Correctional Facility and the Thousand Islands Central School district. Like many northern New York waterfront communities, local economic resources are limited, and the

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<sup>216</sup> Personal Weather Station Dashboard | Weather Underground, (2020). Available at: [https://www.wunderground.com/dashboard/pws/KNYCAPEV1?cm\\_ven=localwx\\_pwsdash](https://www.wunderground.com/dashboard/pws/KNYCAPEV1?cm_ven=localwx_pwsdash) (Accessed October 2021).

<sup>217</sup> Homefacts, (2021). *Cape Vincent NY Air Quality Information*. Available at: <https://www.homefacts.com/airquality/New-York/Jefferson-County/Cape-Vincent.html> (Accessed October 2021).

<sup>218</sup> HomeFacts. (2022). *Cape Vincent NY Air Quality Information*. Available at <https://www.homefacts.com/airquality/New-York/Jefferson-County/Cape-Vincent.html> (Accessed March 2022).

residential population is decreasing. All these factors have resulted in the community's shift to being more dependent on the summer season and the seasonal tourism economy than it was during its establishment.

Many key challenges currently exist in Cape Vincent's waterfront. One challenge is providing safe and inviting public access to areas along the St. Lawrence River waterfront within the Village. Another challenge is addressing the need for protecting and improving the ecological health and resiliency of waterways throughout the Town. Specific challenges related to this include adequate sewer and wastewater treatment in areas of Cape Vincent as well as increasing available public pump-out stations. Efforts to improve the water quality will also contribute to the potential growth of the local economy. Projects that provide unique opportunities to address these top priority issues include those that provide safe and accessible public space, active transportation options for residents; improve water quality; reconnect residents to the historic resources; promote mixed use development; and protect both the natural resources and unique character of the WRA. Projects proposed to work towards these goals of the LWRP are described in Section IV of the LWRP.

## SECTION III: LWRP POLICIES

The policies and sub-policies presented in this chapter consider the economic, environmental, and cultural characteristics of Cape Vincent's waterfront. The policies represent a balance between economic development and preservation that will both permit the beneficial use of coastal resources and prevent adverse effects on those resources. They also represent the enforceable policies of the New York State Coastal Management Program for the waterfront area subject to this LWRP.

The comprehensive policies of the Town and Village of Cape Vincent and State of New York will be enforced through use of State laws and authorities, as well as local laws and regulations. These policies are the basis for Federal and State consistency determinations for activities affecting the Waterfront Revitalization Area. While the policies are enforceable as a matter of state and local law however, for reviews conducted under the federal Coastal Zone Management Act, the narrative for each policy is for explanatory purposes only.

The policies are organized under eight headings: developed waterfront policies, fish and wildlife policies, flooding and erosion hazards policies, public access policies, recreation policies, agricultural land policies, energy and ice management policies, and wetland policies.

### ***Development Policies***

***Policy 1      Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.***

#### **Explanation of Policy**

State and federal agencies must ensure that their actions further the revitalization of urban waterfront areas. The transfer and purchase of property; the construction of a new office building, highway, or park; the provision of tax incentives to businesses; and establishment of enterprise zones, are all examples of governmental means for spurring economic growth. When any such action or similar action is proposed, it must be analyzed to determine if the action would contribute to or adversely affect a waterfront revitalization effort.

It must be recognized that revitalization of once dynamic waterfront areas is one of the most effective means of encouraging economic growth in the State, without consuming valuable open space outside of these waterfront areas. Waterfront redevelopment is also one of the most effective means of rejuvenating or at least stabilizing residential and commercial districts adjacent to the redevelopment area.

In responding to this policy, several other policies must be considered: (1) Uses requiring a location abutting the waterfront must be given priority in any redevelopment effort. (Refer to Policy 2 for the means to effectuate this priority); (2) As explained in Policy 5, one reason for revitalizing previously dynamic waterfront areas is that the costs for providing basic services to such areas is frequently less than providing new services to areas not previously developed; (3) The likelihood for successfully simplifying permit procedures and easing certain requirements (Policy 6) will be increased if a discrete area and not the entire urban waterfront is the focus for this effort. In turn, ease in obtaining permits should increase developers' interest to invest in these areas. Further, once this concentrated effort has succeeded, stabilization and revitalization of surrounding areas is more likely to occur.

Local governments, through waterfront revitalization programs have the primary responsibility for implementing this policy. Though local waterfront revitalization programs need not be limited to redevelopment, local governments are urged to identify areas as suitable for redevelopment and establish and enforce redevelopment programs.

1. When a Federal or State action is proposed to take place in an urban waterfront area regarded as suitable for redevelopment, the following guidelines will be used:
  - a. Priority should be given to uses which are dependent on a location adjacent to the water (see Policy 2)
  - b. The action should enhance existing and anticipated uses. For example, a new highway should be designed and constructed to serve the potential access needs for desirable industrial development
  - c. The action should serve as a catalyst to private investment in the area
  - d. The action should improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration. For example, a building could not be abandoned without protecting it against vandalism and/or structural decline
  - e. The action must lead to development, which is compatible with the character of the area, with consideration given to scale, architectural style, density, and intensity of use
  - f. The action should have the potential to improve the existing economic base of the community and, at a minimum, must not jeopardize this base. For example, waterfront development meant to serve consumer needs would be inappropriate in an area where no increased consumer demands were expected, and existing development was already meeting demand
  - g. The action should improve adjacent and upland views of the water, and, at a minimum, must not affect these views in an insensitive manner

- h. The action should have the potential to improve the potential for multiple uses of the site
2. If a State or Federal action is proposed to take place outside of a given deteriorated, underutilized urban waterfront area suitable for redevelopment, and is either within the relevant community or adjacent coastal communities, the agency proposing the action must first determine if it is feasible to take the action within the deteriorated, underutilized urban waterfront area in question. If such an action is feasible, the agency should consider taking action in that area. If not feasible, the agency must take the appropriate steps to ensure that the action does not cause further deterioration of that area.

In Cape Vincent, this policy is particularly important in four deteriorated and underutilized waterfront locations, which include the following: (1) the Club Street area bordered by and including Esselstyne, James, and Gouvello Streets, (2) Anchor Marina; (3) East End Park; (4) Riverfront Pocket Parks (See Section II, Abandoned, Underutilized or Deteriorated Areas, Sites and Structures). Due to the importance of the international ferry to Cape Vincent's commercial area and to the local economy, any action which would adversely affect the operation of the ferry would hinder the successful and purposeful revitalization and redevelopment of Cape Vincent's waterfront areas.

***Policy 2: Facilitate the siting of water dependent uses and facilities on or adjacent to coastal waters.***

**Explanation of Policy**

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

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

Water dependent activities shall not be considered a private nuisance, provided such activities were commenced prior to the surrounding activities and have not been determined to be the

cause of conditions dangerous to life or health and any disturbance to enjoyment of land and water has not materially increased.

A water dependent use is an activity which can only be conducted on, in, over or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.

The following uses and facilities are considered as water dependent:

1. Uses which depend on the utilization of resources found in coastal waters (for example: fishing, mining of sand and gravel, mariculture activities)
2. Recreational activities which depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing)
3. Uses involved in the sea/land transfer of goods (for example: docks, loading areas, pipelines, short-term storage facilities)
4. Structures needed for navigational purposes (for example: dams, locks, lighthouses)
5. Flood and erosion protection structures (for example: breakwaters, bulkheads)
6. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards)
7. Uses requiring large quantities of water for processing and cooling purposes (for example: hydroelectric power plants, fish processing plants, pumped storage power plants)
8. Uses that rely heavily on the waterborne transportation of raw materials or products which are difficult to transport on land, thereby making it critical that a site near to shipping facilities be obtained (for example: coal export facilities, cement plants, quarries)
9. Uses which operate under such severe time constraints that proximity to shipping facilities become critical (for example: firms processing perishable foods)
10. Scientific/educational activities which, by their nature, require access to coastal waters (for example: certain meteorological and oceanographic activities)
11. Support facilities which are necessary for the successful functioning of permitted water dependent uses (for example: parking lots, snack bars, first aid stations, short-term storage facilities). Though these uses must be near the given water dependent use they should, as much as possible, be sited inland from the water dependent use rather than on the shore.

In addition to water dependent uses, those uses which are enhanced by a waterfront location should be encouraged to locate along the shore, though not at the expense of water dependent uses. A water enhanced use is defined as a use or activity which does not require a location adjacent to or over coastal waters, but whose location on land adjacent to the shore adds to the public use and enjoyment of the water's edge. Water enhanced uses are primarily recreational, cultural, retail, or entertainment uses. A restaurant which uses good site design to take advantage of a waterfront view is an example of a water enhanced use.

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

In the actual choice of sites where water dependent uses will be encouraged and facilitated, the following guidelines should be used:

1. Competition for space - competition for space, or the potential for it, should be indicated before any given site is promoted for water dependent uses. The intent is to match water dependent uses with suitable locations and thereby reduce any conflicts between competing uses that might arise. Not just any site suitable for development should be chosen as a water dependent use area. The choice of a site should be made with some meaningful impact on the real estate market anticipated. The anticipated impact could either be one of increased protection to existing water dependent activities or else the encouragement of water dependent development.
2. In-place facilities and services - most water dependent uses, if they are to function effectively, will require basic public facilities and services. In selecting appropriate areas for water dependent uses, consideration should be given to the following factors:
  - a) The availability of public sewers, public water lines and adequate power supply.
  - b) Access to the area for trucks and rail if heavy industry is to be accommodated; and
  - c) Access to public transportation if a high number of person trips are to be generated.

3. Access to navigational channels - if commercial shipping, commercial fishing, or recreational boating are planned, the locality should consider setting aside a site, within a sheltered harbor, from which access to adequately sized navigation channels would be assured.
4. Compatibility with adjacent uses and the protection of other coastal resources – water dependent uses should be located so that they enhance, or at least do not detract from, the surrounding community. Consideration should also be given to such factors as the protection of nearby residential areas from odors, noise, and traffic. Affirmative approaches should also be employed so that water dependent uses, and adjacent uses can serve to complement one another. For example, a recreation-oriented water dependent use area could be sited in an area already oriented towards tourism. Clearly, a marina, fishing pier or swimming area would enhance, and in turn be enhanced by, nearby restaurants, motels, and other non-water-oriented tourist activities. Water dependent uses must also be sited to avoid adverse impacts on the significant coastal resources.
5. Preference to underutilized sites: The promotion of water dependent uses should serve to foster development because of the capital programming, permit expediting and other State and local actions that will be used to promote the site. Nowhere is such a stimulus needed more than in those portions of the State's waterfront areas which are currently underutilized.
6. Providing for expansion - a primary objective of the policy is to create a process by which water dependent uses can be accommodated well into the future. State agencies and localities should therefore consider long-term space needs and, where practicable, accommodate future demand by identifying more land than is needed soon.

In promoting water dependent uses, the following kinds of actions will be considered:

1. Favored treatment to water dependent use areas with respect to capital programming. Priority should be given to the construction and maintenance of port facilities, roads, railroad facilities, and public transportation within areas suitable for water dependent uses.
2. When areas suitable for water dependent uses are publicly owned, favored leasing arrangements should be given to water dependent uses.
3. Where possible, consideration should be given to providing water dependent uses with property tax abatements, loan guarantees, or loans at below market rates.



4. State and local planning and economic development agencies should actively promote water dependent uses. In addition, a list of sites available for non-water dependent uses should be maintained in order to assist developers seeking alternative sites for their proposed projects.
5. Local, State and Federal agencies should work together to streamline permitting procedures that may be burdensome to water dependent uses. This effort should begin for specific uses in a particular area.
6. Local land use controls, especially the use of zoning districts exclusively for waterfront uses, can be an effective tool of local government in assuring adequate space for the development of water dependent uses.

The following areas are specifically intended to host water dependent uses and facilities: (1) East End Park boat launches, (2) the Village dock, (3) Cape Vincent Fisheries Station and Aquarium, (4) US Customs Enforcement office, (5) private marinas, (6) Horne's ferry, (7) seaway pilot station, (8) St. Louis Steamer Shipwreck Diving Site and (9) mooring sites (See Section II Existing water and land use, Surface water uses and underwater land uses, Commercial Water Uses, Institutional Water Uses, Recreational Water Uses). There is a small amount of waterfront space available for additional development. While the undeveloped land is committed to public access to the St. Lawrence River and Lake Ontario, there are some underutilized properties suitable for redevelopment.

***Policy 3: Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of State public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.***

**Explanation of Policy**

The aim of this policy is to support port development in New York, Buffalo, Ogdensburg, and Oswego. Three other development policies, discussed in this Section, have significant implications for port development, namely: water dependency, concentration of development, and the expediting of permit reviews. In implementing this policy, state agencies will recognize the legally established jurisdictional boundaries of the port authorities. If an action is proposed for a site within or abutting a major port, or if there is a reasonable expectation that a proposed action elsewhere would have an impact on a major port, then the following guidelines shall be used in determining consistency:

1. In assessing proposed projects within or abutting a major port, given that all other applicable policies are adhered to, the overriding consideration is the maintenance and enhancement of port activity, i.e., development related to waterborne transportation, which will have precedence over other non-port related activities.
2. Dredging to maintain the economic viability of major ports will be regarded as an action of regional or statewide public benefit if: a clear need is shown for maintaining or improving the established alignment, width, and depth of existing channels or for new channels essential to port activity; and it can be demonstrated that environmental impacts would be acceptable according to State regulations governing the activity.
3. Landfill projects in the near-shore areas will be regarded as an acceptable activity within major ports areas, provided adverse environmental impacts are acceptable under all applicable environmental regulations and a strong economic justification is demonstrated.
4. If non-port related activities are proposed to be in or near to a major port, these uses shall be sited so as not to interfere with normal port operations.
5. When not already restricted by existing laws or covenants and when there is no other overriding regional or statewide public benefit for doing otherwise, surplus public land or facilities within or adjacent to a major port shall be offered for sale, in the first instance, to the appropriate port authority.
6. In the programming of capital projects for port areas, highest priority will be given to projects that promote the development and use of the port. However, in determining such priorities, consideration must also be given to non-port related interests within or near the ports that have demonstrated critical capital programming needs.
7. No buildings, piers, wharves, or vessels shall be abandoned or otherwise left unused by a public agency or sold without making provisions for their maintenance in sound conditions or for their demolition or removal.
8. Proposals for the development of new major ports will be assessed in terms of the anticipated impact upon a) existing New York State major ports; b) existing modes of transportation; c) the surrounding land uses and overall neighborhood character of the area in which the proposed port is to be located; and other valued coastal resources.
9. Port development shall provide opportunities for public access insofar as these opportunities do not interfere with the day-to-day operations of the port and the port authority and its tenants do not incur unreasonable costs.

10. In applying the above guidelines, the information in harbor management plans being developed by local governments pursuant to Article 42 of the Executive Law and local laws that would implement them shall be considered.

This State Coastal Policy regarding the State's major ports is currently not applicable to Cape Vincent as no State major port is located in the Village or Town.

***Policy 4: Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity***

**Explanation of Policy**

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

The following guidelines shall be used in determining consistency:

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

7. In applying the above guidelines, the information in harbor management plans being developed by local governments pursuant to Article 42 of the Executive Law and local laws that would implement them shall be considered.

Traditional activities occurring in and around Cape Vincent's waterfront contribute significantly to the economic strength and attractiveness of the community, particularly within the Harbor Management Area (see Section II). Historic preservation, the international ferry, the U.S. Customs office, and other compatible activities have created local, regional, and international appeal as a tourist destination and a prosperous commercial and recreational harbor and residential area.

Because recreational boating and fishing, the international ferry, and related businesses are the major activities in the harbor, these uses will be protected and encouraged. New developments or activities will be reviewed for any potential conflicts with these uses. Due to the importance of the international ferry to Cape Vincent's commercial harbor and entire economic structure, any action that would adversely affect the operation of the international ferry would substantially hinder the development and enhancement of this small harbor's economy and unique maritime identity.

***Policy 5: Encourage the location of development in areas where public services and facilities essential to such development are adequate.***

***Explanation of Policy***

By its construction, taxing, funding and regulatory powers, government has become a dominant force in shaping the course of development. Through these government actions, development, particularly large-scale development, in the coastal area will be encouraged to locate within, contiguous to, or near, existing areas of concentrated development where infrastructure and public services are adequate, where topography, geology, and other environmental conditions are suitable for and able to accommodate development.

The above policy is intended to accomplish the following:

- Strengthen existing residential, industrial, and commercial centers.
- Foster an orderly pattern of growth.
- Increase the efficiency of existing public services and moderate the need to provide new public services in outlying areas.
- Preserve open space in sufficient amounts; and where desirable,
- Foster energy conservation by encouraging proximity between home, work, and leisure activities.

For any action that would result in large scale development or an action which would facilitate or serve future development, a determination shall be made as to whether the action is within, contiguous to, or near an area of concentrated development where infrastructure and public services are adequate. The following guidelines shall be used in making that determination:

1. Cities, built-up suburban towns and villages, and rural villages in the coastal area are generally areas of concentrated development where infrastructure and public services are adequate.
2. Other locations in the coastal area may also be suitable for development, if three or more of the following conditions prevail:
  - a. Population density of the area surrounding or adjacent to the proposed site exceeds 1,000 persons per square mile.
  - b. Fewer than 50% of the buildable sites (i.e., sites meeting lot area requirements under existing local zoning regulations) within a one-mile radius of the proposed site are vacant.
  - c. Proposed site is served by or is near to public or private sewer and water lines.
  - d. Public transportation service is available within one mile of the proposed site; and
  - e. A significant concentration of commercial and/or industrial activity is within one-half mile of the proposed site.
3. The following points shall be considered in assessing the adequacy of an area's infrastructure and public services:
  - a. Streets and highways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development.
  - b. Development's water needs (consumptive and firefighting) can be met by the existing water supply system.
  - c. Sewage disposal system can accommodate the wastes generated by the development.
  - d. Energy needs of the proposed land development can be accommodated by existing utility systems.
  - e. Storm water runoff from the proposed site can be accommodated by on-site and/or off-site facilities; and
  - f. Schools, police and fire protection, and health and social services are adequate to meet the needs of the population expected to live, work, shop, or conduct business in the area as a result of the development.

It is recognized that certain forms of development may and/or should occur at locations which are not within or near areas of concentrated development. Thus, this coastal development policy does not apply to the following types of development projects and activities.

1. Economic activities which depend upon sites at or near locations where natural resources are present, e.g., lumber industry.
2. Development which by its nature is enhanced by a non-urbanized setting, e.g., a resort complex, campgrounds, second home developments.
3. Development which is designed to be a self-contained activity, e.g., a small cottage or religious retreat.
4. Water-dependent uses with site requirements not compatible with this policy or when alternative sites are not available.
5. Development which because of its isolated location and small-scale has little or no potential to generate and/or encourage further land development.
6. Uses and/or activities which because of public safety consideration should be located away from populous areas.
7. Rehabilitation or restoration of existing structures and facilities.
8. Development projects which are essential to the construction and/or operation of the above uses and activities.

In certain urban areas where development is encouraged by this policy, the condition of existing public water and sewage infrastructure may necessitate improvements. Those State and federal agencies charged with allocating funds for investments in water and sewer facilities should give high priority to the needs of such urban areas so that full advantage may be taken of the rich array of their other infrastructure components in promoting waterfront revitalization.

***Policy 6: Expedite permit procedures to facilitate the siting of development activities at suitable locations.***

**Explanation of Policy**

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

levels of government, and if necessary, legislative and/or programmatic changes will be recommended.

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

## ***Fish and Wildlife Policies***

***Policy 7: Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored to maintain their viability as habitats.***

### ***Explanation of Policy***

Habitat protection is recognized as fundamental to assuring the survival of fish and wildlife populations. Certain habitats are particularly critical to the maintenance of a given population and, therefore, merit special protection. Such habitats exhibit one or more of the following characteristics:

- (a) are essential to the survival of a large portion of a fish or wildlife population (e.g., feeding grounds, nursery areas).
- (b) support populations of rare and endangered species.
- (c) are found at a very low frequency within a coastal region.
- (d) support fish and wildlife populations having significant commercial and/or recreational value; and
- (e) would be difficult or impossible to replace.

To protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions destroy or significantly impair the viability of an area as a habitat. When the action significantly reduces a vital resource (e.g., food, shelter, living space) or changes environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism, then the action would be considered to "significantly impair" the habitat. Indicators of a significantly impaired habitat may include reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The range of generic activities most likely to affect significant coastal fish and wildlife habitats include, but are not limited to the following:

1. Draining wetlands, ponds: Cause changes in vegetation, or changes in groundwater and surface water hydrology.

2. Filling wetlands, shallow areas of streams, lakes, bays, estuaries: May change physical character of substrate (e.g., sandy to muddy, or smother vegetation, alter surface water hydrology).
3. Grading land: Results in vegetation removal, increased surface runoff, or increased soil erosion and downstream sedimentation.
4. Clear cutting: May cause loss of vegetative cover, increase fluctuations in amount of surface runoff, or increase streambed scouring, soil erosion, sediment deposition.
5. Dredging or excavation: May cause change in substrate composition, possible release of contaminants otherwise stored in sediments, removal of aquatic vegetation, or change circulation patterns and sediment transport mechanisms.
6. Dredge spoil disposal: May include shoaling of littoral areas or change circulation patterns.
7. Physical alteration of shore areas through channelization or construction of shore structure: May change volume and rate of flow or increase scouring, sedimentation.
8. Introduction, storage, or disposal of pollutants such as chemical, petrochemical, solid wastes, nuclear wastes, toxic material, pesticide, sewage effluent, urban and rural runoff, leachate of hazardous and toxic substances stored in landfills: May cause increased mortality or sublethal effects on organisms, alter their reproductive capabilities, or reduce their value as food organisms.

The range of physical, biological, and chemical parameters which should be considered include but are not limited to the following:

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

When a proposed action is likely to alter any of the biological, physical, or chemical parameters as described in the narrative beyond the tolerance range of the organisms occupying the habitat, the viability of that habitat has been significantly impaired or destroyed. Such action, therefore, would be inconsistent with the above policy.



In cooperation with the State's Coastal Management Program, the Department of Environmental Conservation has developed a rating system incorporating these five parameters (The Development and Evaluation of a System for Rating Fish and Wildlife Habitats in the Coastal Zone of New York State, Final Report, January 1981, 15 pp.).

To further aid Federal and State agencies in determining the consistency of a proposed action with this policy, a narrative will be prepared for each significant habitat which will: (1) identify the location of the habitat; (2) describe the community of organisms which utilize the habitat; (3) identify the biological, physical and chemical parameters which should be considered when assessing the potential impacts of a project on that habitat; (4) identify generic activities which would most likely create significant impacts on the habitat; and (5) provide the quantitative basis used to rate the habitat. Prior to formal designation of significant fish and wildlife habitats, copies of the individual habitat narratives plus copies of habitat maps and completed rating forms will be provided to Federal and State agencies and the public for the review and comment.

Within the WRA, the St. Lawrence River and eastern Lake Ontario contain five designated NYS Significant Coastal Fish and Wildlife Habitats as discussed in Section 2.3.1 and identified on Map 4 Sensitive Environmental Features. The habitat narratives are provided in Appendix H. A habitat impairment test must be applied to any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved LWRP. The State notes that if the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area. Any activity that would substantially degrade water quality, increase turbidity or sedimentation, reduce water levels, or increase water level fluctuations, could adversely affect fish and wildlife populations. This also includes discharges of sewage or stormwater runoff containing sediments, oil spills, or chemical pollutants (including fertilizers, herbicides, or insecticides); elimination of wetland habitats; and significant human encroachment into the area, through dredging, filling, or construction of roads, could also reduce its value to fish and wildlife.

The five designated habitat areas in the Town of Cape Vincent are described by the State<sup>219</sup> as follows:

1. Fox Island – Grenadier Island Shoals. This is an extensive area of sheltered shallow, and open water with beds of submergent aquatic vegetation considered unusual for Lake Ontario. This is an important recreational fishing area of regional significance in eastern Lake Ontario.
2. Grenadier Island. This is a very large, isolated, and undisturbed island considered rare in the Great Lakes Plain ecological region. Grenadier Island contains important nesting areas for

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<sup>219</sup> New York State, The Office of Planning and Development. (n.d.). *New York Office of Planning and Development Geographic Information Gateway*. <https://opdgig.dos.ny.gov/#/home> (Accessed January 2022).

short-eared owl (E), Northern harrier (T), upland sandpiper (T), and species of special concern. The island is an important area for wintering raptors in the Great Lakes Plain.

3. Wilson Bay and Marsh. This is one of the largest, undisturbed, scrub-shrub and forested wetlands on Lake Ontario considered rare in the ecological subregion. This is an important waterfowl hunting area in the Thousand Islands region and a regionally significant birdwatching area. This area contains the largest black tern (E) colony in New York State and a major spawning and nursery area for northern pike in eastern Lake Ontario.

4. St. Lawrence River Shoreline Bays. This stretch of the River includes several shallow shoreline bays with dense beds of aquatic vegetation considered rare in Jefferson County due to the protected nature of the bays. These bays comprise major spawning and nursery areas of statewide significance for muskellunge on the St. Lawrence River. The St. Lawrence muskellunge fishery is dependent on these bays and attracts anglers from throughout the State and beyond.

5. Carleton Island – Featherbed Shoals. This is an extensive area of riverine littoral zone, with beds of submergent aquatic vegetation considered unusual in the Great Lake Plain, although somewhat common in the Eastern Ontario ecological subzone. This is considered the most popular walleye fishing area in the Thousand Islands region and one of about five major concentration areas for migrant waterfowl in the Eastern Ontario Plain ecological subzone.

***Policy 8: Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain, or which cause significant sublethal or lethal effect on those resources.***

**Explanation of Policy**

Hazardous wastes are unwanted byproducts of manufacturing processes generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (S27-0901.3) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; (or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes (NYCRR Part 366) will be adopted by NYSDEC within 6 months after EPA formally adopts its list.

The handling (storage, transport, treatment, and disposal) of the materials included on this list is being strictly regulated in New York State to prevent their entry or introduction into the environment. Such controls should effectively minimize possible contamination of and

bioaccumulation in the State's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders.

Other pollutants are those conventional wastes, generated from point and non-point sources, and not identified as hazardous wastes but controlled through other State laws, cited below<sup>220</sup>.

***Policy 9: Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.***

#### **Explanation of Policy**

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

Any efforts to increase recreational use of these resources will be made in a manner which ensures the protection of fish and wildlife resources in marine and freshwater coastal areas, and which takes into consideration other activities dependent on these resources (fishing charter boat operations, bird watching), which are important to the local economy. Also, such efforts should be made in accordance with existing State law and sound resource management considerations. Such considerations include biology of the species, carrying capacity of resources, public demand, costs, and available technology.

The following additional guidelines should be considered by all government agencies as they determine the actions with this policy:

1. Consideration should be made by federal, State, and local agencies as to whether an action will impede existing or future utilization of the State's recreational fish and wildlife resources in the vicinity of the Village and the Town or accessible from its harbor or other access sites.
2. Efforts to increase access to recreational fish and wildlife resources should not lead to overutilization of that resource or cause impairment of the habitat. Sometimes such impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the area.
3. The impacts of increasing access to recreational fish and wildlife resources should be determined on a case-by-case basis, consulting with the significant habitat narrative (see Policy 7) and/or conferring with a trained fish and wildlife biologist.

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<sup>220</sup> Local Waterfront Revitalization Programs in the Coastal Area" Guidance Manual for preparing Local Programs (2021) (Part II Section 6, page 28-31) Available at: [https://dos.ny.gov/system/files/documents/2021/09/lwrp-preparation-guidance\\_final\\_9\\_1\\_21.pdf](https://dos.ny.gov/system/files/documents/2021/09/lwrp-preparation-guidance_final_9_1_21.pdf) (Accessed October 2021).

4. Any public or private sector initiatives to supplement existing stocks (e.g., stocking a stream with fish reared in a hatchery) or develop new resources (e.g., creating private fee-fishing facilities) must be done in accord with existing State law.

***Policy 10: Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing onshore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.***

**Explanation of Policy**

While there is limited commercial sport fishing in the Cape Vincent WRA, freshwater commercial fishing facilities do not currently occur, nor are they supported by the local zoning regulations or planning initiatives. Shellfish and crustacean resources are not applicable to the freshwater resources of the WRA. However, any potential future activities will comply with this policy on commercial fishing activities.

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

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

1. A public agency's commercial fishing development initiative should not preempt or displace private sector initiative.
2. A public agency's efforts to expand existing or create new onshore commercial fishing support facilities should be directed towards unmet development needs rather than merely displacing existing commercial fishing activities from a nearby port. This may be accomplished by taking into consideration existing State or regional commercial fishing development plans.

3. Consideration should be made by State and Federal agencies whether an action will impede existing utilization or future development of the state's commercial fishing resources.
4. Commercial fishing development efforts should be made in a manner which ensures the maintenance and protection of the renewable fishery resources.

## ***Flooding and Erosion Hazards Policies***

***Policy 11: Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.***

### **Explanation of Policy**

On coastal lands identified as coastal erosion hazard areas, buildings and similar structures shall be set back from the shoreline a distance sufficient to minimize damage from erosion unless no reasonable prudent alternative site is available as in the case of piers, docks, and other structures necessary to gain access to coastal waters to be able to function. The extent of the setback will be calculated, considering the rate at which land is receding due to erosion and the protection provided by existing erosion protection structures, as well as by natural protective features such as beaches, sandbars, spits, shoals, barrier islands, bay barriers, nearshore areas, bluffs, and wetlands. The only new structure allowed in coastal erosion hazard areas is a moveable structure as defined in 6 NYCRR Part 505.2(x). Prior to its construction, an erosion hazard areas permit must be approved for the structure. Existing non-conforming structures located in coastal erosion hazard areas may be only minimally enlarged.

In coastal lands identified as being subject to high velocity waters caused by hurricane or other storm wave wash - a coastal high hazard area - walled and roofed buildings or fuel storage tanks shall be sited landward of mean high tide, and no mobile home shall be sited in such area. In coastal lands identified as floodways, no mobile homes shall be sited other than in existing mobile home parks.

Where human lives may be endangered by major coastal storms, all necessary emergency preparedness measures should be taken, including disaster preparedness planning.

Locally, areas of concern include flood hazard areas, locally determined coastal erosion areas, and areas impacted by wind-driven ice movement.

***Policy 12: Activities or development in the coastal area will be undertaken to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.***

**Explanation of Policy**

Beaches, dunes, barrier islands, bluffs, and other natural protective features help safeguard coastal lands and property from damage, as well as reduce the danger to human life, resulting from flooding and erosion. Excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize their fragile nature and high protective values, lead to the weakening or destruction of those landforms. Activities or development in, or in proximity to, natural protective features must ensure that all such adverse effects are minimized. Primary dunes will be protected from all encroachments that could impair their natural protection capacity.

***Policy 13: The construction or reconstruction of erosion protection structures shall be undertaken only if they have reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.***

**Explanation of Policy**

Erosion protection structures are widely used throughout the State's coastal area. However, because of improper design, construction, and maintenance standards, many fail to give the protection which they are presumed to provide. As a result, development is sited in areas where it is subject to damage or loss due to erosion. This policy will help ensure the reduction of such damage or loss.

This policy is particularly important for the breakwater protecting the Vessel Activity Area and shoreline devices such as riprap and bulkheads that provide erosion protection to shoreline structures in the Cape Vincent WRA.

***Policy 14: Activities and development including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.***

**Explanation of Policy**

Erosion and flooding are processes which occur naturally. However, by our actions, humans can increase the severity and adverse effects of those processes, causing damage to, or loss of property, and endangering human lives. Those actions include: the use of erosion protection

structures such as groins, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices, thereby causing runoff and the erosion and weakening of shorelands; and the placing of structures in identified floodways so that the base flood level is increased causing damage to otherwise hazard-free areas.

***Policy 15: Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.***

**Explanation of Policy**

Coastal processes, including the movement of beach materials by water, and any mining, excavation or dredging in nearshore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Such mining, excavation and dredging should be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to such shorelands. Offshore mining is a future alternative option to land mining for sand and gravel deposits which are needed to support building and other industries.

Currently, there are no onshore mining and quarry operations located in the WRA. This State Coastal Policy 15 will be applicable to future mining activities or operations.

***Policy 16: Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.***

**Explanation of Policy**

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

***Policy 17: Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.***

**Explanation of Policy**

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

Nonstructural measures shall include, but not be limited to: (1) within coastal erosion hazard areas identified under Section 34-104, Coastal Erosion Hazard Areas Act (Article 34, Environmental Conservation Law) and subject to the permit requirements on all regulated activities and developments established under that law: (a) the use of minimum setbacks as provided for in Section 0108 of Environmental Conservation Law Article 34; and (b) the strengthening of coastal landforms by the planting of appropriate vegetation on dunes and bluffs, the installation of sand fencing on dunes, the reshaping of bluffs to achieve an appropriate angle of repose so as to reduce the potential for slumping and to permit the planting of stabilization vegetation, and the installation of drainage systems on bluffs to reduce runoff and internal seepage of waters which erode or weaken the landforms; and (2) within identified flood hazard areas, (a) the avoidance of risk or damage from flooding by the siting of buildings outside the hazard area, and (b) the flood-proofing of buildings or their elevation above the base flood level.

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

In determining whether nonstructural measures to protect against erosion or flooding will afford the degree of protection appropriate, an analysis, and if necessary, other materials such as plans or sketches of the activity or development, of the site and of the alternative protection measures should be prepared, to allow an assessment to be made.



## **General Policy**

**Policy 18:** *To safeguard the vital economic, social, and environmental interests of the State and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State has established to protect valuable coastal resource areas.*

### **Explanation of Policy**

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

Furthermore, all future proposed development activities within Cape Vincent's waterfront must recognize the importance of tourism to the Village and Town's economy and the roles that local cultural resources, public access and recreation facilities, water dependent uses, and the natural coastal environment play in sustaining healthy tourism.

## **Public Access Policies**

**Policy 19:** *Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities.*

### **Explanation of Policy**

This policy calls for achieving balance among the following factors: the level of access to a resource or facility, the capacity of a resource facility; and the protection of natural resources. The imbalance among these factors is the most significant in the State's urban areas. Because an imbalance among these factors is often due to access-related problems, priority will be given to improving physical access to existing and potential coastal recreation sites within the heavily populated urban coastal areas of the State and to increasing the ability of urban residents to get to coastal recreation areas by improved public transportation. The water related recreation resources and facilities which will receive priority for improved access are public beaches, boating facilities, fishing areas and waterfront parks. In addition, because of the greater competition for waterfront locations within urban areas, the Coastal Management Program will encourage mixed use areas and multiple use of facilities to improve access. Specific sites requiring access improvements and the relative priority the program will accord to each will be identified in the Public Access Planning Process.

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

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

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

- a. Access - the ability and right of the public to reach and use public coastal lands and waters.
- b. Public water related recreation resources of facilities - all public lands or facilities that are suitable for passive or active recreation that requires either water or a waterfront location or is enhanced by a waterfront location.
- c. Public lands or facilities - lands or facilities held by State or local government in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including underwater lands and the foreshore.
- d. A reduction in the existing level of public access - includes, but is not limited to, the following:
  - (1) The number of parking spaces at a public water-related recreation resource or facility is significantly reduced.
  - (2) The service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting system-wide objectives.
  - (3) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
  - (4) There are substantial increases in the following: already existing special fares (not to include regular fares in any instance) of public transportation to a public water-related recreation resource or facility;

and/or admission fees to such a resource or facility except where the public body having jurisdiction over such fares determines that such substantial fare increases are necessary and an analysis shows that such increases will significantly reduce usage by individuals or families and incomes below the State government established poverty level.

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

***Policy 20: Access to the publicly owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided and it shall be provided in a manner compatible with adjoining uses.***

**Explanation of Policy**

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

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

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

The regulation of projects and structures, proposed to be constructed in or over lands underwater, is necessary to responsibly manage such lands, to protect vital assets held in the name of the people of the State, to guarantee common law and sovereign rights, and to ensure that waterfront owners' reasonable exercise of riparian rights and access to navigable waters shall be consistent with the public interest in reasonable use and responsible management of waterways and such public lands for the purposes of navigation, commerce, fishing, bathing, recreation, environmental and aesthetic protection, and access to the navigable waters and lands underwater of the State.

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

1. Existing access from adjacent or proximate public lands or facilities to existing public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrated to be of

overriding regional or Statewide public benefit or, in the latter case, estimates of future use of these lands and waters are too low to justify maintaining or providing increased access.

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

- a) (See definitions under first policy of "access", and "public lands or facilities").
  - b) A reduction in the existing or anticipated level of public access - includes, but is not limited, to the following:
    - (1) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
    - (2) Pedestrian access is diminished or blocked completely by public or private development.
  - c) An elimination of the possibility of increasing public access in the future - includes, but is not limited to, the following:
    - (1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public coastal lands and /or waters
    - (2) Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters
    - (3) Construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities
2. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated.
- a) A reduction or elimination in the existing level of public access - includes, but is not limited to, the following:
    - (1) Access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities
    - (2) Access is reduced or blocked completely by any public developments
3. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where (a) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources; (b)

- adequate access exists within one-half mile; or (c) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.
4. The State will not undertake or directly fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
  5. In their plans and programs for increasing public access, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.
  6. Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:
    - a) The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
    - b) The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the coastal lands or waters. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
  7. In making any grant, lease, permit, or other conveyance of land now or formerly underwater, there shall be reserved such interests or attached such conditions to preserve the public interest in the use of state-owned lands underwater and waterways for navigation, commerce, fishing, bathing, recreation, environmental protection, and access to the navigable waters of the state. In particular, the granting of publicly owned underwater or formerly underwater lands to private entities will be limited to exceptional circumstances only.

Publicly owned lands referenced in this policy have been identified in Policy 19 and in Section II. Public lands are depicted in Map 2A and Map 2B Water and Water Dependent Uses within the Village and Town of Cape Vincent, respectively.

## ***Recreation Policies***

***Policy 21: Water dependent and water enhanced recreation will be encouraged and facilitated and will be given priority over non-water related uses along the coast.***

### ***Explanation of Policy***

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

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

Among priority areas for increasing water-related recreation opportunities are those areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and those areas where the use of the shore is severely restricted by highways, railroads, industry, or other forms of existing intensive land use or development. The Department of State, working with the Office of Parks, Recreation, and Historic Preservation and with local governments, will identify communities whose use of the shore has been so restricted and those sites shoreward of such developments which are suitable for recreation and can be made accessible. Priority shall be given to recreational development of such lands.

The siting or design of new public development in a manner which would result in a barrier to the recreational use of a major portion of a community's shore should be avoided as much as practicable.

Among the types of water dependent recreation, provision of adequate boating services to meet future demand is to be encouraged by this Program. The siting of boating facilities must be consistent with preservation and enhancement of other coastal resources and with their capacity to accommodate demand. The provision of new public boating facilities is essential in meeting this demand, but such public actions should avoid competition with private boating development. Boating facilities will, as appropriate, include parking, park-like surroundings, toilet facilities, and pump out facilities. Harbors of Refuge are particularly needed along Lake Erie and

Lake Ontario. There is a need for a better positional pattern of boating facilities to correct problems of overused, insufficient, or improperly sited facilities.

Water-related off-road recreational vehicle use is an acceptable activity; provided no adverse environmental impacts occur. Where adverse environmental impact will occur, mitigating measures will be implemented, where practicable to minimize such adverse impacts. If acceptable mitigation is not practicable, prohibition of the use by off-road recreational vehicles will be posted and enforced. Ground water contamination presents a threat to Fire Island National Seashore water resources.

***Policy 22: Development when located adjacent to the shore will provide for water-related recreation whenever such use is compatible with reasonably anticipated demand for such activities and is compatible with the primary purpose of the development.***

**Explanation of Policy**

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

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

- Parks
- Highway
- Power plants
- Utility transmission rights of way
- Sewage treatment facilities
- Mental health facilities\*
- Hospitals\*
- Prisons\*
- Schools, universities\*
- Military facilities\*
- Nature preserves\*



- Large residential subdivisions (50 units)
- Shopping centers
- Office buildings

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

Prior to acting relative to any development, State agencies should consult with the NYS OPRHP, and if there is an approved local waterfront program with the Village and the Town of Cape Vincent, to determine appropriate recreation uses. The agency should provide NYS OPRHP and the Village and the Town with the opportunity to participate in project planning.

Appropriate recreational uses which do not require any substantial additional construction shall be provided at the expense of the project sponsor provided the cost does not exceed 2% of total project cost.

In determining whether compelling reasons exist which would make inadvisable recreation as a multiple use, safety considerations should reflect a recognition that some risk is acceptable in the use of recreation facilities.

Whenever a proposed development would be consistent with CMP policies and the development could, through the provision of recreation and other multiple uses, significantly increase public use of the shore, then such development should be encouraged to locate adjacent to the shore (this situation would generally only apply within the more developed portions of urban areas).

### ***Historic and Scenic Quality Policies***

***Policy 23: Protect, enhance, and restore structures, districts, areas, or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation.***

#### **Explanation of Policy**

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

boundary, it will actively promote the preservation of historic and cultural resources which have a coastal relationship.

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

1. A resource, which is in a federal or State Park established, among other reasons, to protect and preserve the resource
2. A resource on, nominated to be on, or determined eligible to be on the National or State Registers of Historic Places
3. A resource on or nominated to be on the State Nature and Historic Preserve Trust
4. An archaeological resource which is on the State Department of Education's inventory of archaeological sites
5. A local landmark, park, or locally designated historic district which is located within the boundary of an approved local waterfront revitalization program
6. A resource that is a significant component of an Urban Cultural Park

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

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

all those features described in 1 above plus any other appurtenant fixture associated with a building, structure, or earthwork.

3. All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archaeological resource and all actions within an historic district that would be incompatible with the objective of preserving the quality and integrity of the resource. Primary considerations to be used in making judgment about compatibility should focus on the visual and locational relationship between the proposed action and the special character of the historic, cultural, or archaeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping, and related items of the proposed actions. With historic districts, this would include infrastructure improvements or changes, such as street and sidewalk paving, street furniture and lighting.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthworks, or component thereof of a recognized historic, cultural, or archaeological resource which has been officially certified as being imminently dangerous to life or public health. Nor shall the policy be construed to prevent the ordinary maintenance, repair, or proper restoration according to the U.S. Department of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" of any building, structure, site or earthwork, or component thereof a recognized historic, cultural, or archaeological resource which does not involve a significant adverse change to the resource, as defined above.

This policy is especially applicable to the historic structures and the historic district that are listed on the State and National Registers of Historic Places. See Section II (Inventory and Analysis) for the description and location of these resources. Historic and cultural resources are a major factor in the Village and the Town's character, particularly since the historic structures identified are scattered throughout the waterfront area.

***Policy 24: Prevent impairment of scenic resources of statewide significance.***

**Explanation of Policy**

The Coastal Management Program will identify on the coastal area map scenic resources of statewide significance. A list of preliminary identified resources appears in the Appendix. The following general criteria will be combined to determine significance:

Quality	<p>The basic elements of design (i.e., two-dimensional line, three-dimensional form, texture, and color) combine to create all high-quality landscapes. The water, landforms, and human-made components of scenic coastal landscapes exhibit variety of line, form, texture, and color. This variety is not, however, so great as to be chaotic. Scenic coastal landscapes also exhibit unity of components. This unity is not, however, so complete as to be monotonous. Example: The Thousand Islands where the mix of water, land, vegetative and human-made components create interesting variety, while the organization of these same components creates satisfying unity.</p> <p>Often, high quality landscapes contain striking contrasts between lines, forms, textures, and colors. Example: A waterfall where horizontal and vertical lines and smooth and turbulent textures meet in dramatic juxtaposition.</p> <p>Finally, high quality landscapes are generally free of discordant features, such as structures or other elements which are inappropriate in terms of siting, form, scale, and/or materials.</p>
Uniqueness	<p>The uniqueness of high-quality landscapes is determined by the frequency of occurrence of similar resources in a region of the State or beyond.</p>
Public Accessibility	<p>A scenic resource of significance must be visually and, where appropriate, physically accessible to the public.</p>
Public Recognition	<p>Widespread recognition of a scenic resource is not a characteristic intrinsic to the resource. It does, however, demonstrate people's appreciation of the resource for its visual, as well as evocative, qualities. Public recognition serves to reinforce analytic conclusions about the significance of a resource.</p>

When considering a proposed action, agencies shall first determine whether the action could affect a scenic resource of statewide significance. This determination would involve: 1) a review of the coastal area map to ascertain if it shows an identified scenic resource which could be affected by the proposed action, and 2) a review of the types of activities proposed to determine if they would be likely to impair the scenic beauty of an identified resource. Impairment will include: (i) the irreversible modification of geologic forms; the destruction or removal of vegetation; the modification, destruction, or removal of structures, whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and (ii) the addition of structures which because of siting or scale will reduce identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource.

The following siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly. Guidelines include:

1. siting structures and other development such as highways, power lines, and signs, back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore.
2. clustering or orienting structures to retain views, save open space and provide visual organization to a development.
3. incorporating sound, existing structures (especially historic buildings) into the overall development scheme.
4. removing deteriorated and/or degrading elements.
5. maintaining or restoring the original landform, except when changes screen unattractive elements and/or add appropriate interest.
6. maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased, or hazardous vegetation and when selective clearing creates views of coastal waters.
7. using appropriate materials, in addition to vegetation, to screen unattractive elements.
8. using appropriate scales, forms, and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

***Policy 25: Protect, restore, or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.***

**Explanation of Policy**

When considering a proposed action which would not affect a scenic resource of statewide significance, agencies shall ensure that the action would be undertaken to protect, restore or enhance the overall scenic quality of the coastal area. Activities which could impair or further degrade scenic quality are the same as those cited under the previous policy, i.e., modification of natural landforms, removal of vegetation, etc. However, the effects of these activities would not be considered as serious for the general coastal area as for significant scenic areas.

The siting and design guidelines listed under the previous policy should be considered for proposed actions in the general coastal area. More emphasis may need to be placed on removal

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

This policy applies especially to the scenic vistas of local significance as described in Section II, subsection 2.6.2 (Scenic Resources and Vision Quality). The location of the National and NYS Scenic Byway along NYS Route 12E is depicted in Map 8 in Section II. Scenic vistas of local significance include vista points along the scenic waterfront towards the St. Lawrence River and Lake Ontario, as well as views visible from the water itself looking towards the historic Village and Tibbets Point Lighthouse, as well as the pastoral landscape of both the Town and Village.

## ***Agricultural Lands Policy***

***Policy 26: Conserve and protect agricultural lands in the State's coastal area.***

### **Explanation of Policy**

The first step in conserving agricultural lands is the identification of such lands. The Department of State is mapping all important agricultural lands within the State's coastal area. The following criteria have been used to prepare the maps, and the mapped information will be incorporated in the New York State Coastal Resources Inventory and on the Coastal Area Map.

Land meeting any of the following criteria is being mapped<sup>221</sup>.

1. Land which meets the definition of the U.S. Department of Agriculture as being prime farmland, unique farmland, or farmland of statewide importance.
  - a. Prime farmland is defined by USDA Soil Conservation Service in CRF #7 Agriculture Part 657.5(a), January 1979. A list of the soil associations that meet this definition has been prepared for each coastal county<sup>222</sup>.
  - b. Unique farmland is defined by USDASCS in CRF #7 Agriculture Part 657.5(b). In the coastal area of New York all fruit and vegetable farming meets the terms of the definition.

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<sup>99</sup> N.Y.S. Public Authority Law, Article 3, Title 3.

<sup>222</sup> The NYS Department of Agriculture and Markets completed development of a new agricultural land classification system. As soon as is practical, the following definition will be the basis for revising the maps of coastal agricultural land. Important agricultural land shall include all land within an agricultural district or subject to an eight-year commitment that has been farmed within at least two of the last five years, or any land farmed within at least two of the last five years in soil groups 1-4 as classified by the Land Classification System established by the NYS Department of Agriculture and Markets, or any land farmed within at least two of the last five years that is influenced by climate conditions and that support the growth of high value crops. Additionally, agricultural land not meeting the above criteria but located adjacent to any such land and forming part of an on-going agricultural enterprise shall be considered important agricultural land.

- c. Farmland of Statewide importance is defined by USDASCS in CRF #7 Agriculture Part 656.5(c). Lists of soil associations which constitute farmland of statewide importance have been prepared for each coastal county.
2. Active farmland within Agricultural Districts. The maps of each Agricultural District show land committed by farmers. This is the land that will be mapped as active farmland. The district boundary will also be shown.
3. Areas identified as having high economic viability for farming. Any farm not identified above in 1 and/or 2, and which is in an area identified as having "high viability" on the map entitled "Economic Viability of Farm Areas" prepared by the Office of Planning Coordination in May 1969. This would be the basis for initial identification of areas having high economic viability for farming. Areas will be added and/or deleted based on comments from the agricultural community.
4. Areas adjacent to land identified above in 1, when are being farmed and are part of a farm with identified important agricultural lands.
5. Prime farmland, unique farmland, and farmland of statewide significance will not be identified as important agricultural land whenever it occurs as parcels of land less than 25 acres in size and these small parcels are not within a mile of areas of active farming.

Given the Program's application to a narrow strip of land, implementing a policy of promoting agricultural use of land must, to be practical, concentrate on controlling the replacement of agricultural land uses with non-agricultural land use as the result of some public action. The many other factors such as markets, taxes, and regulations, which influence the viability of agriculture in each area, can only be addressed on a Statewide or national basis.

The Program policy requires a concern for the loss of any important agricultural land. However, the primary concern must be with the loss of agricultural land when that loss would have a significant effect on an agricultural area's ability to continue to exist, to prosper, and even to expand. A series of determinations are necessary to establish whether a public action is consistent with the conservation and protection of agricultural lands, or whether it is likely to be harmful to the health of an agricultural area. In brief, these determinations are as follows: First, it must be determined whether a proposed public action would result in the loss of important agricultural lands as mapped in on the Coastal Inventory. If it would not result, either directly or indirectly, in the loss of identified important agricultural lands, then the action is consistent with the policy on agriculture. If it is determined that the action would result in a loss of identified important agricultural lands, but that loss would not have an adverse effect of the viability of agriculture in the surrounding area, then the action may also be consistent with this policy. However, in that case, the action must be undertaken in a manner that would minimize the loss of important farmland. If the action is determined to result in a significant loss of important agricultural land,

that is if the loss is to a degree sufficient to adversely affect surrounding agriculture's viability -- its ability to continue to exist, to prosper, and even to expand -- then the action is not consistent with this agriculture policy.

The following guidelines define more fully what must be considered in making the above determinations:

- A. A public action would be likely to significantly impair the viability of an agricultural area in which identified important agricultural lands are located if:
  1. The action would occur on identified important agricultural land and would:
    - (a) Consume more than 10% of the land of an active farm<sup>223</sup> containing such identified important agricultural lands
    - (b) Consume a total of 100 acres or more of identified important agricultural land, or
    - (c) Divide an active farm with identified important agricultural land into two or more parts, thus impeding efficient farm operation
  2. The action would result in environmental changes which may reduce the productivity or adversely affect the quality of the product of any identified important agricultural lands.
  3. The action would create real estate market conditions favorable to the conversion of large areas of identified important agricultural land to non-agricultural uses. Such conditions may be created by:
    - (a) Public water or sewer facilities to serve non-farm structures.
    - (b) Transportation improvements, except for maintenance of, and safety improvements to, existing facilities that serve non-farm or non-farm related development
    - (c) Major non-agribusiness commercial development adjacent to identified agricultural lands
    - (d) Major public institutions
    - (e) Residential uses other than farm dwellings

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<sup>223</sup> A farm is defined as an area of at least 10 acres devoted to agricultural production as defined in the Agricultural District Law and from which agricultural products have yielded gross receipts of \$10,000 in the past year.



- (f) Any change in land use regulations applying to agricultural land which would encourage or allow uses incompatible with the agricultural use of the land
- B. The following types of facilities and activities should not be construed as having adverse effects on the preservation of agricultural land:
- 1. Farm dwellings, barns, silos, and other accessory uses and structures incidental to agricultural production or necessary for farm family supplemental income.
  - 2. Agribusiness development, which includes the entire structure of local support services and commercial enterprises necessary to maintain an agricultural operation, e.g., milk hauler, grain dealer, farm machinery dealer, veterinarian, food processing plants.
- C. In determining whether an action that would result in the loss of farmland is of overriding regional or statewide benefit, the following factors should be considered:
- 1. For an action to be considered overriding, it must be shown to provide significantly greater benefits to the region or State than are provided by the affected agricultural area (not merely the land directly affected by the action). In determining the benefits of the affected agriculture to the region or State, consideration must be given to its social and cultural value, its economic viability, its environmental benefits, its existing and potential contribution to food or fiber production in the State and any State food policy, as well as its direct economic benefits.
    - (a) An agricultural area is an area predominantly in farming and in which the farms produce similar products and/or rely on the same agribusiness support services and are to a significant degree economically interdependent. At a minimum, this area should consist of at least 500 acres of identified important agriculture land. For the purpose of analyzing impacts of any action on agriculture, the boundary of such area need not be restricted to land within the coastal boundary. If the affected agricultural lands lie within an agricultural district, then, at a minimum, the agricultural area should include the entire agricultural district.
    - (b) In determining the benefits of an agricultural area, its relationship to agricultural lands outside the area should also be considered.
    - (c) The estimate of the economic viability of the affected agricultural area should be based on an assessment of:

- i. soil resources, topography, conditions of climate and water resources
  - ii. availability of agribusiness and other support services, and the level and condition of investments in farm real estate, livestock, and equipment
  - iii. the level of farming skills as evidenced by income obtained, yield estimates for crops, and costs being experienced with the present types and conditions of buildings, equipment, and cropland
  - iv. use of new technology and the rates at which new technology is adopted
  - v. competition from substitute products and other farming regions and trends in total demand for given products
  - vi. patterns of farm ownership for their effect on farm efficiency and the likelihood that farms will remain in use
- (d) The estimate of the social and cultural value of farming in the area should be based on an analysis of:
- i. the history of farming in the area
  - ii. the length of time farms have remained in one family
  - iii. the degree to which farmers in the area share a cultural or ethnic heritage
  - iv. the extent to which products are sold and consumed locally
  - v. the degree to which a specific crop(s) has become identified with a community
- (e) An estimate of the environmental benefits of the affected agriculture should be based on analysis of:
- i. the extent to which the affected agriculture as currently practiced provides a habitat or food for wildlife
  - ii. the extent to which a farm landscape adds to the visual quality of an area
  - iii. any regional or local open space plans, and degree to which the open space contributes to air quality

- iv. the degree to which the affected agriculture does, or could, contribute to the establishment of a clear edge between rural and urban development
- D. Whenever a proposed action is determined to have an insignificant adverse effect on identified important agricultural land or whenever it is permitted to substantially hinder the achievement of the policy according to DOS regulations, Part 600, or as a result of the findings of an EIS, then the required minimization should be undertaken in the following manner:
  1. The proposed action shall, to the extent practicable, be sited on any land not identified as important agricultural, or, if it must be sited on identified important agricultural land, sited to avoid classes of agricultural land according to the following priority:
    - (a) prime farmland in orchards or vineyards
    - (b) unique farmland in orchard or vineyards
    - (c) other prime farmland in active farming
    - (d) other unique farmland
    - (e) farmland of Statewide importance in active farming.
    - (f) active farmland identified as having high economic viability
    - (g) prime farmland not being farmed
    - (h) farmland of Statewide importance not being farmed
  2. To the extent practicable, agricultural use of identified important agricultural land not directly necessary for the operation of the proposed non-agricultural action should be provided for through such means as lease arrangements with farmers, direct undertaking of agriculture, or sale of surplus land to farmers. Agricultural use of such land shall have priority over any other proposed multiple use of the land.

## ***Energy and Ice Management Policies***

***Policy 27: Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.***

### **Explanation of Policy**

New York's overall annual energy demand has begun to flatten over time, in part due to the success of State and utility energy efficiency programs. However, peak load (the highest amount of energy consumption in a given year) has continued to increase at a more rapid pace.<sup>224</sup> Renewable power sources—hydro, solar, wind, and other carbon-free solutions—also continue to grow as a share of the total energy produced in the State<sup>225</sup>. Significant investments in the billions of dollars are needed to replace New York's aging electric transmission and distribution infrastructure just to meet currently projected energy demand<sup>226</sup>. To respond to these significant shifts in the State's energy infrastructure, State energy policies are being designed to maintain energy system reliability during peak load in ways that improve the grid's overall system efficiency, from both energy transmission and capital investment perspectives<sup>227</sup>.

The New York State energy planning process provides a comprehensive framework for improving the State's energy system, addressing issues such as environmental impacts, resiliency, and affordability<sup>228</sup>. Fifty-nine key areas of focus for New York's energy planning and implementation policies include integration of renewable energy generation; local energy generation that can foster both economic prosperity and environmental stewardship; seeking innovative energy solutions across the State's public facilities and operations; increasing energy efficiency; and decreasing greenhouse gas emissions<sup>229</sup>. New York's energy policy is also central to how the State responds to the challenges presented by a changing climate. New York State's energy planning recognizes that extreme weather events demand more resilient energy infrastructure, and that climate change presents both challenges and opportunities to lead and innovate<sup>230</sup>.

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<sup>224</sup> 2015 New York State Energy Plan, Vol. 1, p. 27.

<sup>225</sup> 2015 New York State Energy Plan, Vol. 1, p. 10.

<sup>226</sup> 2015 New York State Energy Plan, Vol. 1, pp. 25-26.

<sup>227</sup> 2015 New York State Energy Plan, Vol. 1, p. 27.

<sup>228</sup> 2015 New York State Energy Plan, Vol. 1, p. 9.

<sup>229</sup> 2015 New York State Energy Plan, Vol. 1, p. 7; 2015 New York State Energy Plan, Vol. 1, p. 11.

<sup>230</sup> 2015 New York State Energy Plan, Vol. 1, p. 17.

A determination of public need for energy is the first step in the process for siting new facilities. The directives for determining this need are contained primarily in Article 6 of the New York State Energy Law. That Article requires the preparation of a State Energy Plan. With respect to transmission lines and the siting of major electric generating facilities, Articles 7 and 10 of the State's Public Service Law require additional forecasts and establish the basis for determining the compatibility of these facilities with the environment and the necessity for providing additional electric capacity. The policies derived from the siting regulations under these Articles are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Law. That law is used for the purposes of ensuring consistency with the Coastal Management Program.

The Department of State will present testimony for the record during relevant certification proceedings under Articles 7 and 10 of the Public Service Law when appropriate; and use the State SEQR and DOS regulations to ensure that decisions regarding other proposed energy facilities (not subject to Articles 7 and 10 of the Public Service Law) that would affect the coastal area are consistent with coastal policies.

The environmental features of Cape Vincent's waterfront area as described in Section 2.3 Fish, Wildlife, and Wetlands are potentially incompatible with major energy facilities. These features need to be considered when siting an energy facility within the local waterfront area.

***Policy 28: Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.***

**Explanation of Policy**

Prior to undertaking actions required for ice management, an assessment must be made of the potential effects of such actions upon the production of hydro-electric power, fish and wildlife and their habitats as will be identified in the Coastal Area Maps, flood levels and damage, rates of shoreline erosion damage, and upon natural protective features.

Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented.

***Policy 29: The development of offshore uses and resources, including renewable energy resources, shall accommodate New York's long-standing ocean and Great Lakes industries, such as commercial and recreational fishing and maritime commerce, and the ecological functions of habitats important to New York.***

**Explanation of Policy**

The science of ecosystem connections between the coastal zone and offshore areas is increasingly better understood. The offshore environment is an ongoing focus of policy development at national, regional, and state levels. Within this context, New York seeks to accommodate longstanding offshore industries, such as commercial and recreational fishing and maritime commerce, while at the same time ensuring the ecological functioning of habitats important to New York, as the State considers the need for new offshore resource development and uses to occur.

While New York State has jurisdiction in its offshore waters, matters pertaining to the OCS are under the jurisdiction of the federal government. However, offshore resource development and other uses on the OCS may affect coastal resources and uses important to New York. Consequently, the Department of State actively participates in OCS planning and decision-making processes pursuant to the federal Outer Continental Shelf Lands Act and the Deepwater Port Act, among other federal statutes, and reviews and voices the State's concerns about federal OCS activities, licenses, permits, lease sales, plans, and other uses and activities. The federal government increasingly has invited State participation in offshore planning and decision-making processes. New York will continue to review and analyze federal licensing and permitting activities for federal consistency, including activities in offshore areas outside New York's coastal zone. Proponents of offshore activities should use available offshore data to identify and reduce the potential effects on New York's coastal resources, activities and uses. Project proponents should consider the compatibility with, and seek to accommodate, the existing presence of resources, activities and uses that are important to the coastal area of New York State.

In addition to the development of energy resources and the siting of energy facilities, offshore uses of particular concern to New York State because of their potential effects on State coastal uses and resources include, but are not limited to: fisheries management; aquaculture; sand and gravel mining; military readiness training and related exercises; changes or upgrades to established navigation patterns and infrastructure, including the re-routing of existing navigation lanes and the location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation (ATON) program; permits for deep water ports; the identification of interim or permanent open-water dredged material disposal sites; the intentional submergence of vessels and other structures, including for the purpose of creating artificial reefs; the creation of human-made islands, tidal barriers, or the installation of other fixed

structures; scientific research activities; and exploration and identification of potential resources for extraction, such as biopharmaceutical products.

In its review of proposed activities, licenses, permits, lease sales and plans in the Atlantic OCS and New York State coastal waters, the Department of State works with state and federal agencies to considers a number of factors, including but not limited to: the potential effects upon maritime traffic, including navigational safety leading into and from New York's ports; the potential for increased port development and economic activity; aspects of national security; the effects on important finfish, crustaceans, shellfish, seabirds, marine mammals, and other wildlife populations and their spawning, wintering, and foraging habitats and migrating corridors; impacts on biological communities and biodiversity; ecological functioning of ecosystems; economic and other effects upon commercial and recreational fishing activities; impacts upon tourism and public recreational resources and opportunities along the coasts and offshore; the potential for geo-hazards; water quality; and overall effects on the resilience of New York's coastal uses and resources.

Of special significance, New York State recognizes the need to develop energy resources, particularly those that contribute to achieving the State's energy goals, including greenhouse gas reduction. It also recognizes that any energy development may have reasonably foreseeable effects on existing coastal uses and resources. Among the various energy resources under consideration for development are those which may be found in offshore waters within the state's territorial limit or the Atlantic Outer Continental Shelf (OCS). There are currently no active licenses, permits, lease sales or plans for oil and gas exploration or production in the waters offshore New York State.

The State encourages the responsible development of renewable energy resources. Wind, wave, tidal, and water current resources located offshore New York are an increasing focus of development interest, which may continue to grow as projects become more technologically feasible. Offshore renewable wind energy development is a use which depends on the utilization of resources found in coastal waters. The State recognizes offshore projects directly interconnected to the New York electrical grid as qualifying for eligibility as a dependent use at the same level as though the facility were located within the State.

## ***Water and Air Resources Policies***

***Policy 30: Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to State and National water quality standards.***

### **Explanation of Policy**

Municipal, industrial, and electrical discharges include not only "end-of-the-pipe" discharges into surface and groundwater, but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the State's waterways.

***Policy 31: State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already over-burdened with contaminants will be recognized as being a development constraint.***

### **Explanation of Policy**

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

The State has identified certain stream segments as being either "water quality limiting" or "effluent limiting." Waters not meeting State standards, and which would not be expected to meet these standards even after applying "best practicable treatment" to effluent discharges are classified as "water quality limited." Those segments meeting standards or those expected to meet them after application of "best practicable treatment" are classified as "effluent limiting," and all new waste discharges must receive "best practicable treatment." However, along stream segments classified as "water quality limiting," waste treatment beyond "best practicable treatment" would be required, and costs of applying such additional treatment may be prohibitive for new development.



***Policy 32: Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.***

**Explanation of Policy**

Alternative systems include individual septic tanks and other subsurface disposal systems, dual systems, small systems serving clusters of households or commercial users, and pressure or vacuum sewers. These types of systems are often more cost effective in smaller, less densely populated communities and for which conventional facilities are too expensive.

The State Coastal Policy regarding alternative sanitary waste systems is particularly applicable to properties within the Town of Cape Vincent, which are not within any sewer districts and where small lots further limit the capacity to adequately treat wastewater with a conventional system. Septic tanks and leach fields must meet standards set by Jefferson County public health laws. Article 5 Section 535 Water Supply and Sewage Disposal of the Town's Subdivision Law states all on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the New York State and County Health Department.

***Policy 33: Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.***

**Explanation of Policy**

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

***Policy 34: Discharge of waste materials into coastal waters from vessels subject to State jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas, and water supply areas.***

**Explanation of Policy**

All untreated sanitary waste from vessels is prohibited from being discharged into the State's coastal waters. Where coastal resources or activities require greater protection than afforded by

this requirement the State may designate vessel waste no discharge zones. Within these no discharge zones the discharge of all vessel waste whether treated or not is prohibited. A determination from EPA that an adequate number of vessel waste pump out stations exists is necessary before the State can designate a no discharge zone. The State prepared a Clean Vessel Act Plan which identifies the coastal waters for which no discharge zones are needed, and the number of vessel waste pump outs required to obtain the determination from EPA. The discharge of other wastes from vessels is limited by State law.

Although the Village and the Town do not have authority over coastal waters, including the St. Lawrence shipping channel, priority shall be given to the enforcement of this policy in areas such as significant coastal fish and wildlife habitats, beaches, and public water supply intakes, which need protection from contamination by vessel wastes. Also, specific effluent standards for marine toilets have been promulgated by the NYS Department of Environmental Conservation (6 NYCRR, Part 657).

***Policy 35: Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.***

**Explanation of Policy**

Dredging, filling, and dredge material disposal are activities that are needed for waterfront revitalization and development, such as maintaining navigation channels at sufficient depths, pollutant removal, and other coastal management needs. Such projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands, and other important coastal resources. Often these adverse effects can be minimized through careful design and timing of the dredging or filling activities, proper siting of dredged material disposal sites, and the beneficial use of dredged material. Such projects shall only be permitted if they satisfactorily demonstrate that these anticipated adverse effects have been reduced to levels which satisfy State permit standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15, 24, 25, and 34), and are consistent with policies pertaining to the protection and use of coastal resources (State Coastal Management policies 7, 15, 19, 20, 24, 26, and 44).

***Policy 36: Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.***

**Explanation of Policy**

See Policy 39 for definition of hazardous materials.

***Policy 37: Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics, and eroded spoils into coastal waters.***

**Explanation of Policy**

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

***Policy 38: The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.***

**Explanation of Policy**

Surface and groundwater are the principal sources of drinking water in the State, and therefore must be protected. Since Long Island's groundwater supply has been designated a "primary source aquifer," all actions must be reviewed relative to their impacts on Long Island's groundwater aquifers.

***Policy 39: The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural lands, and scenic resources.***

**Explanation of Policy**

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

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

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

***Policy 40: Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.***

**Explanation of Policy**

The State Board on Electric Generation Siting and the Environment must consider several factors when reviewing a proposed site for facility construction. One of these factors is that the facility shall "not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the State, the public health, and public enjoyment of the receiving waters." The effect of thermal discharges on water quality and aquatic organisms is considered by the siting board when evaluating any applicant's request to construct a new steam electric generating facility.

There are no major steam electric generating or industrial facilities located within the Cape Vincent waterfront area and no such facilities are anticipated but this policy would apply for any newly proposed facility.

***Policy 41: Land use or development in the coastal area will not cause national or state air quality standards to be violated.***

**Explanation of Policy**

New York's Coastal Management Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean

Air Act and State laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

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

The Department of Environmental Conservation will allocate substantial resources to develop a regulatory and management program to identify and eliminate toxic discharges into the atmosphere. The State's Coastal Management Program will assist in coordinating major toxic control programming efforts in the coastal regions and in supporting research on the multi-media nature of toxics and their economic and environmental effects on coastal resources.

***Policy 42: Coastal management policies will be considered if the state reclassifies land areas pursuant to the prevention of significant deterioration regulations of federal Clean Air Act.***

**Explanation of Policy**

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

***Policy 43: Land use or development in the coastal area must not cause the generation of significant amounts of the acid rain precursors: nitrates and sulfates.***

**Explanation of Policy**

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

## ***Wetlands Policy***

***Policy 44: Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.***

### **Explanation of Policy**

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

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semiaquatic vegetation and other wetlands so defined in the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act (Water Resources Law, Environmental Conservation Law Article 15).

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

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

Several freshwater wetlands are located within the Town of Cape Vincent Waterfront Revitalization Area, particularly along the Lake Ontario shoreline and island shorelines. These wetlands will continue to be protected pursuant to the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act (Water Resources Law, Environmental Conservation Law Article 15) and the policies of this LWRP.

## **SECTION IV: PROPOSED LAND AND WATER USES AND PROJECTS**

### ***4.1 Proposed Land Uses***

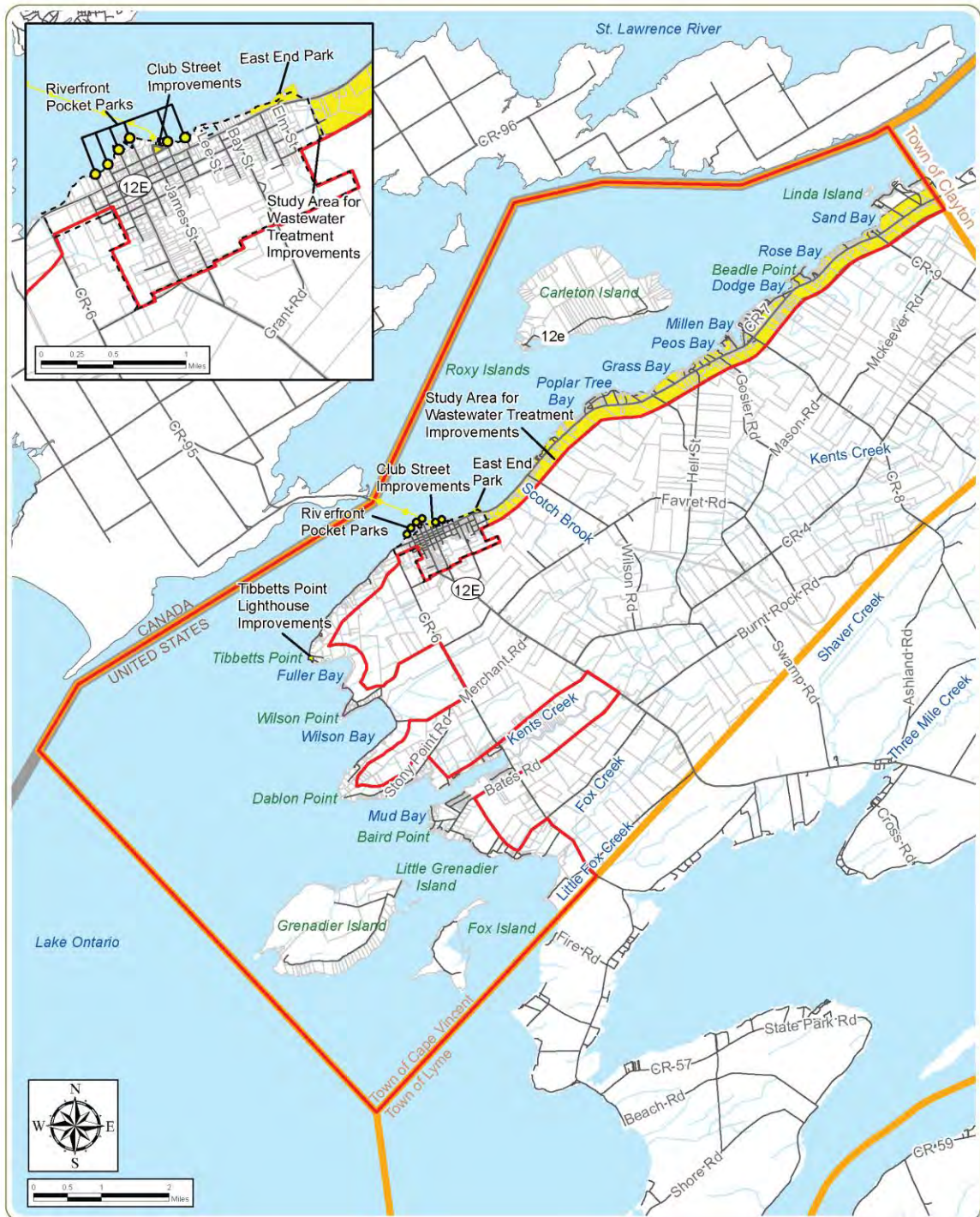
Future land uses implementing this LWRP will be an extension of the current land uses, as illustrated in Map 3A. The only new land use proposed in this LWRP is the conversion of the privately owned commercial property (the site of the former Captain Jacks Restaurant and Marina) to a publicly owned recreational use property (a proposed marina, public restrooms, and public space amenities), located adjacent to Club Street in the Village of Cape Vincent (see Map 11).

### ***4.2 Proposed Water Uses***

The water dependent uses within the Cape Vincent WRA include boating, fishing, swimming, and diving; their range and intensity is described in detail in Section II of the LWRP. The water dependent uses take place in the Cape Vincent Harbor Management Area (HMA), which includes the entire waterside of the Cape Vincent WRA as depicted on Map 12 Harbor Management Area Map. Most water uses occur simultaneously without concern, however, during an active tourism season vessel activity increases and competition between uses can occur. Due to the increase in vessel activity during the summer season, a Vessel Activity Area within the HMA has been identified (See Map 2A). The Vessel Activity Area begins east of Horne's Ferry landing, extends out to the breakwater (approximately 500' from the shoreline) and continues until reaching the Village eastern boundary at the end of East End Park. Proposed future water dependent uses are expected to be an extension of the current uses as discussed in Section 2.2.1 and illustrated on Map 12. Some of the proposed projects (e.g., Enhancements to Club Street and East End Park Improvements) are intended to help alleviate future congestion.

Pursuant to 19 NYCRR Part 603, the Harbor Management Plan (HMP) for the HMA is included in this LWRP. This HMP contains required information at a level of detail and to the extent commensurate with the local circumstances. The HMP is discussed in more detail in Appendix A and includes a table that cross references the HMP to the pertinent LWRP sections and subsections.

# Town and Village of Cape Vincent Local Waterfront Revitalization Program



## Cape Vincent Local Waterfront Revitalization Plan

Cape Vincent, Jefferson County, New York

### Map 11 Proposed Projects

Notes: 1. Basemap: ESRI Street Map North America, 2012.  
 2. This map was generated in ArcMap on March 30, 2021.  
 3. This map was generated with parcel data from 2017.

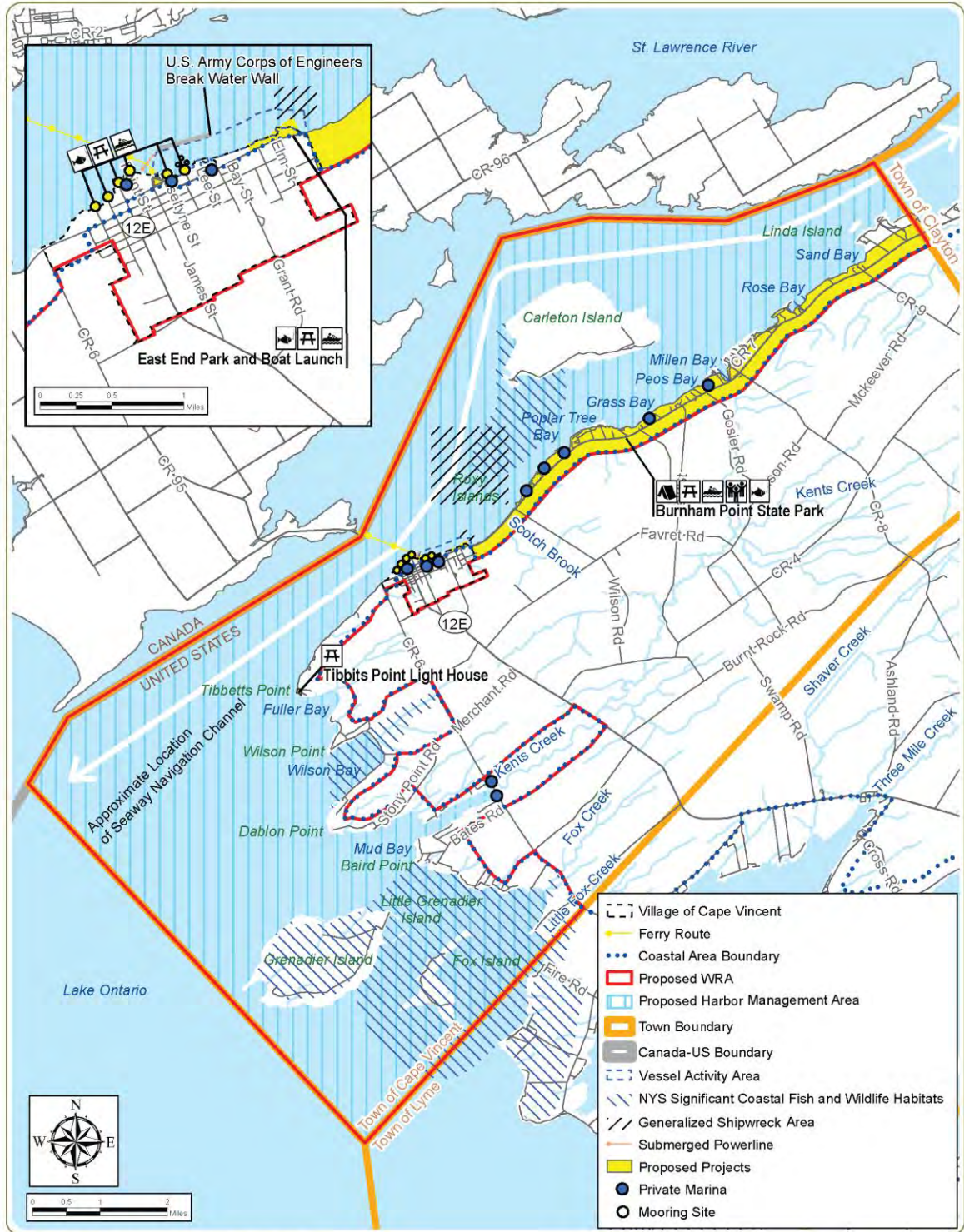
- Ferry Route
- Village of Cape Vincent
- Proposed WRA
- Town Boundary
- Canada-US Boundary
- Parcel Boundary
- Proposed Projects



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# Town and Village of Cape Vincent Local Waterfront Revitalization Program



**Cape Vincent Local Waterfront Revitalization Plan**  
 Cape Vincent, Jefferson County, New York  
**Map 12: Harbor Management Area Map**

Notes: 1. Basemap: ESRI Street Map North America, 2012. 2. This map was generated in ArcMap on May 14, 2021.

-  Camping
-  Swimming
-  Picnic
-  Fishing
-  Boating
-  Recreational Activities



### 4.3 Proposed Projects

This section features projects proposed to help the community implement its LWRP, beginning with an overview implementation table as Table 4 and further described in the full project profiles. Collectively the projects address the goals of the LWRP, which are to provide safe access to the waterfront for residents and visitors, improve water quality, reconnect residents and visitors to historic resources, promote mixed development within the WRA, and protect both the natural resources and the unique character of the WRA. Several of the proposed projects focus on improving and/or creating public access to the waterfront and/or the water. There are also projects to support safe and enjoyable active transportation to and through the WRA for all residents and tourists. Although the water quality in the WRA is currently good at the time of preparing this LWRP, a few projects are proposed to maintain the water quality so that the waterfront can be enjoyed by future generations. The detailed project profiles include the following: project title, purpose and benefit, project location, summary description of the proposed project, supported LWRP policy(ies), estimated costs for implementation, timeframe for implementation, potential funding sources, and regulatory requirements.

Table 4. Implementation for Proposed Projects

Project Name	Project Location Town (T) / Village (V)	Implementation timeframe	Estimated Costs	Supported Policies	Potential Funding Sources
<b>Enhancements to Club Street, Village Green, and Surrounding Area</b>	Club Street and the Village Green (V)	Long Term (5+ years)	Phase 1.1: \$1,375,000.00 Phases 1.2-3: Cost Unknown Phase 4: \$1.1 Million	1, 8, 11, 12, 14, 16, 17, 18, 19, 20, 22, 23, 33, 37, 39, 44	NYS ESD, NYS DOS, NYS HCR, NYS OPRHP, Federal Transient Boater Dock Grant
<b>Riverfront Pocket Parks</b>	Termini of Village streets along the waterfront (V)	Medium Term (2-5 years)	Phase 1: \$10,000-\$15,000; Phase 2: \$100,000-\$150,000; Phase 3: TBD	1, 8, 12, 17, 19, 20, 22, 23, 33, 37, 35, 39, 44	NYS DOS, Cape Vincent LDC, NYS OPRHP

Town and Village of Cape Vincent Local Waterfront Revitalization Program

Project Name	Project Location Town (T) / Village (V)	Implementation timeframe	Estimated Costs	Supported Policies	Potential Funding Sources
<b>East End Park Improvements</b>	East End Park (V)	Medium Term (2-5 years)	Currently unknown, to be based on future cost estimates	1, 8, 12, 17, 19, 20, 22, 23, 33, 37, 39, 44	NYS DOT, Transportation Capital Program, NYS DOS
<b>Tibbett's Point Lighthouse Complex</b>	Tibbett's Point (T)	Medium Term (2-5 years)	Phase 1: \$250,000; Phase 2: \$45,000; Phase 3: \$50,000-\$60,000	1, 8, 12, 13, 14, 16, 17, 18, 19, 20, 22, 23, 33, 37, 44	NYS DOS, NYS OPRHP
<b>Bike-Friendly Waterfront</b>	Along Scenic Route 12E, the former bass ponds, and other sites throughout the Town and the Village	Medium Term (2-5 years)	Phase 1: \$5,000; Phase 2: \$40,000-\$75,000; Phase 3: \$8,400,000; Phase 4: currently unknown, to be based on future cost estimates	1, 8, 12, 18, 19, 20, 22, 23, 33, 37, 39, 44	NYS DOT, Transportation Capital Program, Village/ Town, NYS DOS
<b>Sewer District Improvements</b>	Town of Cape Vincent Water District 1 (T)	Long Term (5+ years)	Currently unknown, to be based on future cost estimates	8, 12, 18, 20, 23, 30, 31, 33, 34, 37, 39, 44	NYS DOS, NYSEFC WIIA, NYSDEC WQIP, USDA RD
<b>Vessel Waste and Boater Sewage Pump Station</b>	Village and Town of Cape Vincent (V,T)	Long Term (5+ years)	Currently unknown, to be based on future cost estimates	1, 8, 11, 12, 18, 19, 20, 22, 23, 30, 33, 34, 39, 44	NYSEFC

**4.3.1 Continue to Enhance Club Street and Surrounding Area**

The area surrounding Club Street and the Village Green is in the heart of the Village of Cape Vincent. This node of public space awaits visitors arriving from Canada on Horne’s Ferry, as well as boaters and tourists visiting the Village and accessing the waterway. The privately-owned grassy plaza, known as the Village Green, was created on a vacant parcel in 1995 by a local volunteer group, who continue to maintain it to this day. Despite the site’s strong tie to the community of Cape Vincent, the area faces key challenges, including the lack of visual access between the mainland and the waterfront. The Club Street Revitalization Plan (see Section 2.1.4) analyzed this area and developed a list of goals and conceptual plans for the site. These goals were reviewed and confirmed as a general priority by the public attendees of the June 27<sup>th</sup>, 2018 Community Workshop during the development of this LWRP. This project implements the plan through four phases described below. The phases are shown in Figure 6. A copy of this plan is available in Appendix G of this document.

The waterfront design captured by the 2021 Club Street Revitalization Plan is reflective of the significant tourism elements of Cape Vincent- from the deep French heritage to its significant agrarian industry to its height in seasonal tourism from the 19th century. A potential family-friendly park may result from the vision of a family-friendly marina and waterfront. The design of the waterfront along Club Street features numerous undulating legacy gardens (Phase III), which abstract the original concept of the French parterre gardens to pay homage to Cape Vincent’s French heritage. Enhancements to the area will provide boaters dock space, the public space for events and seating, and an alley for bikers and pedestrian on Broad Street. Furthermore, the planting beds are intended to represent the different communities within the Thousand Islands. Site features will range from life-size bronze sculptures to local historic marine relics to park benches. This way, visitors and residents alike can celebrate the rich history and culture of Cape Vincent as they immerse themselves along the waterfront. The following phases are necessary to implement the proposed project:

Phase 1      Demolish private property infrastructure obstructing river viewshed, acquire  
(Currently      property, stabilize shoreline, and develop public restrooms, boater facilities,  
ongoing)      streetscaping, landscaping, boardwalk, wayfinding signs, public Wi-Fi access, and  
                         utilities (see Phase I of Club Street Revitalization Plan)

Preliminary Estimated Cost: \$1,125,000 (LWRP EPF); \$250,000 (SAM Grant)

Potential Funding Sources: NYS DOS (funded by grant C1001637), NYS SAM Grant

Estimated Duration: 1-2 years

- Phase 2 Construct kids play zone and recreation lawn, along with additional transient dock space (Phase II of the Club Street Revitalization Plan)
- Preliminary Estimated Cost: Currently unknown
- Potential Funding Sources: NYS ESD, NYSHCR, NYS OPRHP, NYS DOS, Federal Transient Boater Dock Grant
- Estimated Duration: 1-2 years
- Phase 3 Construct memorial gardens, a pedestrian promenade, a reflective water feature, and the legacy trail (Phase III of the Club Street Revitalization Plan)
- Preliminary Estimated Cost: Currently unknown
- Potential Funding Sources: NYS ESD, NYS HCR, NYS OPRHP, NYS DOS
- Estimated Duration: 1-2 years
- Phase 4 Reduce the width of the road to create safe space for pedestrians, bikers, and business owners along the road. Close side street to vehicle traffic to enable greater space for public gathering and foot traffic (Phase IV of the Club Street Revitalization Plan)
- Preliminary Estimated Cost: \$1.1 Million
- Potential Funding Sources: NYS EDS, NYS HCR, NYS OPRHP, NYS DOS , DRI and NY Forward
- Estimated Duration: 3-5 years



Figure 6: Phase Map for the enhancements to the Village Green, Club Street, and the Surrounding Area demonstrate each phase by color; Phase 1 is red. Phase 2 is navy blue. Phase 3 is yellow. Phase 4 is lighter blue. Source: Cape Vincent Waterfront Feasibility Study prepared by Edgewater Resources on behalf of the Village of Cape Vincent; see Appendix G.

### **4.3.2 Improve Riverfront Pocket Park Amenities**

The Village of Cape Vincent has uniquely protected the termini of Village streets along the St. Lawrence River as places for the public to access and enjoy the waterfront. Unfortunately, these riverfront areas are underutilized and under-recognized as waterfront assets and have had endured deterioration to their existing amenities, as described in *Section 2.2.5 Abandoned, underutilized, or deteriorated areas, sites, or structures*. It is recommended by the community that these termini be better celebrated through a comprehensive placemaking effort to become more widely known as the “riverfront pocket parks.” As part of that effort, a range of recommended actions at each pocket park will encourage public access and enjoyment of the waterfront by adding amenities such as benches, lighting, and signage, along with repairing damaged or aging infrastructure (e.g., safety railings and replacement with flood-resilient or green shoreline infrastructure). These investments will build upon flood resiliency improvements recently implemented through the 2019 REDI Projects within the Village of Cape Vincent as described in *Section 2.1.4 Summary of existing plans, projects, and initiatives*.

Currently there are six streets that end at the River. Improvements are needed at each street termini within the Village apart from Kanady Street<sup>231</sup>. Resilient landscaping, including a mixture of stone and vegetation, should clearly distinguish public land from adjacent private properties. In addition to creating a consistent design for the pocket parks, the unique characteristics of each park should be highlighted. The unique characteristics and recommended improvements for each recommended pocket park, based on community input obtained during the development of this LWRP, are described below:

- Market Pocket Park - Historically, this site was used as a swimming beach with sand brought in on an annual basis. Currently, the site is used as a picnic area, featuring a bench and parking area. It is clearly distinguished from adjacent private properties by fencing. Improvements desired by the community include an updated bench, a bike-rack, better-defined parking spaces and traffic flow, landscaping elements (e.g., landscaped

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<sup>231</sup> Kanady Street Pocket Park is more residential than other parks and is currently used by visitors as a picnic spot, due to its wide grassy area between the road terminus and the waterfront. No improvements are recommended for this site.

median), and appropriate signage. See Figure 7 for a rendering of the proposed improvements.



Figure 7: Rendering of Potential Market Street Pocket Park Improvements by EDR, 2018.

- Real Pocket Park – This site is currently and primarily used by residents and is a good picnic spot, due to its wide grassy area between the road terminus and the waterfront. Some diagonal parking spaces could be included. More research is required to determine exact property lines. Depending on the space available, improvements might include benches or a pergola.
- Point Pocket Park – This site is a lovely place to sit and observe boats on the Seaway. Due to impacts from the 2017 flood, recent improvements to the seawall, sidewalk and roadway have been implemented through the REDI program. Future improvements to bring in a more consistent design to the area include replacing the metal railing with nautical pilings and improving the site amenities, such as benches and landscaping boulders.
- Esselstyne Pocket Park – The Village dock located at this Pocket Park will be improved through the REDI project. The addition of publicly available Wi-Fi and charging stations would further enhance the use of this dock.
- Murray Pocket Park - This site features access to protected and shallow water, which are positive characteristics for potential swimming areas, as well as canoeing, kayaking, and paddle boarding. However, additional research is necessary to confirm dock ownership.



This location, along with other waterbodies in the area, may have invasive Eurasian watermilfoil that needs to be considered and managed when allowing swimming in the water. Additional site amenities, such as benches, lighting, and signage, are recommended for this park.

Priority for future development should be placed on the Market Street Park due to its central location, historic ties to the community, and existing infrastructure. The following phases are recommended to implement the proposed park improvements:

Phase 1      Develop Pocket Park Concept Plan for the uniform character development of the Cape Vincent Riverfront Pocket Parks, including consideration of streetscaping/pedestrian amenities at each location (e.g., color schemes, nautical pilings, Adirondack chairs, pergolas, trash/recycling receptacles).

Preliminary Estimated Cost: \$10,000-\$15,000

Potential Funding Sources: NYS Department of State Local Waterfront Revitalization Program, Cape Vincent Local Development Corporation

Permitting: SEQR

Estimated duration: 1 year

Phase 2      Implement Concept Plan at Market Street Park to develop park according to conceptual design standards.

Preliminary Estimated Cost: \$100,000 - \$150,000

Potential Funding Sources: NYS OPRHP Environmental Protection Fund Grants Program for Parks, Preservation and Heritage; NYS Department of State LWRP

Permitting: SEQR

Estimated duration: 1-2 years

Phase 3      Implement Concept Plan with remaining pocket parks according to conceptual design. Establish connectivity between parks via wayfinding signage and placemaking markers.

Preliminary Estimated Cost: To Be Determined

Potential Funding Sources: NYS Department of State LWRP, NYS OPRHP Environmental Protection Fund Grants Program for Parks, Preservation and Heritage

Permitting: SEQR, State and Federal wetland permits may also be needed

Estimated duration: 1-2 years

#### ***4.3.3 Connect and Enhance East End Park***

The East End Park is an additional area that has been targeted for improvements by previous and concurrent planning efforts. This Village park is an asset for the community, with two heavily used boat launches, picnic areas, fishing access, and features that make it ideal for scuba training. Each year, the park hosts hundreds of fishing tournament attendees. In 2015, with funding from the EPF through the DOS LWRP, the Village completed designs for improvements to the park. Through the 2019 REDI initiative, replacement of docks, repairs to the ramp, and installation of deep-water docks will occur. Complementing REDI and FEMA funds, DOS EPF funding will provide sidewalk repairs, sidewalk construction, and other improvements (e.g., replacing the underdrain). The results of these combined funding sources will repair the boat launch and its lighting/benches/observation platform, as well as to develop a floating dock and a pedestrian ramp for improved land-access from the park to private yachts or larger vessels (e.g., cruise ships or naval vessels).

The Village is also addressing additional land-based enhancements at the park. The Village recently completed the new park pavilion, which includes public restrooms, cooking grills, showers, changing rooms, and lockers for boaters and divers to store personal items using a DASNY grant and local funds through the Village of Cape Vincent. Paved parking, sidewalks, and landscaping within the park is planned as next steps and are in the process of development at the time of this report. The Village is also exploring the availability of grants for green infrastructure, specifically permeable pavement, in the hopes of reducing runoff and sediment pollution. Due to the marginal soils and space constraints, green infrastructure will require special technical considerations near the shipwreck.

Phase 1 (currently ongoing)	Continue to improve infrastructure at East End Park, including repairs to the seawall, sidewalk construction and repairs, replacing the underdrain, and other improvements.
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Preliminary Estimated Cost \$1,000,000

Funding Sources: NYS DOS (C1002006 EPF LWRP)

Permitting: Lake Ontario Erosion Control General Permit, Nationwide Permit #3

Estimated duration: 5 years (2021-2026)

Phase 2 Acquire property to augment East End Park. Abate and demolish existing residential structures, remove existing driveway, construct new driveway, parking with ADA amenities, sidewalks to the Village's community building, electric car charging stations, boat washing station, landscaping, stormwater management facilities, and signage.

Preliminary Estimated Cost \$1,000,000 or more

Potential Funding Sources: NYS DOT Transportation Capital Program; NYS DOS

Permitting: NYS highway work permits

Estimated duration: 3-5 years

#### ***4.3.4 Repair and Celebrate Tibbett's Point Lighthouse Complex***

The Tibbett's Point Lighthouse is a beloved local treasure. Overlooking the mouth of the St. Lawrence River since 1827, the Town of Cape Vincent owns the lighthouse and associated buildings. The Town is currently evaluating the building for use as a maritime museum. Up until 2019, the keepers' quarters were used as a highly rated seasonal hostel, operated by Hosteling International from May to October. It hosted international and US tourists alike. Currently, the Tibbett's Point Lighthouse Historical Society continues to operate a visitor's center and museum on the complex. Because of the historic nature and heavy visitation to this facility, general maintenance and upkeep are needed. Needs include stair replacement, interior remodeling, windows and siding enduring water damage, structural upkeep (specifically porches), and shoreline restoration. Additionally, improved marketing could further enhance the identity of the point as a tourist destination and enhance retail opportunities. The Town is applying to obtain status from NYS Parks as "Historical Surplus Property," in which case, the property would be allowed to be leased out for events. There is also local interest in NYS OPRHP to take on the facility as a state resource. The Town is in the process of exploring both options.

Phase 1 Solicit and obtain funds to implement repairs and maintenance issues occurring at the Tibbets Point Lighthouse Complex

Preliminary Estimated Cost: \$250,000

Potential Funding Sources: NYS DOS, NYS OPRHP

Permitting: N/A

Estimated duration: Ongoing

Phase 2      Develop additional marketing resources, tourism events (tours of the interior) and wayfinding amenities (e.g., informational kiosk and pedestrian/cyclist signage)

Estimated Cost: \$45,000

Potential Funding Sources: NYS DOS, NYS OPRHP

Permitting: N/A

Estimated duration: 1-2 years

Phase 3      Develop capital improvement plan to regularly finance routine upkeep and maintenance.

Preliminary Estimated Cost: \$50,000-\$65,000

Potential Funding Sources: NYS DOS, NYS OPRHP

Permitting: N/A

Estimated duration: 1-3 years

#### ***4.3.5 Promote a Bike-Friendly Waterfront***

Recent national, regional, and local efforts have promoted cycling safety, infrastructure, and tourism both across the United States and Canada. These goals address health, environmental, and local economic issues while diversifying transportation opportunities. Many opportunities exist within the Town and Village of Cape Vincent to increase cycling safety and accessibility while providing reliable cycling infrastructure. With the potential restoration of the Ogdensburg ferry line, both Canadian and US cycling tourism groups have expressed interest in creating a regional cycling loop across the border of Canada, utilizing Horne's Ferry in Cape Vincent. This U.S.-Canada St. Lawrence River Cycling Loop could bring about new tourists to the area, increasing visitation to destinations such as Tibbett's Point, the Roxy Hotel, and other local destinations and events.

Specific desired amenities include rental bicycles for visiting tourists, available for use both within the Village and the Town. Other potential improvements include development of wide shoulder areas along Scenic Route 12E for road cyclists, particularly within the 45-mph zone on the east side of the Town. There has also been local dialogue between the Local Development Corporation (LDC) and the Development Authority of the North Country (DANC) regarding the development of a soft-scape trail accessible for hiking and cross-country skiing within a parcel

owned by the Village behind the Town Recreational Park as well as along waterline rights-of-way. The Town has an interest in obtaining the vacant bass ponds working with the NYSDEC to incorporate this as a town recreational area with multi-use trails. While there have been preliminary discussions with each of these local, regional, and state agencies, further discussion is needed before confirming the availability of use.

- Phase 1      Improve cyclist wayfinding signage along 12E  
Estimated Cost: \$5,000  
Potential Funding Sources: NYS DOT Transportation Capital Program, Village/Town  
Permitting: NYSDOT Highway Work Permit  
Estimated duration: 6 months
- Phase 2      Establish bike rental program, either through a self-sustained independent bike-share program or a publicly funded rentable “bike library” model. Launch program in tandem with a broader marketing campaign demonstrating Cape Vincent as a bike-friendly community.  
Estimated Cost: \$40,000- \$75,000  
Potential Funding Sources NYS DOS  
Permitting: N/A  
Estimated duration: 1-3 years
- Phase 3      Develop cycling infrastructure (e.g., bike racks or bicycle repair stations) throughout the Village  
Estimated Cost: \$10,000 - \$20,000  
Potential Funding Sources NYS DOS  
Permitting: N/A  
Estimated duration: 1-3 years
- Phase 4      Establish 12E DOT bike lanes within the Town of Cape Vincent  
Estimated Cost: \$8,400,000  
Potential Funding Sources: NYS DOT Transportation Capital Program, Village/Town  
Permitting: NYSDOT Highway Work Permit  
Estimated duration: 1 year

- Phase 5      Establish multi-use trails in the area surrounding the former bass ponds  
Estimated Cost: To be determined based on determination from NYSOGS  
Potential funding sources: NYS DOS  
Permitting: SEQR State and Federal wetland permits may also be needed  
Estimated duration: 1-3 years

***4.3.6 Improve Sewer Districts along the St. Lawrence River Waterfront***

The Town and Village of Cape Vincent identified the need to examine on-site wastewater treatment systems within the WRA, specifically within the existing Town of Cape Vincent Water District 1 boundary along its St. Lawrence River waterfront (see Map 11 Proposed Projects). This district includes the properties within the WRA along the St. Lawrence River from the Village northward to the Cape Vincent/Clayton town line. District 1 has marginal soils and space constraints, which makes it difficult to construct suitable individual on-site wastewater treatment systems. The area also has environmental concerns associated with improperly constructed on-site systems discharging waste to the St. Lawrence River. The potential proximity of problem areas to the Town and the Village drinking water system intake makes these proposed improvements even more of a priority.

In 2018, the Town was awarded the NYSDEC Planning Grant, funded by the NYS Environmental Facilities Corporation (EFC) and the US Department of Agriculture, for an engineering study on the benefits of a public sewer system within this area and to determine the most feasible option for both residents and businesses. The study was initiated in December 2018 and was completed by early 2022.<sup>232</sup> Following the evaluation of four alternatives, the study recommended the most cost-effective based on the analysis. The Village Wastewater Treatment Plant has the capacity to handle additional users, based on findings of the engineering study.

- Phase 1      Extend sewer along NYS Route 12E from northeast boundary of the Village of Cape Vincent to the Lazy Acres Mobile Home Park on Old County Route 7 and along Road south of NYS Route 12E  
  
Preliminary Estimated Cost: \$29,134,000

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<sup>232</sup> Barton & Loguidice. (July 2022). Preliminary Engineering Report: Town of Cape Vincent Proposed Sanitary Sewer District. Prepared for the Town of Cape Vincent. Accessible from <https://liquidfiles.bartonandloguidice.com/message/VG4L8lGM58jk6Vz7pUjISj> [public file transfer site]. (Accessed August 2022)

Potential Funding Sources: NYSEFC Water Infrastructure Improvement Act (WIIA), NYSDEC Water Quality Improvement Program (WQIP), USDA Rural Development (RD)

Permitting: SEQR, State and Federal wetland permits may also be needed

Estimated Duration: 5 years

#### ***4.3.7 Develop and Implement Strategy for Vessel Waste Disposal***

Currently, there is a lack of public pump-out facilities for vessel waste in the Town and the Village of Cape Vincent. Financial assistance is available to New York State for pump-out stations and vessel waste. The Clean Vessel Assistance (CVA) Program created by the Clean Vessel Act of 1992 is a federally funded program through the US Fish and Wildlife Service (US F&WS) Wildlife and Sports Fish Restoration Program to provide grants to states marinas for pump-out station.<sup>233</sup> These funds can be used in the following three ways: 1) the construction, renovation, operation and maintenance of pump-out-stations, 2) waste reception facilities for recreational boats, and 3) educational programs geared toward boaters on proper disposal of sewage.<sup>234</sup> Cape Vincent will initiate participation in this program through a phased approach.

Phase 1 Design, construct, and operate/maintain a public pump-out station

Preliminary Estimated Cost: \$100,000 plus maintenance costs

Potential Funding Sources: Clean Vessel Assistance (CVA) Program through the US Fish and Wildlife Service and administered by the New York State Environmental Facilities Corporation

Permitting: SEQRA Review

Estimated duration: 3 years

Phase 2 Develop education materials geared toward boaters on proper disposal of sewage

Preliminary Estimated Cost: \$15,000 annually

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<sup>233</sup> Resources that provide information on the Clean Vessel Act Grant Program include the US F&WS Wildlife & Sport Fish Restoration Program – Clean Vessel Act Grant Program – Overview website (last updated February 2018), accessible from <https://www.fws.gov/wsfrprograms/subpages/grantprograms/cva/cva.htm> (January 2022) and a 2012 CVA Success Story document by the NYS CVA Program, accessible from <https://www.fws.gov/home/feature/2012/pdfs/CVASuccessStory2.doc.pdf> (January 2022).

<sup>234</sup> Resources that provide information on the Clean Vessel Act Grant Program include the US F&WS Wildlife & Sport Fish Restoration Program – Clean Vessel Act Grant Program – Overview website (last updated February 2018), accessible from <https://www.fws.gov/wsfrprograms/subpages/grantprograms/cva/cva.htm> (January 2022) and a 2012 CVA Success Story document by the NYS CVA Program, accessible from <https://www.fws.gov/home/feature/2012/pdfs/CVASuccessStory2.doc.pdf> (January 2022).

Potential Funding Sources: Clean Vessel Assistance (CVA) Program through the US Fish and Wildlife Service and administered by the New York State Environmental Facilities Corporation

Permitting: none, but may require coordination with various partners

Estimated duration: annual

#### **4.3.8 Create Resilient Wastewater and Stormwater Systems**

This project will upgrade and/or replace aging water, wastewater, and stormwater systems, as well as implement green infrastructure to improve water quality. Shoreline properties located within high and extreme risk area that are not currently served by municipal wastewater treatment will be targeted through this project. Further prioritization should be focused on areas with potential private well contamination and areas experiencing Harmful Algae Blooms. The program will provide resources to assess the conditions of local wastewater treatment systems on private property and assist property owners with strategies for upgrading and/or replacement of septic systems; development of community-scale systems, or municipal systems depending on local needs. The program will utilize existing resources, such as the NYS EFC Septic Repair Program, as well as additional resources to provide financial assistance to property owners to upgrade or replace existing septic systems. Additionally, technical assistance will be provided to help property owners navigate the flood plain permits and other technical considerations with the program.

The stormwater management approach will commence with the development of a regional stormwater management plan that addresses the long-term remediation of uncontrolled stormwater runoff and associated erosion, including anticipated impacts from major storms. This stormwater management plan will call special attention to major storm impacts through the assessment of inadequacies in the maximum capacities of all dams, bridges, culverts, ditches, and other stormwater structures throughout the region. The project will result in guidelines for each municipality that could be used on a regular basis for future improvements to parking, stormwater runoff, natural filtration, green roofs, erosion control, etc.

Phase 1      Develop 1 salaried FTE position with benefits to oversee multi-jurisdictional program

Preliminary Estimated Cost: \$100,000 annually

Potential Funding Sources: NYS Environmental Facilities Corporation Septic Replacement Fund, NYSDEC Water Quality Improvement Project, NYS Department of Health

Permitting: none, but may require coordination with various partners



Estimated duration: annually ongoing

Phase 2 Obtain consulting services to assess and repair private septic systems

Preliminary Estimated Cost: \$1,562,500 over five years assuming 125 participants @\$12,500 per system

Potential Funding Sources: NYS Environmental Facilities Corporation Septic Replacement Fund, NYSDEC Water Quality Improvement Project, NYS Department of Health

Permitting: Jefferson County Department of Health

Estimated duration: annually ongoing

Phase 3 Conduct engineering support studies for areas of concentrated need where community septic or municipal sewer infrastructure are warranted

Preliminary Estimated Cost: \$450,000 for 3 targeted study areas

Potential Funding Sources: NYS Environmental Facilities Corporation Septic Replacement Fund, NYSDEC Water Quality Improvement Project, NYS Department of Health

Permitting: Jefferson County Department of Health

Estimated duration: annually ongoing

## **SECTION V: TECHNIQUES FOR IMPLEMENTATION OF THE LOCAL PROGRAM**

Section V of the LWRP sets out implementation strategies for the Village and Town of Cape Vincent LWRP. This section includes a summary review of relevant existing Village and Town local laws and zoning codes that support the purpose and implementation of the LWRP. This section also outlines new laws, amendments to existing local laws, and other Village and/or Town actions necessary to support and implement this LWRP. A management structure for implementation and consistency review are presented, along with an overview of financial resources that would be necessary to implement the LWRP.

### ***5.1 Existing Laws***

This section describes existing local Town and Village laws that are necessary to implement the LWRP.

#### ***5.1.1 Town Laws***

The Town of Cape Vincent has enacted several laws that regulate land use within its boundary. These laws protect the health, safety, and welfare of residents and the Town's natural, scenic, and engineered resources. This section describes existing local laws within the Town that implement the LWRP. Table 5-1 overviews specific local laws that implement all 44 of the LWRP policies. The narrative that follows the table describes how each local law implements the LWRP policies.

#### ***Zoning Law***

The Town of Cape Vincent Zoning Law was initially adopted in 1989 and most recently amended on December 19, 2019. A copy of this law is included in Appendix C. The purpose and function of each Town zoning district has been summarized in Section II of the LWRP. The Town's current Zoning Law aligns with the proposed waterfront revitalization policies and supports the implementation of the LWRP (see Section 2.2.3). The Town of Cape Vincent Zoning Law aims to minimize the adverse impacts of development in floodplains. Floodplain mapping and development specifications are required in the Site Plan Review procedures. Protection of scenic resources is regulated through the Town's Supplemental Regulations in Section 7.14 of the Zoning Law, through the Town's Site Plan Review process, and through the SEQRA process. No amendments to the zoning districts are proposed in conjunction with the adoption of the LWRP. Each of the proposed projects listed in Section IV will be initiated following the Town's assessment of their consistency with the policies of the LWRP outlined in Section III.

Table 5-1. Overview of Town of Cape Vincent Local Laws implementing LWRP Policies

<b>LWRP Policies</b>	<b>Town of Cape Vincent Local Laws Implementing LWRP Policies</b>
Development Policies 1 – 6	Town of Cape Vincent Zoning Law 3.1 Lake Front (LF) District, 3.2 Lake Recreation (LR) District, 3.3 River Front (RF) District, 3.6 Retail/Professional (RP) District, Town of Cape Vincent Subdivision Law (Amended June 15, 2017)
Fish & Wildlife Policies 7 – 10	Town of Cape Vincent Zoning Law 4.3 Prohibited Uses,
Flooding & Erosion Policies 11 – 17	Town of Cape Vincent Zoning Law 3.2 Lake Recreation (LR) District, Town of Cape Vincent Subdivision Law (Amended June 15, 2017)
General Policy 18	Town of Cape Vincent Subdivision Law (Amended June 15, 2017)
Public Access Policies 19 & 20	Town of Cape Vincent Subdivision Law (Amended June 15, 2017)
Recreation Policies 21 & 22	Town of Cape Vincent Subdivision Law (Amended June 15, 2017)
Historic Resource and Visual Quality Policies 23 – 25	Town of Cape Vincent Zoning Law 3.2 Lake Recreation (LR) District, 3.4 Agricultural and Residential (AR) District, 3.6 Retail/Professional (RP) District, 3.8 Municipal (M) District, Town of Cape Vincent Subdivision Law (Amended June 15, 2017), Supplemental Regulations (Section 7.14 of the Town Zoning Law)
Agricultural Lands Policy 26	Town of Cape Vincent Zoning Law 3.4 Agricultural and Residential (AR) District

Town and Village of Cape Vincent Local Waterfront Revitalization Program

LWRP Policies	Town of Cape Vincent Local Laws Implementing LWRP Policies
Energy & Ice Management Policies 27 – 29	There are no local laws in the Town or Village which pertain to Energy & Ice Management.
Water & Air Resources Policies 30 – 43	Town of Cape Vincent Zoning Law 3.1 Lake Front (LF) District, 3.2 Lake Recreation (LR) District, 4.3 Prohibited Uses, Town of Cape Vincent Subdivision Law (Amended June 15, 2017)
Wetland Policy 44	Town of Cape Vincent Zoning Law 3.1 Lake Front (LF) District, 3.2 Lake Recreation (LR) District, Town of Cape Vincent Subdivision Law (Amended June 15, 2017)

*Town Zoning Districts*

The following zoning districts apply to properties and proposed projects within the LWRP. Refer to Map 5 for Town of Cape Vincent Zoning Map. The following districts apply to properties and projects within the Waterfront Revitalization Area that falls within the Town boundaries. The following table (Table 5-2) indicates the uses allowed by permit, site plan approval, or special permit.<sup>235</sup>

Table 5-2. Overview of Uses within the WRA Zoning Districts

Uses	Town Zoning Districts within the WRA <sup>236</sup>						
	LF	LR	RF	AR	RP	I	M
Adult Use	X	X	X	X	X	X	X
Agricultural/Non-Certified	S	S	S	P	S	P	X
Agricultural/NYS Certified District	P	P	P	P	P	P	X

<sup>235</sup> Town of Cape Vincent. (2019). Town of Cape Vincent Zoning Code. Available at: <https://www.townofcapevincent.com/document-center/miscellaneous/522-bobpaul/file.html>. (Accessed October 2021).

<sup>236</sup> Key: LF- Lake Front District; LR-Lake Recreation District; RF- River Front District; AR- Agriculture Residential District; RP- Retail/Professional District; I- Islands District; M- Municipal District; P- Permitted (permit may be required); S- Site plan review; SU- Special use permit; X- Not allowed; \*SFR- State and Federal regulations and Cape Vincent Zoning Law; \*\*except Linda Island which is not allowed.

Town and Village of Cape Vincent Local Waterfront Revitalization Program

Uses	Town Zoning Districts within the WRA <sup>236</sup>						
Animal (Concentrated) Feed Lot	X	X	X	S	X	X	X
Automobile Service/Repair/Sales	X	X	SU	SU	SU	X	X
Bar/Tavern	X	S	S	S	S	SU	X
Bed and Breakfast	S	S	S	S	S	SU	X
Boathouse – SFR	*	*	*	*	*	*	*
Cabins	P	P	P	P	X	P	X
Cemetery	S	S	S	S	X	S	X
Commercial	X	S	S	S	S	SU	X
Correctional/Detention Facility	X	X	X	S	X	X	X
Daycare Facility (Adult or Child)	S	S	S	S	S	SU	X
Dock (Covered) – SFR	*	*	*	*	*	*	*
Education Facility	X	SU	SU	S	S	SU	X
Electrical Power Transmission Tower	SU	SU	SU	SU	SU	SU	X
Elevated Water Storage and Pressure Regulation Facilities (EWSPRF)	X	X	X	S	X	X	P
Commercial Animal Slaughtering/Rendering	X	X	X	SU	SU	X	X
Government Facility	S	S	S	S	S	S	P
Healthcare Facility	S	S	S	S	S	X	X
Home Occupation	P	P	P	P	P	P	X
Hostel	S	S	S	S	X	SU	X
Hotel/Motel/ Rental Dwelling Unit	X	S	S	S	SU	SU	X
Kennel	X	X	X	S	X	X	X
Manufactured Homes (Mobile)	X	P	P	P	X	X	X
Seasonal Home Park (Manufactured Homes/Cabins)	X	X	X	S	X	X	X
Existing Seasonal Home Park (Manufactured code compliant cabins)	S	S	S	S	X	X	X
Manufactured (Mobile) Home Park (Permanent)	X	X	X	S	X	X	X
Manufacturing – Light	X	X	X	S	X	X	X
Marina	X	SU	SU	X	X	X	X
Meteorological Tower	X	X	X	S	X	X	X
Mining/Quarry Operation	X	X	X	SU	X	X	X
Modular Home	P	P	P	P	X	P	X
Multi-Family/Household Dwelling	S	S	S	S	S	SU	X
Nursery	X	X	S	P	S	X	X
Office – General	X	X	P	P	S	X	S
Recreational Resort	X	SU	SU	SU	X	SU	X
Recreational Vehicles	X	P	P	P	X	X	X

Town and Village of Cape Vincent Local Waterfront Revitalization Program

Uses	Town Zoning Districts within the WRA <sup>236</sup>						
Recreational Vehicle(s) & Watercraft Storage Facility	X	SU	SU	SU	X	X	X
Religious Use	S	S	S	S	S	S	X
Residential Garage	P	P	P	P	P	P	X
Restaurant/Inn	X	S	S	S	S	SU	X
Retail	X	S	S	S	S	SU	X
Salvage/Scrap Yard	X	X	X	S	X	X	X
SECS Tier 1 Residential	S	S	S	S	S	S	X
SECS Tier 2 Residential	S	S	S	S	S	S	X
SECS Tier 3A $\leq 25$ KW but $> 25$ MW	X	X	X	S	X	X	X
SECS Tier 3B $\leq 25$ MW	X	X	X	S	X	X	SU
Self-Storage Facility	X	X	X	S	S	X	X
Single-Family/Household Dwelling	P	P	P	P	X	P	X
Storage Shed	P	P	P	P	P	P	X
Telecommunication Tower(s)	X	X	X	S	X	SU	X
Utility	SU	SU	SU	SU	SU	SU	X
Veterinary Practice	X	S	S	S	S	X	X
WECS – Industrial $> 60$ kw	X	X	X	SU	X	X	X
SWECS –Agricultural/Commercial $> 10$ to $\leq 60$ kw	X	X	X	S	X	SU	X
SWECS – Residential $\leq 10$ kw	SU	SU	SU	S	SU	SU	X
Workshop/Studio Building	P	P	P	P	P	P	X

**Municipal (M) District**

Private development is not allowed in the Municipal District unless such development is deemed to be in the best interest of the health, safety, and welfare of the Town’s residents. In such cases, a variance would be required from the Zoning Board of Appeals. Zoning regulations for this district directly support the Historic and Scenic Qualities policies 23-25.

**River Front (RF) District**

All commercial development in the River Front District must obtain a special use permit and is subject to Site Plan review procedures. Any residential development should have a permanent year-round appearance along this major tourist route. Manufactured (mobile) homes are permitted in manufactured (mobile) home parks and subject to Site Plan Review procedures. Residential uses within this district align with and support the Development Policies (policy 1 – 6).

#### Lake Front (LF) District

Lake Front District sets the minimum requirements for lot area, water frontage, and setbacks coupled with a minimum of 35% open space per lot is allowed for residential development that will preserve the character and natural resources of the waterfront. Residential uses within this district align with and support the Development Policies (policy 1 – 6).

#### Lake Recreation (LR) District

Development within the Lake Recreation District is subject to Site Plan Review and Special Use Permits to prevent undesirable environmental impacts. Refer to Table 5-2 for a list of uses and associated requirements, permits, Site Plan Review or a Special Use Permits. Zoning regulations for this district support Development Policies 1 – 6, Flooding and Erosion Policies 11 – 14 and 17, Water and Air Resources Policies 30 -33, 37 and 38, and Wetlands Policy 44.

#### Island (I) District

Island District is designed to allow for appropriate scale of residential uses and some retail use while protecting the local natural, cultural, historic, and scenic resources. This district is unique to “island living” and restricts development to a five-acre minimum area. Land use on or near any area of historic interest as confirmed by the NYS OPRHP will be considered during the approval process, as defined by regulations pertaining to special use permits, tall structures, towers, and wind energy conversion systems. The permitted uses are residential in nature and a few light retail/hospitality/commercial uses are allowed by special permit. Zoning regulations for this district, coupled with the associated review criteria through site plan and/or special use approval, directly support the Development Policies 1-6, Historic and Scenic Quality Policies 23 – 25, Water and Air Resources Policies 33, 41, and 42, and Wetland Policy 44.

#### Agricultural and Residential (AR) District

Zoning regulations for the Agricultural and Residential District indirectly support the Historic and Scenic Quality Policies 23-25 and directly supports the Agricultural Lands Policy 26 to conserve and protect agricultural lands in the State’s coastal area.

#### Retail/Professional (RP) District

The Retail/Professional District recognizes the potential for development along the NYS Route 12E and a need to enable that development without compromising the scenic beauty of the waterfront area and the Seaway Trail designated scenic byway. With the standards and review criteria for site plan approval and/or special use approval, zoning regulations for this district directly support Development Policies 1 – 6 and Historic and Scenic Policy 24.

#### Prohibited Uses

With the intent of protecting the scenic and natural beauty of the Town and the safety, health, and welfare of its residents (including the surrounding bodies of water), among other uses, the

manufacture and storage of hazardous materials in commercially saleable quantities is prohibited, which includes the reclamation and treatment of industrial waste. This prohibition of uses directly supports Fish and Wildlife Policies 8 and Water and Air Resources Policies 30, 39, and 43.

*Town of Cape Vincent Subdivision Law (Amended June 15, 2017)*

The Town of Cape Vincent's Subdivision Law<sup>237</sup> was enacted to provide for the future growth and development in the Town and to ensure adequate facilities for housing, transportation, distribution, comfort, convenience, safety, and health and welfare of its population. The law outlines the procedural process for minor subdivisions, major subdivisions, and lot-line adjustments. Each proposed subdivision requires an application to be submitted to the Town Planning Board. All subdivisions must meet the general design standards of the zoning code and Town of Cape Vincent Comprehensive Plan. The law also outlines regulations related to managing natural land features including floodplains, steep slopes, storm water, park and recreation areas, and the preservation of natural features. This local law directly supports the implementation of this LWRP, specifically Policies 5, 11, 12, 13, 14, 17-25, 32, 33, 37, 41, & 44. Additionally, the Town's subdivision law includes regulations for cluster development, stating in Section 720 that *"the Town of Cape Vincent Planning Board may consider, or require, applications for subdivisions which include the following deviations from the Zoning Law for any one of the following purposes:*

- 1. to eliminate side and rear yard requirements to allow for innovative attached housing types;*
- 2. to reduce side and rear yard requirements for existing structures on the site of a plat where, in unique and special circumstances, it will result in the more efficient use of land;*
- 3. to reduce road frontages to allow cul-de-sacs;*
- 4. to reduce lot areas, widths, depths, yard sizes, lot coverage, and road frontages to accomplish cluster development." (p. 16)*

*Town of Cape Vincent Water District Law (Local Law #3, 2019)*

The Town of Cape Vincent Water District Law<sup>238</sup> was enacted by the Town of Cape Vincent Town Board in 2019 to enact rules and regulations regarding all water districts within the Town. The law provides a description of rate charges, including connection fees, to residential units and

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<sup>237</sup> Town of Cape Vincent. (2017). Town of Cape Vincent Subdivision Law. Available at: <https://www.townofcapevincent.com/document-center/miscellaneous/355-nexttry2.html>. (Accessed on October 15, 2021).

<sup>238</sup> Town of Cape Vincent. (2019). Town of Cape Vincent Local Law #3 Water District Law. Available at: <https://www.townofcapevincent.com/document-center/miscellaneous/486-jrhelp/file.html>. Accessed October 2021.



commercial property within the Town. The charges, regulated by the Town Board, cover the operation and maintenance costs of purchasing the water from the Village of Cape Vincent in addition to maintenance, distribution, and administrative costs. Additional standards for water meters, billing, termination and restoration of service, maintenance responsibilities, hydrants, etc. are described in the law, which can be viewed in Appendix C.

**5.1.2 Village Laws**

The Village of Cape Vincent has enacted several laws that regulate land use within the Village boundary. These laws protect the health, safety, and welfare of residents and the Village’s natural, scenic, and engineered resources. This section describes existing Village laws that are necessary to implement the LWRP, by supporting its policies. All forty-four policies of this LWRP are supported by the existing local village laws as reflected in Table 5-3. The narrative that follows the table describes how each local law implements each policy.

Table 5-3. Overview of Village of Cape Vincent Local Laws implementing LWRP Policies

<b>LWRP Policies</b>	<b>Village of Cape Vincent Local Laws Implementing LWRP Policies</b>
Development Policies 1 - 6	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)
Fish & Wildlife Policies 7 - 10	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)
Flooding & Erosion Policies 11 - 17	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)
General Policy 18	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)
Public Access Policies 19 & 20	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)

Town and Village of Cape Vincent Local Waterfront Revitalization Program

LWRP Policies	Village of Cape Vincent Local Laws Implementing LWRP Policies
Recreation Policies 21 & 22	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)
Historic Resource and Visual Quality Policies 23 - 25	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)
Agricultural Lands Policy 26	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)
Energy & Ice Management Policies 27 - 29	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)
Water & Air Resources Policies 30 - 43	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)
Wetland Policy 44	Village of Cape Vincent Zoning Law Section 6.6 General Site Plan Review Criteria; Section 6.6(O.2); Public Boat Ramp Ordinance (Local Law 4 of 2004)

*Zoning Law*

The Village of Cape Vincent Zoning Law<sup>239</sup> was initially adopted in 1988 and most recently amended in September 2021. A copy of this law is included in Appendix C Village and Town Zoning Laws. The current zoning law aims to:

- A. Preserve and enhance the quality of physical development in the Village of Cape Vincent.
- B. Promote and guide the residential and commercial use in an orderly and efficient manner.
- C. Preserve the Village’s natural resources, especially the waterfront and water supply.

<sup>239</sup> Village of Cape Vincent. (2021). Village of Cape Vincent Zoning Code and Map. Available at: <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map.html> (Accessed October 2021).

- D. Protect the historical and recreational attributes of the Village.
- E. Promote the health, safety, and general welfare of the community.
- F. Be aware of and consistent with the goals and policies common to adjacent communities.

The Village of Cape Vincent Zoning Law aims to minimize the adverse impacts of development in floodplains, and floodplain mapping and development specifications are required in the Site Plan Review procedures. Protection of scenic resources in the Village are regulated through Site Plan Review for any structures over 35 feet high, the Waterfront Overlay District that was established specifically to ensure compliance with the Village of Cape Vincent LWRP, and SEQRA. The purpose and function of each Village zoning district has been summarized in Section II of the LWRP. Below is a summary of the zoning districts that apply to lands within the waterfront area.

### *Village Zoning Districts*

The following zoning districts apply to properties and/or proposed projects within the LWRP. Refer to Map 5 for the Village Zoning Map.

#### Residential District

The permitted uses in the Residential District include single-family residence, modular homes, two-family residences, accessory building or use and double-wide manufactured homes. These permitted uses do not require site plan review but will need to undergo local consistency review.<sup>240</sup> The uses that require site plan review include:

- Public utility facilities
- Recreational facilities
- Home occupations
- Public facilities
- Marine repair shop
- Cemeteries
- Fences exceeding four (4) feet to six (6) feet in height.
- Multi-family residences/  
apartment building
- Hotels/motels
- Marinas
- Private clubs
- Cottages
- Funeral home
- Structures over 35' in height
- Bed and breakfast/  
temporary rental

Site plan review criteria includes the Local Waterfront Consistency Review Criteria (reference

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<sup>240</sup> Village of Cape Vincent. (2021). Village of Cape Vincent Zoning Code and Map. Available at: <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map.html> (Accessed October 2021).

Village Code Section 4.5.C, available in Appendix C of this report) and thus all residential uses are required to be consistent with the LWRP policies. All the above residential uses align with and support the LWRP Development policies (Policy 1 – 6). Much of the existing shoreline is privately owned with residential use. The continuation of such uses will continue adding value to the Village’s aesthetic resources without interfering with or otherwise disrupting the public access to and the enjoyment of the Village’s waterfront.

### Commercial District

The purpose for the Commercial District is to promote the business and commercial nature of the area. The permitted uses are intended to reduce land use conflicts in commercial enterprise. The permitted uses include single-family residence, modular homes, two-family residences, accessory building or use, automobile service station, public facility, and drive-in services.<sup>241</sup> The uses that require site plan review include:

- Hotel/Motels
- Commercial Use
- Marina
- Public Utility Facility
- Shopping center
- Light industrial operation
- Recreational facility
- Multi-family residences/  
Apartment building
- Fences exceeding four (4) feet to six (6) feet in height
- Professional offices
- Marine Repair Shop
- Bed and Breakfast/  
Temporary Rental
- Warehouse
- Large Product Retail
- Structures over 35’ in height

Site plan review criteria includes the Local Waterfront Consistency Review Criteria (reference Village Code Section 4.5.C) and thus all commercial uses are required to be consistent with the LWRP policies. The commercial uses allowed in this zoning district could directly support the LWRP Development policies (Policy 1 – 6), General Policy 18, Public Access Policies 19 & 20, and Recreation Policies 21 & 22. The continuation of commercial businesses along and near the waterfront will strengthen the Village’s economic growth, and when coupled with public infrastructure improvements, will add to the public’s access and enjoyment of the Village’s waterfront.

### Manufactured Home District

Permitted uses in the Manufactured Home District are intended to provide a stable environment for manufactured home development and to reduce land use conflicts. The permitted uses include single-wide manufactured homes, double-wide manufactured homes, modular homes,

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<sup>241</sup> Village of Cape Vincent. (2021). Village of Cape Vincent Zoning Code and Map. Available at: <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map.html> (Accessed October 2021).

and single-family residences. Site plan review criteria includes the Local Waterfront Consistency Review Criteria (reference Village Code Section 4.5.C), and thus all district uses are required to be consistent with the LWRP policies. According to the Village Zoning Map, the Manufactured Home District is not located along the shoreline, and thus will not disrupt the current mix of land uses located there. This district provides minimum standards to guide the use of manufactured homes and manufactured home parks, which support the LWRP policies, specifically the Development Policies 1 – 6.

### Industrial District

There are no allowed uses in the Industrial District, and the following uses are permitted with site plan approval<sup>242</sup>:

- Light Industrial Operation
- Commercial Use
- Marina
- Public utility facility
- Shopping center
- Automobile Service/Repair
- Drive in service
- Professional offices
- Marine Repair Shop
- Warehouse
- Large Product Retail
- Fences exceeding four (4) feet to six (6) feet in height
- Structures over 35' in height

Site plan review criteria includes the Local Waterfront Consistency Review Criteria (reference Village Code Section 4.5.C) and thus all industrial uses are required to be consistent with the LWRP policies. This floating district, if used, would support the LWRP policies because the listed uses require site plan approval and requires consistency with the LWRP policies, specifically the Development Policies 1–6.

### Waterfront Overlay District

All proposed development within the Waterfront Overlay District, which aligns with the WRA and spread throughout the Village, must be reviewed for consistency with the policies and purposes of the LWRP through site plan review criteria, which served as the Village's Local Consistency Review Law. Site Plan Review Criteria requires the Planning Board to consider conformance with the Joint Comprehensive Plan as well as specific LWRP policies, with specific reference to policies that address waterfront development, fish and wildlife, recreation, and scenic resources. The Planning Board may specify certain standards in line with these criteria to which the developer must then comply. Site plan review criteria includes the Local Waterfront Consistency Review Criteria (reference Village Code Section 6.6. O). Thus, all Waterfront Overlay District uses are

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<sup>242</sup> Village of Cape Vincent. (2021). Village of Cape Vincent Zoning Code and Map. Available at: <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map.html> (Accessed October 2021).

required to be consistent with the LWRP policies.<sup>243</sup> This district directly supports the full spectrum of policies set forth in Section III. In addition to establishing the zoning districts, the Village's Zoning Law also provides for the general regulations to implement the waterfront policies listed in Section III.

#### *Planning Board Review*

The purpose of this local law is to provide the Planning Board authority to "*attach reasonable safeguards and conditions to those uses which might otherwise produce a deleterious effect on the environment, the neighborhood character, or the Village resident's safety, health, and welfare*" (Section 6.1 of the Village Zoning Law, p. 23). A copy of this law is included within the Zoning Code of Appendix C. Section 6.6 General Site Plan Review Criteria provides the list of performance criteria against which development proposals are assessed. Specifically, Section 6.6(O.2) requires that all uses requiring site plan review within the Waterfront Overlay District shall also be subject to the policies of the Village's Local Waterfront Revitalization Program dated October 13, 1987, which is adopted as part of the site plan review criteria by reference as part of the site plan review criteria. The Village has used Section 6.6.(O.2) as their LWRP Consistency Review Law since 1988. As such, this local law supports all forty-four policies set forth in Section 3 of this LWRP.

#### *Amended Dock Usage Law (Local Law No. 1, 2016)*

The Village of Cape Vincent Dock Usage Law<sup>244</sup> was updated in 2016 to "*provide clarity and the easement of administration for the use of docks*" (p. 1). A copy of this law is included in Appendix C. The Board of Trustees of the Village of Cape Vincent is responsible for the operation and maintenance of the Village docks at the north end of Esselstyne Street. The law provides detailed information on who can use the public docks, how long a dock can be used and at what times, and the size of boats that are allowed to use the docks. The law also specifies the enforcement mechanism, which is multi-tiered approach for monetary fines based on the number of repeated offenses. This local law supports the policies set forth in Section III and specifically General Policy 18, Public Access Policies 19 and 20, and Recreation Policies 21 and 22 (see Section III).

#### *Public Boat Ramp Ordinance (Local Law 4 of 2004)*

The Village of Cape Vincent Public Boat Ramp Ordinance<sup>245</sup> was enacted in 2004 to, "*regulate the public use of boat ramps*" (p. 1). A copy of this law is included in Appendix C. The boat ramps are owned and operated by the Village of Cape Vincent Board of Trustees. The boat ramps are only

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<sup>243</sup> Village of Cape Vincent. (2021). Village of Cape Vincent Zoning Code and Map. Available at: <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map.html> (Accessed October 2021).

<sup>244</sup> Village of Cape Vincent. (2016). Amended Dock Usage Law. Available at: <https://www.villageofcapevincent.org/doc-center/laws-information-miscellaneous/395-amended-dock-usage-law/file.html> (Accessed October 2021).

<sup>245</sup> Town of Cape Vincent. (2004). Boat Ramps. Available at: <https://www.villageofcapevincent.org/doc-center/laws-information-miscellaneous/331-boat-ramps/file.html>. Last accessed October 2021.

to be used to load and unload boats. Boats are not to be left unattended on the ramps, and no fishing is allowed from the boat ramp docks. The law also specifies the enforcement mechanism, which is multi-tiered approach for monetary fines based on the number of repeated offenses. This local law supports public health and safety of the community as well as the policies set forth herein (see Section III).

## **5.2 New or Revised Local Laws Necessary to Implement the LWRP**

The Waterfront Consistency Review Law (WCRL) will be enacted/revised separately by the Village and Town of Cape Vincent to ensure future development is in line with the policies in this LWRP. A copy of the WCRL is available in Appendix D-1 and D-2 of this report.

### **5.2.1 Town of Cape Vincent**

#### *LWRP Consistency Review Law*

Actions to be directly undertaken, funded, or permitted within the local WRA must be consistent with the policies set forth in the Town and Village of Cape Vincent LWRP. Through the adoption of the Consistency Review Law, the Town has established the legal framework necessary to ensure that direct and indirect actions proposed within the waterfront area are in keeping with the intent of the LWRP. The LWRP Consistency Review Laws and Waterfront Assessment Form are included in Appendix D-2.

### **5.2.2 Village of Cape Vincent**

#### *LWRP Consistency Review Law*

The Waterfront Overlay District, listed in Section 4.5 of the Village of Cape Vincent 2021 Zoning Code, states that new development and redevelopment within the district “*will be reviewed for compatibility with the policies and purposes of the LWRP*” (p. 17-18).<sup>246</sup> Actions to be directly undertaken, funded, or permitted within the Waterfront Revitalization Area (WRA) must be consistent with the policies set forth in the Village of Cape Vincent LWRP (see 5.1.1 Village Zoning Districts). Also, the Village’s site plan review criteria, Section 6.6.(O.2), incorporates by reference the policies and purposes of its 1987 LWRP, which served as its Consistency Review Law. The Village of Cape Vincent will amend Sections 4.5 and 6.6 of the Zoning Law, as needed, to align with the Waterfront Overlay District for the boundaries of the new WRA and to incorporate by reference the newly adopted LWRP. The Village will also adopt a new Consistency Review Law upon adoption of this LWRP. By adopting a new Consistency Review Law, the Village has

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<sup>246</sup> Village of Cape Vincent. (2021). Village of Cape Vincent Zoning Code. Available at: <https://www.villageofcapevincent.org/doc-center/zoning-code-zoning-map/779-zoning-law-local-law-1-2021-1/file.html>. Accessed October 2021.

established the legal framework necessary to ensure that direct and indirect actions proposed within the waterfront area are in keeping with the intent of the LWRP. The LWRP Consistency Review Law and Waterfront Assessment Form are included in the Appendix D-1 and D-2.

### *Zoning Map Amendment*

The Zoning Map, as filed in the Village Clerk's Office, shall be amended, and re-dated to reflect the expanded Waterfront Overlay District to align with the new boundary of the WRA.

### **5.3 Other Public and Private Actions Necessary to Implement the LWRP**

The implementation of the proposed projects identified under Section IV will take a mix of funding from private and public sectors. The Town and Village have successfully accomplished many valuable projects in their waterfront area and will continue to pursue outside funding sources and creative financing mechanisms to assist in their efforts to revitalize the Cape Vincent waterfront. Potential funding sources include economic development funds, parks development funds, and transportation funding for enhancements and trails. The Town and Village will also seek additional grant funding, particularly for important public access projects, such as the enhancements to the Village Center (Club Street and surrounding area).

Conservation easements are a critical asset to continue work towards the implementation of this LWRP. Through these easements, landowners can conserve their land while maintaining ownership of the land through conservation easement. A conservation easement is a legal agreement between a landowner and a qualified organization, such as a land trust, which restricts specific activities on the land to protect its conservation values. Most easements within the waterfront area, and all of those on the islands, are administered by the Thousand Islands Land Trust (TILT).

### **5.4 Management Structure for Implementing the LWRP**

#### **5.4.1 Town of Cape Vincent**

All State actions proposed within the Cape Vincent WRA will be reviewed in accordance with the guidelines established by the New York Codes, Rules, and Regulations (NYCRR). The 19 NYCRR Part 600, 601, 602, and 603 provide the rules and regulations that implement each of the provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act, including but not limited to the required content of a LWRP, the processes of review and approval of a LWRP, or LWRP amendments.<sup>247</sup> All municipal actions will be reviewed in accordance with the

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<sup>247</sup> New York Codes, Rules, and Regulations. (2020). Title 19: Department of State Chapter XIII – Waterfront Revitalization of Coastal Areas and Inland Waterways. Available at: [https://dos.ny.gov/system/files/documents/2020/07/19nycrr\\_part\\_600-603.pdf](https://dos.ny.gov/system/files/documents/2020/07/19nycrr_part_600-603.pdf) (Accessed October 2021).



guidelines established by the Town of Cape Vincent Consistency Review Law. LWRP Consistency Review Law and Waterfront Assessment Form are included in Appendix D-2. The Guidelines for Notification and Review of State Agency Actions and Procedural Guidelines for Coordinating Consistency Review of Federal Agency Actions (Appendix E) detail the procedure for notifying and review of agency actions where LWRP are in effect.

Various local officials and boards are responsible for management and coordination of the LWRP and are directly involved in ensuring that consistency reviews are completed for projects within the Cape Vincent WRA. These include:

- Zoning Enforcement Officer – The Zoning Enforcement Officer will be the point person for the Town regarding the LWRP, through the Zoning Enforcement Officer email, in corresponding with NYS DOS and other state agencies. The Zoning Enforcement Officer will be responsible for ensuring all development activity within the WRA is consistent with the LWRP by 1) making consistency recommendations related to the implementation of the LWRP policies and projects, 2) coordinating with correct town and state agencies including NYS DOS, and 3) consistency review of all federal actions (including funding, permitting) and state actions. The Zoning Enforcement Officer will, as necessary, distribute copies of the Waterfront Assessment Form (WAF) to applicants proposing actions in the Town of Cape Vincent WRA. The Zoning Enforcement Officer contact information can be found on the Town’s website.
- Town Board – The Cape Vincent Town Board, or their designee, will prioritize and advance LWRP projects. The Town will direct the appropriate Town agency or a grant-writer to prepare applications for funding from State, Federal, and other sources to finance LWRP projects.
- Town Clerk – The Town Clerk will maintain, and make available to the public, a paper copy of the LWRP during normal business hours. A digital copy of the LWRP will be maintained and accessible on the Town’s website. The Clerk will, as necessary, distribute copies of the Waterfront Assessment Form (WAF) to applicants proposing actions in the Town of Cape Vincent WRA.
- Planning Board – The Town Planning Board will be responsible for the determination of consistency for site plan review and land subdivision within the WRA. The Zoning Enforcement Officer will provide a recommendation to the Planning Board regarding local consistency of proposed actions occurring within the WRA.
- Zoning Board of Appeals – The Town Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to the Town LWRP Consistency Review Law. The Zoning Board of Appeals will hear and render decisions on variance applications and appeals involving properties or activities within the WRA. The

Zoning Enforcement Officer will provide a recommendation to the ZBA regarding local consistency of proposed actions occurring within the WRA.

- Cape Vincent Local Development Corporation – The Cape Vincent Local Development Corporation (LDC) is an engaged partner with local leadership of the Town, acting to attract investment that preserves and enhances quality of life in Cape Vincent, including areas within the WRA. The LDC will serve as a resource to the Cape Vincent community in attracting investment for projects compatible with the LWRP, fostering growth compatible with the LWRP, and protecting/enhancing quality of life through advancement of strategic imperatives related to the LWRP.

#### ***5.4.2 Village of Cape Vincent***

All State actions proposed within the Cape Vincent WRA will be reviewed in accordance with the guidelines established by the New York Codes, Rules, and Regulations (NYCRR). The 19 NYCRR Part 600, 601, 602, and 603 provide the rules and regulations that implement each of the provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act, including, but not limited to, the required content of a LWRP, the processes of review and approval of a LWRP, or LWRP amendments.<sup>248</sup> All municipal actions will be reviewed in accordance with the guidelines established by the Village of Cape Vincent Consistency Review Law. LWRP Consistency Review Law and Waterfront Assessment Form are included in Appendix D-1. The Guidelines for Notification and Review of State Agency Actions and Procedural Guidelines for Coordinating Consistency Review of Federal Agency Actions (Appendix E) detail the procedure for notifying and review of agency actions where LWRP are in effect. Various local officials and boards are responsible for the management and coordination of the LWRP and are directly involved in ensuring that consistency reviews are completed for projects within the Cape Vincent WRA. These include:

- Zoning Enforcement Officer – The Zoning Enforcement Officer will be the point person for the Village regarding LWRP, through the Zoning Enforcement Officer email, in corresponding with state agencies and NYS DOS. The Zoning Enforcement Officer will be responsible for ensuring all development activity within the WRA is consistent with the LWRP in 1) making consistency recommendations related to the implementation of the LWRP policies and projects, 2) coordinating with correct village and state agencies, including NYS DOS, and 3) consistency review of all federal actions (including funding, permitting) and state actions. The Zoning Enforcement Officer will, as necessary, distribute copies of the Waterfront Assessment Form (WAF) to applicants proposing

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<sup>248</sup> New York Codes, Rules, and Regulations. (2020). Title 19: Department of State Chapter XIII – Waterfront Revitalization of Coastal Areas and Inland Waterways. Available at: [https://dos.ny.gov/system/files/documents/2020/07/19nycrr\\_part\\_600-603.pdf](https://dos.ny.gov/system/files/documents/2020/07/19nycrr_part_600-603.pdf). Accessed October 2021.

actions in the Village of Cape Vincent WRA. The Zoning Enforcement Officer contact information can be found on the Village's website.

- Village Board of Trustees – the Cape Vincent Village Board of Trustees, or their designee, will prioritize and advance LWRP projects. The Village will direct the appropriate Village agency or a grant-writer to prepare applications for funding from State, Federal, and other sources to finance LWRP projects.
- Village Clerk –The Village Clerk will also maintain, and make available to the public, a paper copy of the LWRP for use during normal business hours. A digital copy of the LWRP will be maintained and accessible on the Village's website.
- Planning Board – the Village Planning Board will be responsible for the determination of consistency for site plan review and land subdivision within the WRA. The Zoning Enforcement Officer will provide a recommendation to the Planning Board regarding the local consistency of proposed actions occurring within the WRA.
- Zoning Board of Appeals – the Village Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to the Village LWRP Consistency Review Law. The Zoning Board of Appeals will hear and render decisions on variance applications and appeals involving properties or activities within the WRA. The Zoning Enforcement Officer will provide a recommendation to the Zoning Board of Appeals regarding the local consistency of proposed actions occurring within the WRA.
- Cape Vincent Local Development Corporation – The Cape Vincent Local Development Corporation (LDC) is an engaged partner with local leadership of the Village, acting to attract investment that preserves and enhances quality of life in Cape Vincent, including areas within the WRA. The LDC will serve as a resource to the Cape Vincent community in attracting investment for projects compatible with the LWRP, fostering growth compatible with the LWRP, and protecting/enhancing quality of life through advancement of strategic imperatives related to the LWRP.

### ***5.5 Financial Resources Necessary to Implement the LWRP***

The implementation of the proposed projects identified under Section IV may require funding from a combination of public and private sources. These costs could include capital outlays, maintenance costs, and, in some cases, property acquisition. Although the costs for these projects are estimated at this time, the Village and Town of Cape Vincent will continue to examine potential costs, and opportunities for public and private investment in implementation projects. Public investment may require the expenditure of Village and/or Town funds in addition to State and Federal grant programs. Potential sources of implementation funding may include, but are not limited to, the following:

## Town and Village of Cape Vincent Local Waterfront Revitalization Program

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- Issuance of local bonds
- Utilization of municipal general fund and annual departmental budgets
- Private sector sponsorship
- Development impact fees
- Cape Vincent Local Development Corporation
- Dedicated local conservation/open space funds
- Private foundation grants
- NYS Department of Transportation
- NYS Environmental Protection Fund
- NYS Clean Water / Clean Air Bond
- Act
- NYS Council on the Arts
- NYS Energy Research & Development Authority (NYSERDA)
- NYS Power Authority
- U.S. National Parks Service
- U.S. Department of Transportation
- U.S. EPA / Great Lakes Restoration Initiative
- National Fish and Wildlife Foundation / Sustain our Great Lakes
- The Wetland Trust
- Ducks Unlimited®

In addition, the implementation of the LWRP will require ongoing administrative costs. These costs will be incorporated into the municipal budgeting process via the Town and Village. Implementation of the LWRP will include staff and board-level consistency reviews of proposed actions, coordination with the DOS, and other needs as applicable. Procedural Guidelines for Notification and Review of Federal and State Agency Actions are available in Appendix E.

## **SECTION VI: STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION**

State and Federal actions will influence and be influenced by implementation of the LWRP. Under State Law and the U.S. Coastal Zone Management Act, certain State, and federal actions within or affecting the local waterfront revitalization area must be consistent, or consistent to the maximum extent practicable, with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions, and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State and Federal agencies is likely to be necessary to implement specific provisions of the LWRP.

### ***6.1. State Actions and Programs Which Should Be Undertaken in a Manner Consistent With the LWRP***

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State notifies affected State agencies of those agency actions and programs that are to be undertaken in a manner consistent with approved LWRPs. The following list of State actions and programs is that list. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that an LWRP identifies those elements of the program that can be implemented by the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification, or approval programs; grant, loan, subsidy, or other funding assistance programs; facilities construction, and planning programs that may affect the achievement of the LWRP.

#### **OFFICE FOR THE AGING**

- 1.0 Funding and approval programs for the establishment of new or expanded facilities providing various services for the elderly.

#### **DEPARTMENT OF AGRICULTURE AND MARKETS**

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Program
- 4.00 Permit and approval programs:
  - 4.01 Custom Slaughters/Processor Permit

- 4.02 Processing Plant License
- 4.03 Refrigerated Warehouse and/or Locker Plant License
- 5.00 Farmland Protection Implementation Grant
- 6.00 Agricultural Nonpoint Source Abatement and Control Program

**DIVISION OF ALCOHOLIC BEVERAGE CONTROL/ STATE LIQUOR AUTHORITY**

- 1.00 Permit and Approval Programs:
  - 1.01 Ball Park - Stadium License
  - 1.02 Bottle Club License
  - 1.03 Bottling Permits
  - 1.04 Brewer's Licenses and Permits
  - 1.05 Brewer's Retail Beer License
  - 1.06 Catering Establishment Liquor License
  - 1.07 Cider Producer's and Wholesaler's Licenses
  - 1.08 Club Beer, Liquor, and Wine Licenses
  - 1.09 Distiller's Licenses
  - 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
  - 1.11 Farm Winery and Winery Licenses
  - 1.12 Hotel Beer, Wine, and Liquor Licenses
  - 1.13 Industrial Alcohol Manufacturer's Permits
  - 1.14 Liquor Store License
  - 1.15 On-Premises Liquor Licenses
  - 1.16 Plenary Permit (Miscellaneous-Annual)
  - 1.17 Summer Beer and Liquor Licenses
  - 1.18 Tavern/Restaurant and Restaurant Wine Licenses
  - 1.19 Vessel Beer and Liquor Licenses
  - 1.20 Warehouse Permit
  - 1.21 Wine Store License
  - 1.22 Winter Beer and Liquor Licenses

1.23 Wholesale Beer, Wine, and Liquor Licenses

**OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES**

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
  - 3.01 Letter Approval for Certificate of Need
  - 3.02 Operating Certificate (Alcoholism Facility)
  - 3.03 Operating Certificate (Community Residence)
  - 3.04 Operating Certificate (Outpatient Facility)
  - 3.05 Operating Certificate (Sobering-Up Station)

**COUNCIL ON THE ARTS**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program.

**OFFICE OF CHILDREN AND FAMILY SERVICES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
  - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
  - 3.02 Operating Certificate (Children's Services)
  - 3.03 Operating Certificate (Enriched Housing Program)
  - 3.04 Operating Certificate (Home for Adults)
  - 3.05 Operating Certificate (Proprietary Home)
  - 3.06 Operating Certificate (Public Home)
  - 3.07 Operating Certificate (Special Care Home)
  - 3.08 Permit to Operate a Day Care Center

**DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION**

- 1.0 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

**EDUCATION DEPARTMENT**

- 1.00 Facilities construction, rehabilitation, expansion, demolition, or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certification of Incorporation (Regents Charter)
  - 2.02 Private Business School Registration
  - 2.03 Private School License
  - 2.04 Registered Manufacturer of Drugs and/or Devices
  - 2.05 Registered Pharmacy Certificate
  - 2.06 Registered Wholesale of Drugs and/or Devices
  - 2.07 Registered Wholesaler-Repacker of Drugs and/or Devices
  - 2.08 Storekeeper's Certificate
- 3.00 Administration of Article 5, Section 233 of the Educational Law regarding the removal of archaeological and paleontological objects under the waters of the State.

**OFFICE OF EMERGENCY MANAGEMENT**

- Hazard identification,
- Loss prevention, planning, training, operational response to emergencies,
- Technical support, and disaster recovery assistance.

**EMPIRE STATE DEVELOPMENT/ EMPIRE STATE DEVELOPMENT CORPORATION**

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

**ENERGY RESEARCH AND DEVELOPMENT AUTHORITY**



- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.
- 2.00 New Construction Program – provide assistance to incorporate energy-efficiency measures into the design, construction, and operation of new and substantially renovated buildings.
- 3.00 Existing Facilities Program – offers incentives for a variety of energy projects

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

- 1.00 Acquisition, disposition, lease, grant of easement, and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
  - 4.01 Capital projects for limiting air pollution
  - 4.02 Cleanup of toxic waste dumps
  - 4.03 Flood control, beach erosion, and other water resource projects
  - 4.04 Operating aid to municipal wastewater treatment facilities
  - 4.05 Resource recovery and solid waste management capital projects
  - 4.06 Wastewater treatment facilities
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
  - (a) Water Quality Improvement Projects
  - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects, and Waterways Projects.
- 7.00 Marine Finfish and Shellfish Programs
- 9.00 Permit and approval programs
  - Air Resources
    - 9.01 Certificate of Approval for Air Pollution Episode Action Plan
    - 9.02 Certificate of Compliance for Tax Relief – Air Pollution Control Facility

- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; process, exhaust, or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct; a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Permit – Article 15, (Protection of Water) – Dredge and Deposit Material in a Waterway
- 9.22 Permit – Article 15, (Protection of Water) – Streambed or Bank Disturbances
- 9.23 Permit – Article 24, (Freshwater Wetlands)

Hazardous Substances

- 9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation

9.26 Permit to Use Chemicals for the Control or Elimination of Undesirable Fish

Lands and Forest

9.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)

9.28 Floating Object Permit

9.29 Marine Regatta Permit

9.30 Navigation Aid Permit

Marine Resources

9.31 Digger's Permit (Shellfish)

9.32 License of Menhaden Fishing Vessel

9.33 License for Non-Resident Food Fishing Vessel

9.34 Non-Resident Lobster Permit

9.35 Marine Hatchery and/or Off Bottom Culture Shellfish Permits

9.36 Permits to Take Blue Claw Crabs

9.37 Permit to Use Pond or Trap Net

9.38 Resident Commercial Lobster Permit

9.39 Shellfish Bed Permit

9.40 Shellfish Shipper's Permits

9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean

9.42 Permit – Article 25, (Tidal Wetlands)

Mineral Resources

9.43 Mining Permit

9.44 Permit to Plug and Abandon (a non-commercial, oil, gas, or solution mining well)

9.45 Underground Storage Permit (Gas)

9.46 Well Drilling Permit (Oil, Gas and Solution Salt Mining)

Solid Wastes

9.47 Permit to Construct and/or operate a Solid Waste Management Facility

9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

- 9.49 Approval of Plans for Wastewater Disposal Systems
- 9.50 Certificate of Approval of Realty Subdivision Plans
- 9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
- 9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
- 9.53 Permit Article 36, (Construction in Flood Hazard Areas)
- 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.55 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.56 State Pollutant Discharge Elimination System (SPDES) Permit
- 9.57 Approval – Drainage Improvement District
- 9.58 Approval – Water (Diversion for Power)
- 9.59 Approval of Well System and Permit to Operate
- 9.60 Permit – Article 15, (Protection of Water) – Dam
- 9.61 Permit – Article 15, Title 15 (Water Supply)
- 9.62 River Improvement District Permits
- 9.63 River Regulatory District approvals
- 9.64 Well Drilling Certificate of Registration
- 9.65 401 Water Quality Certification
- 10.00 Preparation and revision of Air Pollution State Implementation Plan.
- 11.00 Preparation and revision of Continuous Executive Program Plan.
- 12.00 Preparation and revision of Statewide Environmental Plan.
- 13.00 Protection of Natural and Man-made Beauty Program.
- 14.00 Urban Fisheries Program.
- 15.00 Urban Forestry Program.
- 16.00 Urban Wildlife Program.

**ENVIRONMENTAL FACILITIES CORPORATION**

- 1.0 Financing program for pollution control facilities for industrial firms and small businesses.

**DEPARTMENT OF FINANCIAL SERVICES (DEPARTMENT OF BANKING)**

- 1.00 Permit and approval programs:
  - 1.01 Authorization Certificate (Bank Branch)
  - 1.02 Authorization Certificate (Bank Change of Location)
  - 1.03 Authorization Certificate (Bank Charter)
  - 1.04 Authorization Certificate (Credit Union Change of Location)
  - 1.05 Authorization Certificate (Credit Union Charter)
  - 1.06 Authorization Certificate (Credit Union Station)
  - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
  - 1.08 Authorization Certificate (Foreign Banking Corp. Public Accommodations Office)
  - 1.09 Authorization Certificate (Investment Company Branch)
  - 1.10 Authorization Certificate (Investment Company Change of Location)
  - 1.11 Authorization Certificate (Investment Company Charter)
  - 1.12 Authorization Certificate (Licensed Lender Change of Location)
  - 1.13 Authorization Certificate (Mutual Trust Company Charter)
  - 1.14 Authorization Certificate (Private Banker Charter)
  - 1.15 Authorization Certificate (Public Accommodation Office – Banks)
  - 1.16 Authorization Certificate (Safe Deposit Company Branch)
  - 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
  - 1.18 Authorization Certificate (Safe Deposit Company Charter)
  - 1.19 Authorization Certificate (Savings Bank Charter)
  - 1.20 Authorization Certificate (Savings Bank DeNovo Branch Office)
  - 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
  - 1.22 Authorization Certificate (Savings and Loan Association Branch)
  - 1.23 Authorization Certificate (Savings and Loan Association Change of Location)

- 1.24 Authorization Certificate (Savings and Loan Association Charter)
- 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
- 1.26 Authorization Certificate (Trust Company Branch)
- 1.27 Authorization Certificate (Trust Company – Change of Location)
- 1.28 Authorization Certificate (Trust Company Charter)
- 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
- 1.30 Authorization to Establish a Life Insurance Agency
- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

**OFFICE OF GENERAL SERVICES**

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land and grants of easement of land under water, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.
- 2.00 Administration of Article 4 B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural, or cultural significance.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition.
- 4.00 Administration of Article 5, Section 233, Subsection 5 of the Education Law on removal of archaeological and paleontological objects under the waters of the State.
- 5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.
- 6.00 Section 334 of the State Real Estate Law regarding subdivision of waterfront properties on navigable waters to include the location of riparian lines.

**DEPARTMENT OF HEALTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Approval of Completed Works for Public Water Supply Improvements
  - 2.02 Approval of Plans for Public Water Supply Improvements.
  - 2.03 Certificate of Need (Health Related Facility except Hospitals)

- 2.04 Certificate of Need (Hospitals)
- 2.05 Operating Certificate (Diagnostic and Treatment Center)
- 2.06 Operating Certificate (Health Related Facility)
- 2.07 Operating Certificate (Hospice)
- 2.08 Operating Certificate (Hospital)
- 2.09 Operating Certificate (Nursing Home)
- 2.10 Shared Health Facility Registration Certificate

**DIVISION OF HOMES AND COMMUNITY RENEWAL and its subsidiaries and affiliates**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Financial assistance and grant programs:
  - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
  - 2.02 Housing Development Fund Programs
  - 2.03 Neighborhood Preservation Companies Program
  - 2.04 Public Housing Programs
  - 2.05 Rural Initiatives Grant Program
  - 2.06 Rural Preservation Companies Program
  - 2.07 Rural Rental Assistance Program
  - 2.08 Special Needs Demonstration Projects
  - 2.09 Urban Initiatives Grant Program
  - 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs.

**OFFICE OF MENTAL HEALTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Operating Certificate (Community Residence)
  - 2.02 Operating Certificate (Family Care Homes)

2.03 Operating Certificate (Inpatient Facility)

2.04 Operating Certificate (Outpatient Facility)

**DIVISION OF MILITARY AND NAVAL AFFAIRS**

1.0 Preparation and implementation of the State Disaster Preparedness Plan.

**NATURAL HERITAGE TRUST**

1.0 Funding program for natural heritage institutions.

**OFFICE OF PARKS, RECREATION, AND HISTORIC PRESERVATION (including Regional State Park Commission)**

1.00 Acquisition, disposition, lease, grant of easement, or other activities related to the management of land under the jurisdiction of the Office.

2.00 Facilities construction, rehabilitation, expansion, and demolition or the funding of such activities.

3.00 Funding program for recreational boating, safety, and enforcement.

4.00 Funding program for State and local historic preservation projects.

5.00 Land and Water Conservation Fund programs.

6.00 Nomination of properties to the Federal and/or State Register of Historic Places.

7.00 Permit and approval programs:

7.01 Floating Objects Permit

7.02 Marine Regatta Permit

7.03 Navigation Aide Permit

7.04 Posting of Signs Outside State Parks

8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation, or related purposes.

9.00 Recreation services program.

10.00 Urban Cultural Parks Program.

11.00 Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.



**OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES**

- 1.00 Facilities construction, rehabilitation, expansion, and demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Establishment and Construction Prior Approval
  - 2.02 Operating Certificate Community Residence
  - 2.03 Outpatient Facility Operating Certificate

**POWER AUTHORITY OF THE STATE OF NEW YORK**

- 1.00 Acquisition, disposition, lease, grant of easement, and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

**ROCHESTER-GENESEE REGIONAL TRANSPORTATION AUTHORITY (regional agency)**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Increases in special fares for transportation services to public water-related recreation resources.

**NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION**

- 1.00 Corporation for Innovation Development Program.
- 2.00 Center for Advanced Technology Program.

**DEPARTMENT OF STATE**

- 1.00 Appalachian Regional Development Program
- 2.00 Coastal Management Program.
  - 2.10 Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.
- 3.00 Community Services Block Grant Program.
- 4.00 Permit and approval programs:
  - 4.01 Billiard Room License

4.02 Cemetery Operator

4.03 Uniform Fire Prevention and Building Code

**STATE UNIVERSITY CONSTRUCTION FUND**

1.0 Facilities construction, rehabilitation, expansion, and demolition or the funding of such activities.

**STATE UNIVERSITY OF NEW YORK**

1.00 Acquisition, disposition, lease, grant of easement, and other activities related to the management of land under the jurisdiction of the University.

2.00 Facilities construction, rehabilitation, expansion, or demolition and the funding of such activities.

**DEPARTMENT OF TRANSPORTATION**

1.00 Acquisition, disposition, lease, grant of easement, and other activities related to the management of land under the jurisdiction of the Department.

2.00 Construction, rehabilitation, expansion, or demolition of facilities, including but not limited to:

- (a) Highways and parkways
- (b) Bridges on the State highways system
- (c) Highway and parkway maintenance facilities
- (d) Rail facilities

3.00 Financial assistance and grant programs:

3.01 Funding programs for construction, reconstruction, reconditioning, or preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)

3.02 Funding programs available for development of the ports of Albany, Buffalo, Oswego, Ogdensburg, and New York

3.03 Funding programs for rehabilitation and replacement of municipal bridges

3.04 Subsidies program for marginal branch lines abandoned by Conrail

3.05 Subsidies program for passenger rail service

4.00 Permits and approval programs:

4.01 Approval of applications for airport improvements (construction projects)

- 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
- 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
- 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
- 4.05 Certificate of Convenience and Necessity to Operate a Railroad
- 4.06 Highway Work Permits
- 4.07 License to Operate Major Petroleum Facilities
- 4.08 Outdoor Advertising Permit (for off premises advertising signs adjacent to interstate and primary highway)
- 4.09 Real Property Division Permit for Use of State-Owned Property
- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program Activities related to the containment of petroleum spills and development of an emergency oil spill control network.

#### **DIVISION OF YOUTH**

- 1.0 Facilities construction, rehabilitation, expansion, and demolition or the funding for approval of such activities.

### ***6.2. Federal Activities Affecting Land and Water Uses and Natural Resources in the Coastal Zone of New York State***

*Note: This LWRP's list of the federal agency activities is identical to the most recent version of the Table 3 list in the New York State Coastal Management Program as approved by the federal Office for Coastal Management on May 7, 2017. Please contact the New York State Department of State, Office of Planning and Development, at (518) 474-6000, for any updates to New York State Coastal Management Program Table 3 federal agency activities list that may have occurred post-approval of this LWRP.*

This list has been prepared in accordance with the consistency provisions of the federal Coastal Zone Management Act and implementing regulations in 15 CFR Part 930. It is not exhaustive of all activities subject to the consistency provisions of the federal Coastal Zone Management Act,

implementing regulations in 15 CFR Part 930, and the New York Coastal Management Program. It includes activities requiring:

1. the submission of consistency determinations by federal agencies.
2. the submission of consistency certifications by entities other than federal agencies; and
3. the submission of necessary data and information to the New York State Department of State, in accordance with 15 CFR Part 930, Subparts C, D, E, F and I, and the New York Coastal Management Program.

***I. Activities Undertaken Directly by or on Behalf of Federal Agencies***

The following activities, undertaken directly by or on behalf of the identified federal agencies, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart C, and the New York Coastal Management Program.

**Department of Commerce, National Marine Fisheries Service:**

- Fisheries Management Plans

**Department of Defense, Army Corps of Engineers:**

- Proposed authorizations for dredging, channel improvement, breakwaters, other navigational works, erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with the potential to impact coastal lands and waters.
- Land acquisition for spoil disposal or other purposes.
- Selection of open water disposal sites.

**Department of Defense, Air Force, Army, and Navy:**

- Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation, or other facilities).
- Plans, procedures and facilities for handling or storage use zones.
- Establishment of impact, compatibility, or restricted use zones.

**Department of Energy:**

- Prohibition orders.

**General Services Administration:**

- Acquisition, location and design of proposed federal government property or buildings, whether leased or owned by the federal government.

**Department of Interior, Fish and Wildlife Service:**

- Management of National Wildlife refuges and proposed acquisitions.

**Department of Interior, National Park Service:**

- National Park and Seashore management and proposed acquisitions.

**Department of Interior, Bureau of Ocean Energy Management**

- OCS lease sale activities including tract selection, lease sale stipulations, etc.

**Department of Homeland Security, Coast Guard:**

- Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.
- Location, placement, or removal of navigation devices which are not part of the routine operations under-the Aids to Navigation Program (ATON).
- Expansion, abandonment, designation or anchorages, lightering areas or shipping lanes and ice management practices and activities.

**Department of Transportation, Federal Aviation Administration:**

- Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

**Department of Transportation, St. Lawrence Seaway Development Corporation:**

- Acquisition, location, design, improvement, and construction of new and existing facilities for the operation of the Seaway, including traffic safety, traffic control and length of navigation season.

**Department of Transportation, Federal Highway Administration:**

- Highway construction

**II. *Federal Licenses and Permits and Other Forms of Approval or Authorization***

The following activities, requiring permits, licenses, or other forms of authorization or approval from federal agencies, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart D, and the New York Coastal Management Program

**DEPARTMENT OF DEFENSE, ARMY CORPS OF ENGINEERS**

- Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).
- Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- Approval of plans for improvements made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404 (33 U.S.C. 1344).
- All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4 (f) of the River and Harbors Act of 1912 (33 U.S.C.).

**DEPARTMENT OF ENERGY, FEDERAL ENERGY REGULATORY COMMISSION**

- Licenses for non-federal hydroelectric projects and primary transmission lines under Sections 3 (11), 4 (e) and 15 of the Federal Power Act (16 U.S.C. 796 (11), 797 (11) and 808).
- Orders for interconnection of electric transmission facilities under Section 202 (b) of the Federal Power Act (15 U.S.C. 824 a (b)).
- Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7 (c) of the Natural Gas Act (15 U.S.C. 717 f (c)).
- Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717 f (b)).

**DEPARTMENT OF ENERGY, ECONOMIC REGULATORY COMMISSION**

- Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.

- Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.

#### **ENVIRONMENTAL PROTECTION AGENCY**

- NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff, and aquaculture permits pursuant to Sections 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- Permits pursuant to the Resources Recovery and Conservation Act of 1976.
- Permits pursuant to the underground injection Control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300 h-c).
- Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

#### **DEPARTMENT OF INTERIOR, FISH AND WILDLIFE SERVICES**

- Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153 (a)).

#### **DEPARTMENT OF INTERIOR, BUREAU OF OCEAN ENERGY MANAGEMENT**

- Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.
- Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

#### **SURFACE TRANSPORTATION BOARD**

- Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct slurry pipelines.

#### **NUCLEAR REGULATORY COMMISSION**

- Licensing and certification of the siting, construction, and operation of nuclear power plants, pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974, and the National Environmental Policy Act of 1969.

**DEPARTMENT OF TRANSPORTATION**

- Construction or modification of bridges, causeways, or pipelines over navigable waters pursuant to 49 U.S.C. 1455.
- Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).

**DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION**

- Permits and licenses for construction, operation, or alteration of airports.

**III. *Federal Financial Assistance to State and Local Governments***

The following activities, involving financial assistance from federal agencies to state and local governments, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15CFR Part 930, Subpart F, and the New York Coastal Management Program. When these activities involve financial assistance for entities other than State and local governments, the activities are subject to the consistency provisions of 15 CFR Part 930, Subpart C

**Department of Agriculture**

10.068 Rural Clean Water Program

10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans

10.410 Low to Moderate Income Housing Loans

10.411 Rural Housing Site Loans

10.413 Recreation Facility Loans

10.414 Resource Conservation and Development Loans

10.415 Rural Rental Housing Loans

10.416 Soil and Water Loans

10.418 Water and Waste Disposal Systems for Rural Communities

10.419 Watershed Protection and Flood Prevention Loans

10.422 Business and Industrial Loans

10.423 Community Facilities Loans



- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate-Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

**Department of Commerce**

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Intermodal Transportation
- 11.509 Development and Promotion of Domestic Water-borne Transport Systems

**Department of Housing and Urban Development**

- 14. 112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
- 14. 115 Mortgage Insurance - Development of Sales Type Cooperative Projects
- 14. 117 Mortgage Insurance - Homes
- 14. 124 Mortgage Insurance - Investor Sponsored Cooperative Housing

- 14. 125 Mortgage Insurance - Land Development and New Communities
- 14. 126 Mortgage Insurance - Manages ant Type Cooperative Projects
- 14. 127 Mortgage Insurance - Mobile Home Parks
- 14. 218 Community Development Block Grants/Entitlement Grants
- 14. 219 Community Development Block Grants/Small Cities Program
- 14. 221 Urban Development Action Grants
- 14. 223 Indian Community Development Block Grant Program

**Department of the Interior**

- 15.400 Outdoor Recreation - Acquisition, Development and Planning
- 15.402 Outdoor Recreation - Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
- 15.411 Historic Preservation Grants-In-Aid
- 15.417 Urban Park and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.952 Water Research and Technology-Matching Funds to State Institutes

**Department of Transportation**

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 20.309 Railroad Rehabilitation and Improvement – Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

**General Services Administration**

39.002 Disposal of Federal Surplus Real Property

**Community Services Administration**

49.002 Community Action

49.011 Community Economic Development

49.013 State Economic Opportunity Offices

49.017 Rural Development Loan Fund

49.018 Housing and Community Development (Rural Housing)

**Small Business Administration**

59.012 Small Business Loans

59.013 State and Local Development Company Loans

59.024 Water Pollution Control Loans

59.025 Air Pollution Control Loans

59.031 Small Business Pollution Control Financing Guarantee

**Environmental Protection Agency**

66.001 Air Pollution Control Program Grants

66.418 Construction Grants for Wastewater Treatment Works

66.426 Water Pollution Control - State and Area-wide Water Quality Management Planning Agency

66.451 Solid and Hazardous Waste Management Program Support Grants

66.452 Solid Waste Management Demonstration Grants

66.600 Environmental Protection Consolidated Grants Program Support

66.800 Comprehensive Environmental Response, Compensation and Liability (Superfund)

*Note: Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its subsequent updates.*

### **6.3. State and Federal Actions and Programs Likely to Affect Implementation**

Part 6.3 provides a more focused and descriptive list of the immediately preceding Parts 6.1 and 6.2 listing under this LWRP Section, entitled "State and Federal Actions and Programs Likely to Affect Implementation." It is recognized that a State or Federal agency's ability to undertake these listed actions is subject to a variety of factors and considerations; that the consistency provisions of the approved LWRP may not apply; and, that the consistency requirements cannot be used to

require a State or federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section II, Section IV, and Section V, which discuss local goals, proposed projects, and local implementation techniques, including State and federal assistance needed to implement the approved LWRP.

***I. State Actions and Programs***

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

- Funding assistance with planning studies and/or design and construction of projects targeted to control the erosion of steep slopes in the Town and/or Village of Cape Vincent’s waterfront area.
- Review and approval for septic system installation and replacement in areas without public septic systems on the waterfront, within the waterfront area.
- Implement and administer Article 24 of the State's Environmental Conservation Law for the Town and/or Village of Cape Vincent wetland areas.
- Map, adopt, and administer the State's Section 505 Coastal Erosion Control legislation.
- Technical assistance, review, and approval of site improvements within the Town and/or Village of Cape Vincent’s waterfront areas.
- Technical assistance, review, and approval of public access improvements within the Town and/or Village’s waterfront areas.

**DIVISION OF HOMES AND COMMUNITY RENEWAL**

- Funding and technical assistance with revitalization efforts in the waterfront area.

**ENVIRONMENTAL FACILITIES CORPORATION**

- Funding assistance for the planning, design and construction of sewer extensions or other improvement projects within the waterfront area.

**DEPARTMENT OF STATE**

- Funding and technical assistance for LWRP implementation of various planning, design, and construction projects, as outlined in Section IV of this Program.
- Funding assistance through the Environmental Protection Fund for awarded projects to enhance the waterfront area.
- Funding and technical assistance through the Brownfield Opportunity Area Program for properties within the Town and/or Village of Cape Vincent.

**NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY**

- Funding and technical assistance with energy efficiency studies and projects.

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION**

- Provide improvements to improve circulation and access for pedestrians and bicyclists.
- Provide traffic calming improvements to the Town and/or Village of Cape Vincent’s waterfront area.
- Funding assistance to construct capital improvements to introduce or improve multimodal transportation infrastructure, and to improve the safety of state-owned transportation infrastructure for all users.

**EMPIRE STATE DEVELOPMENT CORPORATION**

- Assistance is needed for the preparation of economic feasibility studies for the reuse of various deteriorated and unutilized structures, with the siting or improvement of public facilities and with revitalization efforts within the Town and/or Village of Cape Vincent’s waterfront area.

**OFFICE OF GENERAL SERVICES**

- Prior to any development occurring in the water or on the immediate waterfront, OGS will be contacted for a determination of the State’s interest in underwater or formerly underwater lands and for authorization to use and occupy such lands.

**OFFICE OF PARKS, RECREATION, AND HISTORIC PRESERVATION**

- Funding assistance for the planning, design and construction of expansion or improvement projects in the Town and/or Village of Cape Vincent.
- Funding approval under programs such as the Land and Water Conservation Fund and the Clean Water or Environmental Protection Fund for development of or improvements to waterfront parkland.
- Funding is also needed for the development of, or improvements to, local and regional trail systems.
- Provide funding assistance to the Town and/or Village of Cape Vincent for the planning, development, construction, major renovation, or expansion of existing and planned recreational facilities located in or adjacent to waterfront area.

***II. Federal Actions and Programs***

**FEDERAL HIGHWAY ADMINISTRATION**

- Funding and technical assistance for the design and construction of improvements within the Town and Village of Cape Vincent for traffic calming and circulation / access for pedestrians and bicyclists.

**DEPARTMENT OF COMMERCE**

- Funding and technical assistance for economic development projects in the Town and Village of Cape Vincent.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

- Funding assistance for community projects through the Community Development Block Grants program.

**SMALL BUSINESS ADMINISTRATION**

- Funding and technical assistance for local businesses along the waterfront to stimulate economic development.

## SECTION VII: LOCAL COMMITMENT AND CONSULTATION

### *7.1 Local Commitment*

The Town and Village of Cape Vincent initiated efforts to prepare a Local Waterfront Revitalization Program (LWRP) in fall 2017. At that time, the Town established the Waterfront Advisory Committee (WAC) to oversee and assist with updating the existing program. The WAC was comprised of representatives from the local community, including liaisons from the Town of Cape Vincent, Village of Cape Vincent Board of Trustees, Town Board of Cape Vincent, and representatives from the Cape Vincent business community, Local Development Corporation, seasonal and year-long residents, and local environmental groups. This Committee met during the planning process to assist with the preparation of the LWRP.

To strengthen local commitment for the LWRP planning efforts, the Town of Cape Vincent held two community workshops (public meetings) to provide local citizens an opportunity to comment on significant issues and opportunities in the waterfront areas. These two meetings were held on June 27<sup>th</sup>, 2018, and August 29<sup>th</sup>, 2018. The first community workshop presented an exhibition of background information, including the Strengths, Weakness, Opportunities, and Threats (S.W.O.T.) assessment in the 2017 Comprehensive Plan Update, and an exhibition of potential projects. The public was solicited for feedback on the background information and preliminary projects. The second community workshop provided an additional opportunity for residents and stakeholders to offer input on the issues and opportunities they felt were important in the waterfront area as well as further development of the LWRP projects. Both community workshops were well attended; details of the public workshops are provided in 7.2.2. Community Workshops, which incorporate and compile the comments in meeting summaries, and in Appendix B. The information gathered at these meetings was utilized to further shape, and then to finalize, the findings, policies, proposed projects, and implementation actions outlined in the program.

Prior to the adoption of the LWRP, the Cape Vincent Town Board and the Cape Vincent Village Board of Trustees held a public hearing virtually/in-person [TBD] on the action. Comments received from this public hearing are found in Appendix B [TBD]. This hearing provided the public with an opportunity to hear a presentation on the draft LWRP, and to provide the Town Board and Village Board with final input on the proposed program.

## **7.2 Consultation**

During the preparation of the Joint Town and Village of Cape Vincent LWRP, the WAC forwarded draft sections of the revised program to the Department of State for their review and comments. In addition, draft documents were distributed to some involved and interested agencies to gather their comments on program findings, policies, and recommendations. The local agencies that were contacted for their input included the New York State Department of Environmental Conservation and Jefferson County Planning Department.

### **7.2.1 Waterfront Advisory Committee (WAC) Meetings & Outcomes**

#### **WAC Meeting #1 Summary**

**Date of Meeting: December 6, 2017**

The meeting commenced with introductions of all members in attendance and an overview of and discussion related to the LWRP process, the role of the WAC, and the Community Outreach Plan (COP). The project boundary (WRA) and Harbor Management Area was also discussed.

#### **WAC Meeting #2 Summary**

**Date of Meeting: February 21, 2018**

The meeting commenced with review of notes from the December WAC Meeting 1, and the following items: relevant plans and projects, the draft Local Waterfront Revitalization Area and Harbor Management Area, the new draft policies and how they relate to the 1988 Cape Vincent LWRP policies, and the coordination between the Comprehensive Plan Update process. Discussions regarding all potential projects will be ongoing during future meetings.

#### **WAC Meeting #3 Summary**

**Date of Meeting: March 15, 2018**

The meeting included a site tour with an overview of potential project locations, based upon previous planning projects. These sites were concentrated in the Village, but also extended into the Town. Sites selection was based on prior planning activities and points of local interest including Riverfront Pocket Parks, Club Street ("Village Center"), East End Park, Tibbett's Point Lighthouse Complex, and Wilson Bay/Beach Road area. Additional areas that were brought up as potential project areas during the Site Visit included: preservation of the East Charity Shoal Light, re-use of the Cape Vincent Fisheries Station, and preservation of historic features on Carlton Island.



**WAC Meeting #4 Summary**

**Date of Meeting: March 29, 2018**

The meeting commenced with an overview of the February 21<sup>st</sup> WAC meeting notes as well as an overview of the March 15th site visit. The WAC had an extended conversation on the site characteristics, challenges, potential strategies to implement potential projects, particularly for the Riverfront Pocket Parks and the Club Street area. The group also discussed community meetings and potential strategies for engagement. The boundary issue was tabled for the following WAC meeting.

**WAC Meeting #5 Summary**

**Date of Meeting: April 12, 2018**

The purpose of the meeting was to review the revisions to the proposed WRA and HMA boundaries and board outline for the upcoming community workshop. The group also determined a date for the upcoming community workshop.

**WAC Meeting #6 Summary**

**Date of Meeting: May 3, 2018**

The purpose of the meeting was to review draft boards for the upcoming community workshop, which was set for June 27, 2018. The group also discussed further developments related to the East End Park renovation project.

**WAC Meeting #7 Summary**

**Date of Meeting: July 18, 2018**

The purpose of the meeting was to review the comments from the recent community workshop. The group discussed projects, as well as next steps in further refining the project descriptions and planning the upcoming community workshop.

**WAC Meeting #8 Summary**

**Date of Meeting: August 15, 2018**

The meeting commenced with an overview of the 44-policy format required by NYS DOS, as well as revisions to project descriptions in Section IV. Additionally, the WAC discussed a format for

the upcoming community workshop, which was designed to further refine project descriptions and gain feedback on specific projects.

**WAC Meeting #9 Summary**

**Date of Meeting: November 28, 2018**

The meeting commenced with an overview of the August 29<sup>th</sup> Community Workshop Notes. The WAC also discussed a recent update on the Club Street, focusing on current funding resources and potential future funding resources. Other potential LWRP projects and revisions to Section IV were discussed.

**WAC Meeting #10 Summary**

**Date of Meeting: April 24, 2019**

The meeting commenced with an overview of the draft sections (Sections I, II, and IV). The WAC also discussed the 44-Policy format and the WAC review process for the full drafts of report sections, including the draft of policies (to be divided up and reviewed in sections).

**WAC Meeting #11 Summary**

**Date of Meeting: January 15, 2020**

The purpose of the meeting was to examine the plan review schedule, which was sent to be evaluated by DOS. A series of mapping edits and report section edits were discussed, as well as protocols with project consultants using SharePoint to allow visibility of draft sharing with DOS.

**7.2.2 Community Workshops**

**Community Workshop #1 Summary**

**Date of Meeting: June 27, 2018**

The purpose of this outreach event was to provide the opportunity for residents and stakeholders of the Cape Vincent waterfront to browse project information, interact with WAC representatives and project consultants, and provide feedback. All members of the public were invited to attend the community workshop through an invitation posted in the *What's Happening* newsletter, distributed by WAC members on social media, and posted flyers in community gathering spaces. See Figure 8 for a copy of the invitation.

There was a total of 32 attendees (includes 7 Steering Committee members); 12 attended the afternoon session and 20 attended the evening session. Jane Rice (evening), and Erica Tauzer (both afternoon and evening) from EDR attended as project consultants. Workshops began at

2:00 PM and 6:00 PM. Each workshop lasted two hours. The workshop was an open house style event with interactive boards presented at stations detailing the LWRP program, the draft LWRP policies, related plans, existing waterfront resources and summaries of proposed projects. Workshop attendees wrote their comments on sticky notes and placed them on the boards. These comments were then collected and recorded.



The flyer features a yellow header with the text "TOWN AND VILLAGE OF CAPE VINCENT LOCAL WATERFRONT REVITALIZATION PROGRAM". Below the header is a photograph of a waterfront scene with a boat in the foreground and a building in the background. Overlaid on the photo are two white text boxes. The left box contains the main invitation text, and the right box contains the date, time, and location. A vertical photo credit is on the right edge.

**TOWN AND VILLAGE OF CAPE VINCENT  
LOCAL WATERFRONT REVITALIZATION PROGRAM**

**Join us for an open-house  
community workshop!**

**Learn | Share | Plan**

*The Cape Vincent LWRP Advisory Committee wants to hear your ideas for ways to enhance waterfront access and protect public, natural, cultural, and economic resources along Cape Vincent's Waterfront. Event is open-house style, so come at your convenience. There will be two options to attend: mid-afternoon or evening. We hope that one of these two times will work for you!*

**WEDNESDAY  
JUNE 27<sup>th</sup>**

**Drop in between  
2-4 PM or 6-8 PM**

**TOWN  
RECREATION  
BUILDING**

**602 S. JAMES ST.  
CAPE VINCENT**

Photo adapted from the Watertown Daily Times.

An initiative of the Village and Town of Cape Vincent with funding support from the New York State Department of State (Title 11 of the Environmental Protection Fund).

Figure 8: Community Workshop #1 Invitation. Source: EDR, 2018 with guidance from the Waterfront Advisory Committee.

## **Community Workshop #2 Summary**

### **Date of Meeting: August 29, 2018**

The purpose of this outreach event was to provide the opportunity for residents and stakeholders of the Cape Vincent waterfront to browse interactive boards detailing the LWRP program, existing waterfront resources, related plans, and proposed projects. All members of the public were invited to attend the community workshop through an invitation posted in the *What's Happening* newsletter, distributed by WAC members on social media, and posted flyers in community gathering spaces. See Figure 9 for a copy of the invitation. There was a total of 29 attendees in total (includes 6 Steering Committee members); 12 attended the afternoon session

and 17 attended the evening session. Erica Tauzer and Lizette Lewis (both afternoon and evening) and Jane Rice (evening) from EDR attended as project consultants. Workshops began at 2:00 PM and 6:00 PM. Each workshop lasted two hours. Featured potential projects included: Riverfront Pocket Parks, Club Street, East End Park, Tibbett's Lighthouse, and waterfront bicycle infrastructure. Feedback on draft project profiles for each of these projects was positive. See Appendix B for the combined notes for each of the two workshop sessions. Attendees browsed the information, interacted with WAC representatives and project consultants, and provided their feedback. Workshop attendees wrote their comments on sticky notes and placed on open house boards. The comments were then collected and recorded.

The graphic is a flyer for a community workshop. It features a yellow header with the title 'TOWN AND VILLAGE OF CAPE VINCENT LOCAL WATERFRONT REVITALIZATION PROGRAM'. Below the header is a light blue background with a photograph of a waterfront area. The flyer is divided into several text boxes. On the left, a white box contains the text 'Join us for an open-house community workshop!' followed by 'Learn | Share | Plan' and a paragraph about the Cape Vincent LWRP Advisory Committee. On the right, a white box contains the date 'WEDNESDAY August 29th', the times 'Drop in between 2-4 PM or 6-8 PM', the location 'TOWN RECREATION BUILDING', and the address '602 S. JAMES ST. CAPE VINCENT'. At the bottom, a yellow footer contains the text 'An initiative of the Village and Town of Cape Vincent with funding support from the New York State Department of State (Title 11 of the Environmental Protection Fund)'.

**TOWN AND VILLAGE OF CAPE VINCENT  
LOCAL WATERFRONT REVITALIZATION PROGRAM**

**Join us for an open-house  
community workshop!**

**Learn | Share | Plan**

The Cape Vincent LWRP Advisory Committee has heard community ideas for ways to enhance Cape Vincent's waterfront. Help us continue that conversation and further refine potential projects and policies. Come at your convenience. There will be two options to attend: mid-afternoon or evening. We hope that one of these times will work for you!

**WEDNESDAY  
August 29th**

**Drop in between  
2-4 PM or 6-8 PM**

**TOWN  
RECREATION  
BUILDING**

**602 S. JAMES ST.  
CAPE VINCENT**

An initiative of the Village and Town of Cape Vincent with funding support from the New York State Department of State (Title 11 of the Environmental Protection Fund).

Figure 9: Community Workshop #2 Invitation. Source: EDR, 2018 with guidance from the Waterfront Advisory Committee

### **7.3 Adoption - TBD**

The draft LWRP and supporting draft local laws were reviewed and accepted by the WAC, the New York State Department of State (DOS), and the Cape Vincent Town Board and Village Board of Trustees to prepare for agency 60-day review and comment. The Town and Village then resolved to formally submit the draft LWRP and supporting documentation to the DOS for 60-day review. The DOS initiated a 60-day public review period for the draft program on XX Date, pursuant to the requirements of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of NYS Executive Law). The draft LWRP was made available to all potentially affected Federal, State, and local agencies, and to Jefferson County. A copy of the draft LWRP was posted on the Department of State website to provide public notice that 60 Day review had been initiated.

Concurrently, the Cape Vincent Town Board and Village Board of Trustees initiated the State Environmental Quality Review Act (SEQRA) process by completing a full Environmental Assessment Form, passing a resolution designating the Town of Cape Vincent as lead agency, and passing a resolution determining significance for the LWRP and supporting local laws. Public notice of the SEQRA review was published in the NYSDEC Environmental Notice Bulletin on XX Date.

On XX Date the 60-day review period closed, and comments received from affected entities on the draft document were reviewed by the Town and the Department of State. After discussions with the commenters, some changes were made to the document, as appropriate to reflect substantive comments.

Thereafter, the final revised LWRP, law XX, and law XX, and supporting SEQRA decisions were adopted by the Cape Vincent Town Board and Village Board of Trustees, and the LWRP and supporting local legislation were presented to the New York State Secretary of State for approval and for the Department of State to submit to the federal Office of Coastal Management for incorporation into the New York State Coastal Management Program as a program change. See Appendix F for the board resolutions formalizing the Town's and Village's adoption, along with other local regulatory documents to fully adopt this LWRP [to be completed at time of adoption]. As required by Section 27 of Municipal Home Rule Law, local laws XX and XX were filed with the Secretary of State on XX Date within 20 days of being enacted. The fully adopted LWRP was posted on the Town of Cape Vincent, Village of Cape Vincent, and DOS websites on XX Dates. A paper copy of the fully adopted LWRP was filed by the Town of Cape Vincent and Village of Cape Vincent and is publicly available upon request.

## **APPENDICES**

Appendix A: Harbor Management Plan

Appendix B: Community Comments

Appendix C: Village and Town Zoning Laws

Appendix D-1: Village of Cape Vincent Local Waterfront Consistency Review Law

Appendix D-2: Town of Cape Vincent Local Waterfront Consistency Review Law

Appendix E: Guidelines for Notification and Review of State Agency Actions and Procedural Guidelines for Coordinating Consistency Review of Federal Agency Actions

Appendix F: Supporting Documents for Local Adoption of the LWRP

Appendix G: Club Street Feasibility Study

Appendix H: Significant Coastal Fish and Wildlife Habitat Assessment Forms

## **APPENDIX A: HARBOR MANAGEMENT PLAN**

In 1992, the NYS Executive Law Article 42, Waterfront Revitalization of Coastal Areas and Inland Waterways, was amended to provide local governments with the clear authority to comprehensively manage activities in near shore areas within their LWRP boundary by developing comprehensive harbor management plans and local laws to implement these plans.<sup>249</sup> This Harbor Management Plan for the Village and Town of Cape Vincent (Cape Vincent HMP) was prepared pursuant to Section 922 of Article 42 of the Executive Law to, among other purposes, manage potential conflicting uses in the portion of the St. Lawrence River and Lake Ontario located within the Village and Town boundaries and the designated WRA. The Cape Vincent HMP addresses issues associated with the use of surface waters and underwater lands of the St. Lawrence River and Lake Ontario within the WRA, in an area designated the Harbor Management Area (HMA). This HMP considered local and regional waterfront issues and needs, including the competing needs of recreational boating and fishing, natural resource protection, water quality issues, public access to the waterfront, recreational opportunities, and aesthetic/visual resource protection.

The Cape Vincent HMP is incorporated into its LWRP and is discussed Appendix A and in Table A-1, pursuant to 19 NYCRR Part 603. References to other parts of the LWRP have been included to meet the requirements and contents of the 19 NYCRR 603.3. Table A-1 cross references sections of this HMP to the LWRP sections, ranging from Section I Waterfront Revitalization Area Boundary to Section V Techniques for Implementation.

### ***Town and Village of Cape Vincent HMA Boundary***

The Cape Vincent HMA boundary includes the waters of St. Lawrence River and Lake Ontario that are within the WRA as illustrated on Map 1. For discussion purposes, the HMA is divided into the following sub-areas:

- 1) The Vessel Activity Area, which includes the waters surrounding the central and eastern portion of the Village of Cape Vincent. The Vessel Activity Area begins east of Horne's Ferry landing, extends out to the breakwater (approximately 500' from the shoreline) and continues until reaching the Village eastern boundary at the end of East End Park.

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<sup>249</sup> New York State Department of State. (2019). *Local Waterfront Revitalization Programs in the Coastal Areas: Guidance Manual for Preparing Local Programs*. Available at: [https://dos.ny.gov/system/files/documents/2021/09/lwrp-preparation-guidance\\_final\\_9\\_1\\_21.pdf](https://dos.ny.gov/system/files/documents/2021/09/lwrp-preparation-guidance_final_9_1_21.pdf). (Accessed October 2021).

2) The outer waters area, which encompasses the waters outside of the Vessel Activity Area, including the St. Lawrence Seaway navigation channel and the islands within the Town's authority.

### ***Inventory and Analysis of Existing Conditions***

Pursuant to 19 NYCRR Part 603.3, the contents of the HMP are integrated into the LWRP document. Table A-1 sets forth the LWRP sections in which the HMP issues and opportunities are discussed. The Cape Vincent WRA features both water dependent and water enhanced uses in its HMA, and continued protection and enhancement of these water uses is important to the local community. Section 2.2 describes the current facilities that provide access to the River and Lake for water uses, including the commercial marinas, the public dock at the end of Esselstyne Street, the Cape Vincent Fisheries Station, US Customs Enforcement office, private marinas, Horne's ferry, seaway pilot station, St. Louis Steamer Shipwreck Diving Site, mooring sites, and the public boat launches at East End Park. Types of vessel activity, docking facilities, and mooring areas are also discussed in *Section 2.2 Development*.

There are other important aspects of the HMA including significant habitat areas, scenic vistas, and water quality considerations. Issues and opportunities related to these aspects of the HMA are discussed in Sections 2.3, 2.6., and 2.9, respectively. Regulatory areas along with water dependent structures and other aspects of the HMA within the HMP are shown on Maps 2A, 2B, and 12. Conflict, congestion, and competition for space within the HMA as well as opportunities to address these issues are discussed in *Section 2.2.2 Ownership Patterns*.

The continued enhancement and protection of these water dependent and water enhanced uses are critical to protecting the tourist economy in the Village. Despite the recent record high water levels and related flooding, tourism in Cape Vincent continues to increase.<sup>250</sup> Balancing the resiliency needs with the tourism market will require continued assessment of conflict, congestion, and competition between water uses.

### ***Water Use Plan***

The basis for the proposed water use plan is supported by goals in Section II of the LWRP to promote mixed development within the waterfront areas, improve water quality, reconnect residents and visitors to historic resources, provide safe and accessible active transportation options for residents, and protect both the natural resources and the unique character of the

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<sup>250</sup> Northern New York 360. (2020). *North Country State Park Visits Decline*. Available at <https://www.nny360.com/news/stlawrencecounty/visits-to-north-country-state-parks-decline/article fd4132dd-64e4-545f-9f9a-4f87c5a449d7.html> (Accessed May 2020).



WRA. The specific focus of this water use plan is to encourage a balance of recreational and commercial uses between private and public users. LWRP Policies 2 and 21 express the Cape Vincent community's desire to promote the siting of water-dependent uses within the WRA, giving such uses preference over other non-water dependent uses and ensuring that waterfront development makes beneficial use of waterfront locations with minimal conflict between competing uses. Map 12 shows the proposed water use plan with the recommended projects that will improve water dependent activities, including boating facilities and infrastructure.

Proposed projects in the Cape Vincent HMA will, in turn, add and enhance public water dependent uses. It is the Village's and Town's intent to upgrade both the public boat launches and marina facilities to improve water-based uses. The Village and Town seek to, where possible, add and enhance public marina amenities and public waterfront access through park improvements and bike-friendly transportation options to better accommodate boaters arriving to Cape Vincent (see *4.3 Proposed Projects* in Section IV of the LWRP for more details and conceptual plans). Projects to enhance the Club Street and Village Green area or improve East End Park facilities are intended to help alleviate future congestion related to water uses (e.g., Horne Ferry traffic or boaters using marinas or boat launches). More information on techniques to implement these projects, including harbor management laws and other techniques to manage potential conflicts between competing uses, can be found the Town and Village existing land use regulations (see Table A-1).

This water use plan also promotes the protection and improvement of water quality in the HMA through proposed projects related to sewer district improvements and vessel waste disposal (see *4.3 Proposed Projects* in Section IV of the LWRP for more details). These projects require significant funding and/or additional study. More information on techniques to improve water quality can be found the Town and Village existing land use regulations (see Table A-1).

Finally, this water use plan promotes the protection of resources throughout the HMA, including historic resources (e.g., shipwrecks), natural resources (e.g., NYS Significant Coastal and Wildlife Habitat), and scenic resources (e.g., locally significant scenic access points) that occur throughout the HMA. These resources are protected by the policies of this LWRP, local ordinances, and State and federal protections. More information on these resources, related LWRP policies, and techniques to protect these important resources within the HMA can be found the Town and Village existing land use regulations (see Table A-1).

Table A-1. Contents of the Town and Village of Cape Vincent Harbor Management Plan

HMP Sections (see 19 NYCRR 603.3)		LWRP Section & Page
(a)	Identification of the Harbor Management Area (HMA) boundary.	§1.3.2 pg. 9; §2.2.1 pg. 37-43; §2.2.4 pg. 48-54; §2.2.7 pg. 57-60; §2.8.2 pg. 102; §4.2 pg. 165 Appendix A Maps 1 & 12
(b)	An inventory and analysis of existing uses, features, and conditions in this HMA.	§2.2.1 pg. 37-43; §2.2.4 pg. 48-54; §2.2.7 pg. 57-60; §2.8.2 pg. 102; §4.2 pg. 165 Maps 1, 2A, 2B, 3A, 5, 6, 8, ,9A, 9B, 11, 12
(c)	Identification and discussion of issues of local importance.	§2.2.1 pg. 14-25; §2.2.1 pg. 37-43; §2.2.4 pg. 48-54; §2.2.7 pg. 57-60; §2.8.2 pg. 102 Maps 1, 2A, 2B, 3A, 5, 6, 8, 9A, 9B,1, 11, 12
(d)	Identification and discussion of issues of regional importance.	§2.2.1 pg. 14-25; §2.2.4 pg. 48-54; §2.2.7 pg. 57-60 Maps 1, 2A, 2B, 5, 6, 11, 12 Policies 1- 6, & 11
(e)	Discussion of opportunities, long and short-term goals and objectives.	§2.10 pg. 105-106 Policies 9, 33, 34, 35
(f)	Identification of conditions which operate as constraints on utilization of underwater lands and navigable waters by the public.	§2.2.2 pg. 43-44; §2.2.6 pg. 56 Maps 2A, 2B, 12
(g)	Discussion of water dependent uses.	§2.2.5 pg. 54-56, §2.2.7 pg. 56-60, §2.3.1 pg. 68; §2.5 pg. 80; §2.10 pg. 105-106 Maps 2A, 2B, 12
(h)	Identification and discussion of economic, cultural, and social considerations fundamental to	§2.2.1 pg. 25-39 Maps 2A, 2B, 12

Town and Village of Cape Vincent Local Waterfront Revitalization Program

HMP Sections (see 19 NYCRR 603.3)		LWRP Section & Page
	responsible management of underwater lands and navigable waters.	
(i)	A water use plan.	Map 12, Appendix A
(j)	Specification of policies concerning present and future use and management of such areas.	Policies 1-2, 4, 7-10, 18-22, 25, 27-44
(k)	Identification of capital projects necessary to implement the HMP.	Projects 1, 2, 6
(l)	Specification of existing and proposed techniques and authorities to implement the HMP.	§2.2.1 pg. 37-43; Appendix A
(m)	To the extent commensurate with the particular circumstances of the city, town, or village, an HMP shall address the following considerations:	
	(1) Conflict and competition for space among the uses and users of harbors, surface waters and underwater lands.	§2.2.1 pg. 25-39; §2.2.2 pg. 40-43, §2.2.4 pg. 48-54 Maps 1, 2A, 2B, 11, 12
	(2) Regulation of the construction, size and location of wharves, docks, moorings, piers, jetties, platforms, breakwaters, or other structures, whether temporary or permanent.	§2.2.1 pg. 25-39; §2.2.2 pg. 42; §2.23 pg. 43; §2.2.4 pg. 53-54 Appendix C Village and Town Zoning Laws, Village of Cape Vincent 6.6 General Site Plan Review Criteria, Town of Cape Vincent Town of Cape Vincent Supplemental Regulations (7.3 Boathouses and Covered Docks and 7.9 Marinas)
	(3) Regional needs for any of the various uses or users likely to be attracted to the particular qualities of the area.	§2.1 pg. 12-13, §2.3 pg. 44-60 §2.6 pg. 67-76 §2.7 pg. 76-78 Maps 1, 2A, 2B, 5, 6, 9A, 9B, 10, 11, 12 Policies 1-6, 11 Projects 1, 3, 4, 5
	(4) Where applicable:	
	(i) Commercial shipping	Maps 2A, 2B

Town and Village of Cape Vincent Local Waterfront Revitalization Program

HMP Sections (see 19 NYCRR 603.3)	LWRP Section & Page
(ii) Recreational boating	\$2.7 pg. 99-100, \$2.9 pg. 102-107 Maps 3A, 3B, 5, 12
(iii) Commercial and recreational fishing and shell fishing	\$2.2 pg. 38-41, \$2.3 pg. 55-59, \$2.9 pg. 102-107 Maps 5,6, 12
(v) Waste management	Policies 8 and 39, Section 4.3.6
(vi) Mineral extraction	Policy 13
(vii) Dredging	\$2.2.1 pg. 31; \$2.2.7 pg. 60 Maps 1, 2A, 2B, 11 Policies 3, 7, 15, 35
(viii) Public access	\$2.2.2 pg. 42-43; \$2.5 pg. 81-87 Policies 9, 20 Maps 2A, 2B, 9A, 9B Projects 1-5
(ix) Recreation	\$2.5 pg. 81-87 Maps 9A, 9B, 12 Policy 9 Projects 1-5
(x) Habitats and other natural resource protection	\$2.3 pg. 62-79 Maps 5, 6, 12 Policies 6, 7, 11, and 25
(xi) Water quality	\$2.2 pg. 38-41, \$2.4 pg. 62, \$2.9 pg. 102-107 Maps 5, 6, 12 Policy 5 Projects 6-8

Town and Village of Cape Vincent Local Waterfront Revitalization Program

HMP Sections (see 19 NYCRR 603.3)		LWRP Section & Page
	(xiii) Aesthetic values	§2.1 pg. 1-6, §2.2 pg. 21, §2.5 pg. 81-87 Map 1, 2A, 2B, 3A, 11, 12 Policy 3
	(xiv) Water dependent uses	§2.2.2 pg. 40-42 Map 1, 2A, 2B, 11, 12 Policies 2, 10, 21
	(xv) Common law riparian or littoral rights	Policies 3, 4, 9, 11
	(xvi) Public interests, including interests under the Public Trust Doctrine	§2.2.2 pg. 41-42, Policies 3, 4, 9, 11
(n)	HMPs shall also consider other circumstances determined to be of significance by the Secretary of State, and HMPs may also consider those determined to be of significance by the city, town, or village.	All sections, maps, policies, & projects cited above.

## **APPENDIX B: COMMUNITY COMMENTS**

The following pages feature notes and transcribed comments collected from community workshops held throughout the 2017 Town and Village of Cape Vincent Comprehensive Plan Update and LWRP update planning processes, which were attended by residents and community members. This information was used in development of the inventory and analysis of this LWRP as applicable.

VILLAGE/TOWN OF CAPE VINCENT  
LOCAL WATERFRONT REVITALIZATION PLAN (LWRP)

COMMUNITY WORKSHOPS  
Combined Notes from June 27, 2018 workshops  
2 PM to 4 PM and 6 PM to 8 PM

Total attendance: 32 community members in total (includes 7 Steering Committee members); 12 attended the afternoon session and 20 attended the evening session  
EDR Team: Jane Rice (evening), and Erica Tauzer (both afternoon and evening)

Workshops began at 2:00PM and 6:00 PM. Each workshop lasted two hours.

The meetings were open house style with interactive boards presented in stations overlooking the LWRP program, Draft LWRP policies, related plans, existing waterfront resources and proposed projects. Attendees browsed the information, interacted with WAC representatives and/or project consultants, and provided their feedback on each board. Transcribed comments per open house board is listed below.

**General Comments**

Linda Bush, 481 West Broadway:

- Luxury RV park outside Village but on water
- Market Street Sandy Beach with seaweed clean-up when needed
- Welcome brochure with restaurant hours

Jim Gowlt, 837 East Broadway Street:

- A sidewalk already exists from East End Park to the Village. It makes no sense to put one on the other side of the street!

Liz Brennan, 1865 Esselstyne Street:

- If goals involve increasing visual access to the waterfront, we need to get the Village and Town to change zoning laws for waterfront area (more restrictive). Also I see nowhere we can discuss Town waterfront areas. Why is this a Town & Village LWRP? Where are the Town waterfront plans?

**Station 1: Welcome/Sign-In**

- No comments.

**Station 2: Overview - What is the LWRP?**

- How about adding stone/structure to Wilson Bay for public access?

### **Station 3: Draft LWRP Policies – A General Overview**

- No comments.

### **Station 4: Existing Conditions**

General Comments:

- Club Street development is “iffy” if ferry ends.
- Plan way too broad. Focus on Club Street area first! First area seen as coming into Cape. Need revenue to be brought into Town. Not all these “free” areas. Shops, exc. That people will frequent all year long. Rossi Building never should have been allowed. Village should have bought property pay back grant.
- Increase visibility of public water access by library and further down. Signage, benches, picnic tables, pocket parks

### **Station 5: Existing Conditions - Waterfront Resources**

General Comments:

- Mud Bay should be included in NYS significant coastal fish & wildlife. We have our own unique strain of walleye.
- Underwater history is great tourism draw.
- Bike Route - unsafe to ride your bike on 12E due to small shoulder area. Consider a bike/walk pathway to Tibbetts Point to increase biking safety.
- Use of old rail right-of-way for bike/hiking trails.
- Need bike route. No shoulders on roads. Bike trail out to Wilson Bay and back.
- Biking trail to Wilsons Bay, Dablon Point, roller skate, roller blade designated areas.

### **Station 6: Potential Projects – Riverfront Pocket Parks**

Which elements should be enhanced in the Riverfront Pocket Parks?

- Must have stone/concrete to separate private lands from public.
- Signage for public access. Safety fix railings/storm damage. Concrete benches or picnic tables.
- Clearly marked public areas.
- Landscaped Village roads along sidewalks. Sacketts Harbor downtown area is beautiful.
- East end park development.



If you had to start with one park, which one would it be?

- Market Street comes straight into Town.
- Market Street was a beach - make it more inviting and beach-like again.
- Market Street beach but seaweed will need to be dealt with.
- East End Park - has so many advantages - fishing and diving and boating.

What are some considerations for the future enhancement of these parks?

- Replace ugly, broken pipe railing at Point Street River access with above barrier. Nautica pilings with heavy rope around and connect the pilings. Keep benches.
- Point Street - no access to river.
- Pergolas at each pocket park. Also attractive picnic tables and Adirondack chairs.

### **Station 6: Potential Projects - Club Street**

Waterfront Improvements:

- Do not invest in this unless ferry will be known to continue after George (70's) is not able to operate.

Vehicular, Bicycle and Pedestrian Access/Traffic:

- No parking signs are being ignored. Two-sided parking a 911 hazard!

Development:

- Not just Club Street overlay zoning district, all riverfront should be re-zoned.
- Relocate Chamber of Commerce if ferry ends.

### **Station 6: Potential Projects - Tibbett's Point Lighthouse**

Which elements should be enhanced at the Tibbett's Point Lighthouse?

- I love visiting the lighthouse; however, it would be soooo much better if we could actually go up to the top of the lighthouse (stairs inside).
- Tibbett's Point Lighthouse and its Board are jewels! Would be nice to 1) climb inside; 2) to have a safer bike lane; and 3) to keep our sunset viewable.
- Expand the displays into the buildings now used as hostel.

What are some considerations for the future enhancement of this local gem?

- 20,000+ visit each year. Biggest draw for tourists.
- Maintenance!
- Add a bike lane/pedestrian walkway on road to improve safety for tourists.
- Traffic on road drives too fast - much over posted speed. Need bike, skate, stroller, walk lane.

### **Station 6: Potential Projects - East End Park**

Which elements should be further enhanced at East End Park?

- Long-term maintaining another sidewalk on the south side of Broadway will be costly. Current sidewalks not safe.
- “High visitation” to East End Park is primarily French Festival when the roads are closed to increase access, therefore, no need to add another sidewalk.
- Please fix our current sidewalks to increase compliance with ADA accessibility.
- Making the current sidewalk on the south side of Broadway and streetscape should be a priority to connect the two parks.
- The rock wall isn’t that safe. Even fishing is limited from the wall. Fix the coal dock, ship mooring site and walls that will allow dockage and fishing not only to local fishermen but to increase fishing and tourism.
- If the coal dock walls were fixed, you could look into tour (cruise) ships docking. The wooden boat launch site needs repair. Nails pulling - dock sagging - not safe.
- Dine Trail at East End Park and boat launch.

What are some considerations for the park’s future enhancement?

- Since there is already an existing sidewalk connecting the Village to East End Park, I believe the money should instead be used to repair Anchor Marina!
- Hope new “access building” helps all the divers and has old exhibit or history and pre-history.

General Comments:

- There are sidewalks on the south side of Broadway. They are little used. The park is virtually used to dock boats and occasional open water scuba dive. Little usage beyond that.
- There is a sidewalk on Broadway Street that connects East End Park to the Village.
- Of course there is a sidewalk. We already have one which is more than sufficient!
- Bike lanes are important!
- Rather than building a new marina at the end of East Park, take over Anchor Marina either for safety reasons or the use imminent domain and upgrade to what it could be.
- East End Park pavilion - if not manned must be cleaned, stocked, policed after hours.
- Get rid of the poison ivy here.

- It doesn't have to be this extensive. Just rebuild what is there or was there 100 years ago.
- There is already a sidewalk connecting the Village to East End Park on one side of the street. All people have to do is cross the street which I believe should not merit the construction of a new sidewalk which will destroy people's yards. Instead, this money could be used to repair Anchor Marina which is commonly used but has vastly deteriorated.

### **Station 6: Potential Projects – Promoting a Bike-Friendly Waterfront**

Which elements should be enhanced to promote Cape Vincent as a bike-friendly, waterfront community?

- Research the potential of using the old railroad bed from the Cape to Rosiere and beyond using the rails to trails program.
- Rental bikes at start of Tibbets Point Road.
- Biking trails would be wonderful!
- There is no bike trail from Kingston to Gananoque.

What are some considerations for the future development of cycling infrastructure in Cape Vincent?

- Develop rail bed into bike trail.
- The shoulders should be widened in the 45 mph zone on the east side of Town.

### **Station 6: Potential Projects Club Street Improvements: Scheme 1**

- Definitely not! No improvement to existing conditions.

### **Station 6: Potential Projects Club Street Improvements: Scheme 2**

- Many people prefer covered docks to keep their boats dry and out of sun.
- There is already one existing laundromat, please don't add another.

### **Station 6: Potential Projects Club Street Improvements: Scheme 3**

- If the two retail spaces in the Rossi Building have not been rented in 5? Years, how can we expect to have these space put to use?
- This would benefit Cape Vincent!
- Do you use eminent domain to achieve this plan? Does the Village/Town own the waterfront?
- Yes!
- Too much new construction, I believe it would cause the Town to lose its original character (excessive). Ex: ferry does not need to be extended - no need for riverwalk.
- Electrical and WIFI at Village dock.

- A riverwalk would be great, it would remove walkers from road (along Curb Street) and provide an amazing view of the river in the center of Town.
- Excellent idea!
- Use this large complex for visual/performing arts center or museum of the St. Lawrence River.

VILLAGE/TOWN OF CAPE VINCENT  
LOCAL WATERFRONT REVITALIZATION PLAN (LWRP)

COMMUNITY WORKSHOP

Summary Notes from August 29th, 2018 workshops

2 PM to 4 PM and 6 PM to 8 PM

Total attendance: 29 Community Members in total (includes 6 Steering Committee members); 12 attended the afternoon session and 17 attended the evening session

EDR Team: Erica Tauzer and Lizette Lewis (both afternoon and evening), Jane Rice (evening)

Workshops began at 2:00PM and 6:00 PM. Each workshop lasted two hours.

The meetings were open house style with interactive boards presented in stations overviewing the LWRP program, existing waterfront resources, related plans, and proposed projects. New interactive boards displayed potential projects that included: Riverfront Pocket Parks, Club Street, East End Park, Tibbett's Lighthouse and Promoting a Bike-Friendly Waterfront. Attendees browsed the information, interacted with WAC representatives and/or project consultants, and provided their feedback on each board. Transcribed comments (on sticky notes) per open house board are listed below.

**General Comments**

Bruce Rippeteau, 210 Kanady St., Cape Vincent

- *The stone beach at Kanady needs an entrance ramp and sand. Otherwise, it would be such a nice park.*

Anonymous

- *Finally, there is some direct efforts to develop the waterfront in the HEART of the Village. I hope the Town can secure both proposed properties for development, and continue to expand their efforts on behalf of the Town, the Village, and our summer residents!*

**Board 1: Welcome/Sign-In**

- No comments.

## **Board 2: Overview - What is the LWRP?**

- No comments

## **Board 3: Potential Issues facing Cape Vincent's Harbor Management Area**

- *No Free Wi-Fi on public dock (eliminate Wi-Fi). It takes away from small town image and discourages people from going into town (no need to).*
- *Need for proper Harbor Management:*
  - *Harbor Master*
  - *Overnight charge*
  - *Enforcement of dock rules (rethink allowing multiple night dockage, etc.)*

## **Board 4: Existing Conditions**

- No comments

## **Board 5: Existing Conditions - Waterfront Resources**

- No comments

## **Board 6: Potential Projects – Riverfront Pocket Parks**

- *Kanady Park: Might be okay for kayaking.*
- *Murray Park: This would be good park to develop. Homes bordering that area [act] as "if it is theirs".*
- *Esselstyne Park: incorrect picture*

## **Board 7- Part A: Potential Projects - Club Street**

- *There is a need for more public docking space near Club Street and near the proposed riverfront pocket parks, proposed bathrooms.*
- *There is really nothing there once visitors get off the ferry.*
- *To research: Could a municipality run a ferry?*

## **Board 7- Part B: Potential Projects – East End Park**

- *No showers in East End Park*
- *No sidewalks on waterside*
- *No mooring desired/needed*

### **Board 8- Part A: Potential Projects – Promoting a Bike-Friendly Waterfront**

- *Need bike lanes! And to slow traffic!*
- *Widen Route 12 E' shoulder to safely allow golf carts, bikes, snow mobiles, cross country ski etc. Lower the speed limit to 30 MPH to safely use the proposed shoulder. Develop recreation paths to connect the "pocket parks". Many seasonal residents/visitors would use this path/shoulder to come and go into the Cape.*

### **Board 8- Part B: Potential Projects - Tibbett's Point Lighthouse**

- No comments

### **Summary Notes from conversations with attending public during afternoon and evening meetings**

- The Village Board was informed by NYS Dept of State of the need to implement "No swimming access" signs on each Riverfront Street Park. The Village Board and other local stakeholders are opposed to creating more sign clutter in the village. Additionally, some public swimming "at your own risk" maybe okay in areas where there is shallow waters. For example, at the end of Market Street.
- Some have suggested demolishing a few of the buildings along the river for more of an open view/landscape.
- East End Park docking location is possibly the most dangerous docking station in the Town.
- An informational kiosk would help visitors obtain a clearer picture of resources available.
- Lower the speed limit to 30 MPH on local roads.
- There is a piece of undeveloped land near Club Street that is partly affected by dredging. The village should investigate who is the owner of this land.
- A recent grant of \$200,000 will be used for proposed development near Club Street. A few structures (including a dilapidated boat house) will be acquired by the Village and then the unsightly boathouse will be demolished so that there would be a clearer view from Broadway St. of the river.
- Promoting the waterfront as a bike-friendly location is a great idea.
- Implementation of engaging activities that foster community involvement such as concert "Stroll on Broadway" could help foster tourism and local community engagement (<http://www.capevincent.org/broadway/>) .
- Possible development of a walking tour or biking tour as a loop around the most prominent and historical sites in Cape Vincent could entice Canadian visitors.

- The possibility of developing a local hotel for tourists which may allow them to stay longer and enjoy the Cape.
- Local grocery home deliveries for both seasonal and permanent residents can provide more accessibility for all.
- The possibility of providing trolley access to see sites and get around the Cape could be very beneficial.
- New development of a Dollar Tree/Dollar General in the Village and Town of Cape Vincent will help provide residents with more resources.
- Once you get off the ferry, there is limited access to resources based on the availability of staff and the hours of operation. For instance, the restrooms are only accessible if the Chamber of Commerce opens its restrooms to the public.
- Concerns regarding the sidewalks on Broadway. There is currently one sidewalk along the street and is used very sparingly. The possibility of developing another sidewalk on the opposite side of the street would be helpful
- It is important to establish a bike-friendly waterfront due to the number of cyclist deaths within the Cape.
- Better communication between Tibbett's Point Lighthouse Staff, community organizations and the Town government would help Cape Vincent become more organized as a community.
- Providing a Harbor Master for public docks would be helpful
- Possibility for a "coastal college" in the area
- An official survey would confirm property lines at Murray Park and Market Street
- While visiting the Esselstyne Park dock, invasive milfoil was identified, and Consultants mentioned that there may be possible grant opportunities available to mitigate the invasive species.



## Strengths

- 1) Tourism/Recreation
  - a. River/Lake
  - b. State Parks
  - c. Recreation Facilities
  - d. Seaway Trail/National Scenic Byway
  - e. French Festival/Other annual events
  - f. Village Green/Concerts
  - g. Active Wildlife Viewing
  - h. Ferry Access to Canada
- 2) Quality of Life
  - a. Small Town Atmosphere
  - b. Safe Community
  - c. Esthetics and Environment
  - d. School System including local elementary school
  - e. Jefferson Rehabilitation Services for disabled residents
  - f. Community spirit/volunteerism/active churches
  - g. Peace and quiet
  - h. "dark Skies"
  - i. Community Library
  - j. Affordable housing
- 3) Economic
  - a. Stable Government Employment
    - i. Prison/School system
  - b. Citizen Bank of Cape Vincent
  - c. Expanding retirement community
  - d. Competitively priced real estate
  - e. Well maintained village and town roads
  - f. Horne Ferry to Canada
  - g. Water Resources/water districts\*
    - i. New upgraded system with additional capacity \*
  - h. Broadband and telecommunication services in village
  - i. International Border\*
  - j. New businesses\*

Opportunities

1) Recreation

- a. Summer
  - i. Safe harbor/sailing harbor
  - ii. Day Dockage for visitors
  - iii. Break wall connector and walkway
  - iv. Biking and hiking trails
    - 1. Walkways including sidewalks to downtown
    - 2. Department of Transportation project\*
  - v. Scuba diving\*
  - vi. Tennis courts and Pickle ball courts\*
- b. Winter Recreation
  - i. Snowshoeing
  - ii. Cross country skiing
  - iii. Snowmobiling
- c. Better Promotion of Seaway Trail and Scenic Byway
- d. Promotion of small group activities other than the French Festival
  - i. Oktoberfest\*
  - ii. Tall ships\*
  - iii. Stroll along Broadway\*
  - iv. 1812 Events\*
  - v. New 3 on 3 tournament \*
  - vi. Christmas Parade and Lighting of the Lighthouse\*
  - vii. International Piano Event\*
  - viii. Fishing Tour event\*
- e. Wildlife Viewing (all seasons)
  - i. Bird watchers
- f. Pavilion/rink on 7 acres acquired by the town\*
- g. Bowling Alley\*
- h. Open space/recreation/waterfront\*
- i. Bike and boat rentals\*
- j. East End Park\*

2) Economics

- a. Promote retirement community
  - i. Housing
  - ii. Volunteer pool
  - iii. Local business support
- b. Hotels and motels (was a weakness in 2012)
- c. Drug Prescription services
- d. Promote historical heritage and cultural development
  - i. Lighthouse education development
- e. Residential land development especially along the river
- f. Continued water district development
- g. Cape Vincent Local Development Committee
- h. Light manufacturing building off of Metal Craft (open communication) \*
- i. Bass Pond development\*
- j. Broadband to the rural areas of the town\*
- k. Arts Council \*
- l. Certified kitchen opportunity\*

- m. Fish farm
- n. Senior trips
- o. Solar opportunities

#### Weakness

- 1) Recreation
  - a. Lack of family based activities
  - b. Lack of teen and senior activities
- 2) Infrastructure/services
  - a. No wastewater services for waterfront properties outside of village and existing districts
  - b. Lack of municipal water outside of village and existing districts
  - c. Emergency ambulance service/distant hospital
- 3) Economic
  - a. Minimal job opportunities
  - b. Lack of population to support year-round business
  - c. Short business season
  - d. Pharmacy\*
  - e. Lack of qualified workers\*
  - f. Club Street area as identified in LWRP monitoring report\*
  - g. Treatment services for Mental Health and Drug addictions\*
  - h. Modern housing\*
  - i. Day care facilities\*

#### Threats

- 1) Loss of local control
  - a. Widespread land base and offshore industrial development
  - b. State, National, and Canadian lake and river management regulation
- 2) Closure of Cape Vincent Elementary School
- 3) Possible loss of Ferry services
- 4) Declining fish population
- 5) Future and activities of Village green\*
- 6) Use of school property\*
- 7) Lack of youth and young adult volunteers for local organizations\*
- 8) Drug epidemic\*

## **APPENDIX C: VILLAGE AND TOWN LAWS**

The following pages feature the zoning laws and local ordinances reflected by the Village and Town of Cape Vincent LWRP.

# **VILLAGE OF**



# **ZONING LAW**

## **1988**

**Amended – 1989**

**Amended – June 2005**

**Amended - October 2007**

**Amended – July 14, 2015**

**Amended – September 2021**

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**ARTICLE 1 INTRODUCTORY PROVISIONS**

Section 1.1 Enacting Clause

Pursuant to the provisions of Municipal Home Rule Law, Articles Two and Three, and Article Seven of New York State Village Law, the Village Board of the Village of Cape Vincent, in Jefferson County, and the State of New York, hereby enacts this Local Law.

Section 1.2 Short Title

This local law shall be known and may be cited as the “Village of Cape Vincent Zoning Law.”

Section 1.3 Purpose

The purpose of this Zoning Law is to promote and guide development in an orderly and efficient manner. It will reduce land use conflicts, promote traffic safety, enhance and protect the historical and recreational attributes of the Village, retain and improve land values, encourage quality development, ensure wise use of utilities, and promote the general health, safety, and welfare of



Village residents. It is designed to protect existing development while providing some control of growth so that future development will not be a detriment to the Village and its residents.

#### Section 1.4 Objectives

This Law, in conjunction with “A Joint Comprehensive Plan for the Village and Town of Cape Vincent” is designed to:

- A. Preserve and enhance the quality of physical development in the Village of Cape Vincent. To promote and guide the residential and commercial use in an orderly and efficient manner.
- B. Preserve the Village’s natural resources, especially the waterfront and water supply.
- C. Protect the historical and recreational attributes of the Village.
- D. Promote the health, safety, and general welfare of the community.
- E. Be aware of and consistent with the goals and policies common to adjacent communities.

#### Section 1.5 Prior Existing Law

The regulations of this Law shall not apply to buildings, structures, land, or use thereof, complying with prior laws, existing at the time of enactment of this Law. Any physical alteration of existing buildings, structures, or land happening after adoption of this Law shall be regulated to the extent provided under this Law.

#### Section 1.6 Applications of Regulations

- A. No building, structure, or land shall hereafter be used or occupied and no building, structure, or part thereof shall be erected, moved or altered (to expand the exterior physical dimensions) unless in conformity with the regulations hereby specified for the district in which it is located.
- B. No building shall hereafter be erected or altered:
  - 1. To have narrower or smaller rear yards, front yards, side yards, than are specified in this Law for the district which such building is located.
  - 2. To exceed the maximum lot coverage requirements of the District in which it is located.
  - 3. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Law shall be included as a part of a yard or other open space similarly required for another building.

## ARTICLE 2           DEFINITIONS

For the purpose of this Law, words in the present tense include the future and words of one gender include all genders. The singular term “shall” is intended to be mandatory. Whenever a word or term is defined to “include” certain items or matters, such as inclusion is intended to be by way of specification and not of limitation. The word lot includes the word plot or parcel and the word building includes structure. If interpretation or clarification of any word used in this Law is needed, it shall be provided by the Village Zoning Board of Appeals in accordance with such powers granted to them.

**ACCESSORY BUILDING/USE:** Any building or use which is subordinate to and whose use is incidental to the principle building or use on the same lot or on an adjoining lot under the same ownership.

**AGRICULTURAL USE:** Land which is used for raising livestock, or agricultural products, including farm structures and storage of agricultural equipment; riding and boarding stables; and as an accessory use the sale of agricultural products raised on the property.

**ALTER/ALTERATION:** To change or rearrange any exterior structural part of the existing facilities of a building or structure, by enlarging the building, or structure, whether by extending any side or increasing the height. It shall not be considered an alteration if there is no expansion of exterior dimensions. For instance, replacement of windows, doors, siding, roofing, etc.; as well as interior alterations; shall not be considered an alteration for the purpose of this Law.

**APARTMENT BUILDING:** A residential use consisting of a building containing three or more self-contained dwelling units (bedroom/s, kitchen and bathroom/s facilities). For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch). This term also defines a Multi-Family Residence.

**APPEAL:** A request for a review of the interpretation of any provisions of this Law or a request for variance.

**AUTOMOBILE SERVICE/REPAIR:** Any lot or building or portion thereof used or occupied for the sale or supply of gasoline or motor vehicle fuels, oils, or lubricants, or for polishing, greasing, washing, or servicing (but not painting) of motor vehicles.

**BED & BREAKFAST INN:** A house, or portion, thereof, where no more than five (5) short-term lodging rooms are provided for a maximum of three (3) weeks of continuous stay. Meals may also be provided to guests only. The operator of the Inn shall live on the premises or in adjacent premises.

**BUILDING:** Any structure having a roof supported by columns or by walls which is used or occupied for the shelter, housing or enclosure of animals, persons or property. The term, unless specified, includes both principal and accessory buildings.

**BUILDING AREA:** The total area, taken on a horizontal plane at main grade level, consumed by the principle building and all accessory buildings, excluding, patios, terraces, steps and open areaways.

**BUILDING HEIGHT:** The vertical distance measured from the average elevation of the main grade at the front of the building/structure to the highest point of the roof.

**BUILDING LINE:** The line formed by the face of the building/structure, or the attached part of the building/structure, nearest the lot line.

**CEMETERY:** Property used for the interment of the dead.

**CHARITABLE INSTITUTION:** A not for profit organization that provides assistance to those in need. (See Public Facilities)

**COMMERCIAL USE:** A business that is intended to sell and trade wholesale or retail goods or services. Examples of such uses include: grocery store, beauty parlor, furniture store.

**COMMERCIAL DUMPSTER/WASTE CONTAINER:** For the purposes of this law the word dumpster shall mean a large trash receptacle designed to be hoisted and emptied into a truck with a minimum capacity of 2 yards. This does not apply to construction dumpsters that are temporarily used during a construction project.

**COMMUNITY FACILITY:** A building, structure or use operated for the benefit of the general well being, health, safety, welfare and enjoyment of the public. This use shall include but not be limited to fire stations, libraries, community owned buildings, schools, medical facility, nursing homes, etc. (See Public Facilities)

**COTTAGE:** A single unit building containing any combination of sleeping, kitchen, and bathroom facilities used as lodging for short-term or seasonal use on a commercial basis. This term excludes single and double-wide manufactured homes.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations.

**DRIVE-IN SERVICE:** A commercial facility building or use which relies upon the motoring public for its business. Such facilities contain appropriate traffic/parking arrangements to serve motor vehicles. Examples of such facilities include: drive- in restaurants, banks, etc

**DWELLING UNITS:** An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

**ZONING ENFORCEMENT OFFICER:** The person appointed by the Village Board to carry out the regulations of this Law.

**ERECT:** To construct, build, or re-erect, reconstruct, rebuild or excavate for building or structure.

**FAMILY:** One or more persons living together as a single housekeeping unit.

**FENCE:** A structure of wood, stone or other materials or combination thereof intended for defense, security, screening, partitioning, or enclosure; or for the retention of earth, stone, fill or other materials as in the case of retaining walls or bulkheads. A fence shall be considered a wall.

**FUNERAL HOME:** A building used for the preparation of the deceased for burial and/or the display of the deceased and rituals connected therewith before burial or cremation.

**HOME OCCUPATION:** Any accessory use of a service character customarily conducted within a dwelling by a resident thereof which is clearly secondary to the use of the dwelling for living purposes and does not substantially change the character thereof or have any exterior evidence of such use, other than an approved advertising sign and parking requirements associated therewith. Shall include but not be limited to occupations such as physician, dentist, lawyer, insurance sales, beauty salon, musical instructor, seamstress, and day care.

**HOTEL/MOTEL:** A facility offering transient lodging accommodations to the general public and that may provide additional services such as restaurants, meeting rooms, entertainment and recreational facilities.

**INOPERATIVE MOTOR VEHICLE:** Any motor vehicle which is unregistered or inoperative for a period of thirty (30) days or more. (See definition of motor vehicle)

**JUNKYARD:** An area of land, with or without buildings, primarily used for storage (outside of a completely enclosed building), comprised of: used and discarded materials, house furnishings, machinery, vehicles or parts thereof, including junk, with or without the dismantling, processing, salvage, sale or other use of disposition of the same. The deposit or storage of two or more inoperative motor vehicles, or the major parts of two or more such vehicles, shall be deemed to make the lot a "junk" yard.

**KENNEL:** Land or building used for the breeding, boarding, training, sale or housing of dogs and/or cats as a commercial use.

**LANDSCAPING:** An arrangement of trees, shrubs, flowers, or other living natural features for decorative purposes.

**LIGHT INDUSTRIAL OPERATIONS:** A facility which designs, assembles, manufactures, or processes a product for wholesale or retail sale and does not produce high volumes of polluting wastes and is compatible with other uses of the Industrial District.

**LOT:** A parcel of land with fixed boundaries used or intended to be used by a building or structure and its accessory building/structures and uses.

**LOT AREA:** Total area within the property lines excluding any part thereof lying within the boundaries of a public street, or proposed public street.

**LOT, CORNER:** A parcel of land at the junction of and bounded on two or more intersecting streets.

**LOT, DEPTH:** A mean horizontal distance between the front and rear lot lines.

**LOT LINE:** Any line dividing one lot from another or from the street or waterway.

**LOT LINE, FRONT:** The lot line adjoining any street/highway right-of-way line. If a lot adjoins two or more streets or highways, it shall be deemed to have a front line respectively on each.

**LOT LINE, REAR:** The lot line opposite and most distant from the front lot line.

**LOT LINE, SIDE:** Any lot line other than the front or rear lot lines.

**LOT OF RECORD:** Any lot which individually or as a part of a subdivision has been recorded in the County Clerk's Office and for which proof can be given that the lot was intended for development prior to adoption of this Law.

**LOT WIDTH:** The horizontal distance between the side lot lines measured at the required setback lines.

**MARINA:** Any lot, building, or structure located on the waterfront and which provides docking and secure mooring facilities for yachts, motor boats, sailboats and other marine vehicles or craft. Includes the sale, rental and/or storage of marine and boating vehicles; as well as supplies, service, repair and other related facilities and/or operations necessary to maintain such craft.

**MARINE REPAIR SHOP:** Any lot, building or structure used for the repair, sale, rental and/or storage of boats, boat motors, personal watercraft, canoes and kayaks as well as the sale of supplies.

**MEDICAL FACILITIES:** Any building, portion of a building or use thereof which is used in the diagnosis and/or treatment of medical ailments. See Community Facilities.

**MANUFACTURED HOME:** (Formerly Called Mobile Home) A dwelling unit consisting of one, two, or more sectional units and constructed to the Federal HUD Code effective July 15, 1976. These homes are built entirely in a factory and designed to be used with or without a permanent foundation. A steel frame, an integral part of the structure, is permanently attached to the floor joists of the manufactured home or its section. The home is transported to the site using hitch, wheels and axles, which are removed at the site. Each home is labeled with a red metal embossed seal that confirms compliance with the HUD code.

**MANUFACTURED HOME, DOUBLE-WIDE:** A manufactured home that consists of two or more sections that are combined on site to complete the home.

**MANUFACTURED HOME, SINGLE-WIDE:** A manufactured home that consists of one section.

**MANUFACTURED HOME LOT:** A parcel of land in a manufactured home park which is equipped with the necessary utilities and improvements for the erection thereon of a single manufactured home.

**MANUFACTURED HOME PARK:** Any parcel of land which has been planned or improved for the placement of manufactured homes for non-transient use, and consisting of two or more manufactured home lots.

**MOBILE HOME:** A dwelling unit manufactured in one section, designed for long-term occupancy; with plumbing and electrical connections provided for attachment to outside systems; designed to be transported after fabrication on its own wheels, built before the National Manufactured Home Construction and Safety Standards Act 1974, as amended, 42 U.S.C. 5401 et seq., which went into effect on July 15, 1976.

**MODULAR HOME:** A dwelling unit which is constructed in two or more sections in a factory setting and built in compliance with all applicable building codes and inspected by certified building inspectors to ensure compliance with local codes and to ensure that all finish work is done properly. Modular

homes are transported to the placement site on truck beds, assembled there, and designed to be permanently anchored to the foundation to become a fixed part of the real estate.

**MOTEL:** See Hotel/Motel.

**MOTOR VEHICLE:** A self-propelled, motor powered vehicle, whether automobile, bus, trailer, truck, motor home, motorcycle, ATV, snowmobile, boat, personal watercraft, or any other device originally intended for travel on public highways or waterways.

**NON-CONFORMING USE:** A building, structure, or use of land and structure which is not in conformity with the terms of this Law at the time of enactment thereof.

**NURSING HOME:** A dwelling where persons are lodged and furnished with meals and nursing care for commercial purposes. This shall not include homes for the mentally handicapped, drug or alcohol rehabilitation patients, etc. See Community Facilities.

**OFF-STREET PARKING FACILITIES:** A space for parking vehicles out of the public right of way.

**OPEN SPACE:** The portion of a lot that has no buildings or structures on it.

**PARCEL:** The amount of contiguous land falling under a single tax map identification.

**PERMITTED USE:** Any use that is allowed by zoning permit only under the provisions for the district in which the land, building, or structure is located.

**PLANNING BOARD:** The Planning Board of the Village of Cape Vincent.

**POOL, SWIMMING:** A structure or facility, either above or below ground, constructed to hold water at least three (3) feet deep and used by either private or public parties for recreational purposes.

**PRINCIPAL BUILDING:** A building in which is conducted the main or principal use of the lot on which such building is located. Any accessory structure or use that is attached to the principal structure shall be deemed part of the principal structure. Such uses may include porches, open decks, and garages.

**PRINCIPAL USE:** The main or principal purpose for which any land, building, or structure is used or occupied.

**PRIVATE CLUBS:** A building or use catering exclusively to a group of people organized for a common purpose or of a non-commercial nature to pursue common goals, interests or activities.

**PROFESSIONAL OFFICES:** The use of a building for conducting business transactions of an administrative, professional or service nature and not involving the sale of products at retail or wholesale. Examples of such uses include: insurance office, doctor's office, law office.

**PUBLIC UTILITIES FACILITY:** A privately or publicly owned structure or facility that serves the general public or some of the public. Such facilities shall include, but not be limited to sewage treatment plants, water supply facilities, power generating and distribution facility, facilities for receiving microwave television signals, radio transmitting centers, telephone operating centers, etc.

**PUBLIC FACILITY:** Any one of the following uses, including ground and accessory buildings necessary for their use:

1. Religious institution;
2. Community Facility;
3. Public park, playground and recreational area when operated by a governmental authority, and;
4. Charitable Institution.

**RECREATIONAL FACILITY:** A commercial use established by a private concern for the purpose of providing recreation. This shall include, but not be limited to, skating rinks, video arcades, bowling alleys, rifle ranges, tennis courts, boat launches, golf courses, swimming pools, riding stables, and other similar uses.

**RECREATIONAL VEHICLE:** A vehicle that is intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle) and is designed for temporary use as sleeping quarters but that does not satisfy the definitional criteria of a manufactured home.

**RENTAL HOME:** A residence that will be offered for rent long-term, one month or more, (this is a permitted use).

**RELIGIOUS INSTITUTION:** Includes church, temple, parish house, convent, seminary and retreat house. (See Public Facilities)

**RESIDENCE, MULTI-FAMILY:** A residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch). This term also defines an Apartment Building.

**RESIDENCE, SINGLE-FAMILY:** A residential use consisting of a single detached building containing one dwelling unit and located on a lot.

**RESIDENCE, TWO-FAMILY:** A residential use consisting of a building containing two dwelling units. If two dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one building.

**RESIDENTIAL RENTAL - LONG TERM (Permitted Use):** 1 month or more.

**RESIDENTIAL RENTAL - SHORT TERM:** Less than one month.

**RESTAURANT:** A place where people pay to sit and eat meals that are cooked or served on the premise or prepared for takeout.

**RETAIL, LARGE PRODUCT:** A business for display, rental and/or sales of the following products: new or used vehicles, boats, recreational vehicles, and farm implements; lumber and building supplies; landscaping nursery; and auctioneers where auctions take place on-site; and other similar uses.

**SATELLITE DISH ANTENNA:** A permanently or temporarily placed dish shaped antenna used for the purpose of receiving microwave television signals from earth orbiting satellites.

**SCHOOL:** Includes parochial, private, public and nursery schools, college, university and accessory uses; and shall exclude commercially operated schools of: beauty culture, business, dancing, driving, music and similar establishments. See Community Facilities.

**SERVICE STATION:** (See definition for Automobile Service/Repair)

**SIGN:** Any kind of billboard, sign-board, pennant, or other shape or device or display, used as an advertisement, announcement, or direction. Such a notice may be incorporated onto a building surface, be free standing, or attached.

**SIGN, ADVERTISING:** A sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered on the premises or elsewhere than where the sign is located.

**SIGNS, DIRECTIONAL:** Off site signs for the sole purpose of indicating directions to businesses and other establishments within five miles and permitted by this Law.

**SOLID WASTE:** Refuse, garbage and other discarded items not intended for salvage or resale, e.g. food wastes, broken furniture, demolition wastes, glass, paper, aluminum, scrap metal, lumber, burnable rubbish, etc.

**STREET:** A public thoroughfare for motor vehicles which affords the primary means of access. All streets must meet Village construction standards.

**STREET LINE OR HIGHWAY RIGHT-OF-WAY LINE:** The dividing line between a lot and a street right-of-way line.

**STORAGE PODS:** Any structure that is moved onto a property the primary use of which is to store material on a temporary basis. The structures can be trailers with wheels or "moving pods" without wheels that are used to store furniture, building materials or debris during moving, construction or remodeling of an existing property.

**STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. The term includes dwelling units, buildings, swimming pools, platforms, stadiums, towers, billboards and signs, but is not intended to include conventional sidewalks, driveways, curbs, fences, hedges or walls and chimneys.

**USE:** The specific purpose for which any land, building or structure is used, designed, arranged, intended, or occupied.

**VARIANCE:** A grant of relief from the requirements of this local Law which permits construction in a manner that would otherwise be prohibited by this local Law.

**WALL:** A structure of wood, stone or other materials or combination thereof intended for defense, security, screening, partitioning, or enclosure; or for the retention of earth, stone, fill or other materials as in the case of retaining walls or bulkheads. A wall shall be considered a fence.



**WAREHOUSE:** A structure in which goods or merchandise is stored. Includes wholesale establishment, discount house, bulk storage and bulk sales outlet.

**WASTE MATTER:** Any refuse, rubbish, waste matter, litter, garbage, decomposable or organic matter, putrescible matter, carcass, sewage, excrement, sludge, slops, hazardous liquids or substances (as per New York State Environmental Conservation Law), ashes, tin cans, crates, boxes, or other substances or material offensive to the public or detrimental to its health, safety, and welfare by virtue of its volume or untreated nature.

**WATER ENHANCED USE:** A land use for which the profitability of the use and/or the enjoyment level of the users would be increased significantly if the use were adjacent to, or had visual access to, the waterfront (e.g. parks, restaurants, or tourist accommodations).

**WATER DEPENDENT USE:** A land use or development which requires a location in or adjacent to a body of water in order to function.

**WATERFRONT PROPERTY:** Those parcels of land which are located on St. Lawrence River or tributaries of the same.

**YARD:** Generally determined to mean that unoccupied open space (from the ground upward) between the building line and the nearest lot line or street line.

**YARD, FRONT:** The yard between the front building line and the front lot line and extending the full width of the lot.

**YARD, REAR:** The yard between the rear building line and the rear lot line and extending the full width of the lot.

**YARD, SIDE:** An unoccupied space extending from the front yard to the rear yard between the required side setback line and the nearest side lot line.

**ZONING BOARD OF APPEALS:** The Board appointed by the Village of Cape Vincent to hear and decide appeals to this Law.

**ZONING PERMIT:** The approval and permit that must be obtained from the Zoning Enforcement Officer before construction of a building or structure, institution of new use, placement of a new structure, or some similar activity requiring such approval as outlined in the Law.

**ARTICLE 3 ESTABLISHMENT OF ZONING DISTRICTS**

Section 3.1 Zoning Districts

For the purpose of promoting the health, safety and general welfare of the community, the Village of Cape Vincent is divided into the following five (5) zoning districts.

**RESIDENTIAL DISTRICT - RES**

**COMMERCIAL DISTRICT - COM**

**MANUFACTURED HOME DISTRICT - MHD**

**INDUSTRIAL DISTRICT - IND (floating)**

**WATERFRONT OVERLAY DISTRICT - WOD (Overlay)**

Section 3.2 Zoning Map Certification

- A. The boundaries of each Zoning District established by this local law are delineated on the map entitled "Zoning Map, Village of Cape Vincent," dated 12/13/2005, which map is hereby adopted and declared to be part of this local law.
- B. Any changes made by the Village Board, in district boundaries or other information shown on the map shall be promptly made on the map, with a statement describing the nature and date of the change.

Section 3.3 Interpretation of District Boundaries

- A. Where a zoning district boundary splits a lot of record, each portion of the lot shall be controlled by the regulations of the district in which it resides.
- B. Where the designation on the Zoning Map indicates a boundary approximately upon a road line, the center of the road shall be construed to be the boundary.
- C. Where uncertainty exists with respect to the exact boundaries of districts as shown on the map, the Zoning Enforcement Officer shall determine said boundaries. However, upon an appeal from the Zoning Enforcement Officer's determination, the final decision as to where the boundary is located will be made by the Village Zoning Board of Appeals.

**ARTICLE 4 ZONING DISTRICT REGULATIONS**

Section 4.1 Residential District

- A. Purpose. The purpose of the Residential District is to provide a stable environment for residential living and development. By assuring consistency with this Law, it is expected that the character of housing will be preserved, new housing types accommodated, building quality maintained, and land use conflicts reduced.
- B. Permitted Uses
  - 1. Single-family residence
  - 2. Modular homes
  - 3. Two-family residences
  - 4. Accessory Building or Use
  - 5. Double-wide Manufactured Homes
- C. Site Plan Review Uses

- 1. Public utility facilities
  - 2. Recreational Facilities
  - 3. Home Occupations
  - 4. Public Facilities
  - 5. Marine Repair Shop
  - 6. Cemeteries
  - 7. Fences exceeding four (4) feet to six (6) feet in height.
  - 8. Multi-family residences/ Apartment Building
  - 9. Hotels/Motels
  - 10. Marinas
  - 11. Private clubs
  - 12. Cottages
  - 13. Funeral home
  - 14. Structures over 35' in height
  - 15. Bed and Breakfast/ Temporary Rentals
- D. Dimensional Requirements

	Minimum Lot Size	Minimum Lot Width	Minimum Front Setback	Minimum Side & Rear Setback	Open Space Requirement
<b>1. Single family residence</b> <b>2. Modular Home</b> <b>3. Double-wide Manufactured Home</b> <b>4. Accessory Building or Use</b>	6,000 sq. ft.	60 ft.	15 ft. *	8 ft.	25%
<b>Two family residence</b>	9,000 sq. ft.	60 ft.	15 ft. *	8 ft.	25%
<b>Multi-family residence</b>	6,000 sq. ft. plus 3,000 sq. ft. per additional dwelling unit	60 ft.	15 ft. *	8 ft.	25%
<b>All Other Site Plan Review Uses</b>	6,000 sq. ft.	60 ft.	15 ft. *	8 ft.	25%

\* See ARTICLE 5, Section 5.2 for further setback requirements.

Section 4.2 Commercial District

A. Purpose. The purpose of the Commercial District is to promote the business and commercial nature of the area. Historical, cultural, business, and recreational resources will be enhanced. Permitted uses are intended to reduce land use conflicts in commercial enterprise.

B. Permitted Uses

- 1. Single-family detached residences
- 2. Modular homes
- 3. Two-family residences
- 4. Accessory Building or Use
- 7. Automobile service station
- 8. Public Facility
- 9. Drive-in service

D. Dimensional Requirements

C. Site Plan Review Uses

- 1. Hotel/Motel
- 2. Commercial Use
- 3. Marina
- 4. Public Utility Facility
- 5. Shopping center
- 6. Light Industrial Operation
- 10. Recreational facility
- 11. Multi-family residences/ Apartment Building
- 12. Fences exceeding four (4) feet to six (6) feet in height
- 13. Professional offices
- 14. Marine Repair Shop
- 15. Bed & Breakfast (*inn*)/Temporary Rental
- 16. Warehouse
- 17. Large Product Retail
- 18. Structures over 35' in height

	<b>Minimum Lot Size</b>	<b>Minimum Lot Width</b>	<b>Minimum Front Setback</b>	<b>Minimum Side &amp; Rear Setback</b>
<b>1. Lots used solely for residential purposes.</b>	6,000 sq. ft. plus 3,000 sq. ft. per additional dwelling unit	60 ft.	15 ft. *	8 ft.
<b>2. Multi-family residences</b>				
<b>Lots used for multiple uses that include a residence or residences on upper floors.</b>	3,000 sq. ft. per dwelling unit	None	None *	None

<b>Lots used entirely for non-residential purposes.</b>	None	None	None	None
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\* See ARTICLE 5, Section 5.2 for further setback requirements.  
Section 4.3 Manufactured Home District

A. Purpose. The purpose of the Manufactured Home District is to provide minimum standards for the placement and use of manufactured homes in the Village of Cape Vincent. Permitted uses are intended to provide a stable environment for manufactured home development and to reduce land use conflicts.

B. Permitted Uses

1. Single-wide Manufactured Homes
2. Double-wide Manufactured Homes
3. Modular homes
4. Single Family Residences

C. Site Plan Review Uses

1. Manufactured Home Parks.
2. Home Occupations.
3. Fences exceeding four (4) feet to six (6) feet in height.
4. Structures over 35' in height.

D. Dimensional Requirements

	<b>Minimum Lot Size</b>	<b>Minimum Lot Width</b>	<b>Minimum Front Setback</b>	<b>Minimum Side &amp; Rear Setback</b>	<b>Open Space Requirement</b>
<b>Manufactured Home Lot</b> <b>1. Single-wide Manufactured Homes</b> <b>2. Double-wide Manufactured Homes</b>	3,500 sq. ft.	40 ft.	15 ft. *	8 ft.	25%
<b>3. Single Family Residence</b> <b>4. Modular Homes</b>	6,000 sq. ft.	60 ft.	15 ft. *	8 ft.	25%

\* See ARTICLE 5, Section 5.2 for further setback requirements.

Section 4.4 Industrial District (Floating)

A. Purpose. The purpose of this district is to promote light industry in acceptable areas of the Village.

B. Permitted Uses

- 1. None

C. Site Plan Review Uses

- 1. Light industrial Operation
- 2. Commercial Use
- 3. Marina
- 4. Public utility facility
- 5. Shopping center
- 6. Automobile Service/Repair
- 7. Drive in service
- 8. Professional offices
- 9. Marine Repair Shop
- 10. Warehouse
- 11. Large Product Retail
- 12. Fences exceeding four (4) feet to six (6) feet in height.
- 13. Structures over 35' in height.

D. Dimensional Requirements

	<b>Minimum Lot Size</b>	<b>Minimum Lot Width</b>	<b>Minimum Front Setback</b>	<b>Minimum Side &amp; Rear Setback</b>
<b>Site Plan Review Uses</b>	100'	100'	30 ft. *	20 ft.

\* See ARTICLE 5, Section 5.2 for further setback requirements.

Section 4.5 Waterfront Overlay District

A. Purpose. The Waterfront Overlay District is established to ensure compliance with the Village of Cape Vincent Local Waterfront Revitalization Plan. The purpose of the Waterfront Overlay District is to delineate an area coterminous with the Cape Vincent Local Waterfront Revitalization Program (LWRP) Coastal Area whereby new development and

redevelopment will be reviewed for compatibility with the policies and purposes of the LWRP.

As an overlay district, the Waterfront Overlay District does not replace the existing land use districts and their provisions, but rather, represents an additional level of review, superimposed on the provisions of the existing or underlying districts, that specifically relates to the policies and purposes of the LWRP.

B. Permitted Uses

1. All permitted uses as specified for the underlying Zoning Districts, subject to all of the requirements of the underlying Zoning districts.

C. Site Plan Review Uses

All those uses designated as Site Plan Review uses in the underlying Zoning Districts, with the addition of review for compatibility with the policies and purposes of the LWRP.

D. Dimensional Requirements

All the same as those in the underlying District.

**ARTICLE 5 GENERAL REGULATIONS**

For all districts or specific districts as noted, the following supplemental regulations shall apply:

Section 5.1 Signs Signs shall meet the

following requirements:

- A. No signs shall consist of lights which flash or move or appear to move.
- B. No sign shall be higher than the principle building to which it is accessory.
- C. No sign shall be erected on the roof of any building.
- D. No general advertising signs unrelated to the premises or not serving as a directional sign within the Village limits are permitted.
- E. All existing signs at the time this Law is adopted, if not in violation when erected, shall be allowed to remain as long as they are properly maintained and their use remains current.
- F. One on-site permanent sign not to exceed 32 square feet shall be permitted. Two sided signs bearing announcements on two sides shall be considered as one sign. On corner lots, one on-site permanent sign not to exceed 32 square feet is permitted on each street.

Section 5.2 Setbacks.

In the Residential District, the following regulations shall apply:

- A. When a building to be erected has an existing building on either side of it on the same side of the street and within a distance of 50 feet as measured from the edge of the proposed building to the near edge of the adjacent existing building. The minimum required setback shall be no greater than the average distance of setback of the two adjacent buildings.
- B. When a building to be erected has an existing building on one side of it on the same side of the street within a distance of 50 feet as measured from the edge of the proposed building to the near edge of the adjacent existing building the minimum required setback from the street right-of-way for the proposed building shall be greater than the average of the distance of setback of the adjacent building and the required setback for the district in which the building is to be constructed as stated in the District Regulations, Article 4 of this Law.

Section 5.3 Corner Lot

- A. In the case of a corner lot, both yards fronting on streets shall be considered front yards and must meet the appropriate setbacks.



- B. On corner lots in all districts, no new structure or planting in excess of 30 inches above the abutting curb line shall be permitted within a triangular area defined as follows: "beginning at the intersection of the projected curb lines of two intersecting streets, thence 30 feet along one curb line, thence diagonally to a point 30 feet from the point of beginning on the other curb line, thence to the point of beginning."

Section 5.4    Parking

All uses shall provide adequate parking for all vehicles during typical peak use periods. Parking should be designated to minimize the need to back out onto the public road. Adequate parking must be demonstrated either on site or off site in public areas.

Section 5.5    Off-Street Loading Requirements

- A. In all districts, in connection with every building or building group or part thereof and having a gross floor area of 4,000 square feet or more, which is to be occupied by a new use similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with such building, off-street loading berths or unloading berths as follows: (listed below)

- 4,000-25,000 sq. ft. - 1 berth
- 25,000-40,000 sq. ft. - 2 berths
- 40,000-60,000 sq. - 3 berths For each additional
- 50,000 sq. ft. - 1 additional berth

- B. The loading berth required in each instance shall be not less than twelve (12) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height, and may occupy all or any part of any required yard. Such space may also be a part of a required parking area.

Section 5.6    Swimming Pools

- A. Swimming pools may be located within a required side or rear yard. However, swimming pools shall not be closer than eight feet to a lot line.
- B. Swimming pools that are able to contain more than 36 inches of water shall have a fence that is at least four feet tall around the entire structure. The fence shall be constructed of such materials so as to prevent unauthorized entrance by children or other individuals. Above-ground pools which have attached fences and restraining devices shall have to meet the four-foot fence requirement. The height of the pool sides shall be considered in the total height of the fence.

- C. All pools (above ground and in-ground) must comply with the manufacturer's and New York State regulations for the installation of pools.

Section 5.7 Inoperative And/Or Unregistered Motor Vehicles And Recreational Vehicles

In residential districts, motor vehicles and recreational vehicles that are inoperative and/or are unregistered are not permitted to be kept on the premises for a period longer than 45 days, unless they are enclosed within a structure or fence, or covered so as not to be visible from off the property.

Section 5.8 Solid Waste Disposal

No junk, garbage, or refuse is permitted to be stored unenclosed in any district. Waste must be stored in either plastic or metal cans with lids, or dumpsters. Garbage and recycling containers are permitted to be put out 24 hours before trash pick up. All containers must be removed from the curb within 24 hours after pick up. Solid waste shall be disposed of at the Village's designated disposal facility.

Section 5.9 Junkyards

Junkyards shall not be permitted within any districts in the Village.

Section 5.10 Satellite Dish Antennas

Satellite Dish Antennas are permitted accessory uses in all districts and may not be located within any front yard or project beyond the front building line of the principle structure

Section 5.11 Accessory Buildings

Accessory buildings and structures shall meet the setbacks of the zoning district.

Section 5.12 Fences

- A. When calculating the height of a fence, the measurement shall be taken from the general level of the ground in the area.
- B. Fences located in the front yard shall not exceed four (4) feet in height and shall adhere to the requirements of Section 5.3, Corner Lots.
- C. Fences four feet and under in height are allowed by a Zoning Permit.
- D. Fences over four feet in height to six feet in height are allowed by Site Plan Review only.
- E. Fences greater than six feet in height are prohibited.

F. The finished side of the fence shall face the public right-of-way or adjacent property.

G. Permanent fences that border village property where there is a sidewalk must be set back 1 foot from the property line, installed after 1/1/2022.

Section 5.13 Manufactured Homes

- A. All manufactured homes sited in the Village shall obtain a building permit from the Jefferson County Building Code Department.
- B. Each manufactured home shall be provided with a cinder block type skirt to screen the space between the manufactured home and the ground. Such skirts shall be of permanent material to provide a finished exterior appearance. The material used for the skirts shall be fire resistant.
- C. Each manufactured home shall be secured with tie-downs according to the manufacturer's requirements.
- D. Each manufactured home pad shall be built to, at least, the minimum manufacturer's requirements.
- E. Mobile homes are not allowed in the Residential District.

Section 5.14 Storage PODS

A. Storage PODS are allowed for a maximum of 90 consecutive calendar days, after which time they must be removed. STORAGE PODS are allowed only twice per calendar year on an individual site

Section 5.15 Travel Trailers/RV's (Residential and

Manufactured Homes districts only)

A. One owner occupied Travel Trailer/RV may be permitted on an undeveloped lot over 1,800 square feet upon receipt of an annual permit subject to the following criteria.

1. The Travel Trailer/RV must be set back from the from the property lines as follows:

Front Yard      15 feet

Rear Yard	8 feet
Side Yard	8 feet

2. Connection to public sewer and water is required to be maintained.
  3. Payment of \$200.00 for an annual permit fee as established by the Village Board of Trustees from time to time by resolution.
  4. Period of occupancy is limited to April 1 through October 31.
  5. Unless permitted under subsection E, below, Travel Trailer/RV must be removed from the Village limits when un occupied.
- B. During periods of construction or renovation pursuant to a validly issued Zoning Permit, a single Travel Trailer/RV may be permitted on a lot for use by the property owner.
- C. Except as provided in subsection D, below Non-Owner Occupied Travel Trailers/RVs are not permitted within the Village Limits.
- D. A property owner may permit a Travel Trailer/RV on the owner’s occupied residential lot for the purpose of hosting visitors for no more than two (2) weeks per year in the aggregate.
- E. A property owner may store one unoccupied personal licensed Travel Trailer/RV on his or her residential lot.
- F. Travel Trailers/RVs are not permitted to be parked on any Village Street or Right of Way for a period of more than 72 hours.

**ARTICLE 6 PLANNING BOARD REVIEW**

Section 6.1 Purpose

The purpose of the Site Plan Review procedure is to allow the Planning Board to attach reasonable safeguards and conditions to those uses which might otherwise produce a deleterious effect on the environment, the neighborhood character, or the Village resident’s health safety and welfare. Furthermore, it is the purpose of the Site Plan Review procedure to authorize the Planning Board to disapprove a plan for any use, the deleterious effects of which cannot be mitigated because of the particular site it is proposed to occupy.

Section 6.2 Authority

Pursuant to authority delegated in accordance with Section 7-725-a of the Village Law of the State of New York, the Village Board hereby authorizes the Planning Board to review and approve, approve with modification, or disapprove site plans.

### Section 6.3    Applicability

Site Plan Review uses shall be controlled by the regulations in this Article in addition to the regulations that apply in each district or for specific uses. No zoning permit or certificate of compliance shall be issued for any use or structure requiring Site Plan Review until approval has been granted by the Planning Board.

### Section 6.4    Information Requirements

- A. Application Form. An application (Site Plan Review - Appendix A) for project review shall be made on the form prescribed by the Village. Two (2) copies, minimum, of all materials shall be submitted to the Board by the applicant(s). Extra copies as may be deemed necessary by the Planning Board may be required. All information shall be required on all applications, unless specifically waived by the Planning Board:

### Section 6.5    Procedure

- A. Pre-Submission Conference. A conference between the applicant and the Planning Board may be held prior to formal submission of an application. This conference may be used to discuss rough conceptual drawings, proposed uses, the possible waiver of submission requirements, the review procedure and the criteria that the project must meet.
- B. Waiver of Requirements. The Planning Board is empowered to waive, when reasonable, any application requirements for the approval, approval with modifications or disapproval of site plans or submitted for approval. Such waiver may be exercised in the event requirements are found not to be requisite in the interest of the public health, safety or general welfare and inappropriate to a particular site plan or special use permit. The reasons for, and the scope of any such waiver granted by the Planning Board shall be in writing and entered into the minutes of the board.
- C. Public Hearing. Once a completed application and paperwork requested by the Planning Board has been formally accepted by the Planning Board at a public meeting of the board, the board shall have a maximum of 62 days to hold a public hearing on the application to entertain public comment, unless the hearing is waived. This time period may be extended upon the mutual consent of the Planning Board and the applicant. A waiver of the hearing shall NOT be allowed in any one of the following circumstances:

1. the use is a Type I action according to the State Environmental Quality Review Act;
2. the use is over 2,000 square feet of floor or ground area;
3. the use is over 35 feet in height;
4. the use requires an increase or change in public water supply facilities, sewerage facilities, drainage facilities, sidewalks, roads, curbs, gutters, or other public improvements;
5. the applicant has requested a public hearing.

D. Procedure for Public Hearing Conducted by Planning Board

1. The Chair of the Board will conduct the hearing.
  2. Each person wishing to make a comment will address the Chair and give their name and address.
  3. Each person wishing to speak will have three (3) minutes.
  4. Only one person will speak at a time. Speaking out of turn is not allowed.
  5. All those wishing to address the Board will be given an opportunity to speak. If time permits, the Chair can allow for second comments.
  6. The Chair will determine when to close the public hearing.
- E. Public Hearing Notice. At least five days advance public notice of the hearing shall be published in a newspaper in general circulation in the Village. A notice of the hearing shall be mailed to the applicant at least ten days before the hearing. The notice shall also be mailed to any farm operations listed on the agriculture data statement and to all adjacent properties within 200 feet of the project lot lines.
- F. County Planning Board Review. Pursuant to General Municipal Law Section 239-m, at least ten days before the hearing, or where the hearing has been waived, before final action, the Planning Board shall refer all Site Plan Reviews to the County Planning Board that fall within 500 feet of the following:

1. the boundary of the Village or any village within the town;
2. a state or county park or recreation area;

- 3. a state or county highway or expressway;
- 4. a state or county owned drainage channel;
- 5. state or county land where a public building or institution is located; or
- 6. the boundary of a farm operation located within an agricultural district.

If the County Planning Board does not respond within 30 days from the time it received a full statement on the referral matter, then the Planning Board may act without such report. However, any County Planning Board report received after such 30 days but two or more days prior to final action by the referring body shall be subject to the provisions of an extraordinary vote upon recommendation of modification or disapproval. If the County Planning Board recommends modification or disapproval of a proposed action, the referring board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members.

G. County Planning Board Exemptions. The Jefferson County Planning Board considers the following actions to be of local rather than of inter-community or County-wide concern and shall therefore be exempt from referral to the County Planning Board: 1. Area variances meeting the following criteria:

- a. All area variances for lot size or lot width, if the required lot-line setbacks can still be maintained.
- b. All single and two-family residential setback variances (including those for manufactured homes and modular homes) unless the requested setback is adjacent to either a state or county property line, exclusive of state or county highways.
- c. All front, rear, and side lot line setback variances for accessory structures (i.e. garages, sheds, decks, etc.) unless the requested setback is adjacent to either a state or county property line, exclusive of state or county highways.

2. Use Variances meeting the following criteria:

- a. All use variances for single and two-family residences, including manufactured and modular homes.
- b. All use variances for home occupations.

3. Site Plans meeting the following criteria:

- a. All site plans for new buildings or additions consisting of less than 500 square feet, where the principle use will occur within the new structure, unless the new building or

additions will require a new or improved access point onto a State or County roadway.

- b. All site plans / special permits for the placement of individual single and two family dwellings, including manufactured homes and modular homes.
- H. State Environmental Quality Review. The applicant shall be responsible for completing Part I of the Short Environmental Assessment Form (EAF) or the Long Form if required by the Planning Board. The Planning Board will complete Part II for each application, and for compliance with 6 NYCRR Part 617 (State Environmental Quality Review Act regulations) in cooperation with other involved agencies in the review of any application. The Planning Board shall complete its environmental review and make an environmental determination prior to final action on the application.
- I. Final Decision. The final decision by the Planning Board must be made within 62 days following the close of the public hearing, or where the public hearing has been waived, within 62 days of the official submission date. The decision shall be in writing, specifying any conditions that may be attached to an approval, the reasons that the Planning Board approved, approved with modifications or disapproved the proposal, and the motions/vote of the Planning Board. This time period may also be extended upon the mutual consent of the Planning Board and the applicant.
- J. Filing of Decision. All decisions shall be filed by Tax Parcel Number in the office of the Village Clerk within five business days of final action, and a copy mailed to the applicant. Within 30 days of final action on any matter referred to the County Planning Board, the Planning Board shall file a report of the final action with the County Planning Board.
- K. Conditions on Approval. In its approval, the Planning Board shall have the authority to impose such reasonable conditions and restrictions on the issuance of a zoning permit for the application as are directly related to and incidental to a proposed site plan. Upon approval of the project, any such conditions must be met in connection with the issuance of permits by applicable Zoning Enforcement Officers of the Village.
- L. Expiration of Site Plan Review. Site plan review decisions shall expire six months from the date of issue unless substantial progress has been made towards carrying out the terms of Planning Board decision. The applicant shall have two years to complete the terms of the decision, or all work shall cease at the site. An extension may be allowed by the Zoning Enforcement Officer upon proof of necessity submitted by the applicant due to conditions unusual or beyond the control of the applicant.



### Section 6.6    General Site Plan Review Criteria

Following is a list of performance site plan review criteria against which the quality of the development proposal must be assessed. The Planning Board may specify certain standards in line with these criteria to which the developer must then comply. The Board shall be limited to reviewing and setting criteria only in the following areas.

- A. Adequacy and arrangement of safe vehicular traffic access and circulation including intersections, road widths, curb cuts, channelization structure and traffic controls. This review shall include specifications and standards to which such facilities shall be constructed.
- B. Adequacy and arrangements of pedestrian traffic and circulation including: separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic, and pedestrian conveniences. This shall also include specifications and standards to which such facilities shall be constructed.
- C. Location, arrangement, appearance and sufficiency of off-street parking and loading to meet the proposed uses. Construction specifications may be required by using the off-street parking and loading requirements (found in Article 5, Sections 5.4 and 5.5 as a guide).
- D. Location, arrangement size and design of buildings, lighting and signs. All uses shall complement each other and not be offensive to the District or adjacent areas.
- E. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a noise deterring buffer between competing adjacent uses and adjoining lands. The proposed use shall be landscaped to ensure a sightly appearance. This shall ensure adequate vegetative ground cover to eliminate erosion and promote aesthetics. Trees shall be retained where possible. The Planning Board may set the minimum standards in this regard.
- F. In the case of apartment houses, manufactured home parks, or multiple dwellings, the adequacy and availability of open space for playgrounds and informal recreation.
- G. Adequacy and quality of storm water, drainage ways, sanitary waste disposal facilities, and other utilities that will serve the site. The applicant shall assure that all water and sewer connections and installation are made in a timely fashion and prior to project approval and operation. Such connections and installations shall be made according to specifications by the Village.
- H. Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion. Construction specifications may be required.

- I. Protection of adjacent properties against noise, glare, unsightliness, or other objectionable features from conflicting uses. J. Conformance with the Town and Village of Cape Vincent Joint Comprehensive Plan.
- K. Open space may be required for recreation, circulation and other reasons. The area shall be of sufficient size to accommodate these purposes in relation to the residential and non-residential uses. Access to such areas will be considered. Such areas may be publicly or privately owned.
- L. Adequacy in preserving the scenic, historical and cultural attributes of the site. The integrity of existing historic sites or structures on the State and National Registers of Historic Places shall not be endangered by the development.
- M. Architectural design compatibility with surrounding areas.
- N. The proposed use (either in operation or construction) shall not cause erosion or drainage problems. The Planning Board may specify conditions to alleviate such situations.
- O. All Site Plan Review uses within the Waterfront Overlay District shall also be subject to the following criteria and policies, in addition to the criteria imposed by the underlying district. Where the two are found to be in conflict, the most restrictive shall apply.
  - 1. The location and arrangement of structure relative to the waterfront shall conform with the policies of the Village's Local Waterfront Revitalization Program as listed in Subsection 2, hereafter.
  - 2. Conformance with the policies of the Village's Local Waterfront Revitalization program for development proposals within the Village's Waterfront Overlay District - (WOD).

The Cape Vincent Local Waterfront Revitalization Program, (LWRP), as further explained and described in the Cape Vincent Local Waterfront Revitalization Program Document, October 13, 1987, is hereby adopted as part of the site plan review criteria by reference, a copy of which is on file in the Village Clerk's office and available for inspection during normal business hours.

Applicable policies of the Village of Cape Vincent Local Waterfront Revitalization Program are as follows:

**DEVELOPMENT POLICIES:**

Policy 1- Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.

Policy 1A - Promote the revitalization and redevelopment of the following areas: (1) Cape

Vincent Village Park; (2) the Club Street area bordered by and including Esselstyne, James, and Gouvello Streets, and the Wolfe Island ferry dock; (3) Cape Vincent Town Garage; (4) Waterfront end of Market Street; (5) Waterfront end of Real Street; and (6) Waterfront end of Point Street. (See Section Four. Proposed Projects and Section

Five, Other Public and Private Actions.)

Policy 2- Facilitate water-dependent uses and facilities on or adjacent to coastal waters.

Policy 3- Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.

Policy 4- Encourage the location of development in areas where public services and the facilities essential to such development are adequate, except when such development has special functional requirements or other characteristics which necessitate its location in other coastal areas.

**FISH AND WILDLIFE POLICIES:**

Policy A - The St. Lawrence River is a locally significant fish and wildlife habitat. The River will be preserved to maintain its viability and value to the Village.

Policy 8 - Protect fish and wildlife resources in the coastal area from the introduction of hazardous waste and other pollutants which bioaccumulate in the food chain or cause significant sub-lethal effects on those resources.

Policy 20 - Access to the publicly owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided, and it should be provided in a manner compatible with adjoining uses. Such lands shall be retained in public ownership.

**RECREATIONAL POLICIES:**

Policy 21- Water-dependent and water-enhanced recreational uses shall be encouraged and facilitated and shall be given priority over non-water related uses along the coast, provided it is consistent with the preservation and enhancement of other coastal

resources and takes into account demand for such facilities. In facilitating such activities, priority shall be given to areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and to those areas where the use of the shore is severely restricted by existing development.

Policy 22 - Development, when located adjacent to the shore shall provide water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.

Policy 23 - Protect, enhance, and restore structures, districts, areas or sites that are of significance in the history, architecture, archeology, or culture of the state, its communities, or the nation.

**SCENIC RESOURCE POLICIES:**

Policy 25 - Protect, restore, or enhance natural and man-made resources that are not identified as being of state-wide significance but contribute to the overall scenic quality of the coastal area.

**ARTICLE 7 SPECIFIC SITE PLAN REVIEW USE CRITERIA**

**Section 7.1 Multi-Family Residences / Apartment Buildings**

- A. Traffic Access: Visibility on interior roadways or at exits and entrances shall not be impeded so as to cause unsafe traffic conditions as determined by the Planning Board.
- B. Circulation and Parking: All units shall have ready access to the interior roadways and parking spaces.
- C. Arrangement of Buildings: Adequate provision shall be made for light, air, access, and privacy in the arrangement of the buildings. Each dwelling unit shall have a minimum of two (2) exterior exposures.
- D. Proper Landscaping: Where adjacent land use districts, or uses, are of a commercial or business nature, the Board may require proper screening and buffer zones be required to reduce noise, dust, and disturbances.

- E. Distance Between Buildings: Any principle building shall be no closer than 16 feet from any other principal building within a single lot used for multi-family residential purposes.
- F. Recreation Space: There shall be provided on the site of such a use an area or areas devoted for the joint recreational use of the residents. Such recreation space shall consist of an area not less than twenty-five (25) percent of the total living space of all dwelling units served.
- G. Drainage: Drainage ways on the lots and at the interior or public roadsides shall be constructed so as to handle the capacity flow at any given time. The Soil Conservation Service or the Village Department of Public Works (DPW) may be contacted to provide technical assistance in determining the necessary size (s) of the drainage or culverts.
- H. Lighting: Exterior lighting shall be adequate to promote safety in the parking areas and on-lot adjacent to the multiple dwelling and shall conform to National Electric Code Standards, 1984 edition and any amendments.
- I. Space Requirements for Dwelling Units: All dwelling units shall have a minimum of 300 square feet of habitable space. (See the State Uniform Fire Prevention and Building Code for the definition of "habitable space.")

#### Section 7.2 Hotels, Motels, and Cottages

- A. Traffic Access: Roads shall be adequate in grade, width, alignment, and visibility and shall complement traffic circulation patterns and standards of the Village.
- B. Off-Street Parking: There shall be provided on the site of such development an area or areas devoted to the parking of automobiles of sufficient size and arrangement to meet the needs of the proposed use.
- C. Exterior Lighting and Signs: Illuminated signs and other exterior lighting shall be directed away, or shield from, adjacent properties in such a manner as not to disturb the occupants thereof.
- D. Proper Landscaping: Where adjacent land use is residential in nature buffer zones shall be required to eliminate visibility, noise, and dust from the use.

#### Section 7.3 Manufactured Home Park

An applicant who proposes to construct a manufactured home park shall state that he, as an agent or owner, shall be responsible for the proper maintenance and upkeep of proposed park and that individual manufactured homes in the Park shall meet the criteria established in Article 5, Section 5.13 of the Village of Cape Vincent Zoning Law .

Section 7.4 Shopping Centers

A proposed shopping center development shall be on accordance with a unified site plan and architectural scheme.

- A. Off-street parking shall meet the requirements established in Article 5, Section 5.4 of this Law.
- B. Off-street loading and unloading space shall be provided in addition to the space required for off street parking. It shall meet the off-street parking loading requirements of Article 5, Section 5.5.
- C. No part of the shopping center development shall be constructed closer than eight (8) feet to the nearest residential property line.
- D. Access patterns (both on-lot and exiting/entering onto the public thoroughfares) shall not cause safety hazards. The Planning Board shall review and approve such plans.

Section 7.5 Large Product Retail

- A. Such sales and rental operations shall be located at least 50 feet from the nearest residential lot line.
- B. The use shall not cause undue noise, odor or lighting glare that is objectionable or harmful to the neighborhood.
- C. Such operations that also have service facilities for the same equipment shall meet the special requirements of “Automobile Service/Repair Stations and Public Garages” in this Section.
- D. The use shall not cause electrical disturbances that will disrupt communications reception in neighboring areas.

- E. The use shall provide sufficient parking spaces to accommodate business uses as listed under the off-street parking requirements. In addition the lot shall be of adequate size to accommodate the maximum number of products that are for sale or rent

Section 7.6 Automobile Service/Repair Station

- A. All automobile service stations shall be so arranged and all gasoline and/or fuel pumps shall be so placed, as to require all servicing on the premises no closer than 20 feet to any street right-of-way line. No gasoline pump shall be placed closer than 20 feet to any side property line.
- B. All junk, waste, and servicing materials shall be stored within a structure or enclosed within fencing so as not to be visible from off the property.
- C. Underground tanks shall not be less than 50 feet from the property line, unless otherwise approved by the Planning Board.
- D. Interior thoroughfare shall be arranged so as to ensure public safety.

Section 7.7 Light Industrial Operation

Light Industrial Operations shall meet the following site plan review criteria.

- A. Such uses shall meet the off-street parking and loading requirements of Article 5, Sections 5.4 and 5.5 General Regulations.
- B. Such uses shall not produce high volumes of pollution wastes as identified under State Environmental Conservation Law and specified by the New York State Department of Environmental Conservation.
- C. Any manufacturing, fabricating or servicing related to the operation must take place within a building designed to accommodate the use.
- D. Materials and equipment used in the manufacturing, fabricating or servicing operation may be stored outside the building accommodating the use, provided they shall be arranged in a neat and orderly fashion and shall be enclosed by a fence at least five (5) feet in height so as to prohibit unauthorized entrance by individuals. The Planning Board may require enclosure of such materials in a building if it deems the materials to be offensive, from a visual or health safety standpoint.
- E. If the Planning Board finds the use virtually incompatible to off-lot residential areas they may disallow the use or require plantings of such a density to reduce this impact.

- F. The use shall not produce exterior noise levels that are detrimental to off-lot residential areas. Such levels shall not exceed 90 decibels at off-lot locations.
- G. There shall be no on-lot burning or land spreading of solid or liquid wastes.

Section 7.8 Private Clubs and Public Facilities

- A. A sufficient number of parking spaces shall be provided to comply with the off-street parking requirements of this Law.
- B. Adequate lighting shall be provided in parking and walk areas to reduce safety hazards.
- C. There shall be no excessive noise, odors, or dust arising from the use.
- D. The approval of such facilities shall require proof that the use will not be out of character with similar neighboring uses.
- E. The use shall not produce dust, noise, lighting glare or other objectionable environmental conditions to neighboring residential properties.
- F. Interior thoroughfares shall be arranged so as to ensure public safety

Section 7.9 Home Occupations

- A. One (1) identification sign is permitted and shall not exceed six (6) square feet in area.
- B. Off-street parking space requirements, as identified in Article 5, Section 5.4, shall be adhered to.
- C. No unsafe traffic conditions shall be produced by vehicles at the use, sign placement, etc.
- D. No objectionable odors, noise, or unsightly conditions shall be encountered by neighboring properties.

Section 7.10 Recreational Facility



- A. Appropriate screening to reduce noise and dust shall be required when such a commercial use is adjacent to a residential lot. This screening may include fencing or hedges of appropriate density.
- B. Off-street parking spaces shall be provided in compliance with the off-street parking requirements of this Law.

Section 7.11 Commercial Dumpsters/Waste containers

**Location, use, condition and appearance.**

All dumpsters shall be enclosed on at least three sides by a solid fence and gate enclosure, the height of which shall exceed the height of the dumpsters by a minimum of one foot and placed on a hard surface such as concrete or macadam. Zoning permit required but fees are waived.

No dumpster shall be located in or on a public right-of-way.

Garbage and other waste materials must be completely contained within the dumpster. No accumulation of garbage or waste materials will be permitted outside the confines of the dumpster, nor will it be permitted to accumulate garbage or other waste materials so that the dumpster cover cannot be firmly closed.

Dumpster covers shall be kept closed at all times.

All dumpsters shall be kept in good repair, be structurally sound, leak-proof and be easily opened and closed. Dumpsters shall be painted as required to prevent the show of rust and deterioration and be so constructed to stand firmly upright.

All businesses with dumpsters currently in use shall have until 7/01/22 to become compliant with this law or have the dumpster removed.

**ARTICLE 8 SOLAR ENERGY CONVERSION SYSTEMS – (SECS)**

Section 8.1 Intent:

Renewable energy systems (solar) are expected to grow in use and become more affordable for residential and/or commercial use. The Village recognizes that solar systems can produce adequate amounts of energy for residential homes and/or commercial businesses and will have minimal impact on the health, safety, and welfare of the citizens in the village. The village permits their use. The regulations are as follows:

Section 8.2    Roof-Mounted Solar Energy Conversion System (RMSECS)

- a.    Roof-mounted SECS are preferred for residential and commercial structures.
- b.    The primary energy output from the RMSECS will be used on site.
- c.    The total height including the RMSECS unit of any structure, either primary or accessory, on which the unit is mounted, shall not exceed 35 feet.
- d.    The RMSECS unit shall not overhang the roof of the structure.
- e.    All electrical components of the RMSECS shall comply with local, county, state, and federal regulations.
- f.    No Site Plan Review required, unless the total height of the structure and the RMSECS is greater than 35’.

Section 8.3    Ground-Mounted Solar Energy Conversion Systems (GMSECS) For On-Site Use

- a.    GMSECS are to be mounted on a concrete base on the ground. They are not to be mounted on structures.
- b.    Site Plan Review is required with attention to siting. Cannot be installed in the front yard and height and obstruction of neighboring views must be taken into consideration.
- c.    All GMSECS shall be located within the “Dimensional Requirements” of the lot.
- d.    The primary energy output from the GMSECS shall be used on site.

**ARTICLE 9 intentionally left blank for future use**

**ARTICLE 10 ENFORCEMENT AND ADMINISTRATION**

Section 10.1 Zoning Permits

- A. No such zoning permit shall be issued for any building where said construction, addition, or exterior expansion or use thereof would be in violation of any of the provisions of this Law.
- B. Zoning Permits Required

The following activities shall require a zoning permit unless otherwise specifically exempted in this law:

- 1. Erection, re-erection or movement of a building or structure;
- 2. Change of the exterior structural dimensions of a building or structure;
- 3. Change in use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use;
- 4. The resumption of any use which has been discontinued for a period of 12 months or longer;
- 5. Establishment or change in dimensions of a parking area for nonresidential or multi-family residential uses;
- 6. Placement of a sign that is not part of a Site Plan Review.
- 7. Parking lots for places of public assembly and commercial, business or industrial uses shall require a permit for placement.
- 8. Fences.
- 9. Swimming pools.

C. Zoning Permit Exceptions

A zoning permit shall not be required for:

- 1. Landscaping;

2. Interior structural alterations or routine maintenance and improvement that does not expand the exterior dimensions of the structure (e.g., roofing, window replacement, siding replacement, etc.);
3. Minor accessory structures such as posts, sidewalks, driveways, flagpoles, playground equipment, chimneys, etc;

D. Application Process

Application for a zoning permit shall be submitted to the Zoning Enforcement Officer or Village Clerk and shall include:

1. Application form (available at the Village Clerk's Office);
2. Two (2) copies of a plot plan showing the actual dimensions of the lot to be built upon;
3. The size, location and height (on the lot) of the building and accessory buildings to be erected;
4. The distances from the building line to all lot lines, road right-of-way line, waterfront property line, streams and any other features on the lot; and
5. Such other information as may be necessary to determine and provide for the enforcement of this Law.

The accuracy of the measurements shown on the plan or detailed in the application shall be the responsibility of the applicant. Significant errors may be cause for revocation of the permit and may be considered a violation subject to prosecution under Section 10.6 of the Zoning Law.

- E. Application Fee. Fees required under this law will be determined from time to time by the Village Board pursuant to resolution and are to be paid at the time of application. A zoning permit application shall not be considered complete and no zoning permit shall be issued until full payment of the application fee has been received by the Village Clerk.

- F. Display of Zoning Permit. The applicant shall display the zoning permit on the building, structure or site in such a manner that it is visible to the public until such time as a certificate of compliance is issued or the zoning permit expires.
- G. Expiration of Zoning Permit. A zoning permit shall expire twelve (12) months from the date of issue unless substantial progress has been made towards carrying out the terms of the zoning permit. The applicant shall have two years to complete the terms of the zoning permit, or all work shall cease at the site. An extension may be allowed by the Zoning Enforcement Officer upon proof of necessity submitted by the applicant due to conditions unusual or beyond the control of the applicant.
- H. Temporary Permits. Temporary Zoning Permits may be issued by the Zoning Enforcement Officer for a period not exceeding thirty (30) days for conforming and nonconforming uses and the Zoning Enforcement Officer shall notify the Planning Board of such. Such permits are conditioned upon agreement by the owner or operator to remove the structure(s) or equipment upon expiration of the permit or to bring the use into compliance and gain a Zoning Permit. Any extensions or renewal of a temporary permit shall only be granted upon approval by the Planning Board and may only be renewed or extended once and for a period not exceeding one (1) year.

I. Certificate of Compliance.

- 1. No use or structure requiring a zoning permit shall be occupied, used, or changed in use until a certificate of compliance has been issued by the Zoning Enforcement Officer stating that the use or structure complies with the provisions of this law
- 2. All certificates of compliance shall be applied for with the application for a zoning permit. The certificate shall be issued within ten days after the erection or alteration shall have been approved as complying with the provisions of this law.
- 3. For uses requiring a Planning Board review, no certificate of compliance shall be issued for any such use or structure unless in conformity in all respects to the Planning Board approval, including any condition imposed upon it.

Section 10.2      Zoning Enforcement Officer

The Village board shall appoint a Zoning Enforcement Officer to carry out specific administrative functions as designated in this law, and to enforce this law. The Zoning Enforcement Officer's authorities shall include:

- A. Issue and deny permits and certificates of compliance in accordance with this law;
- B. Scale and interpret district boundaries on Zoning Maps;

- C. Inspect and certify that the regulations of this law have been adhered to;
- D. Refer appropriate appeal matters to the Planning Board and the Zoning Board of Appeals;
- E. Revocation of a permit where there is false, misleading or insufficient information places the applicant in violation of the Zoning Law and may be considered a violation subject to prosecution under Section 10.6 of the Zoning Law.
- F. Revocation of a permit or certificate of compliance where the applicant has not complied with the provisions of the approved application and places the applicant in violation of the Zoning Law and may be considered a violation subject to prosecution under Section 10.6 of the Zoning Law.
- G. Investigate violations and complaints of violations of this law;
- H. Issue stop work orders;
- I. Refer violations to the Town Justice. J. Assist in the prosecution of violations; and
- K. The Zoning Enforcement Officer shall report to the Village Board the number of permits issued and fees collected at regular Village Board meetings.

In addition to the Village appointment of a Zoning Enforcement Officer, the terms of the Law may also be enforced by any other Law Enforcement Officer, including the Village Police Officer.

Section 10.3      Zoning Board of Appeals

- A. Creation, appointment, and organization. A Zoning Board of Appeals is hereby created. Said Board shall consist of three (3) members. The Village Board shall appoint the members of the Zoning Board of Appeals on a staggered term basis in conformance with Village Law. The Zoning Board of Appeals shall select a Chairman and shall prescribe rules for the conduct of its affairs.

B. Powers and Duties. The Zoning Board of Appeals shall have all the power and duties prescribed by Village Law and by this Law which are more particularly specified as follows:

1. Interpretations, requirements, decisions, determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such local law and to that end shall have all the powers of the administrative official from whose order, requirement, or decision the appeal is taken.

2. Use Variance.

a. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such local law, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the local law.

b. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

(i) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(ii) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(iii) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(iv) That the alleged hardship has not been self-created.

c. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

3. Area Variance

- a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of the local law, to grant area variances from the area or dimensional requirements of such local law.
  - b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:
    - (i) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
    - (ii) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
    - (iii) Whether the requested area variance is substantial;
    - (iv) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
    - (v) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
  - c. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
4. Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.



### C. Procedure

1. Meetings, minutes, records. Meetings of such Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers' Law. Such Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
2. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order requirement, decision or determination of the Zoning Board of Appeals shall be filed in the office of the Village Clerk within five (5) business days and shall be a public record.
3. Assistance to Zoning Board of Appeals. Such board shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board.
4. Hearing appeals. Unless otherwise provided by local law or ordinance, the jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by an administrative official charged with the enforcement of the local law adopted pursuant to this article. Such board shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board. Such department, agency or employee shall be reimbursed for any expenses incurred as a result of such assistance. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Village.
5. Time of appeal. Such appeal shall be taken within sixty days after the filing of any order, requirement, decision, interpretation or determination of the administrative officer charged with the enforcement of such local law by filing with such administrative official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The costs of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal.

6. Stay upon appeal. An appeal shall stay all proceeding in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such local law, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
7. Hearing on appeal. The Zoning Board of Appeals shall hold a public hearing within sixtytwo (62) days from the official submission date of the appeal or other matter referred to it and give public notice thereof by the publication in a paper of general circulation in the Village of a notice of such hearing, at least ten (10) days prior to the date.
8. Procedure for a Public Hearing Conducted by the Zoning Board of Appeals
  - a. The Chair of the Board will conduct the hearing.
  - b. Each person wishing to make a comment will address the Chair and give their name and address.
  - c. Each person wishing to speak will have three (3) minutes.
  - d. Only one person will speak at a time. Speaking out of turn is not allowed.
  - e. All those wishing to address the Board will be given an opportunity to speak. If time permits, the Chair can allow for second comments.
  - f. The Chair will determine when to close the public hearing.
9. Time of decision. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after conducting said hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
10. Filing of decision and notice. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy mailed to the applicant.
11. Notice to park commission or planning agency. At least ten (10) days before such hearing, the Zoning Board of Appeals shall mail notices to the parties; to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal; and to the county, metropolitan, or regional planning agency, as required by section 239-m of the General Municipal Law, which

notice shall be accompanied by a full statement of the matter under consideration, as defined in subdivision one of GML Section 239-m.

- 12. Compliance with State Environmental Quality Review Act. The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the New York Codes of Rules and Regulations.
- 13. County Planning Board. All variance actions that fall under the jurisdiction of General Municipal Law 239-m shall be referred to the Jefferson County Planning Board for their review and action thereon, prior to any local decision. The requirements of this section of the Law shall be followed by the Village.

Section 10.4      Planning Board

- A. Creation, Appointment and Organization. A Planning Board is hereby created and shall consist of five (5) members. Members and the Chairperson of the Planning Board shall be appointed by the mayor subject to the approval of the Board of Trustees. The members of the Planning Board shall be appointed so that the term of one member shall expire each year.

The Planning Board shall have the power and authority to employ experts, clerks, and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made therefore by the Village Board of Trustees for such Planning Board.

- B. Powers and Duties. The Planning Board shall have all the power and duties prescribed by the Village Law and by this Law, some of which are specified below:
  - 1. Site Plan Review. The Planning Board shall have the authority to administer the site plan review requirements of this Law, found in Article 6 of this Law. All site plan actions that fall under the jurisdiction of General Municipal Law 239-m shall be referred to the Jefferson County Planning Board for its review and action thereon, prior to any local decision.
  - 2. Zoning Board of Appeals Referrals. Appeals and applications may be referred to the Planning Board for its recommendation before final action by the Zoning Board of Appeals. All recommendations from the Planning Board to the Zoning Board of Appeals shall be made in writing and are non-binding on the final decision of the Zoning Board of Appeals. The Planning Board's recommendation should consider the appeal's relevancy

in terms of the general intent of the Law, Comprehensive Plans and other long range planning concerns.

3. Amendments. The Village Board shall refer all amendment proposals to the Planning Board for a 20-day (maximum) review and recommendation period, prior to the Village Board action. If the Planning Board does not make a recommendation on the proposal (to the Village Board) within this period it shall be deemed that they have approved the proposal. The Planning Board's recommendation shall be made in writing to the Village Board.

#### Section 10.5      Violations

- A. Whenever a violation of this law occurs, any person may initiate a complaint. All complaints shall be in writing and delivered to the Village Clerk or Zoning Enforcement Officer. The Zoning Enforcement Officer shall accurately record the complaint, file it appropriately, and investigate it.
- B. If the complaint is found to be valid, the Zoning Enforcement Officer shall then inform the owner or the person responsible for the violation that there is a violation of the law. The owner or person responsible shall be notified by certified mail with a return receipt requested and by regular mail, or be personally served, as to the manner of the violation. Mail shall be sent to the address of the property owner as stated on the last completed tax roll or the address of the person responsible. The person notified will have 14 days, maximum, to remedy the situation from the date of the mailing, except in the case of imminent peril to life or property.
- C. An order to stop use/work may be issued to the owner or the person responsible for the violation in the same manner as a notice of violation. Such order shall require that all construction stop immediately.
- D. If a violation persists, the Zoning Enforcement Officer may file an "information and complaint" with the Town Justice charging the owner or the person responsible for the violation with violating one or more sections of this law. The Town Justice shall then issue a summons for the violator to appear in court.
- E. Pursuant to Criminal Procedure Law Section 150.20 (3), the Zoning Enforcement Officer is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and, if a violation persists, shall cause such person to appear before the Town Justice.

Section 10.6      Penalties

Pursuant to Municipal Home Rule Law Section 10 and Village Law Section 7-714, any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation and subject to fine and/or imprisonment. Any violation of this law is an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$750 nor more than \$1000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

In addition to the above remedies, the Village Board may maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law

Section 10.7 Amendments

- A. The Village Board may from time to time on its own motion, or on petition, amend, supplement, or appeal the regulations and provisions of this Law after appropriate public notice and hearing (as provided for in Village Law).
  
- B. Procedure: The Village Board by resolution adopted at a stated meeting shall fix the time and place of public hearing on the proposed amendments and cause notice to be given as follows:
  - 1. By publishing a notice at least ten (10) days prior to the time and place of such hearing in a paper of general circulation in the Village.
  
  - 2. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any city, village, town of county, or within 500 feet of an existing or proposed State or County highway right-of-way shall be given to the clerk of such municipality and referred to the Jefferson County Planning Board for the review and action thereon at least thirty (30) days prior to the date of such hearing. The requirement of this section of Law shall be followed by the Village.

3. Other provisions of adoption, posting, and publication on the amendments, as set forth in Village Law (for adoption of local laws), shall be adhered to.
4. The Village Board shall refer all amendment proposals to the Planning Board for a 20 day (maximum) review and recommendation period, prior to the Village Board action thereon. If the Planning Board does not recommend on the proposal (to the Village Board) within this period it shall be deemed that they have approved the proposal. The Planning Board's recommendation shall be made in writing to the Village Board. The Planning Board's recommendation should consider the amendment and its impact on the intent of the Comprehensive Plan, the Zoning Law and other long range planning concerns of the Village.

#### Section 10.8 Repealer

This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations within the Village of Cape Vincent, and they shall be upon the effectiveness of this Local Law, null and void.

#### Section 10.9 Interpretation and Separability

- A. Interpretation: Interpretation and application, of the provisions of this Law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this Law differ with the requirements of any other lawfully adopted rules or regulations, the most restrictive, or that imposing the higher standards shall govern.
- B. Separability: Should any section or provisions of this Law be decided by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

#### Section 10.10 Effective Date

The provision of this Law shall take effect immediately upon filing with the Secretary of State.

**APPENDIX A**

**VILLAGE OF CAPE VINCENT  
SITE PLAN REVIEW APPLICATION**

The application for site plan approval consists of Parts A and B, an Environmental Assessment Form as required by the State Environmental Quality Review Act (SEQRA), an Agricultural Data Statement, and the payment of application fees.

*Refer to the Village Zoning Law for additional information and Site Plan Review criteria and process.*

**PART A: PROJECT DESCRIPTION**

Provide all information requested to assure a clear understanding of the proposed project. Attach supplemental information if necessary. Incomplete information may render the application incomplete.

1. Applicant(s) name, address, and telephone number:

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2. Owner(s) name, address, and telephone number, if not the same as applicant:

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**3. Describe the proposed use of the site:**

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**4. Project Description: Include photographs, if applicable.**

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**5. Site location:**

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**6. Total site area (square feet or acres):** \_\_\_\_

**7. Tax Map Section**      **Block** \_\_\_\_\_ **Lot** \_\_\_\_\_

**8. Zoning District property is located in:** \_\_\_\_



**9. List below Village/Town, school, county, state, and federal permits/agreements i.e., road access, Department of Health, NYS Uniform Fire & Building Code, D.E.C., PILOTS.**

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**10. Attach a copy of the above-listed permits/agreements.**

**11. Describe infrastructure anticipated: (For example, water, sewer, power, roads)**

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**12. Anticipated construction schedule: \_\_\_\_\_**

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**13. Current land use and condition of the project site (agricultural, commercial, undeveloped, residential, etc.):**

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**14. Character of surrounding area (residential, agricultural, wetlands, etc.):**



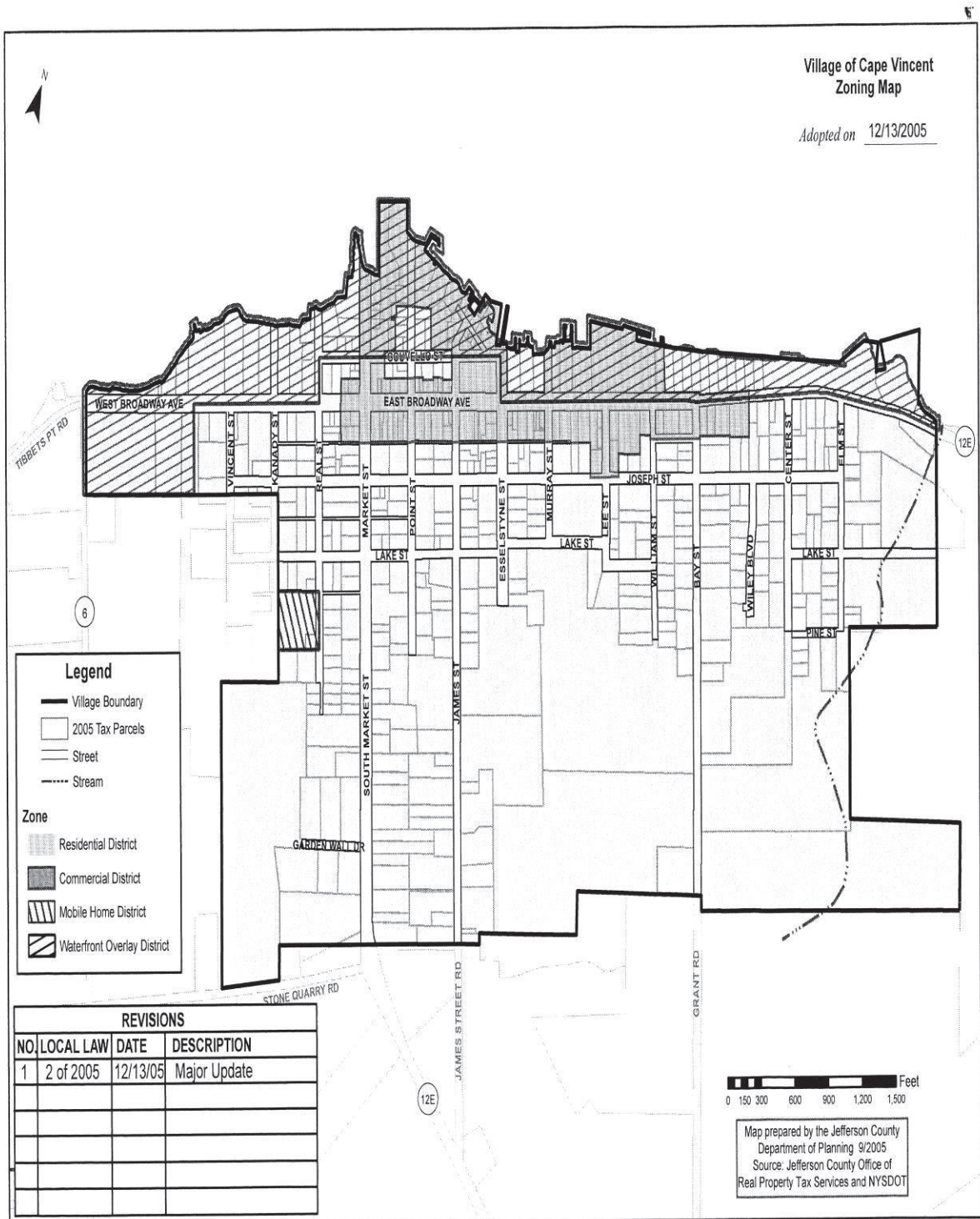
The intent of the site plan review drawing is to show the layout and design of the project on the site. At the pre-submission conference, the Planning Board may require that any or all of the following items be included on the site plan drawings. If no pre-submission conference is held, all of the following items are required on the site plan. Attach supplemental information if necessary.

1. Name of project, name and address of applicant and person responsible for preparing the site plan drawing.
2. Date, North point, written and graphic scale.
3. Boundaries of the project site drawn to scale, including distances, bearings, and areas.
4. Project Tax Map #Section, Block, Lot .
5. Location and ownership of all adjacent lands as shown on the latest tax records.
6. Location, name, width, and right-of-way of adjacent roads.
7. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use.
8. Location, size, and design of the following:
  - a. Existing and proposed structure(s)
  - b. Driveways and parking areas
  - c. Outdoor storage areas
  - d. Sidewalks or pedestrian paths
  - e. Drainage, sewage, and water facilities
  - f. Sign
  - g. Outdoor lighting
  - h. Landscaping or screening
  - i. Snow storage areas
  - j. Lot exclusion area
  - k. Vegetative buffers, screening and/or fencing.
9. Plans for controlling soil erosion and sedimentation during development.
10. Plans for grading and drainage showing existing and proposed contours of five-foot intervals.
11. Designation of the amount of gross floor area and gross leasable area proposed for each non-residential use.

12. Other elements integral to the proposed development as considered necessary by the Planning Board.

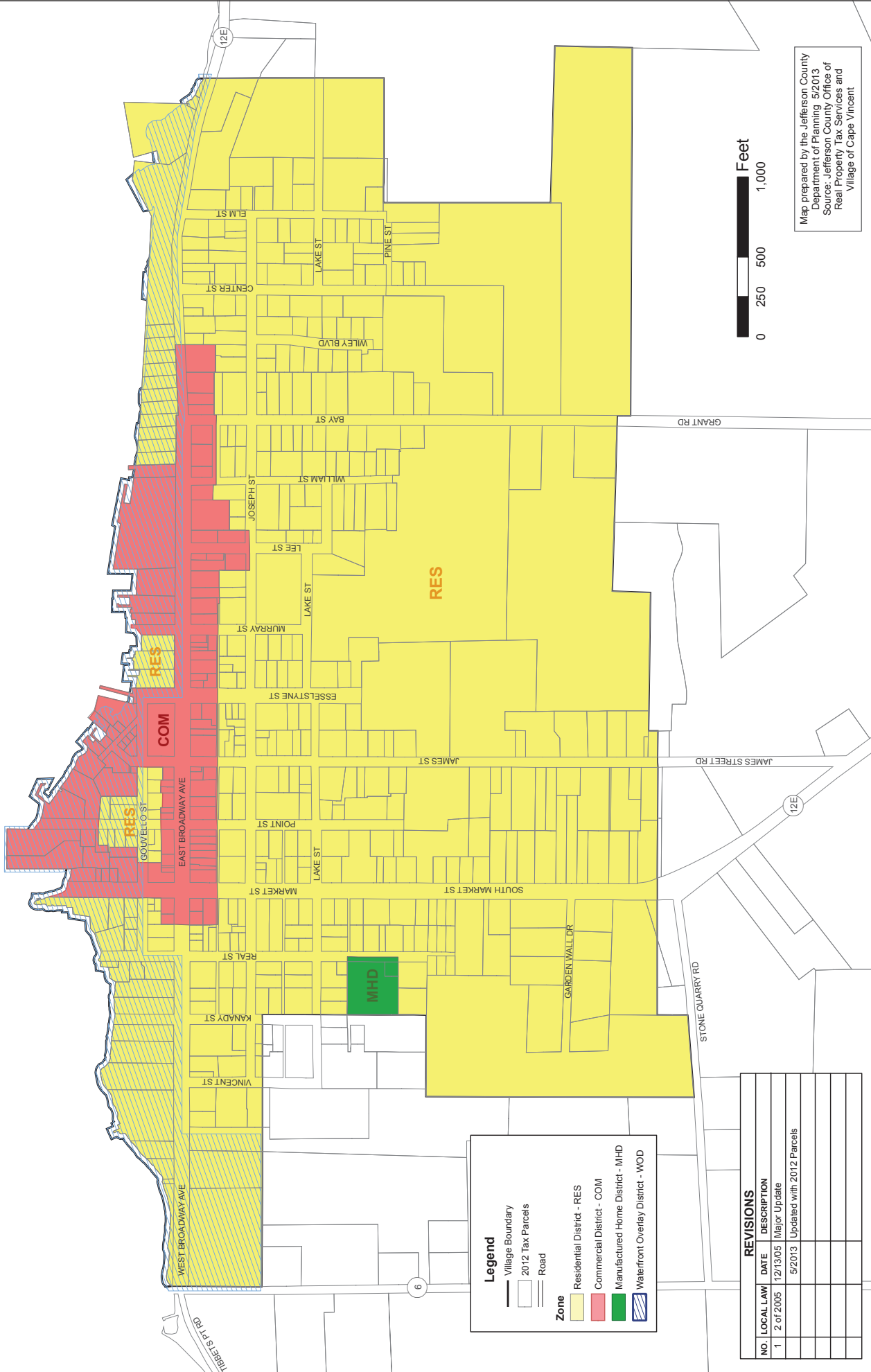
## **APPENDIX B**

**VILLAGE ZONING MAP**



# Village of Cape Vincent Zoning Map

Adopted on 12/13/2005



**Legend**

- Village Boundary
- 2012 Tax Parcels
- Road

**Zone**

- Residential District - RES
- Commercial District - COM
- Manufactured Home District - MHD
- Waterfront Overlay District - WOD



Map prepared by the Jefferson County  
Department of Planning 5/2013  
Source: Jefferson County Office of  
Real Property Tax Services and  
Village of Cape Vincent

REVISIONS			
NO.	LOCAL LAW	DATE	DESCRIPTION
1	2 of 2005	12/13/05	Major Update
		5/2013	Updated with 2012 Parcels

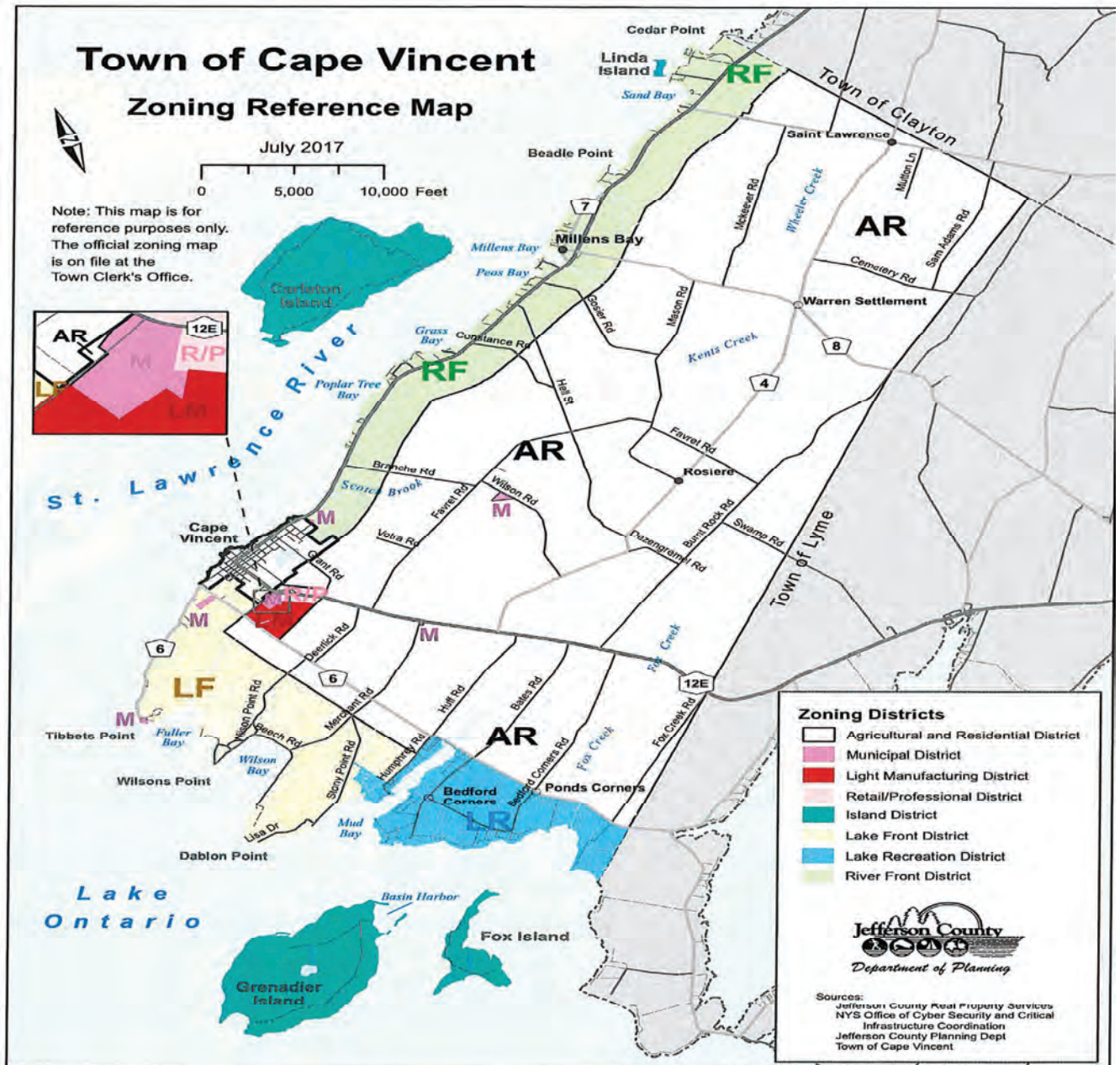
# **Town of Cape Vincent Zoning Law**



# Town of Cape Vincent Zoning Law 1989

- Amended 1991
- Amended 1993
- Amended 1998
- Amended 2012
- Amended 2014

Local Law No. 3, December 19, 2019



# Town Of Cape Vincent Zoning Law

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# Town of Cape Vincent Zoning Law

## **1. INTRODUCTION**

### **1.1 Enacting Clause:**

Pursuant to the laws of the State of New York (Article 16 -Town Law and Municipal Home Rule Law - Section 10) to protect and promote the health, safety, and welfare of the community, the Town Board of the Town of Cape Vincent, NY, hereby enacts this Law. This Law is prescribed to implement "A Joint Comprehensive Plan for the Village and Town of Cape Vincent," as may be amended by the Town of Cape Vincent (Town).

The Village of Cape Vincent is not included in this Law. The zoning requirements of the Village are controlled by the most recent version of the "Village of Cape Vincent Zoning Law." This law may be obtained through the Village office.

### **1.2 Title:**

This Law shall be known and may be cited as the "Town of Cape Vincent Zoning Law" (Law).

### **1.3 Purpose:**

This Law, in conjunction with "A Joint Comprehensive Plan for the Village and Town of Cape Vincent," (the "Plan") is designed to protect the health, welfare, and safety of the Town's citizens while encouraging growth through the logical, orderly development of the land within the Town, while maintaining the character of the Town and long-term growth objectives as laid out in the Plan.

It is intended that this will be accomplished through the following actions:

1. All Members of the Boards created by this Law and the Zoning Enforcement Officer, whose position is also created by this Law shall abide by the Code of Ethics for the Town of Cape Vincent and as may be adopted and/or revised by the Town Board.
2. This Law supersedes all commercial, industrial, and private agreements affecting any aspect of this Law, except as specified in this Law.
3. Maintain/update Land Use Regulations based upon experience derived from previous versions of the Law. To promote and encourage future development in the Town that will not adversely affect either the health, welfare, or wellbeing of its residents or adversely impact the lands in the Town and their natural resources.
4. Provide a flexible system of land-use regulation that enables the Town to grow while preserving its unique features, natural resources, natural character, historical sites, agricultural importance, rural character, destination for vacationers and seasonal residents, tourism, and recreation.
5. Minimize the adverse environmental impacts of development, especially in visually and environmentally sensitive areas such as scenic view sheds, stream

corridors, waterfronts, wetlands, floodplains and active farmlands. (Section 1.5, "Unique Features")

6. Ensure adequate services to Town residents, inclusive of transportation, water, sewage systems, schools, fire, police, and other facilities.
7. Preserve and enhance real property values and protect private property rights and enjoyment of landowners.
8. Regulate commercial, industrial, and other non-residential uses in a manner that is sensitive to the community and provide freedom for economic use of the land, provided that such uses are not harmful to neighboring property values, health, welfare and safety of the residents.
9. Provide a variety of housing opportunities in an effort to encourage affordable housing.
10. Protect residences from nuisances, odors, noise, light pollution, and other unsightly obtrusive and offensive land uses and activities.
11. Encourage the use of alternative energy systems that are not in conflict with any of the other purposes stated in Section 1.3, "Purpose."

**1.4 SEQR (State Environmental Quality Review)**

The Town of Cape Vincent shall be an involved agency in all aspects of the SEQR process.

**1.5 Unique Features:**

The Town of Cape Vincent possesses unique features that require special consideration when applying land-use regulations. See "A Joint Comprehensive Plan for the Village and Town of Cape Vincent" (the "Plan") when applying this Law.

**1.6 Enacting Date:**

Law shall be enacted upon filing with the Secretary of State.

**1.7 Periodic Review:**

This Law is intended to reflect the general intent and spirit of the Plan at any given time. Similarly, it should be reviewed no less frequently than every five years to reflect warranted changes over time. This does not preclude adding an amendment to the Law as may be determined by the Town Board.

**1.8 Separability:**

Should any Section or provision of this Law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**1.9 New York State Certified Agricultural District:**

This Law recognizes that farm operations as defined in NYS Agriculture and Markets Law §301, subdivision 11, authorizes certain benefits to farm operations that are registered certified agricultural, Jefferson County's North Agricultural

District No. 2. However, landowners within certified agricultural districts are not exempted from provisions of this Law for non-farm operations.

## **2. ESTABLISHMENT OF ZONING DISTRICTS**

### **2.1 Districts:**

- 2.1.1 Lake Front (LF)
- 2.1.2 Lake Recreation (LR)
- 2.1.3 River Front (RF)
- 2.1.4 Agricultural Residential (AR)
- 2.1.5 Light Manufacturing (LM)
- 2.1.6 Retail/Professional (RP)
- 2.1.7 Islands (I)
- 2.1.8 Municipal (M)

### **2.2. Adoption of Town of Cape Vincent Zoning Map:**

The boundaries of each district established by this Law are delineated by the map entitled, "Zoning Map, Town of Cape Vincent, New York," dated with the effective date of this Law and filed with the Town Clerk. The Map may use the district abbreviations as shown in Section 2.1, "Districts." This map is hereby adopted and declared to be part of this Law. (Appendix 1, Zoning Map.)

### **2.3. Interpretation of Zoning District Boundaries:**

Where uncertainties exist as to the boundaries of districts shown on the zoning map, the following rules apply:

1. Boundaries on streets and roads shall be construed to follow the center line of state, county, and municipal streets and roads.
2. Boundaries along lot lines shall be construed to follow the lot lines.
3. Boundaries indicated to follow shorelines of streams, river fronts and lake fronts shall be construed to follow the natural occurring mean high-water elevation of 247.30 feet above sea level as determined by US Army Corps of Engineers based on 1985 International Great Lakes Datum. For purposes of this Law, artificially constructed harbors, docks, and boat slips are not naturally occurring.
4. Where a zoning district boundary splits a lot of record, each portion of the lot shall be controlled by the regulations of the district in which it resides
5. Where uncertainty exists with respect to the exact location of the boundary of a district as shown on the map, the Town Zoning Enforcement Officer shall determine said boundary.

### 3. **DISTRICT REGULATIONS**

#### 3.1 **Lake Front District (LF)**

1. Intent:  
The Town recognizes that one of its most valuable, natural, and developed resources is its waterfront along Lake Ontario and the mouth of the Saint Lawrence River. To protect this land from development, other than residential, to promote and attract more high-quality residential development, and to preserve the natural and scenic environment in these areas, the Town has established a Lake Front District.
2. Lot Requirements: **(Table No.1)**

<b>Table 1</b>	<b>Area Minimum</b>	<b>Frontage Minimum</b>	<b>Setbacks Minimum</b>			<b>Height Maximum</b>	<b>Open Space Minimum</b>
			Front	Side	Rear		
<b>USE</b>							
<b>Permitted</b>	3/4 Acre	100'	40'	15'	25'	35'	35%
<b>Pre-Existing, non-conforming</b>	Less than ¾ acre	Less than 100'	40'	10'	25'	35	35%
<b>Multi-family</b>	½ Acre/Unit	200'	40'	50'	25'	35'	35%
<b>Other Site Plan</b>	One (1) Acre	100'	40'	25'	25'	35'	35%

3. Waterfront Lot:  
Any waterfront lot must have a minimum of 100' of water frontage and 100' of rear lot width and deeded or Home Owners' Association access to be considered a buildable lot.
4. Lot Utilization Area:  
This area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/confirmed at the boundary of this area.
5. Lot Exclusion Area:  
This area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening, and ingress and egress driveways. No structures or commercial parking are permitted within this area.
6. Lot Uses:  
The allowable uses for lots in the Lake Front District are shown in Table 8.
7. Setbacks are measured on a horizontal line from the edge of road right-of-way and/or property line as appropriate. For private roads, the measurement shall be to the edge of the roadway.



### 3.2 Lake Recreation District (LR)

1. Intent:

The area from Mud Bay south to the Town line is occupied by existing marinas, campgrounds, manufactured (mobile) home parks, residential structures of all types, a restaurant, and safe harbors for fishing and boating enthusiasts. The Town recognizes the need for a district along the lake front for recreational, commercial, and various types of residential uses with less development restrictions than the remainder of the lake front. The shorelines of this area are nearly 100 percent developed. The number of dwelling units, lot sizes, manufactured (mobile) home parks, and commercial development is of concern due to the shallow waters and shallow soils. Therefore, in addition to permitted uses, Site Plan Review and Special Use Permit uses have been established to ensure that any further development or redevelopment in this District will not cause undesirable environmental impacts.

2. Lot Requirements: **(Table No. 2)**

Table 2 USE	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum	Open Space Minimum
			Front	Side	Rear		
<b>Permitted</b>	3/4 Acre	100'	40'	15'	25'	35'	35%
<b>Pre-Existing, non-conforming</b>	Less than ¾ acre	Less than 100'	40'	10'	25'	35'	35%
<b>Multi-family</b>	½ Acre/Unit	200'	40'	50'	25'	35'	35%
<b>Commercial</b>	One (1) Acre	200'	40'	50'	25'	35'	35%
<b>Other Site Plan</b>	One (1) Acre	100'	40'	25'	25'	35'	35%

3. Waterfront Lot:

Any waterfront lot must have a minimum of 100' of water frontage and 100' of rear lot width and deeded or Home Owners' Association access to be considered a buildable lot.

4. Lot Utilization Area:

The area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/confirmed at the boundary of this area.

5. Lot Exclusion Area:

The area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening, and ingress and egress driveways. No structures or commercial parking are permitted within this area.

6. Lot Uses:

The allowable uses for lots in the Lake Recreational are shown in Table 8.

7. Setbacks are measured on a horizontal line from the edge of road right-of-way and/or property line as appropriate. For private roads, the measurement shall be to the edge of the roadway.

### 3.3 River Front District (RF)

1. Intent:

The Town recognizes that New York State Route 12E along the St. Lawrence River is a major route in the Town and is designated as a scenic byway (Seaway Trail) and provides immediate visual and physical access to the river front. The Town wishes to provide opportunities for both commercial and residential development in this district; however, commercial development must be of high-quality design and is, therefore, subject to Site Plan Review procedures. Any residential development should have a permanent year around appearance along this major tourist route. Manufactured (mobile) homes will be provided for in manufactured (mobile) home parks, which will be controlled through Site Plan Review procedures.

The River District consists of all properties on the river side of Rte. 12E (North) and follows the natural occurring mean high-water elevation of 247.3 feet above sea level as determined by the Army Corps of Engineers based on 1985 International Great Lakes Datum. The district also extends inland from Rte. 12E (South) 1000 feet.

2. Lot Requirements: **(Table No. 3)**

Table 3 USE	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum	Open Space Minimum
			Front	Side	Rear		
<b>Permitted</b>	3/4 Acre	100'	40'	15'	25'	35'	35%
<b>Pre-Existing, non- conforming</b>	Less than ¾ acre	Less than 100'	40'	10'	25'	35'	35%
<b>Multi-family</b>	½ Acre/Unit	200'	40'	50'	25'	35'	35%
<b>Commercial</b>	One (1) Acre	300'	40'	50'	25'	35'	35%
<b>Other Site Plan</b>	One (1) Acre	100'	40'	25'	25'	35'	35%

3. Waterfront Lot:

Any waterfront lot must have a minimum of 100' of water frontage and 100' of rear lot width and deeded or Home Owners' Association access to be considered a buildable lot.

4. Lot Utilization Area:

The area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/confirmed at the boundary of this area.

5. Lot Exclusion Area:

The area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening, and ingress and egress driveways only. No structures or commercial parking are permitted within this area.

6. Lot Uses:

The allowable uses for lots in the River Front District are shown in Table 8.

7. Setbacks are measured on a horizontal line from the edge of road right-of-way and/or property line as appropriate. For private roads, the measurement shall be to the edge of the roadway.

### 3.4 Agricultural Residential District (AR)

1. Intent:  
The large, open spaces in the central area of the Town are primarily used for agriculture of various types, rural residential, and several non-agricultural businesses. This area lends itself to various types of future development. The Town wishes to promote active farming and other development in this area that preserves the District’s rural character.
2. Lot Requirements: (**Table No. 4**)

Table 4 USE	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum	Open Space Minimum
			Front	Side	Rear		
<b>Permitted</b>	3/4 Acre	100’	40’	15’	25’	35’	35%
<b>Pre-Existing, non- conforming</b>	Less than ¾ acre	Less than 100’	40’	10’	25’	35	35%
<b>Multi-family</b>	½ Acre/Unit	200’	40’	50’	25’	35’	35%
<b>Commercial</b>	One (1) Acre	300’	40’	75’	25’	35’	35%
<b>Other Site Plan</b>	One (1) Acre	200’	40’	50’	25’	35’	35%

3. Waterfront Lot:  
Any waterfront lot must have a minimum of 100’ of water frontage and 100’ of rear lot width and deeded or Home Owners’ Association access to be considered a buildable lot.
4. Lot Utilization Area:  
This area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/ confirmed at the boundary of this area.
5. Lot Exclusion Area:  
This area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening, and ingress and egress driveways only. No structures or commercial parking are permitted within this area.
6. Lot Uses:  
Allowable uses for lots in the Agricultural Residential Dist. are in Table 8.
7. Setbacks are measured on a horizontal line from the edge of road right-of-way and/or property line as appropriate. For private roads, the measurement shall be to the edge of the roadway.

### 3.5 Light Manufacturing District (LM)

1. Intent:  
The Town recognizes a need to attract business that would create a high number of jobs relative to the amount of space needed for development. Examples of light manufacturing businesses are similar to those in industrial parks that exist in Jefferson County and the City of Watertown, NY. The location of this District is convenient to transportation routes, municipal water, and three-phase power. Therefore, the permitted uses in this District are more extensive than those in other districts resulting in a more efficient permitting process.
2. Lot Requirements: **(Table No. 5)**

Table 5 USE	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum	Open Space Minimum
			Front	Side	Rear		
<b>Permitted</b>	Two (2) Acres	250'	50'	50'	50'	35'	35%
<b>Special Permit</b>	One (1) Acre	100'	50'	25'	50'	35'	35%

3. Heights:  
Heights in excess of 35 feet in the Light Manufacturing District require an area variance.
4. Lot Utilization Area:  
This area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/ confirmed at the boundary of this area.
5. Lot Exclusion Area:  
This area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening and ingress and egress driveways only. No structures or commercial parking are permitted within this area.
6. Lot Uses:  
Allowable uses for lots in the Light Manufacturing District are in Table 8.
7. Setbacks are measured on a horizontal line from the edge of road right-of-way and/or property line as appropriate. For private roads, the measurement shall be to the edge of the roadway.

### 3.6 Retail/Professional District (RP)

1. Intent:  
The Town recognizes the potential for retail/professional development from the Village line south along New York State Route 12E and a need to enable development without negatively impacting scenic views. New

York State Route 12E is a designated scenic byway (Seaway Trail), portions of which provide visual and physical access to the Saint Lawrence River. The Retail/Professional regulations will allow development without significantly impacting the scenic byway.

2. Lot Requirements: **(Table No. 6)**

<b>Table 6</b>	<b>Area Minimum</b>	<b>Frontage Minimum</b>	<b>Setbacks Minimum</b>			<b>Height Maximum</b>	<b>Open Space Minimum</b>
<b>USE</b>			Front	Side	Rear		
<b>Retail/Professional</b>	Two (2) Acres	300'	75'	75'	75'	35'	35%

3. Lot Utilization Area:  
This area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/ confirmed at the boundary of this area.
4. Lot Exclusion Area:  
This area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening and ingress and egress driveways only. No structures or commercial parking are permitted within this area.
5. Lot Use:  
The allowable uses for lots in Retail/Professional are shown in Table 8.
6. Setbacks are measured on a horizontal line from the edge of road right-of-way and/or property line as appropriate. For private roads, the measurement shall be to the edge of the roadway.

**3.7 Islands District (I)**

1. Intent:  
The Islands District consists of five islands within the boundaries of the Town of Cape Vincent. They include Grenadier, Little Grenadier, Fox, Carleton, and Linda Islands. Carleton and Grenadier Islands have historic areas of interest as confirmed by the New York State Office of Parks, Recreation, and Historic Preservation. As such, land use on or near any area of historic interest will be taken into consideration during the approval process. This district represents the most distinctive land-use zone within the Town. Residents of the Islands District have a unique property and living arrangement; one that is both unconventional and independent. Residents do not want or need elaborate infrastructure development. The land-use plan for this District is focused principally on encouraging quality residential development with some capacity for limited, controlled commercial development, for example, restaurant, hotel, bed and breakfast.

2. Lot Requirements: (**Table No. 7 and 7.1**)

<b>Table 7 Islands &gt; 10 acres</b>	<b>Area Minimum</b>	<b>Frontage Minimum</b>	<b>Setbacks Minimum</b>			<b>Height Maximum</b>
<b>USE</b>			Front	Side	Rear	
<b>Permitted</b>	Five (5) Acres	300'	200'	50'	50'	35'
<b>Special Use Permit</b>	Five (5) Acres	300'	200'	50'	50'	35'

<b>Table 7.1 Islands ≤ 10 acres</b>	<b>Setbacks Minimum</b>			<b>Height Maximum</b>
<b>USE</b>	Front	Side		
<b>Permitted</b>	100'	30'		35'

Footnote: Table No. 7: Carlton and Grenadier Islands are composed respectively of 1,792 and 1,290 acres in size.

Table No. 7.1: Linda Island is 7.19 acres in size.

3. Lot Utilization Area:  
This area, bounded by the setback lines, is the only area on a lot that may be built upon. All use requirements, such as lighting etc., are measured/confirmed at the boundary of this area.
4. Lot Exclusion Area:  
This area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping and screening, and ingress and egress driveways. No structures or commercial parking are permitted within this area.
5. Lot Uses:  
The allowable uses for lots in the Islands District are shown in Table 8.
6. Boathouses:  
Boathouses shall be a maximum of one story, 25 feet in height from the mean high-water mark established by the U.S. Army Corp of Engineers.
7. Telecommunications Tower:  
Subject to the regulations of the Federal Communications Commission (FCC) the maximum height for a telecommunications tower is 50 feet.
8. Setbacks are measured on a horizontal line from the edge of road right-of-way and/or property line as appropriate. For private roads, the measurement shall be to the edge of the roadway.

**3.8 Municipal District:**

1. Intent:  
Throughout the Town there are properties used for municipal or governmental purposes. In that these properties are located within the

boundaries of established zoning district, the Town recognizes that applicants should be made aware of the location of these properties to eliminate any confusion about land uses on municipal properties. Private development is prohibited in the Municipal District unless under certain unusual and/or unavoidable circumstances development on municipal sites would be in the best interest of the health, safety, and welfare of the Town's residents. In such cases, a variance would be required from the Zoning Board of Appeals.

#### 4. **LOT USES**

##### 4.1 **Use Per Lot:**

Only one principal use per lot shall be permitted in all districts. Accessory uses must be compatible with and supportive of the principal use.

##### 4.2 **District Uses:**

Allowable uses shall be as shown in **Table No 8.**

**LF** – Lake Front

**LR** – Lake Recreation

**RF** – River Front

**AR** – Agricultural Residential

**LM** – Light Manufacturing

**RP** – Retail/Professional

**I** – Islands

**M** – Municipal

**Table No. 8 – ALLOWABLE USES**

**(Refer to Text of Law for Detailed Information)**

**P**–Permitted (Permit May Be Required)      **S**–Site Plan Review      **SU**–Special Use Permit  
**X**–Not Allowed      \***SFR**–State and Federal Regulations and Cape Vincent Zoning Law  
 \*\* except Linda Island which is not allowed

<b>DISTRICT</b>	<b>LF</b>	<b>LR</b>	<b>RF</b>	<b>AR</b>	<b>LM</b>	<b>RP</b>	<b>I</b>	<b>M</b>
Adult Use	X	X	X	X	SU	X	X	X
Agricultural/Non-Certified	S	S	S	P	S	S	P	X
Agricultural/NYS Certified District	P	P	P	P	P	P	P	X
Animal (Concentrated) Feed Lot	X	X	X	S	X	X	X	X
Automobile Service/Repair/Sales	X	X	SU	SU	SU	SU	X	X
Bar/Tavern	X	S	S	S	S	S	SU	X
Bed and Breakfast	S	S	S	S	X	S	SU	X
Boathouse - <b>SFR</b>	*	*	*	*	*	*	*	*
Cabins	P	P	P	P	X	X	P	X
Cemetery	S	S	S	S	X	X	S	X
Commercial	X	S	S	S	S	S	SU	X
Correctional/Detention Facility	X	X	X	S	X	X	X	X
Daycare Facility (Adult or Child)	S	S	S	S	X	S	SU	X
Dock (Covered) - SFR	*	*	*	*	*	*	*	*
Education Facility	X	SU	SU	S	S	S	SU	X

Electrical Power Transmission Tower	SU	SU	SU	SU	SU	SU	SU	X
<b>DISTRICT</b>	<b>LF</b>	<b>LR</b>	<b>RF</b>	<b>AR</b>	<b>LM</b>	<b>RP</b>	<b>I</b>	<b>M</b>
Elevated Water Storage and Pressure Regulation Facilities (EWSPRF)	X	X	X	S	S	X	X	P
Commercial Animal Slaughtering/Rendering	X	X	X	SU	SU	SU	X	X
Government Facility	S	S	S	S	S	S	S	P
Healthcare Facility	S	S	S	S	S	S	X	X
Home Occupation	P	P	P	P	P	P	P	X
Hostel	S	S	S	S	X	X	SU	X
Hotel/Motel/ Rental Dwelling Unit	X	S	S	S	X	SU	SU	X
Kennel	X	X	X	S	X	X	X	X
Manufactured Homes (Mobile)	X	P	P	P	X	X	X	X
Seasonal Home Park (Manufactured Homes/Cabins)	X	X	X	S	X	X	X	X
Existing Seasonal Home Park (Manufactured code compliant cabins)	S	S	S	S	X	X	X	X
Manufactured (Mobile) Home Park (Permanent)	X	X	X	S	X	X	X	X
Manufacturing – Light	X	X	X	S	S	X	X	X
Marina	X	SU	SU	X	X	X	X	X
Meteorological Tower	X	X	X	S	X	X	X	X
Mining/Quarry Operation	X	X	X	SU	X	X	X	X
Modular Home	P	P	P	P	P	X	P	X
Multi-Family/Household Dwelling	S	S	S	S	X	S	SU	X
Nursery	X	X	S	P	X	S	X	X
Office – General	X	X	P	P	P	S	X	S
Recreational Resort	X	SU	SU	SU	X	X	SU	X
Recreational Vehicles	X	P	P	P	X	X	X	X
Recreational Vehicle(s) & Watercraft Storage Facility	X	SU	SU	SU	SU	X	X	X
Religious Use	S	S	S	S	X	S	S	X
Residential Garage	P	P	P	P	P	P	P	X
Restaurant/Inn	X	S	S	S	S	S	SU	X
Retail	X	S	S	S	S	S	SU	X
Salvage/Scrap Yard	X	X	X	S	SU	X	X	X
SECS Tier 1 Residential	S	S	S	S	S	S	S	X
SECS Tier 2 Residential	S	S	S	S	S	S	S	X
SECS Tier 3A $\leq 25$ KW but $> 25$ MW	X	X	X	S	X	X	X	X
SECS Tier 3B $\leq 25$ MW	X	X	X	S	SU	X	X	SU
Self-Storage Facility	X	X	X	S	S	S	X	X
Single-Family/Household Dwelling	P	P	P	P	P	X	P	X
Storage Shed	P	P	P	P	P	P	P	X
Telecommunication Tower(s)	X	X	X	S	S	X	SU	X
Utility	SU	SU	SU	SU	SU	SU	SU	X
Veterinary Practice	X	S	S	S	X	S	X	X
WECS – Industrial $> 60$ kw	X	X	X	SU	X	X	X	X
SWECS –Agricultural/Commercial	X	X	X	S	X	X	SU	X



> 10 to ≤ 60kw								
<b>DISTRICT</b>	<b>LF</b>	<b>LR</b>	<b>RF</b>	<b>AR</b>	<b>LM</b>	<b>RP</b>	<b>I</b>	<b>M</b>
SWECS – Residential ≤ 10kw	SU	SU	SU	S	SU	SU	SU **	X
Workshop/Studio Building	P	P	P	P	P	P	P	X

### 4.3 Prohibited Uses:

In order to protect the scenic beauty of the Town and the safety, health, and welfare of its residents, the following uses are prohibited:

1. Water-based, floating uses such as, but not limited to, casinos and/or floating domiciles. This does not include yachts or houseboats moored in established public or commercial marinas.
2. The manufacture and storage of hazardous materials in commercially saleable quantities is prohibited. The classes of materials prohibited are but not limited to:
  - a. Manufacture of explosives, including fireworks.
  - b. Manufacture of pyrophoric powder metals.
  - c. Manufacture of toxic gases, such as acetylene, ammonia, chlorine.
  - d. Manufacture or storage of corrosive and toxic chemicals in commercial saleable quantities. This category includes but is not limited to: strong acids (sulfuric, nitric, hydrochloric, hydrofluoric, etc.), bases (caustic soda, etc.)
  - e. Landfills, dumps and trash/refuse incinerators are prohibited unless leased, owned, or operated by the Town or operated pursuant to license or other agreement with the Town.
  - f. Reclamation and treatment of industrial waste.
  - g. Exploration and extraction of gaseous and liquid hydrocarbons. This includes, but is not limited to, hydraulic fracturing or current state-of-the-art extraction processes.
  - h. Junkyards.

## 5. ADMINISTRATION AND ENFORCEMENT

### 5.1 Zoning Permits:

1. Intent:  
Permits are required to ensure that the Zoning Laws are followed for the health, safety, and welfare of the residents of the Town.

2. No building or structure shall be erected, enlarged, or land use initiated until a Zoning Permit and required county, state, and/or federal permits have been issued. The exterior structure area of a building shall not be enlarged until a Zoning Permit has been issued.
3. Zoning Permit applications may be obtained from the Town Clerk or the Zoning Enforcement Officer. (Appendix 3, Zoning Permit Application.) By requesting a permit, the applicant grants members of the Town's Zoning Board of Appeals, Planning Board, and the Zoning Enforcement Office permission to go on their property.
4. A Zoning Permit shall not be required for:
  - a. Interior structural alterations.
  - b. Routine maintenance and improvements where the exterior dimensions of the structure are not changed. Examples include: new roof, window replacement, siding replacement, etc.
  - c. Chimneys, placements of posts, and similar ancillary uses.
5. When measuring to establish proper siting within the lot utilization area, the extremities of the structures shall be used. This includes cornices, eaves, overhangs, carports, garages, decks, porches, etc.
6. No Zoning Permit or Certificate of Zoning Compliance shall be issued for any project that is not in compliance with the provisions of this Law.
7. A Zoning Permit shall expire 12 months from the date of issue unless substantial progress has been made toward carrying out the terms of the Zoning Permit. The applicant shall have two years to complete the terms of the Zoning Permit or all work shall cease at the site. An extension may be allowed by the Zoning Enforcement Officer upon proof of necessity submitted by the applicant due to conditions unusual or beyond the control of the applicant.
8. Applications for Zoning Permits shall be submitted to the Zoning Enforcement Officer or the Town Clerk and shall include two (2) copies of a drawing (layout or lot plan) showing the lot to be built upon, Lot Utilization Area, and the size and location within the Lot Utilization Area of the current and proposed structures. The drawing shall be to scale, neat, legible, and shall include actual dimensions, right-of-ways, streams, power lines, and other unique features of the lot.

In addition, the applicant shall stake the corners of the project and indicate the distance to the nearest property line. This information together with a completed Zoning Permit Application shall be forwarded to the Zoning Enforcement Officer.

9. Temporary Permits:
  - a. Intent: The Town recognizes a need to enable short-term uses that do not conform to this Law such as but not limited to:

temporary field construction offices, construction material storage structures, construction material lay-down areas, or shelter needs resulting from emergencies. Applicants should not expect repeated renewal of temporary permits unless it can be proved that the need could not have been avoided.

- b. Temporary Permits may be issued by the Zoning Enforcement Officer, upon approval by the Planning Board for a period not to exceed six months, for conforming and nonconforming uses. Such Temporary Permits are conditioned upon agreement by the owner or operator to remove the nonconforming structures or equipment upon expiration of the Temporary Permit or to bring the use into compliance by the specified time. Temporary Permits may be renewed upon approval of the Planning Board.

## **5.2 Zoning Enforcement Officer:**

- 1. This Law shall be enforced by the Zoning Enforcement Officer, who shall be hired by the Town Board.
- 2. The Zoning Enforcement Officer shall be the initial point of contact for all zoning matters and the Officer's authorities shall include but are not limited to:
  - a. Approve, reissue, and/or deny zoning permits.
  - b. Issue and/or withhold Certificates of Zoning Compliance.
  - c. Revocation of a Zoning Permit where there is false, misleading, or missing information.
  - d. Revocation of a Certificate of Zoning Compliance when the work performed was not as specified or proposed in the Zoning Permit.
  - e. The Zoning Enforcement Officer shall be responsible for enforcement pursuant to Section 5.8, Violations and Penalties, of this Law.
  - f. Ensure that the appropriate zoning permits have been issued within the Town of Cape Vincent.
  - g. By requesting a permit, the applicant grants Town officials to go on their property.
  - h. The Zoning Enforcement Officer shall submit a report with the number of Zoning Permits and Certificates of Zoning Compliance issued, fees collected, and complaints received at each regular Town Board Meeting.
  - i. The Zoning Enforcement Officer shall attend all Zoning Board of Appeals meetings and, when requested, Planning Board meetings.

- j. A complaint resulting from an action by the Zoning Enforcement Officer should be submitted to the Town Board in writing.
- 3. Instructions to Applicant: Appendix 2, Instructions to Applicant, as prescribed from time to time by the Town Board and/or the Planning Board.

### **5.3 Zoning Board of Appeals:**

- 1. Creation, appointment, and organization:  
The Zoning Board of Appeals (ZBA) shall consist of five (5) regular members and two (2) alternate members. The Town Board shall appoint the members of the ZBA on a staggered basis in conformance with the Town Law. The Town Board shall appoint the Chair. In the absence of a Town Board decision, the Zoning Board of Appeals shall elect a Chair. The ZBA shall establish and abide by By-laws.
- 2. Powers and Duties:  
The Zoning Board of Appeals shall have all the powers and duties prescribed by Sections 267A and 267B of the Town Law and by this Law.
  - a. Authority:  

Hearing Appeals: Unless otherwise provided by local law or ordinance, the jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirements, decision, interpretation, or determination made by the administrative official charged with the enforcement of any ordinance or local law adopted pursuant to this article. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board, or bureau of the Town.

The Zoning Board of Appeals is empowered to interpret and rule on all requests from elected and appointed Boards of the Town regarding the Zoning Law.
  - b. Use Variance:
    - 1) Intent:  
To authorize a use of the land and/or structure which otherwise would not be allowed or would be prohibited by the terms of the local law.
    - 2) The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Enforcement Officer, shall have the power to grant Use Variances.

- 3) No such variance shall be granted by the Zoning Board of appeals without the applicant showing that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that:
  - [a] The Applicant cannot realize a reasonable return on his/her investment as demonstrated by competent financial evidence;
  - [b] That the hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
  - [c] That the requested Use Variance, if granted, will not alter the essential character of the neighborhood; and
  - [d] That the hardship has not been self-created.
- 4) The Zoning Board of Appeals, in granting a Use Variance, shall grant the minimum variance that it shall deem necessary and adequate to address the hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and health, safety, and welfare of the community.

c. Area Variance:

- 1) Intent:

The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Enforcement Officer, to grant an Area Variance from the area or dimensional requirement of this Law.
- 2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by granting such variance. In making such a determination, the Board shall also consider:
  - [a] Whether an undesirable change will be produced in the character of the neighborhood or create a detriment to nearby properties by granting the Area Variance.
  - [b] Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an Area Variance.
  - [c] Whether the requested Area Variance is substantial.

- [d] Whether the proposed Area Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
  - [e] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the Area Variance.
  - [f] The location, size, and flow direction of existing sewers, water supply lines and culverts, major electric gas, and telephone lines.
- 3) The Zoning Board of Appeals, in granting Area Variances, shall grant the minimum variance that it deems necessary and adequate, and at the same time, preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
- d. Imposition of Special Conditions:  
The Zoning Board of Appeals shall, in granting any type of variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- e. Special Use Permit:
- 1) Intent:  
The intent of the Special Use Permit is to set forth additional requirements which shall apply to certain land uses and activities which, due to their characteristics or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character.
  - 2) Compliance:  
All applications must comply with the following conditions. Additional requirements for certain uses that require a Special Use Permit are found in Table 8.
  - 3) Purpose of Review:  
The primary purpose of Special Use Permit review is to assess the long-term impact of the proposed use on the area and the Town and to ensure compatibility of the use

with the surrounding area and consistency with "A Joint Comprehensive Plan for the Village and Town of Cape Vincent."

- 4) Special Use Permit Application Procedure:  
A Special Use Permit review and approval shall be undertaken by the Zoning Board of Appeals. When the Zoning Board of Appeals approves a Special Use Permit, The Planning Board will then conduct a Site Plan Review. The Planning Board is responsible for all items outlined in the Site Plan Review procedure in this Law (Section 5.4, paragraph 6).
- 5) Issuance:  
The Zoning Board of Appeals shall approve a Special Use Permit if it determines the proposed use will satisfy the standards set forth herein. In approving a Special Use Permit, the Zoning Board of Appeals may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Zoning Board of Appeals does not make a positive finding in support of the Special Use Permit, it shall deny the Special Use Permit.
- 6) Standards of Review:  
The record of the Zoning Board of Appeals must address the standards outlined below and include the facts and reasons upon which such approval or denial was based:
  - [a] The proposed use must not be more objectionable to nearby properties by reason of noise, odors, vibration, dust, illumination, or other potential nuisance than the operation of any allowed use in the particular district.
  - [b] Compatibility of the proposed use with adjoining properties and with the natural and man-made environment. When reviewing business uses, the relationship of the size of the parcel to the intensity of the commercial use and the size of the building shall be a relevant consideration.
  - [c]) Adequacy of parking, vehicular circulation, and infrastructure for the proposed use, and its accessibility to fire, police, and emergency vehicles.
  - [d] Restrictions and/or conditions on design of structures or operation of the use, including hours of operation and noise, necessary either to ensure compatibility with the surrounding uses or to protect the natural or scenic resources of the Town.

[e] Compatibility with the traditional or historic character and use of the structure or structures and the traditional or historic character of the site and the surrounding area.

f. Limitations:  
A Special Use Permit shall authorize only the particular special use or uses specified therein.

g. Expiration:  
A Special Use Permit will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the Special Use Permit (unless other provisions are set forth by the Planning Board in connection with its approval) within one (1) year after approval.

h. Revocation:  
A Special Use Permit will expire if the special use or uses shall cease for any reason for more than 18 consecutive months.

i. Enforcement:  
A Special Use Permit may be revoked by the Zoning Enforcement Officer if, after notice to the holder of the permit and an opportunity for hearing, it is determined that the conditions of the Special Use Permit are violated.

Any violation of the conditions of a Special Use Permit or a violation of any applicable performance criteria of this Section shall be deemed a violation of this Law and shall be subject to enforcement action as provided therein.

j. Transferability:  
All Special Use Permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and/or it is not revoked for failure to meet the permit conditions.

3. Procedure:

a. Meetings, minutes, records:  
Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers' Law. The Zoning Board of Appeals shall keep minutes of its proceeding showing the vote of each member upon every question, or if absent or failing to vote indicating such fact, and



shall also keep records of its examinations and other official actions.

The original copy of all minutes and records shall be retained in the Town offices. This retention may be either hard copy or electronic. In either case, they shall be held in a secure place and shall be readily accessible to authorized personnel.

- b. **Filing Requirements:**  
Every rule, regulation, amendment, or repeal thereof, and every order requirement, decision, or determination of the Zoning Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days of the action.
- c. **Assistance to the Zoning Board of Appeals:**  
The Zoning Board of Appeals shall have the authority to call upon any department, agency, or employee of the Town for such assistance as shall be deemed necessary. Subject to budgetary allocations adopted by the Town Board, the Zoning Board of Appeals shall have the power and authority to employ experts, clerks, and a secretary and to pay for their services. The ZBA has the authority to request assistance from any governmental agency outside of Town government.
- d. **Hearing Appeals:**  
The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Enforcement Officer, or to grant a Use Variance or Area Variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board, or bureau of the Town.
- e. **Appeal Procedure:**  
Any appeal shall be taken within sixty-two (62) days after the filing of any order, requirement, decision, interpretation, or determination of the Zoning Enforcement Officer.  
  
A ZBA decision may be appealed to the State Supreme Court pursuant to Article 78 of the CTLR.
- f. **Stay Upon Appeal:**  
An appeal shall stay all proceedings in furtherance of an action appealed from, unless the Zoning Enforcement Officer, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the Zoning Enforcement Officer, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise that a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Zoning Enforcement Officer from whom the appeal is taken and on due cause shown.

- g. **Hearing an Appeal:**  
The Zoning Board of Appeals shall hold a public hearing within sixty-two (62) days from the official submission date of the appeal.
  
- h. **Notice of Public Hearing:**

  - 1) At least five (5) and no more than ten (10) days in advance of the public hearing, the following notifications shall be made:

    - [a] The Notice of Hearing shall be published in the official newspaper and posted on the Town Office public bulletin board and on the Town's official web site.
  
    - [b] The appellant/applicant shall send a notice containing a copy of the public hearing notice, via certified mail to all owners of abutting properties, including properties immediately across the road. The names and addresses of these property owners shall be supplied to the applicant by the secretary of the Zoning Board of Appeals. Proof of certified mailing must be submitted to the Zoning Enforcement Officer.
  
- i. **Agency Notifications:**  
The Town Board, Planning Board, or Zoning Board of Appeals shall refer all amendments, site plans, special use permits, and variances that fall within those areas specified under General Municipal Law, Article 12-B, Section 239m to the County Planning Board prior to the local Boards' vote thereon. This includes actions that fall within five hundred (500) feet of the boundary of the Town, a state or county park or recreation area, a state or county highway or expressway, a state or county owned drainage channel, Agricultural District, and state or county land where a public building or institution is located.
  
- j. **Time of Decision:**  
The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after the hearing has been completed. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
  
- k. **Filing of Decisions and Notices:**  
The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy mailed to the applicant and a copy submitted to the Board chair.

## **5.4 Planning Board:**

1. **Creation Appointment and Organization:**  
The Planning Board shall consist of five (5) regular members and two (2) alternate members. The Town Board shall appoint the members of the Planning Board on a staggered basis in conformance with the Town Law. The Town Board shall appoint the Chair. In the absence of a Town Board decision, the Planning Board shall elect a Chair. The Planning Board shall establish and abide by By-laws.
2. **Powers and Duties:**  
The Planning Board shall have the following powers and duties in accordance with Section 5.4.6, Site Plan Review.
  - a. Approval or disapproval of the site plans in accordance with Site Plan Review.
  - b. Submittal of an advisory opinion to the Town Board for proposed amendments of this Law.
  - d. Approval and renewal of temporary permits in accordance with Section 5.1.9, Temporary Permits. Such approval or renewal may be given at a regular meeting of the Planning Board without the requirement for a public hearing.  

The Planning Board recognizes a need to enable short-term uses that do not conform to this Law such as but not limited to: temporary field construction offices, construction material storage structures, construction material lay-down areas, or shelter needs resulting from emergencies. Applicants should not expect repeated renewal of temporary permits unless it can be proved that the need could not have been avoided.
  - e. Approval of subdivisions and lot-line adjustments. Refer to separate current version of the Town of Cape Vincent Subdivision Law.
3. **Procedure:**  
The Planning Board shall act in strict accordance with the procedure specified by this Law. All applications shall be made in writing on forms prescribed by the Town. Every decision of the Planning Board shall be made by resolution which shall contain a full record of the findings in the case.
4. **Meetings, minutes, records:**  
Meetings of the Planning Board shall be open to the public to the extent provided in Article 7 of the Public Officers' Law. The Planning Board shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote indicating such fact, and shall also keep records of its examinations and other official actions.

The original copy of all minutes and records shall be retained in the Town offices. This retention may be either hard copy or electronic. In either case, they shall be held in a secure place and shall be readily accessible to authorized personnel.

5. Filing of Decisions and Notices:

The decision of the Planning Board on an application shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy mailed to the applicant and a copy submitted to the Board chair.

6. **Site Plan Review:**

Intent:

The purpose of the Site Plan Review procedure is to allow the Planning Board to attach safeguards and conditions to those uses which might otherwise produce deleterious effects on the unique features, environment, rural and scenic character of the Town, neighborhood character, or the Town residents' health, safety, and welfare. Furthermore, it is the purpose of the Site Plan Review Procedure to authorize the Planning Board to disapprove a plan for any use, the deleterious effects of which cannot be mitigated because of the particular conditions on the site it is to occupy.

Scope:

- a. In addition to the regulations which apply in each district, (Sections 3, 5, 6) Site Plan Review shall also be controlled by the regulations of this Section.
- b. No Zoning Permit shall be issued for any Site Plan Review use until the use has been granted Site Plan Review approval by the Planning Board.
- c. The Planning Board shall review and approve, approve with conditions, or disapprove Site Plan for all uses described in Section 4, Lot Uses.

Application for Site Plan Review:

- a. All application forms and associated fee schedule for Site Plan Review may be obtained from the Town Clerk's office. Completed forms and appropriate fees together with copies of any agreements affecting the use of the subject land shall be submitted to the Planning Board. By requesting an application, the applicant grants Town officials to go on their property.
- b. Pre-submission Conference:  
A pre-submission conference between the applicant and the Planning Board shall be held to review the proposed development in light of existing conditions and to determine that the information submitted

is in accordance with the guidelines of Section 5.4, Planning Board. A pre-submission conference enables the Planning Board to revise the list of application requirements and review criteria to match the specifics of a given project thus making it easier for the applicant to prepare a plan. The Planning Board has the option of changing or eliminating review criteria that may not be applicable for a given project.

c. Application Requirements:

All of the following as well as additional information requested at the pre-submission conference shall be included in the Site Plan Review application.

- 1) Completed application form. (Appendix 10, Site Plan Review Application Form and Appendix 11, Sample Site Plan Review Drawing.)
- 2) Completed Environmental Assessment form (Appendix 4, Short EAF) or a State Environmental Quality Review (SEQR) under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617, of the New York Code of Rules and Regulations.
- 3) Preliminary Illustrative Site Plan (Appendix 11, Illustrative Site Plan). Site Plan must be done to scale showing the necessary details for the project.
- 4) If requested by the Planning Board, professional engineered plans may be required. Site Plan drawings prepared by licensed professionals (engineers/surveyors) must be stamped with the responsible person's seal and signature. Professionals must comply with New York State Education Law, Article 145, and 7209 Special Provisions. The Planning Board may require elevation drawings of the project.
- 5) Photographs of the site are required.
- 6) Existing Natural Features and Infrastructure: The application shall include the following if required by the Planning Board:
  - a) the existing geologic features;
  - b) topographic features
  - c) soil characteristics
  - d) hydrologic features including drainage, runoff pattern, flood hazard areas, wetlands, and depth to ground water;
  - e) the location, size, and flow direction of existing sewers, water supply lines and culverts, major electric, gas, telephone lines, easements and right-of-ways;

- f) the existing use of adjacent property including any parking and loading areas, fences, trees, and landscaping;
  - g) the location of any New York State Certified Agricultural Districts; and
  - h) Town of Cape Vincent critical environmental areas shall also be shown.
- 7) Proposed Project: The proposed site plan application shall show:
- a) all proposed grading including drainage plans;
  - b) the location and proposed use of buildings and other structures including their proposed height; location, proposed use, design, and construction materials of improvements not requiring structures such as parking lots, loading and outdoor storage areas;
  - c) the location and arrangement of site ingress and egress, walkways and paths for vehicular and pedestrian traffic;
  - a) location and size of proposed water and sewer lines;
  - b) location, design, and construction materials of all energy distribution facilities;
  - c) location and design of all outdoor lighting;
  - d) the location, design and size of proposed signage;
  - e) a general landscaping plan and planting schedule; and
  - f) estimated project construction schedule with any phasing plan for large projects shall also be included.
- d. Once an application has been accepted as complete by the Planning Board, the Board shall have a maximum of sixty-two (62) days to hold a public hearing and another sixty-two (62) days in which to render their decision. However, the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
- 1) Within sixty-two (62) days from the completed application date, the Planning Board shall hold a public hearing on the proposal to entertain public comments. At least ten days in advance of the public hearing the following notifications shall be made:

- 2) The notice of the hearing shall be published in the official newspaper, and posted on the Town Office public bulletin board, and on the Town's official website.
  - 3) The appellant/applicant shall send a copy of the public hearing notice, via certified mail to all owners of abutting properties, including properties immediately across the road. The names and addresses of these property owners shall be supplied to the applicant by the secretary of the Planning Board. Proof of certified mailing must be submitted to the Planning Board Chair.
- e. The final decision of the Planning Board must be made within sixty-two (62) days following the public hearing, in writing, specifying any conditions that may be attached to the approval, the reasons that the Planning Board approved or denied the proposal and the motions/votes by the Planning Board members. All decisions shall be filed in the Office of the Town Clerk and a copy mailed to the applicant.
  - f. Application for variance: Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features which do not comply with the Law, the Planning Board shall require that the applicant apply to the Zoning Board of Appeals for a variance.
  - g. The Planning Board shall refer all site plan matters that fall within those areas specified, under General Municipal Law, Article 12B, Section 239-M to the County Planning Board prior to their final vote thereon. All filing of provisions General Municipal Law Article 12 B, Sections 239-B shall be adhered to. (Appendix 6, SEQRA Flow Chart)
- 4) Review Criteria:  
Planning Board's review of the Site Plan application shall include, where appropriate, the following considerations:
    - a. Status of any federal, state, or county permits required.
    - b. Compliance with the provisions of the Environmental Assessment and State Environmental Quality Review (SEQRA) Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the New York Code of Rules and Regulations.
    - c. Environmental impact on the unique features, community and adjacent areas, including physical, scenic views as seen from roadways or waterways, social and economic.
    - d. Location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs.

- e. Adequacy and arrangement of vehicular and pedestrian traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, traffic controls.
  - f. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
  - g. Adequacy of storm water and drainage facilities, water supply and sewage disposal facilities, and the proper use of retention basins.
  - h. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting visual and/or noise buffer between the applicant's and adjoining lands, including maximum retentions of existing vegetation.
  - i. Adequacy of fire lanes and other emergency zones.
  - j. Conformance with all other provisions of this Law.
- 5) Additional Conditions:  
The Planning Board may attach safeguards and conditions to any site plan that include, but not limited to, approval of any required federal, state, or county permits, redesign of building access, parking, pedestrian path location or arrangement, additional landscaping or screening, protections of natural, scenic, and cultural resources as defined by "A Joint Comprehensive Plan for the Village and Town of Cape Vincent."
- 6) Installation:  
In order that the Town has the assurance that the construction and installation of improvements such as storm sewers, water supply, sewage disposal, landscaping, road signs, sidewalks, parking, access facilities, ingress and egress areas, and road surfacing will be constructed, the Planning Board may require that the applicant complete one of the following agreements:
- a. Furnish bond executed by a surety equal to the cost of construction of such improvements as shown on the plans and based on an estimate furnished by the applicant and approved by the Planning Board. Such bond shall require the approval of the Town Board and the Town Attorney as to form, sufficiency, and manner of execution and surety.
  - b. In lieu of the bond, the applicant may deposit cash, certified check, an irrevocable bank letter of credit, a certificate of deposit, or other form of financial security acceptable to the Town Board and Town Attorney and shall be kept on deposit with the Town for the duration of the bond period.
  - c. The bond may at the discretion of the Planning Board be reduced after all of the infrastructure has been completed, inspected, and accepted for dedication to the Town, but in all events, the bond



or other security shall not be reduced or released below twenty percent (20%) of the original amount for a period of two (2) years after acceptance of the infrastructure by the Town.

7) Acceptance of Roads and Facilities:  
When the Town's Highway Superintendent, Zoning Enforcement Officer, and Engineer, following final inspection of the improvements, certify to the Town Board that all infrastructure installations and improvements have been completed in accordance with the Town approvals, the Town Board may, by resolution, proceed to accept the facilities for which the bond had been posted or check deposited.

8) Decommissioning:  
The specific decommissioning requirements are dependent on the application, i.e. Non Commercial.

There are uses/projects permitted in this Law which if not decommissioned/removed at the end of their useful life could be extremely detrimental to the Town and its citizens' health, safety and welfare. They include, but are not necessarily limited to, cell towers, radio antenna transmission towers, industrial wind energy generating structures and other like equipment, excluding SWECS. Because of the possible size and complexity of these uses/projects, the following requirements may be imposed on the applicant:

- a. The anticipated life of the structure must be determined during any municipal review process.
- b. The estimated decommissioning cost in current dollars.
- c. How said estimate was determined, including the amount that the decommissioning cost may be offset by the salvage value of the structure.
- d. A method shall be determined by the Town Board, such as an annual estimate by an independent licensed professional engineer or qualified estimator approved by the Town, in order that the decommissioning costs will be kept current.
- e. The manner in which the structure will be decommissioned and the site restored, which shall include the following:
  - 1) Removal of structure and associated ancillary equipment including transmission lines.
  - 2) Removal of substations and associated ancillary equipment.
- f. Removal of the concrete base of the structure to a minimum of five feet below the preconstruction grade and restoration of affected land to the preconstruction grade.
- g. Removal of buried cables if less than five feet in depth.

- h. A pre-decommissioning survey to be performed by an independent third party of roads, culverts, bridges, and affected land.
  - i. Removal of access roads and restoration of affected land.
  - j. Widening of roadways, if necessary, for heavy equipment and final restoration of all roadways used during removal.
  - k. Restoration of vegetation (consistent and compatible with surrounding vegetation) less any fencing or minor improvements requested by the landowner.
- 9) All "Decommissioning Fund" balances shall be deposited with the Town Clerk and shall be maintained in separate accounts. The fund balance shall be reimbursed to the Applicant/Owner/Operator upon final removal of the structure and certification by the Zoning Enforcement Officer that the required restoration of the site has been completed. SWECS are excluded.

The Planning Board may recommend to the Town Board the execution of the decommissioning funds to be held in escrow as the Town Board determines.

**5.5 County Planning Board:**

The Town Board, Planning Board, or Zoning Board of Appeals shall refer all amendments, site plans, special use permits, and variances that fall within those areas specified under General Municipal Law, Article 12-B, Section 239m to the County Planning Board, for its review, comments and approval or referral for additional work, prior to the local Boards' vote thereon. This includes actions that fall within five hundred (500) feet of the boundary of the Town, a state or county park or recreation area, a state or county highway or expressway, a state or county owned drainage channel, Agricultural District, and state or county land where a public building or institution is located.

- 1. If the County Planning Board does not respond within thirty (30) days from the time it received a full statement on the referral matter, then the local Board may act without such report
- 2. The local Board must report to the County Planning Board on its final action within seven (7) business days of the event.

**5.6 Certificate of Zoning Compliance:**

- 1. A Certificate of Zoning Compliance shall be issued to the applicant prior to the initiation of construction. No Certificate of Zoning Compliance will be issued until all conditions, if any, of the Planning Board or the Zoning Board of Appeals are met.

2. No land, building, or structure shall be occupied or used until a Certificate of Zoning Compliance has been issued by the Zoning Enforcement Officer stating that the building, structure, or proposed use thereof complies with the provisions of this Law.
3. The Zoning Enforcement Officer shall maintain a record of all Certificates of Zoning Compliance. The record shall be furnished upon request to any person intending to lease, rent, or buy the building.
4. In the absence of the Zoning Enforcement Officer, the Zoning Board of Appeals may issue a Certificate of Zoning Compliance.

**5.7 Application Fees and Review Costs:**

1. All applicants are required to pay an application fee to offset the administrative expenses of the Town. The application fees are set by resolution of the Town Board. Failure to pay the application fee shall constitute an incomplete application.
2. Applications for large-scale developments or developments which pose an inherent negative environmental risk may also warrant additional escrow fees to pay the fees of consultants hired as advisors to the Town. The Town Board reserves the right to retain legal and/or professional services from a range of disciplines to assist it in evaluating the complexities of proposed large-scale developments. Consequently, the Town may require that the Applicant initiate and maintain a Professional Fees account with funds sufficient to pay for fee-for-service consultation.
3. All unused funds from the Professional Fees account shall be refunded to the responsible party upon completion of the following:
  - a. Final approval or rejection of any application.
  - b. Final approval of any and all completed improvements and submission of all bills to the Town for its review of expenses incurred as a result of the applicant's proposed plan.
  - c. Resolution of all contractual obligations.

**5.8 Violations and Penalties:**

1. Violation Remedy Procedures:
  - a. Initiation of a Complaint – Whenever a violation of this Law occurs, the Zoning Enforcement Officer, Town official, or an aggrieved citizen may initiate a complaint. Such complaints shall be submitted to or initiated by the Zoning Enforcement Officer and it shall be in writing.
  - b. Recording the Complaint – The Zoning Enforcement Officer shall accurately record the complaint and file it as prescribed in this Law.

- c. Notice of Violation – The Zoning Enforcement Officer shall have 14 days to evaluate the validity of the complaint. If it is a valid complaint, the Zoning Enforcement Officer shall notify the landowner(s) by certified, return receipt requested mail as to the violation of the Law and the period of time granted to remedy the violation. The landowner shall have fourteen (14) days from receipt of the letter to remedy the situation or provide an acceptable timetable to remedy the situation. The Zoning Enforcement Officer may informally contact the landowner about the situation before this formal notification is made. In no case shall more than fourteen (14) days pass from the date the complaint is recorded to the date that the written notice is sent to the property owner. If the Zoning Enforcement Officer finds there is no violation of the Law, the complainant shall be notified of such in writing.
  - d. Stop Work Order – A “Stop Work Order” may be issued to the land owner. It is issued in the same manner as a “Notice of Violation.” This Order requires that all work at the site stop immediately. (Appendix 7, Stop Work Order, and Appendix 8, Notice of Violation.)
  - e. Local Proceedings – If a violation persists, the Zoning Enforcement Officer shall file an “Information and Complaint” with the party in violation and the Town Board.
  - f. The Town Board may authorize the filing of an action or proceeding in the name of the Town of Cape Vincent in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this Law.
2. Penalties: The penalties set forth for a violation of this Law are those prescribed by Town Law, Section 268. A Violation of this Law shall be punishable by a fine not exceeding Three Hundred Fifty Dollars (\$350) or imprisonment for a period of not exceeding six (6) months, or both, for a first offense. Each week’s continued violation shall constitute a separate additional violation.

### **5.9 Interpretation:**

Interpretation and application of the provisions of this Law shall be held to be minimum requirements, adopted for the promotion of the public’s health, safety, and general welfare. Whenever the requirements of the Law differ with the requirements of other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the higher standards shall govern.

## **6. GENERAL ZONING REGULATIONS:**

### **6.1 Air Pollution:**

1. Any activity, operation, or device which causes or tends to cause the release of air contaminants into the atmosphere shall comply with the appropriate requirements of the county, state, and federal standards.

## **6.2 Drainage:**

1. Provisions for storm water drainage shall be designed to safely retain storm water or adequately carry away and discharge accumulated runoff into drainage channels, storm sewers, or natural watercourses so that it does not cause damage or flooding downstream.
2. The New York State Department of Environmental Conservation (DEC) regulations will control in case of a disagreement between the applicant and the Town.

## **6.3 Electromagnetic Frequency or Radiation Interference:**

1. No activity, operation, or use shall cause electromagnetic frequency or radiation interference that:
  - a. Adversely affects persons or the operation of any equipment across lot lines.
  - b. Is not in conformance with the regulations of the Federal Communications Commission.

## **6.4 Erosion and Sedimentation Control:**

1. The intent of this Section is to minimize any sedimentation and erosion that may be associated with any construction or grading involving land alteration.
2. The erosion and sedimentation control plan shall be prepared by a qualified person trained and experienced in erosion and sedimentation control methods and techniques.
3. The control plan shall consider all factors which contribute to erosion and sedimentation including, but not limited to, the following:
  - a) topography,
  - b) soils,
  - c) the proposed alteration to the area,
  - d) the amount of run-off from the project area and the upstream watershed area,
  - e) the staging of earth moving activities, and
  - f) temporary and permanent control measures
4. The erosion and sedimentation control shall be managed in a manner consistent with all applicable county, state and federal regulations.

## **6.5 Fences:**

1. Agricultural fences are exempt from these regulations.
2. No fence shall exceed six feet in height from the natural grade except a fence surrounding a scrap or salvage yard which shall be a minimum of eight (8') feet in height.  

The Planning Board shall have discretion to allow some other type of visual barrier for scrap or salvage yards in lieu of a fence, such as an earthen berm.
3. Fences shall not extend beyond the front of the residence dwelling Borders with a maximum height of two (2) feet may extend beyond the front of the dwelling, but not beyond the front setback line.
4. All fences shall be built and constructed of materials commonly used in fence construction, for example: wood, chain link, vinyl, aluminum or plastic components.
5. All fences must be erected no closer than two feet from the property line and installed with the most aesthetic side facing out.
6. Swimming pools requiring a fence under the guidelines of the New York State Fire Prevention and Building Code shall comply with that Code.
7. Stone and masonry walls a maximum of two feet (2) high are considered boundaries and shall be no closer than two (2) feet to the property line.

#### **6.6 Fire and Explosive Hazard:**

1. The primary purpose of this Law is to protect the safety of the citizens and properties of the Town. Attention to the prevention of fire and explosive hazards is imperative.
2. All activities operations and uses shall be conducted in accordance with local, county, and state fire prevention codes.

#### **6.7 Noise:**

1. Intent:  
Cape Vincent is a quiet area, where nighttime background sound levels are routinely less than 30dB, and it is a community that values peace and quiet, which is an important part of rural life. Loud, annoying and persistent noise is disruptive to the well-being of people living in its vicinity and is in some cases deleterious to their health. To preserve and protect peace and quiet, the Town hereby declares its intent to regulate noise in accordance with widely recognized acoustic standards.

Regulating noise requires more than preventing unnecessarily loud noise; it also recognizes that the quality and character of noise both contribute significantly to annoyance. Noises that are distinctly different from natural background sound, those with impulsive, tonal or modulating elements, are further restricted.

These regulations are intended to be used, if the need arises, for any source of loud, annoying, or unhealthy noise.

2. Noise Sources:

The types of sources of noise that this regulation is designed to regulate in Cape Vincent include but are not limited to:

- a. Mining/Quarry operations
- b. Wind turbines, WECS, SWECS
- c. Gas, water, or other types of drilling
- d. Blasting operations
- e. Gas turbine electric generation
- f. Other industrial and non-industrial sources where noise may be excessive and annoying.

3. Exemptions to Regulations:

The following noises are deemed beyond the scope and intent of the Town to regulate and are not subject to this Section:

- a. Any noise intended to warn the public or indicate the existence of an emergency condition, including any warning device, siren, horn or whistle used by emergency vehicles or by any governmental agency to alert the public to an emergency or warn of a dangerous condition.
- b. Any noise within limits set by and under the jurisdiction of any state or federal act preempting local regulation.
- c. Mechanized noise from farming and agricultural operations.
- d. Noise generated by or produced in association with a religious celebration or observance, parades, or other special municipal events.
- e. Noise from gas-powered electric generators used during power outages.
- f. Construction equipment used between 7 a.m. and 9 p.m., except in emergency situations.
- g. Non-industrial noise that is considered a part of normal personal activities, such as but not limited to motor vehicles, boats, and yard care.

4. Requirements:

- a. The equivalent noise level (LEQ) generated by a noise source shall not exceed the limits listed in Table 9 when measured at the property line.

<b>TABLE 9</b>	<b>Daytime 7 a.m. to 7 p.m.</b>	<b>Evening 7 p.m. to 10 p.m.</b>	<b>Nighttime 10 p.m. to 7 a.m.</b>
A-weighted (dB)	45	40	35
C-weighted (dB)	63	58	53

- b. In all cases, the corresponding C-weighted limit shall be the operable A-weighted limit (from Table 9) plus 18dB.
  - c. In the event audible noise due to any operation that contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in Table 9 shall be reduced by five (5) dB; for impulsive noises the standards in Table 9 shall be reduced by 7 dB; and the standards shall be reduced by 12 dB for highly impulsive noise (ANSI S12.9 Pt. 4).
5. Predicting Noise Impacts:  
At the discretion of the Planning Board an application shall include certification by an independent acoustical engineer as to the predicted A- and C-weighted sound levels at potentially impacted residential property lines. The firm with which the engineer is associated shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the independent acoustical engineer shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The predicted noise levels shall then be reviewed by the Town's consulting engineer, or their agent, to establish the validity of the predicted impacts.
6. Enforcement:
- a. Enforcement shall be by measurement and not subject to the timing constraints. The Town, using the services of the Town Engineer, shall be responsible for and shall contract for any enforcement measurements. The Town's engineering contractor shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The following protocol may be modified as certain situations may require by the acoustical engineer as long as modifications are in general conformance with the procedure described below.
  - b. Initially a preliminary study shall be conducted for a period of 30 minutes. During the thirty- (30) minute period, the equivalent level (LEQ) generated by the noise source shall be measured. The measurement location shall be on complainant's property line, nearest the noise source. Measurements shall be entirely



within the appropriate time period, e.g., during nighttime for nighttime enforcement, and the noise source shall operate continuously (if normal operation) during the thirty- (30) minute measurement.

- c. If the noise source is intermittent or if the noise is not present at the time of the preliminary enforcement survey, a more extensive and detailed survey shall be undertaken to monitor noise levels over a longer period. The subject of the complaint shall fully cooperate with Town officials and their agents to ensure accurate measurements, including turning on and off as required.
- d. For both types of surveys, the microphone shall be situated between 4 and 4.5 ft. above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The instrument noise floor shall be at least 10 dB below the lowest level measured.
- e. A calibrator shall be used as recommended by the manufacturer of the sound-level meter. The fundamental level of the calibrator and the sensitivity of the sound-level meter shall be verified annually by a laboratory using procedures traceable to the National Institute of Standards and Technology.
- f. A wind screen shall be used as recommended by the sound-level meter manufacturer.
- g. An anemometer shall be used and shall have a range of at least 5 to 15 miles per hour (2.2 to 6.7 meters per second) and an accuracy of at least  $\pm 2$  miles per hour ( $\pm 0.9$  meters per second).
- h. For the detailed, long-term study a compass shall be used to measure wind direction to at least an 8-point resolution: N, NE, E, SE, S, SW, W, NW. Measurements shall be A-weighted, or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements shall be 1 dB for a type 1 meter and 2 dB for a type 2 meter. For one-third-octave-band measurements, the meter shall meet the type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be 5 dB in each and every one-third-octave band.
- i. For all measurements, the surface wind speed, measured at a 1.5-m height, shall be less than 5 m/s.

1. The report shall include a sketch of the site showing distances to the structure(s), to the property line, etc., and several photographs showing the structure(s), the property, and

the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model, and serial number. This instrumentation listing shall also include the A-weighted and C-weighted noise floor due to weather or other natural phenomena and the one-third octave band noise floors, if utilized, for each sound-level meter used.

7. Complaint Resolution Process:
  - a. All complaints shall be directed to the Town Zoning Enforcement Officer who will respond to the complainant within five (5) business days after receipt of such complaint. The Town Zoning Enforcement Officer shall keep a log of any such complaints received.
  - b. Any complaints which cannot be resolved during the initial response shall be subsequently directed to the Town Engineer for investigation, and any such investigation shall be undertaken with the full cooperation of the person/ applicant/ operator and in accordance with Section 6.7.6, Enforcement.
  - c. If the complaint includes the character or quality of noise, then any subsequent investigation shall use best practices to evaluate the overall level, tonal, and/or temporal nature of the noise prompting the complaint. As outlined in Section 6.7.6, Enforcement, the noise source will be shut down as may be needed to properly assess noise impacts.
  - d. Testing shall commence within ten (10) business days of the report of the initial investigation, but ultimately testing will be predicated upon conditions that facilitate adequate measurement of the noise source. Testing shall compare actual noise measurements at complainant's property line with and without noise source to confirm operation complies with noise limits established in Table 9. If sound levels of the noise source exceed sound levels with noise source off by more than 5dB, then the noise shall be deemed out of compliance with this regulation.

## **6.8 Odor:**

1. Intent:

Odor is defined in the Environmental Protection Agency's (EPA) air pollution control rules as "the sensation resulting from stimulation of the human sense of smell." Our sensitivities and reactions to odors are influenced by personal preferences, opinions, experiences, and the varying sensitivities of our olfactory systems. These can be naturally occurring as in nature and man-made in causations.
2. No man-made odors shall be detected at the property line for more than 4 hours in a 24-hour period except those covered by regulations of other agencies.

3. Odors normally associated with agricultural activities are excluded.

### **6.9 Outdoor Lighting:**

1. Intent:  
Outdoor lighting is critical to the public safety and to provide required security. Therefore, adequate lighting should be provided on a site to ensure safe movement of persons and vehicles and for security purposes. All outdoor lighting shall be arranged and shielded so as to prevent any undue annoyance to neighboring properties.
2. Design:  
The following design standards shall be followed on all site development plans:
  - a. The maximum height of free-standing lights shall be the same as the principal building but not exceeding thirty-five (35) feet.
  - b. All lighting fixtures shall be placed within the Lot Utilization Area. No light fixtures may be placed in the Lot Exclusion Area except as required for personal safety.
  - c. Where lights located along the utilization lines will be visible to adjacent residents, the lights shall be arranged and shielded so that no direct light will leave the Lot Utilization Area.
  - d. Lighting on roadways, sidewalks, paths, and parking areas of commercial and industrial property shall be adequate to prevent injury or mishap.
  - e. Lighting within the Lot Exclusion Area for egress and ingress is allowed for safety.

### **6.10 Outdoor Storage:**

1. Outdoor storage of materials that are not intended for sale to the general public within three (3) months, shall be screened from the road and from adjacent properties. Such storage shall not be permitted within one hundred (100) feet of the front lot line or the side Lot Utilization Area.
2. Long-term outdoor storage is allowed only in containers designed for storage and not on a chassis and shall be fully screened from the road and adjacent properties. The container must be within the Lot Utilization Area. Storage is not permitted in a container(s) not specifically designed for that purpose. At an on-going construction site, shipping containers or trailer boxes shall be removed within one (1) month of completion of the construction.
3. Winter seasonal storage of boats, recreational vehicles, and motor vehicles is permitted outside. Proper precaution shall be taken to ensure that they are safely stored, supported, and are not subject to vandalism. Outside long-term, more than two (2) years storage of boats,

recreational vehicles, or motor vehicles that are not used each season is not permitted.

**6.11 Parking Requirements:**

The Town finds highly visible parking areas represent an objectionable aspect of commercial development by potentially harming the natural environment and visual character of the Town. However, the Town also recognizes that inadequate parking can also diminish the quality of life by creating traffic congestion, safety hazards, and inconveniences. Therefore, the location, design, and layout of parking areas shall meet the following criteria:

1. All commercial off-street, on-site parking shall be restricted to the Lot Utilization Area and shall be ADA (Americans with Disabilities Act) compliant.
2. All parking in the Light Manufacturing Districts shall be restricted to the Lot Utilization Area. Alternatively, parking may be on the side of the Lot Utilization Area when approved during the Site Plan Review. In this case, the parking area shall be screened from the roadway in front of the lot and adjoining lots. Parking in the Retail/Professional District shall be restricted to the Lot Utilization Area.
3. All uses shall be provided with off-street, on-site parking for all vehicles during typical peak use periods. Off-street parking may be located off site but must be within 300 feet of the site. Off-street loading spaces shall be provided as required in Section 6.11.8, Off-Street Loading.
4. A parking space shall not be less than nine (9) feet in width by twenty (20) feet in depth, exclusive of access ways and driveways.
5. To the greatest extent possible, the size of all parking areas, other than those for dwelling units and dwelling units with a home occupation, shall be based on Gross Leasable Area (GLA). Where GLA figures are unavailable, gross floor area figures shall be used.
6. A minimum of 8 percent of a parking area shall be landscaped with lawn, flowers, shrubs, or other plant material. Such shrubs shall not be high enough to interfere with a driver’s line of site. Any parking area for greater than ten cars shall be screened (to the extent practical) from the road and adjoining properties. Such screening shall not interfere with safety standards for sight distance at road access points.
7. Required Parking Spaces: **Table 10**

Dwelling Unit	Two (2) Spaces per unit
Dwelling Unit with Home Occupation	Two (2) spaces per unit plus additional one (1) space for every 150 square feet of home occupation area.



The Town's intent to preserve and promote a reasonable quality of environment and to prohibit actions and conduct that tend to depreciate not only the property on which it is located but also the property of other persons in the neighborhood and the health of the community in general. Automobile junkyards are prohibited (refer to Table 8). Junk automobiles are as defined in General Municipal Law Section 136 and Property Maintenance Code of New York Section 302.8. Outside long-term, more than two (2) years storage of boats, recreational vehicles, or motor vehicles that are not used each season is not permitted and shall be removed at the end of the two (2) year period.

For purposes of this Section, and other than the exclusion items listed below, the accumulation of the following items is prohibited:

1. All decomposable animal waste resulting from growing, processing, marketing, and preparation of food items, including containers in which the product is packaged.
2. Rubbish, clutter, litter, and debris: Ordinary household or commercial trash such as paper and paper products, barrels, cartons, boxes, cardboard, cans, glass, metals, machinery, plastics, rubber, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick, stone, and other building materials no longer intended or in condition for ordinary use, and any and all tangible personal property no longer intended or in condition for ordinary and customary use.
3. Worn out or discarded material of little or no value.

Exclusions:

1. Materials such as firewood, coal, pellets and corn intended for consumption in heating appliances.
2. Lawn, yard, or garden ornaments
3. Lawn and patio furniture
4. Operable farm, garden, and yard machinery
5. Standing fences
6. Hoses, and sprinklers used for watering lawns or gardens
7. Storage or placement and accumulation of materials in connection with a commercial operation duly conducted on the premises where such storage, placement, and accumulation is expressly permitted by the Laws of the municipality.
8. Composting of yard and kitchen vegetable waste is excluded.

### **6.13 Radiation Hazard:**

Controlled radiation sources are used for many industrial and medical applications. Radiation sources should be properly overseen to ensure the safety, health, and welfare of the community. Therefore:

1. All industrial and medical radiological concerns are addressed by State Regulations 10NYCRR, Part 16.

2. Radiation hazards related to energy shall comply with the Regulations of the NRC, 10CFR-Energy.

**6.14 Restoration of Land:**

1. Upon completion of the project, all areas which were disturbed by the project shall be stabilized so that erosion shall be prevented.
2. Any erosion and sedimentation control facility required or necessary to protect areas from erosion during the stabilization period shall be maintained until stabilization is complete.
3. Upon completion of stabilization, all unnecessary or unusable control facilities shall be removed and the areas shall be graded and the soil stabilized.
4. In addition to compliance with the above, the requirements of the Planning Board and the requirements of the DEC shall also be complied with.

**6.15 Screening:**

1. Where an industrial or commercial use will be adjacent to a residential use or where a multi-family dwelling, manufactured (mobile) home park, recreational area, or recreational field (such as a ball field) will be adjacent to a single or two-family dwelling, the Planning Board may require that an opaque screen be provided from the ground to a minimum height of six (6) feet.
2. Such screening may be comprised of living plants, wooden walls, berms, or a combination.
3. If living plants are used, they shall provide year-round screening and placed far enough from the neighboring property line that the vegetation will not spread onto the neighboring property.

**6.16 Signs:**

1. Permits:  
Zoning permits are required for all permanent signs.
2. All permanent signs shall meet the following requirements:
  - a. No sign shall have moving parts, lights that flash, move, or appear to move.
  - b. No sign shall be higher than the principle building to which it is attached.
  - c. The maximum height of a free-standing sign is 15 feet from the ground.
  - d. No sign shall be painted or erected on the roof of any building.

- e. No general advertising signs unrelated to the premises or not serving as a directional sign to a business within the Town boundaries are permitted.
  - f. All existing signs, at the time this Law is adopted, if not in violation of prior laws, shall be allowed to remain as long as they are properly maintained and their use remains current.
  - g. Any business, enterprise, institution, or other advertising entity that ceases operations shall remove its sign(s) within 90 days of such cessation (an extension of 90 days may be granted upon approval of the Planning Board.)
  - h. Two on-site permanent signs, one on building and one on monument and each not to exceed 32-square feet shall be permitted. Two-sided signs bearing announcements on two sides shall be considered as one sign.
  - i. Signs for historical and community-related information are allowed when approved by the Planning Board.
  - j. Informational signs unrelated to the business name highlighting available uses such as restrooms, emergency exits and signage required by the American with Disabilities Act (ADA), i.e. curb ramps, handicapped parking, special areas, shall be a maximum of 12 X 24 inches.
3. Temporary Signs:
- a. Announcement, special event, real estate, and political signs are considered temporary and must be removed within one week after an event, project completion, sale, or election. Temporary signs must comply with all the requirements of this Section.
4. Prohibited Signs:
- a. Signs on the sides of unlicensed cars, vans, trucks, and trailers that are visible from any road are prohibited.

**6.17 Traffic:**

- 1. The Planning Board may request a traffic impact survey.

**6.18 Road Conditions:**

- 1. All roads including those under construction must be usable and accessible for emergency vehicles at all times.

**6.19 Vibration:**

- 1. Intent:  
Mechanical equipment may cause increased vibrations in the ground. It is the intent of this requirement to control the increased vibration in an adjoining property resulting from an operation on the subject property.



Examples of such an operation include, but are not limited to, mining, drilling, metal fabrication.

2. Requirement:  
No use, operation or activity shall cause or create earthborn vibrations in excess of the peak particle velocities prescribed below.
3. Method of Measurement to Determine Compliance:
  - a. Compliance shall be determined by a professional vibrations engineer using standard state-of-the-art evaluation methods.
4. Vibration Standards:
  - a. Maximum permitted steady state vibration levels shall be 0.02 inches per second peak particle velocity at the lot line.
  - b. Impact vibrations shall be permitted at twice the values stated above.
  - c. Between the hours of 10 p.m. and 6 a.m., all of the permissible vibration levels (0.02) for the Agricultural Residential, Lake Front, Lake Recreational, River Front, and Islands Districts shall be reduced to one-half (1/2) the indicated values.
  - d. When the frequency of impacts does not exceed one (1) per day, the maximum vibration level, measured across lot lines, shall not exceed 0.4 inches per second.

## **7. SUPPLEMENTAL REGULATIONS**

### **7.1 Adult Entertainment/Adult Use:**

1. Intent:  
It is recognized that there are certain business activities which, by their nature, may have objectionable operational characteristics. Therefore, it is recognized that special regulations are necessary in order to prevent the proliferation of such businesses and to ensure that those effects will not adversely affect the health, safety, and economic well-being of the community.
2. Adult Uses may be permitted in the Light Manufacturing District only if the following conditions are met:
  - a. No adult use shall be permitted within 1,000 feet of a dwelling.
  - b. All building openings, entries, windows doors, etc. shall be located and covered or screened in such a manner as to prevent any view into the interior from the outside of the building. This includes a privacy panel inside any exterior door to prevent a view into the building from an exterior door.
  - c. Only one sign shall be permitted on the exterior of the building which is occupied by an adult use. This sign shall be no larger

than 12-square feet of sign area. The sign shall contain plain lettering. No graphic display, such as drawings, photographs, etc. is permitted.

## **7.2 Automotive Service/Repair Stations:**

1. All gasoline and fuel pumps shall be a minimum of 75 feet from any front or side lot line. All fuel storage and dispensing systems for automotive service stations shall be confined within the Lot Utilization Area of the property as determined with minimum setbacks of 75 feet on all sides of the lot. If county, state, or federal requirements are more stringent they shall apply.
2. All waste and servicing material shall be stored within a structure or enclosed within fencing so as not to be visible from off the property line.
3. All waste shall be stored and disposed of in accordance with applicable county, state, and federal laws.
4. Ingress and egress driveways will be determined during Site Plan Review.
5. Vehicle parking shall be determined by the Planning Board.

## **7.3 Boathouses and Covered Docks**

1. Location, design, and approval:  
Boathouses and covered docks are controlled by federal and state agencies, such as but not limited to, Army Corp of Engineering, Department of Environmental Conservation (DEC), Office of General Services, and the office of Coastal Zone Management.
2. Additional Requirements:  
The Town acknowledges that the federal and state agencies are responsible for the control of boathouses and covered docks; however, to retain the scenic environment, the Town imposes the following additional requirements on these structures.

Location: boathouses and covered docks must comply with the side setback requirements of the Cape Vincent Zoning Law. The setbacks are determined by extending the side lot line to the far end of the structure from the shore.

Height: boathouses and covered docks are limited to the height required to lift the boat out of the water for storage, 25' maximum above the International Great Lakes datum elevation 247.30. No storage or living accommodations are allowed above the area used for the boat.

Roof: The roof of the boat house and/or covered dock shall have a maximum of a 4/12 pitch so as not to disrupt the view any more than necessary from adjoining lot(s).

#### **7.4 Commercial:**

1. Parking areas shall be an improved area made of asphalt and suitable for vehicular and foot traffic.
2. Outside display areas shall be an improved area made of gravel or asphalt and suitable for vehicular and foot traffic.

#### **7.5 Home Occupations:**

1. Restrictions:  
No Home Occupation shall be permitted that:
  - a. Generates traffic, parking, noise, sewage, or water use in excess of what is normal in a residential neighborhood;
  - b. Creates a hazard to person or property, results in electrical interference, or becomes a nuisance;
2. Permitted:  
The following are permitted Home Occupations provided they do not violate any of the provisions of Section 7.4.1.
  - a. Dressmaking, sewing, tailoring.
  - b. Painting, sculpting, or writing.
  - c. Professional/Administrative/Clerical Services
  - d. Home crafts; including model making, rug weaving, lapidary work, woodworking, ceramics, and similar crafts.
  - f. Tutoring; child care as regulated in accordance with state, regulations.
  - g. Home cooking and preserving in accordance with the New York State Department of Health regulations.
  - h. Computer programming and data processing
  - i. Beauty Shop and Barber Shop
  - j. Room rental – one room per dwelling
3. Prohibited:  
The following are prohibited as Home Occupations:
  - a. Veterinary Practice /Kennel

- b. Private Club
  - c. Restaurant
  - d. Motel /Hotel/ Rental Units
  - e. Automobile repair or automobile paint shop
  - f. Adult entertainment as defined above
4. Special Use Permit:  
Any proposed Home Occupation that is neither specifically permitted by Section 2 nor specifically prohibited by Section 3 shall require a Special Use Permit.
5. Employees:  
Notwithstanding any provision of this Section, no Home Occupation will be permitted if it employs more than one non-resident of the dwelling.

**7.6 Mining Operations:**

Mining operations must comply with all applicable county, state, and federal regulations.

**7.7 Manufactured (Mobile) Homes:**

**I. Mobile Home Specifications**

1. Age Limitations:
- a. To ensure that all manufactured (mobile) homes meet minimum federal standards every manufactured (mobile) home shall bear a data plate, affixed in the manufacturing facility. This plate shall show the date of manufacture and the statement, "This manufactured (mobile) home is designed to comply with the Federal Manufactured Home Construction and Safety Standards in force at the time of manufacture.
  - b. Because it cannot be reliably verified that manufactured (mobile) homes manufactured before June 15, 1976, were manufactured/constructed of materials that are considered to be technically sound engineering materials and that materials typically used prior to this date have been shown to have caused safety problem, these manufactured (mobile) homes shall not be brought into the Town of Cape Vincent nor shall they be moved or relocated within the Town.
  - c. A re-conditioned manufactured home can be re-permitted if a licensed architect or engineer creates a stamped drawing of the manufactured home depicting that it meets all existing state and federal codes.
2. Skirting:
- a. Every manufactured (mobile) home shall have continuous skirting to screen the space between the manufactured (mobile) home and the ground.

- b. Such skirts shall be of permanent, rigid, material: such as but not limited to, metal, wood, plastic, and fiberglass. The skirting shall provide a finished, neat appearance when completely installed.
- 3. Installation:  
All manufactured (mobile) homes shall be installed in accordance with all applicable county, state, and federal codes, and the manufacturer's recommendations.
- 4. Additions:  
All additions must comply with all New York State Building Codes for manufactured homes.

**II. Manufactured (Mobile) Home Parks (General Specifications):**

- 1. Park Location and Conditions:
  - a. The site of a proposed manufactured (mobile) home park:
    - 1) Shall have generally level to gently rolling topography over an area of sufficient size to allow development of the manufactured (mobile) home park without significant alterations or disturbances of existing natural topography or features such as stands of mature trees, stream courses, shorelines, wetlands, or bedrock outcroppings.
    - 2) Shall be essentially free from adverse, unsafe or unhealthy conditions including but not limited to flooding, ponding, poor drainage, erosion, slumping, or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare, or toxic or volatile substances.
    - 3) Shall be such that no manufactured (mobile) home site or park activities would be within 50 feet from the park lot line.
    - 4) Shall be adequately screened from adjacent residential properties and public roads as determined by the Planning Board during Site Plan Review or Special Use Review.
    - 5) Shall be divided (exclusive of internal roads, open space, or common areas) and marked off into manufactured (mobile) home sites numbered consecutively, the number being conspicuously posted on each lot with such number to correspond to the lot shown on the site plan submitted.
- 2. Park Design:
  - 1. Access:  
Each manufactured (mobile) home park shall provide for safe, legal means of access from one or more public roads as follows:
    - a. access roads shall meet the public roads at right angles and at compatible grades;

- b. entrances shall be located directly opposite or at least 200 feet from the nearest intersection of public road, if any, and at least 150 feet from any other entrances to the manufactured (mobile) home park, if any;
- c. entrances shall have sufficient width to allow reasonable turning movements of vehicles with manufactured (mobile) homes attached and of service or delivery vehicles;
- d. entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road;
- e. at least one (1) common entrance and access road shall be required to serve any manufactured (mobile) home park having 3 through 19 manufactured (mobile) homes;
- f. at least two independent entrances and access roads shall be required to serve any manufactured (mobile) home park having 20 or more manufactured (mobile) homes;
- g. intersections with public roads shall meet the standards of the governing body having jurisdiction over the public road; and
- h. all access road intersections shall be located in a manner and be of sufficient size to accommodate emergency vehicles.

3. Internal Roads:

- a. Internal roads may be privately owned and maintained and shall provide for:
  - 1) the safe operation of emergency vehicles;
  - 2) the safe and convenient movement of vehicles, with or without manufactured (mobile) homes attached;
  - 3) all manufactured (mobile) home sites shall face on and be serviced by such internal roads;
  - 4) all roads shall be designed, graded, and leveled as to permit the safe passage of emergency and other vehicles;
  - 5) straight, uniform gridiron road patterns should be avoided unless they can be relieved by manufactured (mobile) home clustering, landscaping, and an open space system;
  - 6) cul-de-sacs shall be provided with a turnaround having an outside roadway diameter of at least 90 feet; and

- 7) all internal roads shall have a minimum of 30 feet of clearance and be made of all-weather material, e.g. gravel, paved, etc.
4. Parking:
  - a. Each manufactured (mobile) home shall be provided with at least one off-street parking space adjacent to the manufactured (mobile) home.
  - b. At least one additional off-street parking space for every two manufactured (mobile) home sites in the park shall be provided.
  - c. Each parking space shall measure at least 9 feet by 20 feet or be capable of being adapted in order to meet ADA requirements.
  - d. Recreational Area and Open Space:  
Easily accessible and usable open spaces shall be provided in all manufactured (mobile) home parks. Such open spaces shall have a total area equal to at least 35 percent of the gross land area of the park and shall be fully maintained by the park owner.
5. Garbage and Refuse:  
It shall be the responsibility of the park owner to ensure that garbage and rubbish shall be collected and properly disposed of outside of the manufactured (mobile) home park. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, accident, or fire hazard.
6. Telephone, Electric, and Cable TV Services:  
When telephone, electric and/or cable TV service is provided to the manufactured (mobile) home site, the distribution system shall be placed underground.
7. Park Office and Storage Facilities:  
The owner or manager of a park shall maintain an office in the immediate vicinity of the park.
8. Service Buildings:
  - a. Service buildings, if provided, housing sanitation and/or laundry facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations, plumbing and sanitation systems
  - b. All service buildings and the grounds of the manufactured (mobile) home park shall be well lighted and maintained in a clean and sightly condition.
9. Fire Protection:
  - a. Open fires shall be permitted only in areas designated by the park owner.

- b. The use of outdoor grills for the preparation of food is permitted.
  - c. The burning of refuse is not permitted.
10. Responsibilities of Park Owner(s) and Park Occupants:
- a. The park owner, whom a permit for a manufactured (mobile) home park is issued, shall operate the park in compliance with applicable standards set forth in state, county, and local law and shall provide adequate supervision to maintain the park, its common grounds, streets, facilities, and equipment in good repair and in clean and sanitary condition. The park owner will be responsible for correcting any violation of this Law occurring within the owner's park.
  - b. The park owner shall supervise the placement of each manufactured (mobile) home on its manufactured (mobile) home base which includes ensuring the stability of all tie-downs and utility connections.
  - c. The park owner shall maintain a register containing the names of all occupants and the make, year, and serial number, if any, of each manufactured (mobile) home. Such register shall be available to any authorized person inspecting the park.
  - d. A park occupant shall be responsible for the maintenance of his/her manufactured (mobile) home and any appurtenances thereto and shall keep all yard space on his/her site in a neat and sanitary condition.
    - 1) A list of owner and occupant responsibilities shall be posted in the park offices and be available upon request.
    - 2) The park owner and its occupants shall make every attempt to minimize smoke, noise, odors, heat, glare, or toxic or volatile substances.

**III. Seasonal Home Park:**

- 1. Requirements:  
Seasonal home parks shall meet the requirements of this Section and the Manufactured (Mobile) Home Park Section (General Requirements). Seasonal home parks may contain manufactured homes or cabins.
- 2. Site Size:  
Each site shall satisfy the following requirements:
  - a. Minimum site size shall be 5,000 square feet.
  - b. Minimum site width shall be 50 feet.
  - c. Minimum site length shall be 100 feet.



3. Setbacks:
  - a. All seasonal homes, including patios, porches, or garages, office building, dwelling and ancillary use buildings associated with the seasonal home park be contained within the Lot Utilization Area.  
  
For seasonal home parks, this area is defined by the greatest of the following boundaries:
    - 1) The front lot setback line for the district or a minimum of 150 feet from the center line of any public road.
    - 2) The side yard setback line for the district or a minimum of 10 feet from the side yard lot line, whichever is greater.
    - 3) The rear yard setback line for the district (25 feet).
4. Site Spacing:
  - a. All seasonal homes, patios and ancillary use structures including but not limited to: garages storage sheds, located on the same site shall be within the site utilization area. The site utilization area is defined as the area within the site bounded by the following:
    - 1) Front site utilization line shall be a minimum of 30 feet from the centerline roadway on which it is located.
    - 2) The side site utilization lines shall be a minimum of 10 feet from the site side line.
    - 3) The rear site utilization line shall be a minimum of 20 feet from the rear site line.
5. Parking spaces:  
Parking areas may be grass or all-weather material, e.g. gravel, paved, etc.
6. Recreational vehicles  
Recreational Vehicles are allowed in seasonal home parks.
7. Landscaping:  
The Lot Exclusion Area shall be a green zone and landscaped with grass, shrubs, and trees and maintained to provide visual screening from adjacent properties and public roads.

**IV. Manufactured (Mobile) Home Park--Year-Round:**

1. Requirements:  
Year-round manufactured (mobile) home parks shall meet the requirements of this Section and the Manufactured (Mobile) Home Park Section (General Requirements).
2. Manufactured (Mobile) Home Site Size:

Each manufactured (mobile) home site shall satisfy the following requirements:

- a. The minimum site size shall be 7,500 square feet.
  - b. The minimum site width shall be 75 feet.
  - c. The minimum site length shall be 100 feet.
3. Park Setbacks:
- a. All manufactured (mobile) homes, including patios, porches, or garages, office building, dwelling and ancillary use buildings associated with the manufactured (mobile) home park shall be contained within the Lot Utilization Area. For manufactured (mobile) home parks this area is defined by the greatest of the following boundaries:
  - b. The setback line for the park shall be a minimum of 150 feet from the center line of any public road.
4. Site Spacing:
- a. All manufactured (mobile) homes, patios and ancillary use structures including but not limited to: garages storage sheds, located on the same site shall be within the site utilization area. The site utilization area is defined as the area within the site bounded by the following:
    - 1) Front site utilization line shall be a minimum of 30 feet from the centerline of the road on which it is located.
    - 2) The side site utilization lines shall be a minimum of 20 feet from the site side line.
    - 3) The rear site utilization line shall be a minimum of 20 feet from the rear site line.
5. Parking:  
All parking spaces or areas in year-round parks shall be made of all-weather material, e.g. gravel, paved, etc.
6. Recreational Vehicles:  
Recreational vehicles shall not be placed on a site in year-round manufactured (mobile) home parks.
7. Landscaping:  
The Lot Exclusion Area shall be a green zone and landscaped with grass, shrubs, and trees and maintained to provide visual screening in accordance with Section 6.15, Screening, from adjacent properties and public roads.

### **7.8 Modular Homes:**

1. Modular homes must comply with county, state, and federal regulations.

## **7.9 Marinas:**

1. Location and Conditions:
  - a. The site of a proposed marina shall not make significant alterations or disturbances of existing natural topography or features such as stands of mature trees, stream courses, wetlands, or inland bedrock outcroppings.
  - b. The marina shall be adequately screened from adjacent uses as determined by the Planning Board during Site Plan Review.
2. Marina Design:
  - a. The front setbacks of the District do not apply for typical marina activities such as, pump-out facilities, docks, gas pumps, boat hoist, dockside supply facilities, or bathhouse.
  - b. All other setbacks apply to additional activities of the property.
3. Access and Parking:
  - a. The marina shall provide for safe, legal means of access from one or more public roads as per the requirements of Site Plan Review.
4. Service Buildings:
  - a. Service buildings housing sanitation and/or laundry facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations, plumbing and sanitation systems.
5. Fire Protection:
  - a. Open fires shall not be permitted.
  - b. The use of outdoor grills for the preparation of food is permitted.
6. Boat Sales and Storage:
  - a. The area should be described in detail on the Site Plan Review application and is subject to Planning Board approval.
  - b. If vertical storage is allowed, the length of the storage facility must be perpendicular to the shoreline.

## **7.10 Seasonal Recreational Resorts:**

1. Intent:

In order to take maximum advantage of the unique characteristics of this area, a designation of Recreational Resorts is established for campgrounds and RV parks.

2. The term Recreational Resort shall be construed to include all related functions normally associated with transient resorts, such as, but not limited to:
  - a. Tent camping sites
  - b. RV camping sites
  - c. Seasonal motor home sites
  - d. Cabins, motel units
  - e. Bathhouse, restroom facilities
  - f. Marinas
  - g. On-site convenience stores
  - h. On-site laundromat
  - i. Swimming pools
  - j. Swimming beaches
  - k. On-site recreation such as golf
  - l. Restaurant
3. All applicable local, county, and state regulations shall be followed.
4. Boundaries:
  - a. All seasonal, dwellings including patios, porches, or garages, office building, dwelling and ancillary use buildings associated with the recreational park shall be contained within the Lot Utilization Area.

For recreational parks, this area is defined by the greatest of the following boundaries:

    - 1) The front lot setback line for the district or a minimum of 150 feet from the center line of any public road.
    - 2) The side yard setback line for the district or a minimum of 10 feet from the side yard lot line, whichever is greater.
    - 3) The rear yard setback line for the district.
5. Site Size:

Each site, excluding tents, shall satisfy the following requirements:

  - a. Minimum site size shall be 1,250 square feet.
  - b. Minimum site width shall be 25 feet.
  - c. Minimum site length shall be 50 feet.

Tent sites shall be a minimum of 500 square feet.
6. Site Spacing:
  - a. All dwellings, patios, and ancillary use structures including but not limited to: garages storage sheds, located on the same site shall be within the site utilization area. The site utilization area is defined as the area within the site bounded by the following:

- 1) Front site utilization line shall be a minimum of 30 feet from the centerline roadway on which it is located.
  - 2) The side site utilization lines shall be a minimum of 10 feet from the site side line.
  - 3) The rear site utilization line shall be a minimum of 20 feet from the rear site line.
7. Parking spaces:  
Parking areas may be grass or all-weather material, e.g. gravel, paved, etc.
8. Landscaping:  
The Lot Exclusion Area shall be a green zone and landscaped with grass, shrubs, and trees and maintained to provide visual screening from adjacent properties and public roads.

### **7.11 Recreational Vehicles:**

1. A single (one) recreational vehicle or travel trailer with a current registration, on an owner's lot shall, by permit obtained from the Zoning Officer, be allowed. Such permit will be issued after the applicant presents evidence of the following conditions:
  - A. Adequate water supply
  - B. Adequate sewage and gray water disposal, in accordance with county and state codes.
  - C. Electric service in accordance with county and state codes.
  - D. Lot size and lot utilization shall comply with the requirements for a single family dwelling in the district where the Recreational Vehicle is located.
2. Recreational Vehicles occupied for 30 days or more, in a 365 day period, shall require a permit reviewed annually by the Zoning Enforcement Officer.
3. Recreational Vehicles are not permitted for use as a storage container.
4. Recreational Vehicles are not permitted for year round occupancy.
5. Unoccupied Recreational Vehicles or those occupied for less than 30 days in a 365 day period, shall be considered accessory use.
6. Long term storage (2 years or more) shall not be permitted.
7. Recreational Vehicles in a Seasonal Home Park are exempt from section

### **7.12 Rental Dwelling Units:**

1. The gross lot density shall not exceed one unit per 3,000 square feet of lot area.
2. The minimum distance between building units shall be 15 feet.
3. There should be 2 parking spaces per dwelling unit and an improved parking area that complies with the requirements of the District that the units are located.
4. Access for emergency vehicles must be ensured at all times.
5. Sale of any individual rental unit and associated land requires approved subdivision by the Planning Board.

### **7.13 Solar Energy Conversion Systems – (SECS)**

1. Authority:  
The Solar Energy Conversion section of the Town's Zoning Law is adopted pursuant to sections 261-262 of Town Law of the State of New York which authorizes the Town of Cape Vincent, "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefore".
2. Intent:  
This section is adopted to advance and protect public health safety, and welfare within the Township by creating regulations for the installation and use of solar energy conversion systems (SECS) with the following objectives:
  - a. To take advantage of a safe, abundant, renewable and non-polluting energy source.
  - b. To locally supplement existing sources of commercial power.
  - c. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family homes.
  - d. To encourage investment in public infrastructure supportive of solar energy, such as conversion system arrays, grid-scale transmission infrastructure, even energy storage sites, and
  - e. To mitigate the impacts of SECS on scenic and natural resources, especially important agricultural lands, sensitive wetlands designated by the DEC, forests, wildlife, and other protected resources.
3. Cape Vincent, Town and Village adopt solar:  
In the past few years, both Town and Village Trustees have entered into inter-governmental compacts to facilitate pool or contracted electricity pricing and usage and/or assistance with solar conversion system acquisitions through State or Federal grant programs. Both

Cape Vincent governments belong to The Tri-County Solar Consortium and the area School and Municipal Energy Cooperative. Electricity for Town-owned properties is purchased at a discount while the Village has installed its own solar array, conversion and energy management equipment with a 100KW or better capacity. This system is sited near the sewage treatment facility. Electricity costs associated with that operation, Village street lighting and all other owned buildings have been reduced significantly.

#### 4. Solar Energy Conversion Systems:

Included herein are all the components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, photovoltaic collectors (solar panels and newly developed roofing and exterior cladding materials), inverters which convert the collected Direct Current (DC) power to conventional Alternating Current (AC) power, and associated circuit breaker and power management systems (with back-feed protection) which tie into the commercial grid. A Solar Energy Conversion System is classified TIER 1, TIER 2, and TIER 3A or TIER 3B.

##### a. TIER 1 Solar Energy Conversion Systems include:

- Roof-Mounted solar panels
- Building-integrated solar energy collection roofing or other exterior materials which contain photovoltaic properties.

The TIER 1 designation would typically apply to systems which are designed to supplement a site's energy needs or in the event of a commercial service outage. The designed output of TIER I systems are currently limited by the commercial grid operator, National Grid, to 110% of annualized residence/parcel electricity consumption or maximum of 25KW (kilowatts).

b. TIER 2 Solar Energy Conversion Systems also provide emergency electricity back-up when there is a grid outage. In this configuration solar panels are ground mounted and also limited to 110% of electricity consumption or 25KW output. TIER 2 systems may be comprised of fixed, rack-mounted solar panels and/or the more efficient pedestal-mounted, sun-tracking solar arrays.

c. TIER 3 Solar Energy Conversion Systems are typically large-scale applications whose electricity production is primarily for offsite consumption. These projects are best suited on land which is adjacent to an overhead electrical transmission system with the capacity to handle the generated output. (see Hosting Capacity in section 5 below).

There are two types of TIER 3 SECS:

- TIER 3A Solar Energy Conversion Systems are those with a design capacity exceeding 25KW, but less than 25 MW (megawatts).
- TIER 3B are SECS which exceeds 25MW.

Descriptions:

TIER 3A are SECS which are varied in their footprint (land) requirements and intended commercial use. An example would be of a developer whose intention would be to sell the SECS output within the Township via a subscription plan. There could also be a cooperative agreement with similar projects in adjoining Townships.

TIER 3B SECS with design capacity exceeding 25MW are considered commercial or utility-scale projects and are permitted by the Board of Electric Generation Siting and the Environment Siting Board under Article 10 of the New York State Public Service Law.

This does not preclude the Township's right and responsibility to promulgate permitting requirements for Commercial/Utility-grade SECS exceeding 25MW and embody such in its Zoning Law. Under Article 10, the Siting Board is charged with taking into consideration the reasonableness of local zoning regulations during its review. The project applicant has the responsibility to establish which, if any, of the local zoning regulations pertaining to SECS are unduly burdensome.

Section 9 below will outline the requirements for both TIER 3 size SECS.

5. Hosting Capacity:

There is now a tool by which a developer and a Township can assess the general feasibility of TIER 3 projects by reviewing the servicing utility's (National grid's) mapped estimate of the amount of new distributed electricity generation that may be interconnected at a particular part of the of the distribution (the existing, overhead power lines and related equipment) without adversely impacting power quality or reliability under current configurations and without requiring expensive infrastructure upgrades. Access to these "Hosting Capacity" maps can be requested through [cleanenergyhelp@nyscrda.ny.gov](mailto:cleanenergyhelp@nyscrda.ny.gov).

6. Applicability:

- A. The requirements of the Solar Energy Conversion section of the Zoning Law shall apply to all Solar Energy systems permitted, installed, or modified in the Town of Cape Vincent upon the effective date the revised Zoning Law is formally adopted.
- B. Solar energy conversion systems constructed and/or installed prior to the effective date of these regulations shall not be required to meet the requirements of this section of the Zoning Law.
- C. Modifications to an existing solar energy conversion system that increases the area or footprint of the solar array(s) by more than 5 % (of the original area), exclusive of moving any fencing shall be subject to the regulations in this section.
- D. Currently, New York State does not license Photovoltaic (PV) installers. However, NYSERDA maintains a listing of professionals who are credentialed by the North American Board of Certified Practitioners (NABCEP) and/or the International Brotherhood of



Electrical Workers and National Electrical Contractors Association (IBEW-NECA). At a minimum, all solar energy conversion systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and industry standards to include: the NYS Uniform Fire Prevention and Building Code, National Fire Prevention Association Code 70 Standards, and the National Electric Code (NEC) Standards.

7. Permitting Requirements for TIER 1 Solar Energy Conversion Systems:

- A. Roof-mounted SECS are permitted in all zoning districts when attached to any lawfully permitted residence or ancillary building. A valid zoning permit shall be obtained through the Town of Cape Vincent Zoning Enforcement officer prior to installation.
- B. Additionally, roof-mounted SECS require that the installer obtain a building permit. All work shall be completed in accordance with the NYS Uniform Fire Prevention and Building Code and the National Electric Code.
- C. Design requirements for roof-mounted SECS:
  - Height. Roof-mounted SECS shall not exceed the maximum height restrictions of the zoning district with which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
  - Solar panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface and the highest edge of the system.
  - Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
  - Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
  - All solar panels shall have anti-reflective coating(s) to reduce glare.
- D. Building-Integrated Solar Energy Conversion Systems are exempt from area requirements and design standards because they are integrated into the building envelope systems themselves. These include vertical facades made of glass, semi-transparent skylight systems, special roofing materials and window shading elements. Building-Integrated SECS shall be shown on the plans submitted for the building permit application for the building containing the system.

8. Permitting Requirements for TIER 2 Solar Energy Conversion Systems:

- A. All TIER 2 SECS which use generated electricity, generally on-site,

are allowed in the Agricultural District with a zoning permit. Within all other Districts, Site Plan Review by the Planning Board shall be required.

- B. Glint and glare. All TIER 2 SECS shall be located in a manner to reasonably avoid and/or minimize blockage views from adjacent properties and shading of property to the North. Care shall be taken to orient to the extent practicable these SECS to minimize glare on adjacent properties and roadways. All solar panels utilized in in TIER 2 SECS shall have anti-reflective coatings applied.
- C. Height and Setback. Ground-mounted SECS with fixed racking shall not exceed 10 feet in height. Pedestal-mounted SECS with sun tracking equipment shall not exceed 17 feet in height. All ground-mounted (including pedestal) SECS shall adhere to side and rear setback requirements of the respective zoning districts. Front yard, ground-mounted SECS (including pedestal) shall be allowed only in the Agricultural District.
- D. Lot Coverage. The surface area covered by a ground-mounted SECS shall be limited to 40 percent of a lot's total footprint.

9. Permitting Requirements for TIER 3A&B Solar Energy Conversion Systems:

- A. Large-scale Energy Conversion Systems are permitted through the process of Site Plan Review within the Agricultural Residential (AR) District only. Applications for the installation of TIER 3A&B shall be Submitted to and reviewed by the Zoning Enforcement Officer and Referred, with comments, to the Planning Board which shall initiate the Site Plan Review process. Essential elements of an application are:

- All TIER 3A&B SECS shall be designed by a NYS licensed architect or licensed engineer and installed in conformance with the NYS Uniform Fire Prevention and Building Code, National Fire Prevention Association Code 70 Standards and the National Electric Code Standards.

- All solar collectors and related components shall be sited in Compliance with NYS Department of Environmental Conservation (DEC) and Federal flood plain regulations as they pertain to waterways, waterbodies, and designated wetlands.

B. Applications for TIER 3 A&B Site Plan Review shall include:

1. If the proposed project includes leased parcels, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements shall be submitted.
2. Full plan sets including applicable solar panels, inverters

control/disconnect and battery back-up equipment depicting the layout and installation of the SECS signed by a licensed engineer or architect shall be submitted.

3. SECS Operations, Maintenance, Safety and Security Plan. This plan shall describe normal operations procedures, maintenance protocols, security monitoring and incident/accident response measures involving the TIER 3 SECS operator and local emergency responders.

4. Decommissioning Plan and Abandonment. To ensure that TIER 3A&B SECS are safely disassembled and removed from the sited property(s), the owner shall submit a decommissioning plan. It shall consider the normal, life-cycle expectancy of the project and planned removal or a circumstance where a prolonged shutdown occurs for unexpected reasons.

In either case, the owner shall have no more than twelve (12) consecutive months to remove all installed equipment, including foundations, and remediate soil conditions to its pre-project state. The plan shall also include time-line/activity benchmarks within the anticipated removal period.

The plan shall also include cost estimates, adjusted for inflation, for all decommissioning phases prepared and submitted by a professional engineer or contractor.

If the SECS is not fully disassembled, removed and land remediated with the allowable 12-month period, the Town of Cape Vincent reserves the right to remove the system, restore the property take any and all legal steps to compensate itself for expenses incurred.

5. Special criteria for TIER 3 A&B SECS applications:

A. Height. TIER 3 A&B SECS shall not exceed seventeen (17) feet in installed height independent of differences in terrain contours. This height maximum shall apply to both ground based, fixed rack and panel installations and pedestal mounted 'tracker systems."

B. Setbacks.

TIER 3 A&B SECS shall adhere to the setback requirements stipulated in the Zoning Law for the Agricultural Residential District except that solar panel arrays and related equipment or structures shall be located at least one hundred (100) feet from any lot containing a single or multi-family residence.

AND

Setbacks from road (as measured from the centerline) requirements are As follows:

- State Route 12E along the River District shall be 1000 feet.

- State Route 12E from the Cape Vincent village line to the Town of Lyme (Town) line shall be 500 feet.
- All other County and Town roads shall be 250 feet.

C. Visual Assessment/Landscaping and Screening Plan(s)  
 TIER 3A&B SECS with a footprint smaller than ten (10) acres shall have views from adjacent properties minimized to the extent reasonably practicable by employing architectural features, earth berms, landscaping or other screening methods that shall be in keeping or "harmonize" with the character of the property and surrounding area.

Applicants with TIER 3A&B SECS larger than ten (10) acres shall be required to:

1. Conduct a visual assessment of the visual impacts of the SECS on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided to the Planning Board. Depending upon the scope and potential significance of the visual impacts, additional study and analysis including a digital view-shed report may also be required from the applicant.
2. Submit a screening and landscaping plan which preserves existing trees and vegetation which would border the solar project and public roads and adjacent properties. Where existing, natural screening features do not exist, or need to be supplemented, the plan shall also topographically depict the locations for additional plantings proposed by the applicant, plant species, height at maturity, distance between plants and other material features which will comprise the screening plan. At a minimum, one (1) evergreen tree, at least six (6) feet tall at time of planting, plus two (2) supplemental shrubs shall be planted within each ten (10) linear feet between a public roadway and the outside perimeter of the installed solar panel array(s). The Planning Board shall select type(s) of evergreen trees and supplemental plants from options provided by the applicant.

D. Fencing/Signage

All TIER 3A&B SECS shall be enclosed (between the solar array(s) and the natural or supplemented screening) by fencing of sufficient size and composition to prevent unauthorized access.

Additionally, all inverter, circuit breaker, battery, grid ti-in and disconnect systems which are located in ancillary building(s) shall also be enclosed by security-grade fencing and locking systems in accordance with provisions of the National Electric (NEC) Code, the NYS Uniform Fire Prevention and Building Code and the National Fire Prevention (NFPA) Code 70 Standards.

Electrical hazard/warning signage of appropriate size, format, frequency shall be placed on the fencing. The owner and/or SECS operator's emergency contact information must be clearly identifiable on warning signage.

E. Glint and Glare.

All solar panels shall be placed and arranged such that reflected solar radiation/glare shall not be directed onto nearby buildings, properties or roadways. Exterior surfaces of all collectors and related equipment shall have a non-reflective coating/finish.

Particular attention shall be paid to solar panel orientation with regard to aircraft flyover/approach patterns to minimize potential glare impacts on pilots who utilize the Watertown International Airport and Wheeler Sack Army Airfield. All TIER 3A&B applicants shall provide documentation that senior managers representing both airfields have been apprised of the planned SECS installations and that if Glint and Glare studies regarding impacts on local aviation are required, the applicant has fully cooperated and has provided such reports.

F. Noise.

Noise producing equipment such as inverters and sub-station equipment shall be housed and/or located within the project footprint to minimize noise impacts on adjacent properties. Their setback from property lines should achieve no discernible difference from existing noise levels at the property line.

G. Access and parking.

TIER 3A&B projects shall be designed with roadway entrances and interior access roadways to ensure that fire, ambulance and other emergency service vehicles can achieve a timely incident response. Parking areas should be adequate for personnel and equipment marshaling needs during construction and maintenance during normal operations.

H. Safety.

The Applicant shall provide a copy of all pertinent design schedules, i.e. the layout of all PV panels, wiring schematics for connections to inverter requirement, circuit disconnects, and tie-ins and disconnects to utility systems to the Town of Cape Vincent Fire and Ambulance Services. Similarly, these Services will also be provided with interior access and road maps to facilitate emergency responses. If the project includes batteries for back-up power storage, Material Safety Data Sheets (MSDS) for the batteries and their construction components will be made available to these Services.

Applicants representing TIER 3A&B SECS shall provide from the Cape Vincent Volunteer Fire Department and Cape Vincent Volunteer Ambulance Squad that each unit's senior managers have reviewed pertinent site plan schedules. Their comments/concerns shall be recorded in the Planning Board project record. To that end, all non-automatic/over-ride means of shutting down a TIER 3A&B SECS shall be clearly marked on the Site Plan, building permit applications, and at the site of the the SECS's primary control building/station.

I. Supplemental Conditions.

The Town of Cape Vincent Planning Board may impose additional conditions for Site Plan Review and approval under this Section of the Town Zoning Law in order to reasonably discharge its obligations under the State Environmental Quality Act (SEQR).

**7.14 Tall Structures Applications:**

1. Intent:  
The intent of this section is to describe the requirements of Tall Structures.

Classification of Tall Structures:

The five classes of tall structures are:

- a. Elevated Water Storage and Pressure Regulating Facilities (EWSPR) – Section 7.14.5
- b. Telecommunication Towers (TT) – Section 7.14.6
- c. Meteorological Towers – Section 7.14.7
- d. Wind Energy Conversion Systems (WECS) – Section 7.14.8
- e. Small Wind Energy Conversion Systems- Section 7.14.9

The Town's Joint Comprehensive Plan for the Village and Town of Cape Vincent 2012 specifically discourages: *"Any industrial, commercial, or utility development whose influence would have a negative impact on health, safety, scenic and natural resources, property values, recreational opportunities, and tourism assets."* It more specifically discourages: *"Tall structures, including telecommunication towers, FM Broadcast towers and industrial wind turbines."*

Current industrial Wind Energy Conversion Systems (WECS) are now more than 400 feet in height with some exceeding 500 feet. These structures will have far greater impact on rural, scenic vistas, and view sheds than existing telecommunication towers, not only because of their

greater height and numbers, but also because of their movement, which attracts viewer attention. Turbine height, movement, and the numbers of turbines also pose a risk to avian species moving along the Town's Coastal Migratory Corridor. Moreover, industrial WECS operation have health and safety impacts on people that must be addressed with adequate setbacks for ice throw, rotor failure, shadow flicker, and noise.

2. Applicability:

This Law shall apply to all of the land located within the Town of Cape Vincent. This Section governs structures over 60 feet high and associated land including, but not limited to, non-municipal water towers, FM broadcast towers, telecommunication towers, wind energy conversion systems (WECS), interconnecting and transmission systems as well as small wind energy conversion systems (SWECS). No building, structure, or land shall be used, occupied or altered, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, unless it is in conformity with all the provisions of this Law and all other applicable regulations, except as otherwise provided by this Section.

3. Exceptions:

Specific structures, including church steeples, silos, tower, or poles used to support utility lines are excluded from these regulations. Only federal, state or county law shall override these requirements.

4. General Requirements:

a. Each type of tall structure has specific location limitations and requirements. These limitations and requirements are related to the purpose and height of the tall structure and are detailed in the paragraphs dealing with the specific type of tall structure.

b. Tall structure height is measured from the lowest adjacent grade to the highest point of the structure, including any attachments, such as a lightning protection device, or a turbine rotor, or tip of the turbine blade when it reaches its highest elevation.

c. The diameter of the tall structure is determined at the extremity of the structure, including foundations, producing devices, turbine blades, etc.

d. Unless specifically required by other regulators, a tower shall have a finish (either painted or unpainted) that minimizes visual impact.

e. Unless required by the Federal Aviation Administration, no night lighting of towers for the personal wireless facilities is permitted, except for manually operated emergency lights for use only when operating personnel are on site. In instances when night lighting is required by law and, in which case, such lighting shall be of such type as to minimize glare.

f. Visual/Aesthetic:

Towers shall, when possible, be sited where their visual impact is least detrimental to highly rated scenic and historic areas, including the Seaway Trail and properties listed in the State and Federal Registers of Historic Places.

A visual impact assessment shall be defined according to the class of Tall Structures.

1) A zone of visibility map that illustrates the entire area from which the tower will be visible.

2) Photographs shall be taken from a reasonable number of key viewpoints within the Town, specified by the Planning Board during Site Plan Review including, but not limited to, state highways and other major roads, state and local parks, preserves and historic sites and other locations where the site is visible to a large number of residents, visitors, or travelers.

3) Applicants will fly a balloon or other device at the maximum height of the proposed tower for three (3) days prior to the first public hearing, and for four (4) days immediately following the first public hearing held on the proposal to aid residents in visualizing the height of the proposed tower.

g. Site Plan Review Required

h. Environmental Degradation:

Towers shall, when possible, be sited to avoid affecting the avian migratory corridor and rare or endangered flora or fauna. They should also be sited, when possible, away from wetland area.

i. Road/Access for all classes of Tall Structures excluding SWECS:

For all tower sites, the roads or other means of access, such as dirt roads, leading to and from same shall be inspected and approved by the Town's Engineer and Highway Superintendent before any Certificate of Compliance is issued for the construction of the tower. All roads leading to the tower shall be adequate for access for emergency and service vehicles on a year-round basis. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads as required by the Town. The road grade shall closely follow the natural contour so as to assure minimal visual disturbance and reduce soil erosion potential.

j. Building Operations and Maintenance

The applicant will comply with all State and Federal regulations for the specific class of Tall Structure.

k. Notification for all classes of Tall Structure excluding SWECS



An applicant proposing of a Tall Structure shall mail notice of application filing and the Planning Board's scheduled public hearing(s) directly to all landowners whose property is located, wholly or in part, within 500 feet of the property line of the proposed host parcel (s). Notification in all cases shall be made by certified mail at least ten (10) days prior to the scheduled Planning Board meeting. Documentation of the foregoing notification shall be submitted to the Planning Board prior to the public hearing.

l. Decommission Plan: Refer to Section 5.4.8, pages 28 and 29.

m. Decommission Fund:-Refer to Section 5.4.9, page 29

n. Permit Revocation:

Each tall structure shall be maintained in operational conditions at all times, subject to reasonable maintenance and repair outages. Should a violation of the Zoning Permit occur, remedial action will be in accordance with Section 5.8, Violations and Penalties, of this Law.

#### **7.14.5 Elevated Water Storage and Pressure Regulation Facilities (EWSPR)**

a. The Town recognizes that manufacturing facilities have needs for constant water pressure and/or constant water volume. If those needs are not available from a Town water district source, the manufacturer would have no choice other than to build a privately owned EWSPR. Due to the potential impact on neighboring properties and safety, the following regulations apply.

b. Additional Information:

In addition to the requirements for a Special Use Permit and Site Plan Approval, refer to Site Plan Approval Section 5.4.6, pgs. 23-29, the applicant shall provide the following information with the application.

1) Tower usage plan which identifies the type of use, level of use, and any characteristics of the tower which may affect the surrounding area. The tower usage plan shall also outline construction.

2) New towers shall be the minimum height necessary to provide adequate pressure/volume.

c. Site Requirements:

Towers and ancillary facilities shall be located so as to minimize potential adverse impacts as follows:

1) Safety:

Towers and ancillary facilities shall be located a sufficient distance from adjoining property lines and adjoining structures so as to safeguard against damages from ice fall or debris from structural damage.

2) Visual/Aesthetic:

Towers shall, when possible, be sited where their visual impact is least detrimental to highly rated scenic and historic areas, including the Seaway Trail and properties listed in the State and Federal Register of Historic Places.

3) Setback:

Tower setback is to be determined by the amount of water, height of water by the town engineer.

#### **7.14.6 Telecommunication Towers (No Rotating Parts)**

a. Intent:

The purpose of this section is to regulate the siting of telecommunication towers and related uses consistent with applicable federal and state regulations; to minimize the total number of telecommunication towers in the Town by encouraging shared-use of existing and future towers; and to minimize the adverse visual effects of towers by requiring careful siting, visual impact assessment, and appropriate landscaping in order to protect the natural scenic features, such as the Seaway Trail, rolling farm land, wetlands, property values, and the aesthetic character of the Town of Cape Vincent. These provisions are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

b. Applicability:

No new telecommunication towers may be built nor any existing telecommunication towers modified except in accordance with this Section.

c. Additional Information:

In addition to the requirements for a Special Use Permit and Site Plan Approval, refer to Site Plan Approval Section 5.4.6, pgs. 23-29, the applicant shall provide the following information in connection with its application:

- 1) A site plan that shows all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking, and landscaping and

grading plans for new facilities and roads. Any methods used to conceal the modification of an existing facility shall be indicated on the site plan.

- 2) Tower usage plan which identifies the type of use, level of use, and any characteristics of the tower which may affect the surrounding area. The tower usage plan shall also outline construction methods and removal plans in the event the tower usage is discontinued.
- 3) A map of areas of telecommunications coverage already in place within the Town, demonstrating through overlay zones the technological necessity of the proposed tower at the site to provide the type of service.
- 4) A letter of intent committing the tower owner and his/her successors in interest to notify the Chair of the Planning Board within fifteen (15) days of the discontinuation of use of the tower.

d. Shared Use of Existing Towers:

The Town is strongly in favor of minimizing the degradation of the visual environment caused by telecommunications towers. At all times, use of existing towers and existing sites shall be required under the following guidelines:

- 1) In all cases where an application has been made for the construction of a new tower, an applicant shall present an adequate report why existing towers cannot be used.
- 2) In the case of new towers, the applicant shall submit a report documenting capacity for future shared use of the proposed tower.
- 3) An applicant intending to share use of an existing tower shall document approval from an existing tower owner to shared use.

e. New Tower Design:

The design of a new tower shall comply with the following:

- 1) Any new tower shall be designed to accommodate additional shared use by other telecommunications providers.
- 2) New towers shall be below the height requiring FAA lighting.
- 3) If required by the FAA, all lighting should be the most advanced technology to minimize impact.

- f. **Site Requirements:**  
Telecommunications towers and ancillary facilities shall be located so as to minimize potential adverse impacts as follows:
  - 1) **Safety:**  
Telecommunication towers and ancillary facilities shall be located a minimum of two times the tower height from adjoining property lines and adjoining structures so as to safeguard against damages from ice fall or debris from structural damage.
  - 2) **Inspections and Tower Use Reports:**  
An agent of the Town shall be entitled to inspect the telecommunication tower and ancillary facilities upon completion of construction and at least one time annually thereafter. The owner/applicant shall deliver to the Planning Board, as a condition of site plan approval hereunder, written permission for access to the facility and such tower to inspect the tower and determine compliance with the tower usage plan, as well as its structural integrity at any time.
- g. Prior to being granted site plan approval, the applicant shall submit to the Planning Board a Decommissioning Plan that is accordance with applicable Decommissioning requirements cited in Sections 8 and 9, pages 29 and 30.

**7.14.7 Meteorological Towers:**

- a. **Intent:**  
Meteorological towers may be allowed through a Site Plan Review in the Agricultural District of the Town as long as they comply fully with requirements of this Law. A Site Plan Review is required (refer to Site Plan Review Section 5.4.6, pgs. 23-29). It is the intent of this Law that Meteorological Towers are temporary structures.
- b. Applications for temporary permits for Meteorological Towers subject to this Law may be jointly submitted with the application for a WECS.
- c. **Meteorological Tower Requirements:**
  - 1) The distance between a Meteorological Tower and the property line shall be at least 1 1/2 times the total height of the tower.
  - 2) Meteorological Towers shall comply with FAA lighting.

### **7.14.8 Wind Energy Conversion Systems (WECS) Greater Than 60kw**

a. Intent:

The Town Board of the Town of Cape Vincent recognizes the increased demand for alternative energy throughout the State. Although the Town's preferred alternative energy technology is solar, the purpose of this Section is to protect citizens from any potential negative impacts associated with WECS and also to protect the Town's highly valued properties along the Lake and River from property devaluation associated with proximity to WECS. Restricting WECS away from waterfront locations will also help protect the important avian migration corridor along the Town's lake and river waterfronts.

1) Applicability:

This Section shall apply exclusively to Wind Energy Conversion Systems (WECS), proposed, operated, modified, or constructed within the municipal boundaries of the Town. No new WECS, may be built nor any existing WECS modified except in accordance with this Section. Any new WECS development shall also comply with all regulations and restrictions within this Section as well as Noise regulations, Section 6.7, Noise pgs. 34-38.

2) Site Plan Review:

WECS shall be constructed, reconstructed, modified, operated, or replaced in the Town by first obtaining a Special Use Permit from the Zoning Board of Appeals and Site Plan approval of the Planning Board. Refer to Site Plan Review 5.4.6, pgs. 23-29.

3) Specific Site Plan Review Application Requirements:

A complete Site Plan Review application for a WECS, shall include:

- (a) A description of the project, including the number, model, specifications, and maximum rated power output capacity of each unit.
- (b) For each WECS proposed, a plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
  1. Property lines and physical dimensions of the site.
  2. Location, dimensions, and types of existing structures and uses on site, public roads, and adjoining properties within a 3,000-foot radius of the proposed WECS.
  3. Location and ground elevation of each proposed WECS.

4. Location of all existing above and below ground electric utility lines on the site and all related transformers, power lines, interconnection points with transmission lines, communication lines, and other ancillary facilities or structures.
5. Location and size of structures above 35 feet within a 3,000-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas, and slender or open-lattice towers are considered structures
6. Location of all existing gas, water, and sewer lines.
7. To demonstrate compliance with the setback requirements of this Law, circles drawn around each proposed tower site having a radius equal to:
  - A. Six (6) times the total height of the proposed WECS.
  - B. Distance associated with compliance with Noise Regulation from Section 6.7.; to include a table of predicted noise levels keyed to each property line within 1.5 miles of a WECS.
  - C. Location of the nearest residential structure on site and off site, and the distance of each from the proposed WECS.
  - D. All proposed facilities, including access roads, electrical lines, substations, temporary or permanent storage, or maintenance facilities, and fencing.
  - E. The names and addresses of all property owners within a 1.5-mile radius of each WECS, together with a description of the current use of all such property and keyed to the map and table of predicted noise levels.
  - F. Elevation drawing of the WECS showing total height, turbine dimensions, tower and turbine colors, distance between ground and lowest point of any blade, and access doors. One drawing may be submitted for each WECS of the same type and total height.
  - G. Lighting Plan: showing any Federal Aviation Administration (FAA) required lighting and other proposed lighting. The application should include a copy of the determination by the FAA to establish required markings and/or lights for the structure, but if such determination is not available at the

time of application, no permit for any lighted facility may be issued until such determination is submitted.

H. Radar-Controlled Lighting: To minimize nighttime annoyance from a WECS lighting array, a radar-based activation system is required, if available.

I. Environmental Degradation:  
Towers shall, when possible, be sited to avoid affecting the avian migratory corridor and rare or endangered flora or fauna. They should also be sited, when possible, away from wetland area.

J. Existing Vegetation:  
Existing on-site vegetation shall be preserved to the maximum extent possible.

K. Parking:  
Parking that assures adequate spaces for emergency and service vehicles shall be provided. The Planning Board shall determine the number of required spaces based on a recommendation from the applicant.

(c). Decommissioning Plan and Fund: Refer to general decommissioning plan and fund as specified in Section 8 and 9, pgs. 28 and 29.

(d). Complaint Resolution Plan: A Complaint Resolution Plan to address complaints within 24 hours of receipt of notice by the Owner/Operator of the WECS and to resolve any complaint in a diligent and timely manner under the circumstances. The Plan should at a minimum comply with the process described in Section 6.7, Noise, pgs. 34-38, and as determined by Site Plan Review.

4. Information relating to the construction/installation of the WECS as follows:

1) A construction schedule describing commencement and completion dates of the project and beginning and ending hours of daily construction.

2) A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles must comply with New York State Department of Transportation regulations.

- 3) Completed Part I of the full Environmental Assessment Form (EAF).
- 4) For each proposed WECS, include make, model, picture, and manufacturer's specifications, including detailed estimates of sound power levels for wind speeds over the entire operational range of the WECS. Include Manufacturer's Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- 5) If a positive declaration of environmental significance is determined by the SEQR lead agency, the following information shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a WECS. If the lead agency issues a Negative Declaration of environmental significance following its review of the EAG, an amended application shall be submitted which shall include, at a minimum, the following information:
  - (a) Shadow Flicker: The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECS and the expected durations of the flicker at these locations. For residences, the zone for predicting shadow coverage shall include the area within a 100-foot radius of the center of the residence. The study shall identify areas where shadow flicker may interfere with residences or highways and detail measures that will be taken to mitigate or eliminate such interference.
  - (b) Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which shall include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points, to include a detailed array from a number of vantage points along the Town's lake and river waterfronts. Color photographs of the proposed site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
  - (c) Fire Protection/Emergency Response Plan: A fire protection and emergency response plan, created in



consultation with the fire department(s) having jurisdiction over the proposed WECS to address coordination with local emergency/fire protection providers during any construction or operation phase emergency, hazard, or other event.

- (d) Noise Study: A certified acoustical consultant shall predict Wind Turbine noise levels keyed to all residences within 1.5 miles of a WECS. The noise analysis shall comply with requirements noted in Section 6.7, pgs. 34-38, Noise.
- (e) Electromagnetic Interference: An assessment of potential electromagnetic interference with microwave, radio, televisions, satellite systems, personal communication systems, and other wireless communication, weather and other radar shall be prepared. The applicant/operator is responsible for the preparation, assessment, and any corrective measures.
- (f) Cultural, Historical, and Archeological Resources Plan: An analysis of impacts on cultural, historical, and archeological resources shall be prepared regarding impacts anticipated during construction, modification, or operation of each WECS. This assessment shall be conducted in concert with the New York State Office of Parks, Recreation, and Historic Preservation.
- (g) Wildlife Impact: An analysis of impact on local wildlife and the Town's critical environmental areas shall be prepared to assess the anticipated impact during construction, reconstruction, modification, or operation of each WECS. Wildlife impacts to be considered shall include, at a minimum, anticipated impact on birds and bats as well as wildlife inhabiting ground-level habitats. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service and shall adhere to the "USFWS Land-Based Wind Energy Guidelines, March 23, 2012" to assess suitability of the site, and, if application is approved, outline post-operational studies to assess impacts.
- (h) Operation and Maintenance Plan: An operation and maintenance plan providing for regular periodic WECS inspection, any special maintenance requirements and procedures through decommissioning, and notification requirements for restarts during icing events.

- (i) Stray Voltage Report: An assessment, pre- and post-installation, of possible stray voltage problems on the site and neighboring properties within one (1) mile of the project boundary to show what properties need upgraded wiring and grounding. The applicant/operator is responsible for assessment and any corrective measures.
- (j) The applicant shall, prior to the receipt of a Special Use Permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner. Applicant shall also provide proof of complying with Public Service Commission power purchase requirements.

6. Application Certification:

- 1) A statement, signed under penalty of law that the information contained in the application is true and accurate.
- 2) Proof of continuous liability insurance in the amount of \$5,000,000 per occurrence with a total policy minimum of \$20,000,000 per year. This shall be submitted to the Town of Cape Vincent indicating coverage for potential damages or injury to landowners.
- 3) Disclosure of Financial Interests: For any financial interest held by a Municipal Officer or his or her relative in any wind development company or its assets within ten years prior to the date of an application for a permit under this Law, the Wind Company shall disclose in a separate section of the application the Municipal Officer or his or her relative, the addresses of all persons included in the disclosure, and the nature and scope of the financial interest of each person including total payments made to the official and his or her relative. The disclosure shall include all such instances of financial interest of which the Wind Company has knowledge, or through the exercise of reasonable diligence should be able to have knowledge, and the format of the submission shall be subject to the approval of the Town Board.
- 4) The Town shall require the applicant to fund an escrow agreement pursuant to Section 5.7.2 of this Law to cover the amount by which the Town's cost to review the applicant's applications exceed the application fees paid by the applicant. This shall include professional fees as may be required.

7. Noise Requirements:
  - 1) Any WECS shall comply with Noise Standards described in Section 6.7, pgs. 34-38, Noise.
  - 2) Because low frequency WECS noise is most annoying and problematic and because larger WECS emit proportionally more low frequency noise, therefore, the rated output of any WECS shall not exceed 1.6 megawatts.
8. Application Review Process: See Sections 5.4.6, (Planning Board) Site Plan Review and 5.3, (Zoning Board of Appeals) Special Use Permit.
9. WECS Standards:

In addition to General Requirements for Tall Structures, Section 7.14.4, the following requirements shall apply to WECS only:

  - 1) All power transmission lines from the tower to any building or other structure shall be located underground.
  - 2) No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town's Site Plan Review procedures.
  - 3) Lighting of tower. No tower shall be lit except to comply with FAA requirements. Any multiple, synchronous FAA lighting shall include switching technology which activates tower lights only if there is an approaching aircraft. Minimum security lighting for ground-level facilities shall be allowed as approved on the Site Plan.
  - 4) All applicants shall use measures to reduce the visual impact of WECS to the extent possible. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Individual WECS shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the area, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
  - 5) All WECS shall have stand-alone towers and no guy wires are permitted.
  - 6) No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems will produce electromagnetic interference with signal transmission or reception. The applicant is required to notify all federal,

state, local, and private agencies that may be impacted by their development.

- 7) In recognition of the value and importance of the Town's historical and scenic assets, WECSs shall be setback at least 1.25 miles from NY State Route 12E, the Seaway Trail and National Scenic Byway. (Appendix 9, Large Scale WECS Exclusion Map.)
- 8) To minimize potential impact on the Town's most valued property, all WECS shall be setback at least 2 miles from lake and river waterfronts. (Appendix 9, Large Scale WECS Exclusion Map.)
- 9) To protect the health and safety of all Town residents from ice throw and potential rotor failure, each WECS shall be setback a minimum of:
  - (a) Six times the total height of the proposed WECS from the nearest residence.
  - (b) Six times the total height of the proposed WECS from the nearest project boundary or property line.
  - (c) Six times the total height of the proposed WECS from any road.
  - (d) 1.25 miles from any WECS to the boundaries of the Village of Cape Vincent and from the Hamlets of Rosiere, Millens Bay, and St. Lawrence Corners as shown on the "Large Scale WECS Exclusion Map," Appendix 9.
  - (e) 1.25 miles from schools. (Appendix 9, Large Scale WECS Exclusion Map.)
  - (f) In order to ensure that residents of adjoining Towns of Lyme and Clayton are not negatively affected by any WECS proposed in the Town of Cape Vincent, any WECS near the Town's boundaries shall comply with the Noise Standards in Section 6.7 and shall be no closer than six times the total height of the proposed WECS to that boundary.
- 10) A map entitled, "Large Scale WECS Exclusion Map," is attached to this Law as Appendix 9 and it delineates the areas of the Town within which WECS are excluded in conformity with the setbacks established herein above.

#### **7.14.9 Small Wind Energy Conversion System (SWECS):**

- a. Intent:  
SWECS are permitted as per Table 8.

Table 11

<b>Type Of Small Wind Energy Facility</b>	<b>Description</b>
Small system - Less than or equal to 10 kw	Intended for the generation of electricity for residential use. Designed to be roof mounted or free standing. May be horizontal or vertical axis designs and may be shrouded.
Small system – Greater than 10 kw and less than or equal to 60 kw	Intended for the generation of electrical power for and accessories such as farm operations and small businesses. Designed to be free standing. May be horizontal or vertical axis designs and may be shrouded.

- b. Requirements:

- 1) The most critical aspect of the safety of these units is the proper selection, installation, and maintaining a full electrical load on the generator once in operation. Consideration should be given to allow only units manufactured with controls, braking, and a redundant fail-safe system to stop operation from ground level in the event of over speed or other emergency condition.
- 2) All SWECS shall comply with the following requirements. Additionally, such systems shall also comply with all the requirements established by other Sections of this Law that are not in conflict with the requirements contained in this Section.
- 3) The minimum distance between the ground and any part of the rotor blade of a free-standing turbine shall be 30 feet. The maximum height for SWECS  $\leq 10$  shall not exceed 120 feet. The maximum height for SWECS  $>10$  and  $\leq 60$  shall not exceed 180 feet.
- 4) Setbacks from residential property lines for SWECS shall follow Table 12 below.

<b>Table No. 12</b>	<b>Minimum Setback to Property Line</b>
Horizontal Axis Turbines	2 x tower height

Vertical Axis Turbines	1 ½ x total tower height
Horizontal Axis w/Shroud or Enclosure Turbines	1 ½ x total tower height
Roof Mounted Turbines	Should be the height of the structure plus the height of the turbine

- 5) All SWECS tower structures shall be designed, manufactured, and constructed to comply with pertinent provisions of the Uniform Building Code, National Electric Code under the National Fire Protection Association (NFPA), Underwriters Laboratory (UL), and International Code Council, Small Wind Certification Council Standards (ICC, SWCCC). Provide documentation that the system is equipped with manual and automatic over speed controls. The conformance of rotor and over speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
- 6) Noise Requirements- Any SWECS shall comply with Noise Standards described in Section 6.7, pgs. 34-38, Noise.
- 7) All on-site electrical wires associated with the system shall be installed underground. "Tie-ins" shall be governed by the utility company.
- 8) At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo, or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground, except that a system or tower manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- 9) Any SWECS with an appearance of abnormal operation, or a complaint by a neighboring property owner/occupant, shall contact the Zoning Enforcement Officer within 24 hours.
- 10) Abatement/Removal:
  - a. If any SWECS stops converting wind energy into electrical energy and/or distribution of that energy for on-Site use or transmission onto the electrical grid for a continuous period of 12 months, the applicant/ permittee shall remove said system at its own expense following, if applicable, the requirements of the decommissioning plan required under this Section or any Permit except for good cause shown as approved by the Town Board.

- b. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSEERDA or by lack of income generation. The applicant shall make available to a designee (i.e. town engineer, project manager, etc.) appointed by the Town Board, all reports from the purchaser of energy from individual SWECS, if requested to prove the SWECS is functioning. This designee may also request periodic documentation reporting the power output generated by the SWECS.
- c. If the permittee fails to remove the structure in a reasonable time, the Town Board may, upon notice to the permittee resolve to engage a contractor to remove the structure at the property owner's expense. The permittee shall consent to this process as a condition of any permit or approval granted by the Town Board.

**7.15 Veterinary Practice and Kennels:**

- 1. The lot exclusion zone shall be at least 100 feet all around the lot.
- 2. The operation of the practice shall be controlled so as to minimize any audio, visual, or odor impact at the lot exclusion line.
- 3. All animals shall be kept within an enclosed area or on a leash.
- 4. All animals shall be kept in a closed building between 8 p.m. and 8 a.m.

**8. NON-CONFORMITIES**

- 1. Intent:  
The intent of this Section is to recognize certain uses, lots of record, and structures which legally existed at the time of enactment of this Law and which would be prohibited or unreasonably restrictive by the provisions, regulations, standards, or procedures herein. This Section shall not, however be construed to perpetuate or encourage the survival or expansion of such uses, lots or structures.
- 2. Non-Conforming Uses: A non-conforming use or structure may be continued on the premises provided that:
  - a. Any non-conforming use which has, for any reason, been discontinued for a period of 18 months or longer, shall not be re-established and only conforming uses/structures shall be thereafter permitted.
  - b. No non-conforming use/structure may be expanded beyond the confines existing at the time of this Law's adoption.
- 3. Non-Conforming Lots of Record:
  - a. Any lot of record held under separate ownership prior to the enactment of the Law and having a lot width or lot depth, or both, less than the minimum area requirement set forth in this Law may be developed with any

compatible use listed for the district in which such non-conforming lot is located without requiring a variance. If the non-conforming lot cannot meet the required setbacks, it will require an area variance.

#### 4. Non-Conforming Structures

Any pre-existing structure which, by the enactment of this Law, is made non-conforming may be used for any compatible use listed for the district in which structure is located provided that it shall not be enlarged so as to increase its non-conformity in terms of Lot Utilization Area, or lot coverage.

- a. The expansion of a building which is non-conforming with respect to lot utilization area, setbacks, shall be considered an increase in non-conformance, unless the expansion itself is within the lot utilization area.
- b. Nothing under the provisions of this Law shall prevent the repair or restoration of a non-conforming structure so long as it is not enlarged or expanded as a result thereof.
- c. Changing the height of the pre-existing structure up to a height of 35 feet shall not be considered an expansion of the non-conformity.

#### 5. Non-Conforming Manufactured (Mobile) Homes on Individual Lots

- a. A non-conforming manufactured (mobile) home is one that does not meet the regulations of Section 7.7 at the time this Law was adopted.
- b. Any manufactured (mobile) home that is unoccupied for 18 months must either meets the requirements of Section 7.7 or be removed from the site.
- c. Any non-conforming manufactured (mobile) home may be replaced by a mobile home of the same or greater size, but shall meet the requirements of Section 7.7 and all applicable zoning requirements.

#### 6. Non-conforming Manufactured (Mobile) Homes in Manufactured (Mobile) Home Parks

- a. Any expansion of manufactured (mobile) home parks must meet the requirements of Section(s) 7.7 II and/or III as appropriate.
- b. Any change of individual manufactured (mobile) homes must meet the requirements of: Section 7.7
- c. Fire Safety: Per Part 17, Mobile Home Parks (Statutory)  
"Spacing: Homes and accessory buildings or structures installed after the effective date of this code shall be situated such that a minimum separation distance of 10 feet exists to any home, building, or structure on any other site or parcel of land."



## **9. DEFINITIONS**

Except where specifically defined herein all words used in this Law shall carry their customary meaning. Words in the present tense include the future, single numbers include the plural, and plural numbers the singular. The word "lot" includes the word "plot" and "property." Doubt as to the precise meaning of any word used in this Law shall be clarified by the Zoning Board of Appeals.

### Administrative and Review Expense:

All actual expenses incurred by the Town in the review and processing of an application. Such costs may include publication costs, consultant fees covering planning, engineering, environmental analysis, legal review, and other technical services required for a proper and thorough professional review of the application

### Adult Use:

Any person, establishment, business, or use of such establishment, by the nature of its operation, (excluding the sale of alcoholic beverages) is not or would not be to be open to the public generally due to the exclusion of any minor by reason of age or by operation of New York statute law. Any business involved in the dissemination of materials distinguished or characterized by the emphasis on matter depicting, describing, or relating to specific sexual activities or anatomical activities, including but not limited to adult arcades, adult bookstores or video stores, adult cabarets, adult live entertainment, adult motion picture theaters, and adult novelty stores.

### Aggrieved Party:

An aggrieved party for the purpose of land use is one who suffers damage that is special or unique to them and not one which is suffered by the public in general as determined by state law.

### Agriculture:

All activities related to the growing or raising of crops or livestock.

### Agriculture & Market District:

A district, created by the County Board of Supervisors, according to Agriculture and Market Law Article 25AA.

### Accessory Use:

A use customarily incidental and subordinate to the principal use of a lot or building. This use shall be located on the same lot as the principal use and shall be under the same ownership and can be conducted without any significant adverse impact on the surrounding neighborhood.

### Anemometer:

An instrument that measures wind speed.

### Animal Feed Lots – Concentrated:

A facility where dairy and beef animals are raised, confined and fed.

Antenna:

A system of electrical conductors that transmit or receive electromagnetic waves, radio frequency, or other wireless signals.

Automotive Sales:

Any commercial display, sale, or rental of motorized or recreational vehicles.

Automotive Service/Repair:

Any area of land, including structures, that is used or designed to service motor vehicles by supplying fuel (i.e. gas station) oil or other lubricants, and/or to provide other types of service such as maintenance, repair, body work, polishing, greasing, painting, or washing such motor vehicles. An establishment that satisfies this definition and also sells unrelated retail goods shall be considered to be both an automobile service station and a retail use as a convenience store.

A-Weighted Sound Level (dBA): A measure of overall sound pressure level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's response. It reduces the effects of the low with respect to the frequencies centered around 1000Hz. The resultant sound level is said to be "Weighted" and the units are "dBA." Sound level meters have an A-weighting network for measuring A-weighted sound levels (dBA) meeting the characteristics and weighting specified in ANSI Specifications for Integrating Averaging Sound Level Meters, 51.43-1997 for Type 1 instruments and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. In this Law dBA means LEQ unless specified otherwise.

Background Sound:

Background sounds are those heard during lulls in the ambient sound environment and represent the quietest 10% of the time, for example the quietest one minute.

Bar/Tavern: Includes all facilities whose principal business is the sale of alcoholic and other types of beverages, as well as the sale of prepared food.

Bed and Breakfast:

An owner-occupied, one-family dwelling used for providing overnight accommodations and a morning meal to not more than ten (10) transient lodgers containing one (1) but not more than five (5) rental bedrooms for such lodgers.

Blade Glint:

The intermittent reflection of sunlight off the surface of the blades of one or more wind turbines.

Boathouse:

A structure over the water and enclosed on three sides with a roof used for dockage and storage of watercraft. The boathouse cannot be used as a dwelling unit.

Building:

Structure having a roof supported by columns or walls and intended for shelter or enclosure of persons, animals, or property.

Cabin:

A one-story, 1300-square foot maximum, stick built structure that is constructed on or off site.

Campground:

A parcel of land which is used for temporary use of tents and recreational vehicles on a commercial basis.

Roadway:

The portion of a street right-of-way, either paved or unpaved, intended for vehicular use.

Cemetery:

A plot of land used for internment of the deceased, excluding family plots.

Commercial:

A business activity characterized by the manufacture, storage, or sale of goods or services to the customer or other business for the purpose of generating an income or profit.

Commercial Animal Slaughtering and Rendering:

A facility used for butchering of animals and/or processing of animal carcasses for commercial purposes.

Commercial Parking:

On premises parking at a place of commerce.

Corner Lot:

A lot bounded on at least two (2) sides by roads, whenever the lines of such streets, extended, form an interior angle of one hundred thirty-five (135) degrees or less.

Correctional/Detention Facility:

A facility for the long-term incarceration of convicted felons.

Cottage:

One separate, single dwelling unit used as lodging for short-term or seasonal use.

C-Weighted Sound Pressure Level (dBC):

Similar in concept to the A-weighted sound Level (dBA) but C-weighting does not de-emphasize the frequencies below 1k Hz as A-weighting does. It is used for measurements that must include the contribution of low frequencies in a single number representing the entire frequency spectrum. Sound level meters have a c-weighting network for measuring C-weighted sound levels (dBC) meeting the characteristics and weighting specified in ANSI SI.43-1997 Specifications for Integrating Averaging Sound Level Meters for Type 1 instruments. In this Law dBC means L unless specified otherwise.

Day-Care Facility:

A facility duly permitted by New York State Department of Social Services for the care of seven or more adults or children for less than 24 hours a day.

Decibel (dB):

A dimensionless unit describing the amplitude of sound and denoting the ratio between two quantities that are proportional to power, energy, or intensity. One of these quantities is equal to 20 times the logarithm to the base 10 of the ratio of the measured pressure to the reference pressure, which is 20 micropascals.

Development:

Any man-made change that modifies the prior existing state of specific real property.

Dock (Covered):

An open structure over the water consisting of support posts and a roof with a maximum pitch of 4/12 used for the dockage and storage of watercraft. A covered dock may not have any walls.

Dwelling Unit:

Building or part thereof used as living quarters for one household. The terms "dwelling," "single-household dwelling," or "multi-household dwelling" shall not include motel/hotel, bed and breakfast, inn, lodging house, or boathouse.

Educational Facility:

Any school licensed by the State of New York that provides organized courses of study by or under the guidance of a teacher.

Electrical Power Transmission Tower:

A structure for the support of electrical power transmission lines.

Electromagnetic Frequency:

The measurement of electromagnetic fields which are made by the movement of electrically charged particles.

Equivalent Noise Level (Leq):

The A-weighted or C-weighted equivalent noise level (the average noise level). It is defined as the steady noise level that contains the same amount of acoustical energy as the corresponding time-varying noise.

Erosion and Sedimentation Control Plan:

A design to minimize soil erosion and sedimentation in compliance with regulations promulgated by the New York State Department of Environmental Conservation.

Farm:

Land used in agricultural production together with agricultural buildings or structures, equipment, and residential buildings.

Fence:

A continuous man-made barrier of wood, stone, plastic, wire, or other material commonly used as fencing material intended for enclosure, security, screening, or partitioning.

FAA:

The Federal Aviation Administration or successor agency.

FCC:

The Federal Communications Commission or successor agency.

Filing:

Submission of records to the Town Clerk and/or other government entities.

Government Facility:

A building or use that is operated by a governmental unit for the general well-being, health, safety, welfare, and enjoyment of the public.

Gross Density:

The number of dwelling units divided by the total acreage of the land upon which they are located, excluding any acreage used for non-residential purposes.

Gross Floor Area:

The total floor area of a building as determined by the outside dimensions of the building.

Gross Leasable Area (GLA):

The gross floor area designated for the exclusive use of tenants, clients and customers, not including public or common areas, such as public toilets, corridors, stairwells, elevators, lobbies or enclosed atria.

Hamlet: A small unincorporated village.

Healthcare Facility:

A licensed facility in which professional health services are rendered.

Height:

The vertical distance measured from the lowest elevation of the original topography of the structure's footprint to the highest point of the structure.

Home Occupation:

Any permitted use conducted within a dwelling by the residents thereof which is clearly secondary to the use of the dwelling for living purposes.

Hostel:

An inexpensive, supervised short-term lodging facility.

Hotel/Motel/Rental Dwelling Unit:

A commercial establishment offering lodging to travelers and sometimes to permanent residents and often having restaurants, meeting rooms, stores, etc., that are available to the general public.

Impervious Surface:

Any surface or structure that does not allow water to be absorbed into the underlying soil.

Impulse Noise:

A sound of short duration usually less than one second and of high intensity, with an abrupt onset and rapid decay, e.g., a gunshot or explosion.

Institutional Uses:

Any one (1) or more of the following uses, including grounds and ancillary structures necessary for their use: religious institutions, public parks, playgrounds and recreational areas, schools, public libraries, fire, ambulance, and public safety buildings, public or private meeting halls, or places of assembly not operated primarily for profit, hospitals, clinics, and transitional care facilities.

Junkyard:

An area of land with or without buildings, primarily used for the outside storage of used and discarded materials, including but not limited to waste paper, rags, metal, building materials, house furnishings, machinery, vehicles or parts thereof, including junk with or without the dismantling, processing, salvage, sale, or other use or disposition of the same. The deposit or storage of two or more vehicles as per General Municipal Law, Section 136, shall be deemed to make a lot a junkyard.

kennel:

Any commercial establishment, including cages, animal runs and structures, where animals are harbored, bred, or boarded.

Leg:

Equivalent Continuous Sound Pressure Level is the constant sound level that would result in the same total sound energy being produced over a given period.

Lot Divided By A Right-of-Way:

When a lot is divided by a roadway, both sides of the roadway will be considered to be a lot line for purposes of setback guidelines.

Lot (Lot of Record):

A parcel of land, the legal description of which is filed with the County Clerk occupied or designed to be occupied by one (1) principal use structure and ancillary structures or used customarily incident to it, including such open spaces as are required by this Law.

Lot Exclusion Area:

The area between the lot lines and the setback lines is reserved for green space, such as lawn, landscaping, and screening and ingress and egress driveways only. No development or commercial parking is permitted within this area.

Lot Line:

A line by which all setbacks are measured.

Lot Line - Front:

The property line separating a plot or parcel of property from a road right-of-way line. If a lot adjoins two or more roads or highways, it shall be deemed to have a front line respectively on each. Waterfront lots shall be deemed to have a front lot line on the side of the lot closest to the body of water they abut. On a waterfront lot; therefore, the road right-of-way will become the rear lot line. On waterfront lots, the setbacks shall be measured from an imaginary

straight line connecting the intersections of the side lot lines with the US Army Corp. of Engineers, 1985 International Great Lakes Datum, Elevation 247.30 feet above sea level

Lot Line - Rear:

That lot line which is opposite the front lot line. A rear lot line shall not be adjacent to a front lot line. In the case of corner lots, there might be no rear lot line.

Lot Line - Side:

A line adjacent to the front lot line.

Lot Utilization Area:

That area bounded by the setback lines is the only area of a lot on which development and commercial parking is permitted. The lot utilization area for tall structures is defined as a circular area the radius of which is defined by the structure.

Lot Utilization Line:

This line is the setback line. The lot utilization line for tall structures is a concentric circular line around the tall structure where the tall structure is at the center. The radius of this line is dependent on both the height and the use of the tall structure.

Maintenance:

Plumbing, electrical, or mechanical work that might require a building permit but does not constitute a modification to a wind turbine or wireless telecommunications facility.

Manufactured Home (Mobile):

Manufactured housing built on a chassis. A manufactured (mobile) home shall be constructed to remain a manufactured (mobile) home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundations provided. A manufactured (mobile) home shall not be construed to be a travel trailer or other form of recreational vehicle. A travel trailer, motor home, fifth wheel, or any other type of recreational vehicle shall not be construed to be a manufactured (mobile) home.

Manufactured (Mobile) Home - Double Wide:

Any manufactured (mobile) home that is greater than 16' in width.

Manufactured (Mobile) Home - Single Wide:

Any manufactured (mobile) home which is 16' or less in width.

Manufactured (Mobile) Home Park:

A lot in which multiple manufactured (mobile) homes and/or cabins are located and the property is overseen and run for commercial purposes.

Manufactured (Mobile) Home Park – Year Round:

Any manufactured (mobile) home park which is in operation on a year-round basis.

Manufacturing – Light

A small scale commercial facility that fabricates, assembles, treats, packages and/or stores products that do not emit objectionable levels of pollutants, noise, odor, or vibration.

Marina:

A waterfront facility, structure, or lot area for renting, storing, servicing, fueling, overhauling, inspection, and sales of sailboats, power boats, personal watercraft and ancillary items associated with water recreational sports and products used in water-related activities. Off-site storage of watercraft is included.

Meteorological Tower:

A tower used for the measurement and/or recording of meteorological data such as temperature, wind speed, and wind direction.

Mining/Quarry Operation:

A lot or parcel of land used for the purpose of extracting and processing stone, gravel, soil, or solid minerals for sale as an industrial or commercial operation.

Mining Operation, N.Y.S. Department of Environmental Conservation Regulated:

Any mining operation under the jurisdiction of Article 15, of the Environmental Conservation Law.

Modification or Modify:

Any change to a previously approved structure or other use.

Modular Home:

A dwelling, factory produced for transportation to a permanent site. The entire structure will be produced and assembled according to New York State standards for modular homes. The intent of this definition is to allow installation of modular homes constructed to standards equal to those required for on-site built dwellings. The steel undercarriage, used for transportation, is to be removed during home installation and assembly.

Multi/Household Dwelling:

A building designed for or occupied by two or more households living independently of each other.

Municipal:

Of or pertaining to the town or its local government.

National Scenic Byway:

A public road having special scenic, historic, recreational, cultural, archeological, and/or natural qualities that have been recognized as such through federal and state legislation or some other official governmental declaration or designation.

NIER:

Non-ionizing electromagnetic radiation.

Noise:

Any unwanted sound.



Non-Conformity:

A pre-existing lot, building, structure, or use of land legally and substantially existing at the time of enactment of this Law which does not now conform to the regulations of the district in which it is situated.

Nursery: A commercial business activity that grows, sells, or resells plants for commercial activity.

Odor:

An unwanted olfactory sensation.

Office - General:

A facility that is devoted exclusively to business, non-profit, or professional services.

Official Submission Date:

The date that all required information and fees for applications are received by, presented to, or otherwise examined by the appropriate board at an official meeting thereof. Materials presented at a pre-submission conference for Site Plan Review shall not be considered an official submission.

One-Third Octave Band:

A band of sound covering a range of frequencies such that the highest is the cube root of two times the lowest. The one-third octave bands are used in this standard are defined in ANSI Reference Standard S1.11.

Open Space:

That portion of the lot not covered by impervious surfaces or structures.

Owner:

An individual or entity having ownership of the land.

Permitted Use:

A use not requiring a Planning Board review but requiring a zoning permit to be issued by the Zoning Enforcement Officer.

Principal Use:

The main, dominant purpose for which any land or structure is intended, utilized, employed, or occupied.

Project Boundary:

The external boundaries of a parcel or parcels owned by or leased by the project operator/developer. It is represented on a plot plan view by a continuous line encompassing all parcels and owners cooperating in the project.

Public Road:

State, county, or town roadway regularly traveled by the public.

Radio Frequency (RF) Radiation:

A form of electromagnetic radiation emitted by transmitting antennas.

Recreational Resort:

A facility devoted to leisure time and sporting activities.

Recreational Vehicle:

A vehicle which is built on a chassis, self-propelled or permanently towed by a motor vehicle, such as a tow behind travel trailers, motor homes, coaches, 5<sup>th</sup> wheel trailers, truck campers, and pop-up campers, and is designed primarily as temporary living quarters for recreational camping, travel, or seasonal use. Not a permanent dwelling.

Recreational Vehicle Storage Facility:

Lot on which customers' generally store recreational vehicle(s) on a yearly basis.

Religious Use:

Includes church, temple, mosque, parish house, convent, seminary, school, and retreat house.

Rental Dwelling Unit:

A dwelling unit used for commercial purposes that is not occupied by the owner.

Residential Garage:

A structure, accessory to a dwelling unit, that is primarily used for storage of motor vehicles and personal possessions on a non-commercial basis.

Restaurant/Inn:

Any establishment, however designated, at which food and/or alcoholic beverages are sold for consumption to patrons seated within an enclosed building or on the premises. A temporary snack bar or refreshment stand at a public function shall not be deemed to be a restaurant.

Retail:

A commercial activity characterized by the direct on premise sale of goods and services to the customer.

Retention Basin:

A depression in the ground or a piping system designed to collect storm water allowing it to be dissipated in a controlled manner in accordance with governing regulations.

Right of Way:

A right of way is an easement that grants the right to pass over the land of another for a particular purpose, typically to access an adjoining parcel. The minimum width of an access easement is thirty (30) feet. This minimum width shall be expanded to fifty (50) feet in the event that the lot (s) to be accessed is brought to the Planning Board for Site Plan Review as a subdivision with more than one residence.

Salvage/Scrap Yard:

A commercial facility for the disassembly, warehousing, sale, and/or distribution of components from items no longer useful for their intended purpose. Only disassembled items are permitted in salvage yards.

Seasonal Home Park:

A lot in which multiple manufactured (mobile) homes and/or cabins are located and the property is overseen and run for commercial purposes on a seasonal basis.

SECS (Solar Energy Conversion System):

A system by which solar energy is collected by photovoltaic ("solar") panels, changed from Direct Current (DC) to Alternating Current (AC) by converters and utilized to supplement, and in some cases, replace electricity from a commercial utility grid. Large-scale SECS whose electricity output is intended for distant population centers are generally constrained by the existing capacity of the local grid distribution systems.

Sediment:

Soils or other surface materials transported by surface water as a product of erosion.

Self-Storage Facility:

A building or group of buildings that contain private storage spaces available for rent or lease for varying periods of time.

SEQR:

State Environmental Quality Review based on the State Environmental Quality Review Act.

Shadow Flicker:

The visual effect when the blades of an operating Wind Energy Conversion System pass between the sun and an observer, casting a readily observable, moving shadow on a person or property.

Single Family/Household Dwelling:

A building designed for or occupied exclusively by one family or household.

Site:

A parcel(s) of land where a project is to be constructed and operated.

Storage Shed:

A structure, accessory to a primary use, that is used to house equipment, tools, and materials.

Structure:

Any object constructed or installed to facilitate land use and development or subdivision of land such as buildings, sheds, signs, satellite dishes, boathouses, septic systems, and any fixtures, additions, and alterations thereto. Structures shall not include fences, landscaping, and other screens.

SWECS: Is a wind turbine less than or equal to 60 kw that is intended for the generation of electricity for home use and accessories such as farm operations and small businesses.

Tall Structure:

A structure that is taller than 60 feet and is not otherwise exempt from this Law.

Tall Structure Lot Utilization Area:

The tall structure lot utilization area shall be a circular area concentric with the structure. The radius of which depends on the application.

Telecommunications:

The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

Telecommunication Tower:

A structure designed and used for the support of telecommunications equipment.

Tower:

Any structure designed primarily to support equipment.

Town Bulletin Board:

A display located at the Town Office for the placement of public notices.

Use:

The specific purpose for which land or a structure is designed, arranged, intended or for which it is or may be occupied or maintained.

Utility:

The erection, construction, alteration, operation, or maintenance by a municipal agency or public utility of energy or communication transmission lines including cable television lines, telephone equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities used to serve the local community.

Veterinary Practice:

A licensed healthcare facility for non-human entities, not including boarding or harboring.

Waterfront:

The topographical feature defined as the naturally occurring mean high water elevation of 247.3 feet above sea level as determined by US Army Corps of Engineers based on 1985 Great Lakes Datum. For purposes of this Law, artificially constructed harbors, docks, and boat slips are not naturally occurring.

Water Structure:

Any pier, boat dock, boat ramp, boat slip, wharf, weir, boom, breakwater, bulkhead, revetment, riprap, jetty or piling.

WECS (Wind Energy Conversion System)

A wind farm with multiple turbines that are greater than 60 kw and are intended for industrial use.

Workshop/Studio Building:

An accessory structure typically used for crafts, hobbies, and arts.

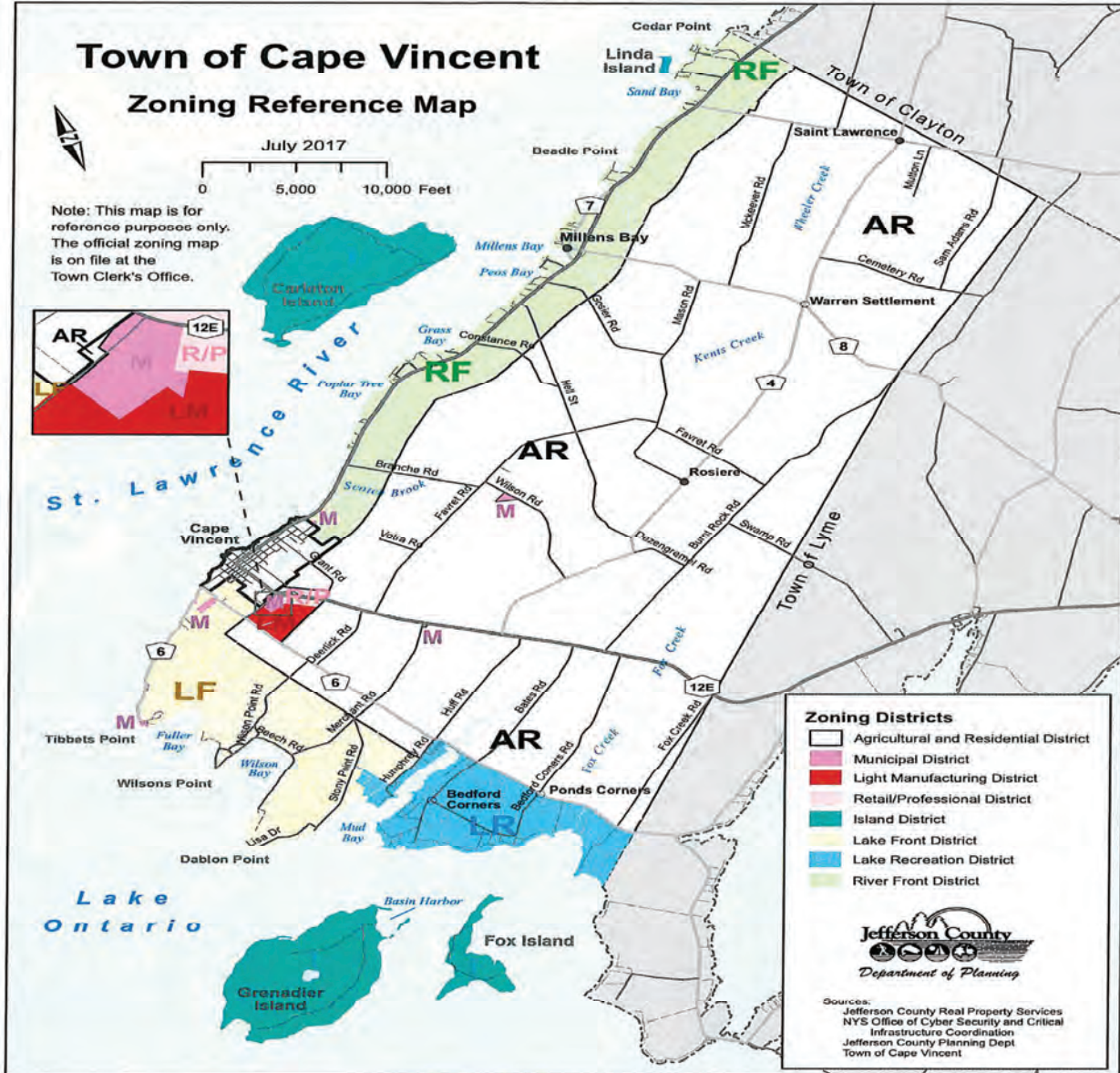
Zoning Enforcement Officer:

A person appointed/hired by the Town Board to ensure compliance with the regulations of this Law.

Zoning Permit:

A written authorization from the Zoning Enforcement Officer to proceed with a project.

# Appendix No 1 Zoning Map



## Appendix No. 2 Instructions to Applicant

**Supervisor**  
LARRY R. HURRAN

**Town Clerk / Tax Collector**  
MICHELE A. BRONKHORST

**Town Engineer**  
MICHELE W. DRVIS  
BROOKS J. BRADSON  
CH. FORDY  
SCHMIDT  
JOHN L. BYRNE II

**Mayor / Councilor at Large**  
LARRY R. HURRAN

### TOWN OF CAPE VINCENT Jefferson County, New York 13618



PHONE (315) 654-3730  
FAX (315) 654-3362

**President**  
ROBERT M. BARNARD

**Historian**  
MICHAEL J. WATSON

**Zoning Board Chairman**  
RICHARD H. MACE JERRY

**Board of Appeals Chairman**  
DENNIS SAUERBAUM

**Zoning Enforcement Officer**  
EDWARD R. BENDER

#### INSTRUCTIONS TO APPLICANTS

1. Applicant receives zoning permit application from the Town Clerk or Zoning Enforcement Officer (ZEO)
2. Applicant submits the completed zoning permit application to the ZEO. If approved the ZEO issues the zoning permit and the applicant can apply for a building permit from the county at 175 Arsenal Street Watertown New York 13601
3. Before construction the Applicant shall contact the ZEO to inspect the property for compliance. If all is in order the zoning enforcement officer will issue a certificate of compliance
4. If Zoning Permit is denied the Applicant may apply to the Zoning Board of Appeals (ZBA) for a variance.
5. When the Applicant has completed the variance application he may appear before the ZBA for a preliminary discussion.
6. The Applicant shall have legible drawings showing the dimensions of the lot and the location of the structure relative to side, front and rear setbacks as precise as possible.  
Photographs are required in assisting the ZBA in making a decision.  
The footprint of the structure should be accurately staked to show the exact location of the structure.
7. If a variance is granted by the ZBA the Applicant must obtain a Zoning Permit ZEO in order to obtain a building permit.

## Appendix No. 3 Zoning Permit Application Form

TOWN OF CAPE VINCENT  
Jefferson County, New York 13118



### Zoning Permit Application

Name of applicant: \_\_\_\_\_ Telephone: (\_\_\_\_) - \_\_\_\_\_

Agent/Contractor: \_\_\_\_\_ Cell # (\_\_\_\_) - \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Location by street or 911# \_\_\_\_\_

Tax Map # \_\_\_\_\_ Zoning District LF LR RF AR C RP I

Nature of work:  New Building  Addition  Installation

Dimensions of entire structure

Front \_\_\_\_\_ Rear \_\_\_\_\_ Depth \_\_\_\_\_ Maximum Height \_\_\_\_\_

Foundation Type:  Concrete  Masonry  Steel  P.T. Wood  Other \_\_\_\_\_

Structure Type:  Wood  Stone  Masonry  Concrete  Other \_\_\_\_\_

Structure Use:  Residential  Commercial  Retail/Professional  Agricultural

Further description of project: \_\_\_\_\_

Lot Size: Front \_\_\_\_\_ Rear \_\_\_\_\_ Depth \_\_\_\_\_ Area (sq ft) \_\_\_\_\_

**Requirements:**

A sketch plan must accompany this application showing the placement of the proposed structure on the lot. The drawing shall show distance between the structure and all lot lines, other structures on the lot, road right-of-way line and any other outstanding natural or man made features on or adjacent to the lot. The dimensions of the lot lines shall be noted. Such drawing shall be prepared for a change of use in an existing structure as well.

The applicant shall lay out stakes on the lot enabling the zoning officer to determine building location and lot lines.

I, the owner or agent of the proposed use for which this permit application is being made, do hereby affirm that the above information is true and accurate, and that it conforms to the Zoning Law and all other applicable laws.

Landowner or Agent Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**For Office Use Only:**

Permit # \_\_\_\_\_ Appeals # \_\_\_\_\_

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Denied: \_\_\_\_\_ Date: \_\_\_\_\_

Zoning Law Section and Paragraph: \_\_\_\_\_

Site Plan Referral Date: \_\_\_\_\_

## Appendix No. 4 Short EAF (Environmental Assessment Form)

617.20  
*Appendix B*  
*Short Environmental Assessment Form*

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project:			
Project Location (describe, and attach a location map):			
Brief Description of Proposed Action:			
Name of Applicant or Sponsor:		Telephone:	
		E-Mail:	
Address:			
City/PO:		State:	Zip Code:
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		_____ acres	
b. Total acreage to be physically disturbed?		_____ acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			





18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: _____		Date: _____
Signature: _____		

**Part 2 - Impact Assessment.** The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

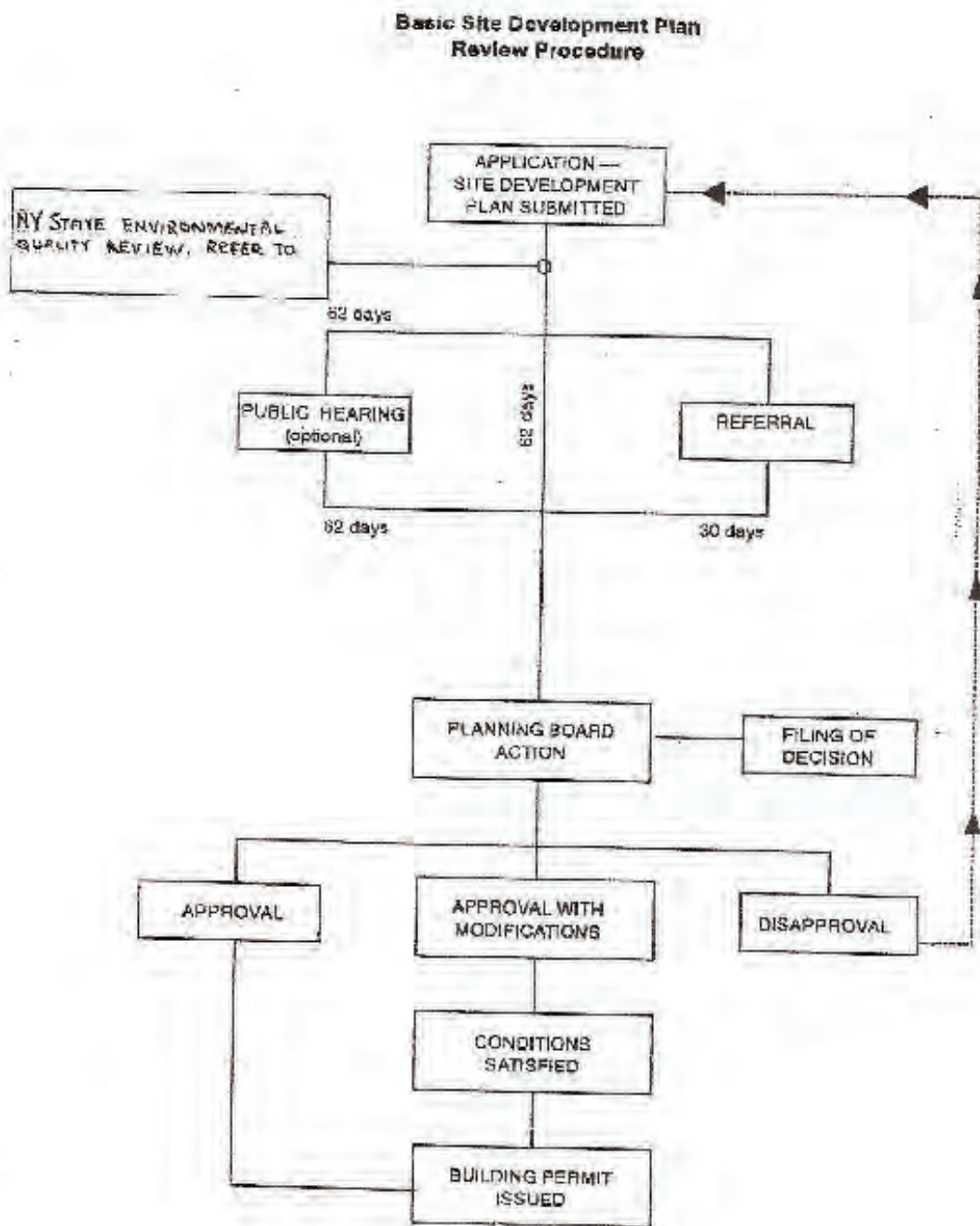
	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

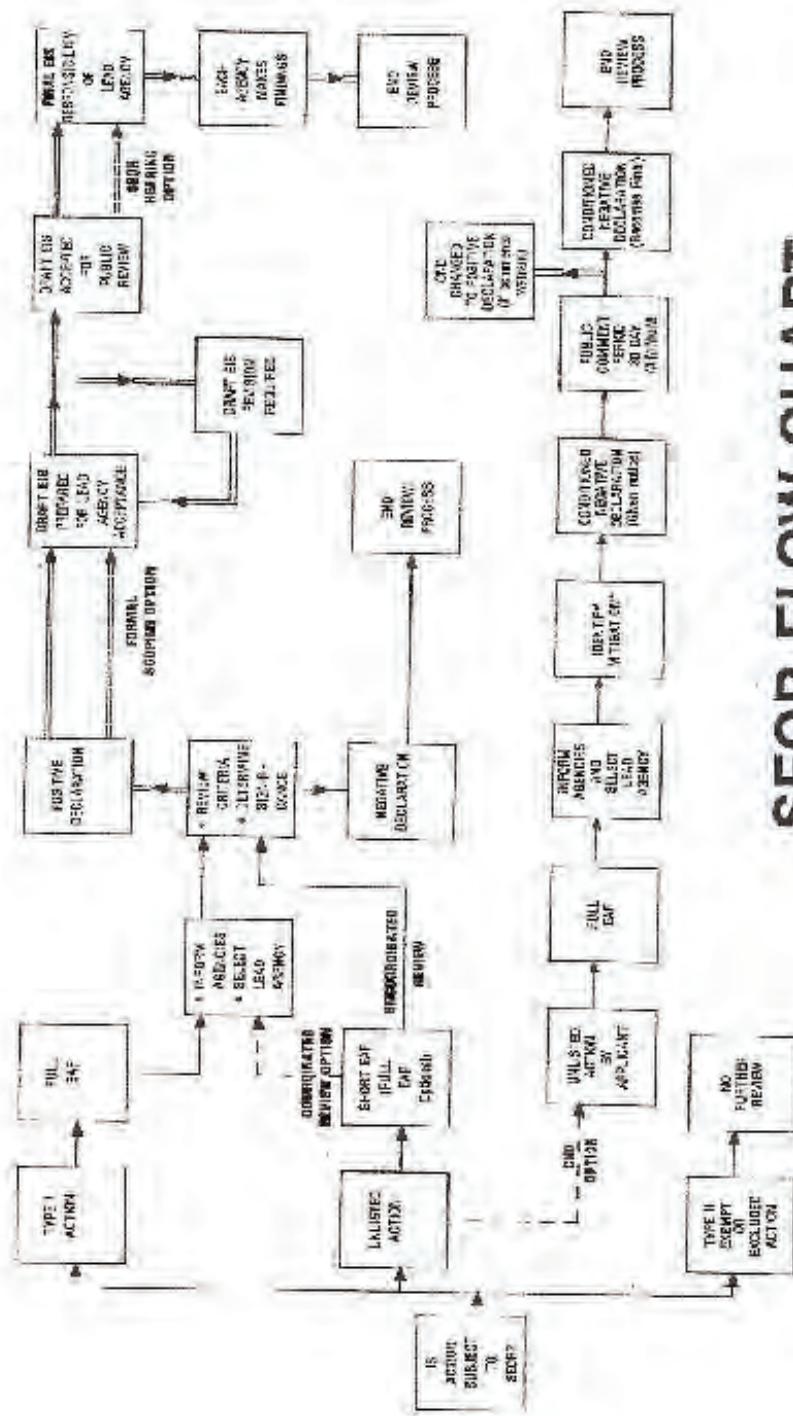
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

**PRINT**

## Appendix No. 5 Basic Site Plan Review Procedure



# Appendix No. 6 SEQR Flow Chart



## SEQR FLOW CHART

→ PROCEDURES NOT REQUIRED IN EIS  
 ⇨ ADDITIONAL PROCEDURES WHEN AN EIS IS REQUIRED



**Appendix No. 7  
Stop Work Order**

**Town of Cape Vincent**  
Jefferson County, NY 13618

**Zoning Law**

**Stop Work Order**

YOU WILL PLEASE TAKE NOTICE that there exists a violation of:  
Section: \_\_\_\_\_, Page: \_\_\_\_\_ of the Town of Cape Vincent Zoning Law.  
At the following Location: \_\_\_\_\_  
Tax Map Number: \_\_\_\_\_

In that (state character of violation):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby

**Directed and Ordered to Stop Work,**

comply with the Law, and to remedy the condition above mentioned

On or before (date): \_\_\_\_\_

**Failure to remedy the condition aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine, imprisonment, or both.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Zoning Enforcement Officer

CC: Town Clerk

**Appendix No. 8  
Notice of Violation**

**TOWN OF CAPE VINCENT**  
JEFFERSON COUNTY, NEW YORK 13912

Tax Parcel Number: _____	Section: _____	Block: _____	Lot: _____
			Log No.: _____

**NOTICE OF VIOLATION - ORDER TO REMEDY**

(date)

(name)

(address)

(city, state, zip code)

Dear \_\_\_\_\_,

You are hereby notified that you have been found to be in violation of the Zoning Law Article \_\_\_\_\_, Section \_\_\_\_\_, Subsection \_\_\_\_\_. The specific violation is: \_\_\_\_\_

\_\_\_\_\_

as observed by the zoning enforcement officer on \_\_\_\_\_, \_\_\_\_\_

The following corrective measures should be taken no later than \_\_\_\_\_ or penalties may be assessed: \_\_\_\_\_

\_\_\_\_\_

For the purposes of applying the penalties described in the Administrative Section of the Zoning Law, your first violation shall be deemed to have occurred as of \_\_\_\_\_.

If you have questions, please contact me.

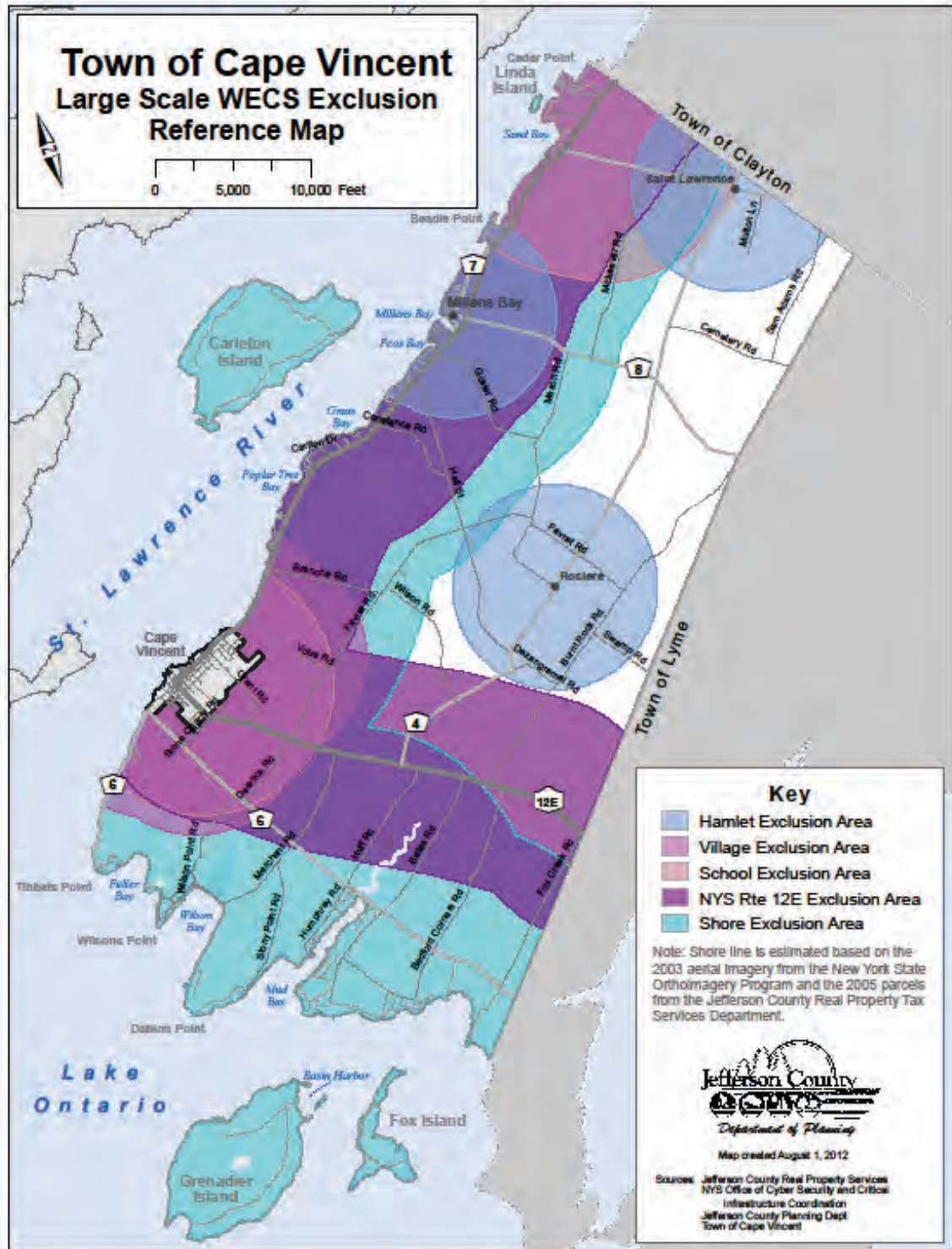
Sincerely,

\_\_\_\_\_

Zoning Enforcement Officer

*Please Note:* A violation of this code is punishable by a fine not to exceed \_\_\_\_\_. Each \_\_\_\_\_ of continued violation shall constitute an additional, separate offense, after court determination.

## Appendix No. 9 Large Scale WECS Exclusion Map





**Appendix No. 10**

**TOWN OF CAPE VINCENT  
SITE PLAN REVIEW APPLICATION**

The application for site plan approval consists of Parts A and B, an Environmental Assessment Form as required by the State Environmental Quality Review Act (SEQRA), an Agricultural Data Statement, and the payment of application fees, as established by Resolution of the Town Board.

**Refer to the Town Zoning Law for additional information and Site Plan Review criteria and process.**

**PART A: PROJECT DESCRIPTION**

Provide all information requested to assure a clear understanding of the proposed project. Attach supplemental information if necessary. Incomplete information may render the application incomplete.

1. Applicant(s) name, address, and telephone number:

---

---

---

2. Owner(s) name, address, and telephone number, if not the same as applicant:

---

---

---

3. Describe the proposed use of the site:

---

---

---

4. Project Description: (Refer to sample Site Plan Drawing) Include photographs, if applicable.

---

---

---

5. Site location: \_\_\_\_\_

---

6. Total site area (square feet or acres): \_\_\_\_\_
7. Tax Map Section \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_
8. Zoning District property is located in: \_\_\_\_\_
9. List below Town, school, county, state, and federal permits/agreements i.e., road access, Department of Health, NYS Uniform Fire & Building Code, D.E.C., PILOTS.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
10. Attach a copy of the above-listed permits/agreements.
11. Describe infrastructure anticipated: (For example, water, sewer, power, roads.)
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
12. Anticipated construction schedule: \_\_\_\_\_
- \_\_\_\_\_
13. Current land use and condition of the project site (agricultural, commercial, undeveloped, residential, etc.):
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
14. Character of surrounding area (residential, agricultural, wetlands, etc.):
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
15. Anticipated number of residents, employees, shoppers, as is applicable:
- \_\_\_\_\_
16. Other project information necessary to adequately describe the project and inform the Zoning Enforcement Officer, Zoning Board of Appeals, and Planning Board:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Applicant Signature

Owner Signature

Date

SITE PLAN REVIEW APPLICATION, Cont. –

APPENDIX No. 10 Cont.

## **PART B. - SITE PLAN REVIEW DRAWING**

The intent of the site plan review drawing is to show the layout and design of the project on the site. At the pre-submission conference, the Planning Board may require that any or all of the following items be included on the site plan drawings. If no pre-submission conference is held, all of the following items are required on the site plan. Attach supplemental information if necessary.

1. Name of project, name and address of applicant and person responsible for preparing the site plan drawing.
2. Date, North point, written and graphic scale.
3. Boundaries of the project site drawn to scale, including distances, bearings, and areas.
4. Project Tax Map #Section, Block, Lot .
5. Location and ownership of all adjacent lands as shown on the latest tax records.
6. Location, name, width, and right-of-way of adjacent roads.
7. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use.
8. Location, size, and design of the following:
  - a. Existing and proposed structure(s)
  - b. Driveways and parking areas
  - c. Outdoor storage areas
  - d. Sidewalks or pedestrian paths
  - e. Drainage, sewage, and water facilities
  - f. Sign
  - g. Outdoor lighting
  - h. Landscaping or screening
  - i. Snow storage areas
  - j. Lot exclusion area
  - k. Vegetative buffers, screening and/or fencing.
9. Plans for controlling soil erosion and sedimentation during development.
10. Plans for grading and drainage showing existing and proposed contours of five-foot intervals.
11. Percentage of open space.
12. Designation of the amount of gross floor area and gross leasable area proposed for each non-residential use.
13. Other elements integral to the proposed development as considered necessary by the Planning Board.

**Appendix No 11**  
**Illustrative Site Development Plan**

**Village of Cape Vincent Dock Usage Law**

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village

(Select one.)

of Cape Vincent

Local Law No. 1 of the year 2016

A local law to provide clarity and the easement of administration for the use of the docks  
(Insert Title)

Be it enacted by the Village Board of the  
(Name of Legislative Body)

County  City  Town  Village

(Select one.)

of Cape Vincent

as follows:

Article 1. - Statement of Authority. The Board of Trustees of the Village of Cape Vincent, pursuant to the authority granted it under Article 4 of the Village Law and Sections 10 and 20 of the Municipal Home Rule Law, hereby enacts as follows:

Article 2. - Statement of Purpose and Findings. The Board of Trustees of the Village of Cape Vincent is responsible for the operation and maintenance of Village docks at the North end of Esseistyne Street. Previously, the Board of Trustees has enacted certain regulations for the use of these docks by private watercraft. In order to provide clarity and the easement of administration for the use of the docks, certain amendments to those regulations need to be made. It is the purpose of this local law to accomplish the same.

Article 3. - Enactment. The Board of Trustees of the Village of Cape Vincent hereby amends Local Law #2 of 2004 and as amended restates the same as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

### Section 1.

Private watercraft may dock at the Village Dock at the North end of Esselstyne Street on a first come, first serve basis. The maximum length of a stay in any five (5) day period shall be three (3) consecutive days or seventy-two (72) consecutive hours. Watercraft may leave and return to the dock any time within that time period provided space is available when they return. There will be no reservation of spaces. The time period specified in this section will be measured beginning upon arrival of watercraft and its registration.

### Section 2.

Boaters must register their watercraft with the Village as soon as the vessel arrives and is secured at the docking facility. Registration forms and instructions will be available twenty-four (24) hours per day at the docking facility. The Village shall provide appropriate signage and facilities for the same. Vessels will not be considered registered until the registration form has been deposited in a depository as directed by the Village on the signage provided.

### Section 3.

Vessels with a beam's width in excess of ten feet (10') or length in excess of thirty feet (30') will be prohibited from docking on the West side of the dock.

### Section 4.

There shall be no rafting of boats on the West side of the dock between the dock and boathouse or any other locations designated by "No Rafting" signs.

### Section 5.

All private watercraft docked pursuant to this local law shall observe "Quiet Hours" at the dock between 10:0 p.m. and 6:00 a.m., meaning that there shall be no loud music or boisterous activity that would disturb neighboring boaters or residents.

---

Section 6.

Any person violating any provision of this law shall be guilty of a violation as defined in the Penal Law of the State of New York. Upon conviction thereof, shall be subject to a fine not less than \$50.00 and not to exceed \$100.00 for a first offense. For a second offense within a five-year period, a fine not less than \$100.00 nor more than \$200.00. For a third or any subsequent offense within a five-year period, a fine not less than \$150.00 nor more than \$250.00. Additionally, a vessel's stay at the dock may be terminated upon violation of any provisions of this law.

Section 7.

The Board of Trustees of the Village of Cape Vincent may temporarily suspend these docking regulations for special events or when required by the Police Department in the interest of public safety.

---

Article 4. - Severability. If any part of this Chapter shall be found to be void, voidable, or unenforceable for any reason whatsoever, it shall not affect the validity or enforceability of any remaining section or provision of this Chapter.

Article 5. - Effective Date. This local law shall take effect immediately upon filing with the Secretary of State.



STATE OF NEW YORK  
**DEPARTMENT OF STATE**

ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001  
WWW.DOS.NY.GOV

ANDREW M. CUOMO  
GOVERNOR

CESAR A. PERALES  
SECRETARY OF STATE

January 26, 2016

Diane E Collette  
Hrabchak & Gebo PC  
216 Washington Street  
Suite 300  
Watertown NY 13601

FEB 03 2016

**RE: Village of Cape Vincent, Local Law 1 2016, filed on January 25, 2016**

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, [www.dos.ny.gov](http://www.dos.ny.gov).

Sincerely,  
State Records and Law Bureau  
(518) 473-2492



**Department  
of State**

**Village of Cape Vincent  
Public Boat Ramp Ordinance**

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~  
~~City~~ of Cape Vincent  
~~Town~~  
Village

Local Law No. 1 of the year 20 04

A local law to regulate public use of boat ramps  
*(Insert Title)*  
\_\_\_\_\_  
\_\_\_\_\_

Be it enacted by the Village Board of the  
*(Name of Legislative Body)*

~~County~~  
~~City~~ of Cape Vincent as follows:  
~~Town~~  
Village

Article 1. - Statement of Authority. The Board of Trustees of the Village of Cape Vincent, pursuant to the authority granted it under Article 4 of the Village Law and Sections 10 and 20 of the Municipal Home Rule Law, hereby enacts as follows:

Article 2. - Statement of Purpose and Findings. The Board of Trustees of the Village of Cape Vincent currently owns and operates boat ramps at the east end of the Village along the St. Lawrence River. It is the purpose of this local law to regulate public use of the boat ramps.

Article 3. - Enactment. The Board of Trustees of the Village of Cape Vincent hereby enacts as follows:

Section 1.

1. The public shall be allowed the use of boat ramps at the east end of the Village of Cape Vincent.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

2. Boats are not to be left unattended on ramp area docks. The docks are for assistance in the loading and unloading the boats on and off trailers only.

Section 2.

1. There shall be no fishing allowed at any time from the boat ramp docks

Section 3. Any person found to be in violation of this Section shall be guilty of a violation as defined in the Penal Law of the State of New York and upon conviction thereof, shall be subject to a fine not less than \$25.00 and not to exceed \$50.00 for a first offense, for a second offense within a five year period, a fine not less than \$50.00 and not to exceed \$100.00, and for a third or any subsequent offense within a five year period, a fine not less than \$100.00 and not to exceed \$250.00.

Article 4. - Severability. If any part of this Chapter shall be found to be void, voidable, or unenforceable for any reason whatsoever, it shall not affect the validity or enforceability of any remaining section or provision of this Chapter.

Article 5. - Effective Date. This local law shall take effect immediately upon filing with the Secretary of State.

# **TOWN OF CAPE VINCENT**

## **SUBDIVISION LAW**

**August 31, 1989**

**AMENDED 1991**

**AMENDED 1993**

**AMENDED 1998**

**AMENDED 2014**

**AMENDED March 19, 2015**

**AMENDED June 15, 2017**

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## **ARTICLE 1. INTRODUCTION**

### **Section 105. Title**

This law shall be known and may be cited as the “Town of Cape Vincent Subdivision Law.”

### **Section 110. Purpose**

This law has been enacted for the purpose of providing for the future growth and development of the town and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population. Land uses (for example—lot utilization area, lot exclusion area, setbacks) are regulated by the Town of Cape Vincent Zoning Law.

### **Section 115. Authority**

By the authority of Article 2 and 3 of Municipal Home Rule Law and Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Cape Vincent is authorized and empowered to approve preliminary and final plats of subdivisions showing lots, blocks or sites, with or without streets or highways, and to approve the development of plats entirely or partially undeveloped, located within the Town outside the limits of the Village of Cape Vincent which were filed in the Office of the County Clerk prior to the appointment of the Planning Board and the grant to the Planning Board of the power to approve plats. Lot-Line-Adjustments as defined herein, also require Planning Board review/action as covered by Sections 135 and 470 of this law.

### **Section 120. Previous Regulations**

This law shall replace and supersede the prior existing subdivision law.

### **Section 125. Definitions**

Except where specifically defined herein all words used in this law shall carry their customary meaning. Words in the present tense include the future, single numbers include the plural, and plural numbers the singular. For the purpose of this law, certain words and terms used herein are defined as follows:

**Agricultural Data Statement:** An identification of farm operations within an agricultural district located within 500 feet of the boundary of property upon which an action requiring municipal review and approval by the Planning Board, Zoning Board of Appeals, or Town Board pursuant to Article 16 of Town Law.

**Agriculture and Market District:** A district, created by the County Board of Legislators, according to Agriculture and Market Law Article 25AA.

**Cluster Development:** A form of development for subdivisions that permits a reduction in lot area requirements for some or all lots in a tract, provided there is no increase in the number of lots permitted under a conventional subdivision, and where the resultant land is either 1) devoted to permanent open space, or 2) is permanently combined with the remainder of the lots, where only some of the lots are reduced in area. A retirement community with some cottages and cul-de-sacs with irregular lot shapes are examples.

**Easement:** An authorization by a property owner for the use of any designated part of a property by a public utility, municipality, or entity for a specific purpose.

**Farm:** Land used in agricultural production together with agricultural buildings or structures, equipment, and residential buildings.

**Final Plat:** Means a drawing in final form, showing a proposed subdivision containing all information or detail required by law and by this law to be presented to the Planning Board for approval, and which, if approved, may be duly filed or recorded by the applicant in the Office of the County Clerk.

**Lot:** A designated parcel or tract of land established by plat, subdivision, or as otherwise permitted by law, to be developed or built upon as a unit.

**Lot (Lot of Record):** A parcel of land, the legal description of which is filed with the County Clerk, occupied or designed to be occupied by one (1) principal use structure and ancillary structures or used customarily incident to it, including such open spaces as are required by this Law.

**Lot-Line Adjustment:** Relocation or removal of an existing lot line that does not result in an increase in the number of lots or the creation of a lot that does not conform to the requirements of the current Town of Cape Vincent Zoning Law. Lot-Line-Adjustment may apply to a reduced number of lots if the reconfiguration meets the other criteria stated in this paragraph.

**Lot Line - Front:** The property line separating a plot or parcel of property from a road right-of-way line. If a lot adjoins two or more roads or highways, it shall be deemed to have a front line respectively on each. Waterfront lots shall be deemed to have a front lot line on the side of the lot closest to the body of water they abut. On a waterfront lot, therefore a lot may have more than one front lot line. On waterfronts, the front lot line shall be the straight line connecting the intersections of the side lot lines with the US Army Corp. of Engineers, 1985 International Great Lakes Datum, Elevation 247.30 feet above sea level.

**Lot Line – Rear:** That lot line which is opposite the front lot line. A rear lot line shall not be adjacent to a front lot line. In the case of corner lots, there might be no rear lot line.

**Lot Line – Side:** A line adjacent to the front lot line.

**Open Space:** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment, or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

**Parcel:** Any area of land established by plat, subdivision, or as otherwise permitted by law, regardless of whether it is defined as a “lot” or whether it is to be developed or built upon as a unit.

**Planning Board:** The Town of Cape Vincent Planning Board.

**Plat:** A map of a subdivision.

**Plot Plan:** A surveyor's plat constructed from deed descriptions and actual physical building or improvement measurements.

**Reallotment:** The relocation of lot lines of any lot or parcel, the deed to which was previously recorded in the Office of the County Clerk; but not including conveyances made so as to combine existing lots by deed or other instrument.

**Resubdivision:** The further division of lots or parcels.

**Road:** Any vehicular way, including private roads, which is: 1) an existing state, county or town roadway; 2) shown upon a plat approved pursuant to law as a road; 3) approved by other official action; or 4) shown as a road on a plat duly filed in the Office of the County Clerk prior to the grant of plat approval authority to the Planning Board.

**Road, Half:** A half road is an interior road within a subdivision not intended to be dedicated to the Town. It may have specifications which are less stringent than those of major or minor roads and right-of-way.

**Sketch Plan:** Means a sketch of a proposed subdivision to enable the sub-divider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of this law.

**Sub-divider:** Any person, firm, corporation, partnership or association, or their agent, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

**Subdivision:** The division of any parcel of land into two or more lots or parcels, including any remainder of the original parcel, with or without roads, and including reallotment and re-subdivision.

**Subdivision Inspector:** Any person appointed, designated, or otherwise retained by the Town Board to carry out the functions assigned to such person according to this Law.

**Subdivision, Major:** . A subdivision involving 1) the creation of any new public road, 2) the dedication of lands or facilities to the public, 3) the extension of municipal facilities or other structural public improvements other than minor drainage facilities, or 4) the set-aside of open space through cluster development.

**Subdivision, Minor:** A subdivision containing two or more lots or parcels, and not involving 1) the creation of any new public road, 2) the dedication of lands or facilities to the public, 3) the extension of municipal facilities or other structural public improvements other than minor drainage facilities, or 4) the set-aside of open space through cluster development.

**Town Board:** The Town Board of the Town of Cape Vincent.

**Zoning Law:** The most current Zoning Law of the Town of Cape Vincent.

### **Section 130. Preapplication Conference**

All potential sub-dividers are encouraged to meet with the Planning Board prior to the submission of a formal application for a subdivision approval. Such a meeting may be used to expedite the review process by allowing the Planning Board and the applicant to be advised of the following: 1) the potential classification of the subdivision as minor or major, 2) the requirements under the State Environmental Quality Review Act, 3) the possible involvement of other government agencies in the review process, 4) the determination of wetlands and flood plains, and 5) the need for referral to the County Planning Board pursuant to General Municipal Law Section 239-n.

### **Section 135. Lot-Line Adjustment Procedural Waiver**

The Planning Board hereby waives all subdivision review procedures if the following findings are established:

1. The proposed action meets the definition of a lot-line adjustment, and

2. The applicant has provided evidence acceptable to the Planning Board that all proposed adjustments conform to the requirements of the Zoning Law. Such evidence may consist of proposed deeds, plot plans or surveys of the lands included in the proposed action, or of part of the lands included in the proposed action where such part provides the Planning Board with evidence sufficient to make a determination, and
3. The proposed action has no negative environmental significance pursuant to 6 NYCRR Part 617.

**Section 140. Process**

Proposed actions shall be determined by the Planning Board to be either minor, major, or lot-line adjustment as defined in this law, and shall follow the procedures as summarized below:

Minor subdivision shall follow the procedures of Article 2 of this law, summarized as follows:

1. Submission of application for final plat approval.
2. Planning Board review.
3. Public hearing.
4. Planning Board action on final plat.
5. Filing of plat in the Office of the County Clerk by sub-divider.

Major subdivisions shall follow the procedures of Article 3 of this law, summarized as follows:

1. Submission of application for preliminary plat approval.
2. Planning Board review.
3. Public hearing.
4. Planning Board action on preliminary plat.
5. Submission of application for final plat approval.
6. Planning Board review.
7. Public hearing (optional).
8. Planning Board action on final plat.
9. Filing of plat in Office of the County Clerk by sub-divider.

Lot-Line Adjustment

1. Submission of application.
2. Planning Board determination.
3. Planning Board action.
4. Filing of plat.

**Section 145. Fees**

Fees for reviews shall be as established in the most current Town of Cape Vincent fee schedule.

**Section 150. Waiver of Required Improvements**

Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Law. In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

### **Section 155. Separability**

If any clause, sentence, subsection, section, or article of this law be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, section, or article thereof directly involved in the controversy in which said judgment shall have been rendered.

### **Section 160. Violations and Penalties**

1. In the event of a known or presumed violation of this Law, the Town Board will appoint someone to act as the subdivision law enforcement officer (SLEO) on a case-by-case basis. The appointee shall not be a member or alternate member of any Town of Cape Vincent legislative or administrative board.

The SLEO will proceed as follows:

Upon appointment, an investigation will begin and will be completed within 14 days of the appointment date. Upon completion of the investigation, the SLEO will provide a written report to the Town Board on the findings of the investigation. The report will be reviewed, discussed, and finalized at the Town Board meeting next following the submission of the report. At this same meeting, the Town Board will (if the findings determine that a violation exists) create a violation notice that will be sent certified mail/return receipt to the property owner that will include a description of the violation, the component/s of the Subdivision Law that are violated, and a requirement of the property owner to remedy the situation or provide a reasonable plan and timetable, acceptable to the Town Board, within 14 days of receipt of the notice, to remedy the situation.

If a violation persists beyond the 14 calendar days immediately following receipt of the violation notice or the alternative timetable agreed to by the Town Board, the Town Board may proceed to file an action or proceeding in the name of the Town of Cape Vincent in a court of competent jurisdiction to compel compliance, invoke the penalties set forth in this law or restrain by injunction the violation of this law.

2. Any violation of Town Law Section 260 is an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$750 nor more than \$1000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations.
3. The Town Board may institute any appropriate action or proceedings to prevent unlawful division of land, to restrain, correct or abate any violation of this law, or to prevent the use or occupancy of said land; and upon the refusal of the Town Board to institute any such appropriate action or proceeding for a period of ten days after written request by a property taxpayer of the town so to proceed, any three taxpayers of the town, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such Town Board is authorized to do. Each week's continued violation shall constitute a separate additional violation

**Section 165. Effective Date**

This Law shall take effect upon filing in the Office of the Secretary of State and upon filing in the Office of the Town Clerk.

**ARTICLE 2. MINOR SUBDIVISION REVIEW PROCEDURE**

**Section 205. Submission of Application**

Applications and fees shall be submitted to the Planning Board at least ten days prior to the meeting at which it is to be considered. The application shall contain all items as required in Article 4 of this law.

**Section 210. Acceptance of Completed Application--Official Submission Date**

The application shall not be considered complete until 1) all information as required in Article 4 of this law is provided, and 2) either a negative declaration has been filed, or a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of 6 NYCRR Part 617. Upon acceptance of a completed application, the Planning Board shall establish the official submission date of the application.

**Section 215. Agricultural Data Statement**

The applicant shall mail written notice of the public hearing to landowners as required by Town Law Section 283-a for any subdivision on property in an agricultural district containing a farm operation, or on property with boundaries within 500 feet of a farm operation within an agricultural district. Such notice shall be mailed to any farm operation within an agricultural district which is within 500 feet of the proposed subdivision.

**Section 220. Area Variance**

In order to expedite the review process, where the application shows lots which are not in compliance with the Zoning Law, the Planning Board may, at its discretion and upon agreement with the applicant, stay the review process and refer the application to the zoning board of appeals for the consideration of an area variance review without the necessity of disapproving the application and requiring its resubmission.

**Section 225. Public Hearing**

Following the review of the application and supplementary material submitted in conformance with this law, and following negotiations with the sub-divider on changes deemed advisable, the Planning Board shall hold a public hearing. This hearing shall be held within 62 days of the official submission date of the application. The sub-divider shall attend the hearing. This hearing shall also fulfill the requirements of the State Environmental Quality Review Act for the draft environmental impact statement, where such hearing may be required. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before the hearing. Notice shall be given to the municipal clerk of any municipality bordering the town and within 500 feet of the project at least ten days prior to the hearing. The hearing shall be closed within 120 days after it has been opened.

**Section 230. Action on Application**

The Planning Board shall by resolution 1) grant final approval by the signature of the Planning Board chairman on the plat, 2) conditionally approve, with or without modifications (see Section 240 below), or 3) disapprove the application. Such action shall be taken within 62 days of the close of the public hearing. The time in which the Planning Board must take action may be extended by mutual consent of the sub-divider and the Planning Board. A certified copy of any resolution granting conditional or final approval shall be filed with the board, with the Town Clerk, and mailed to the applicant within five business days of

the action. If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board, including reference to the provisions violated by the application.

**Section 235. Conditional Approval of Application**

A statement of the requirements that shall accompany the application which, when completed, will authorize the signing of the conditionally approved plat shall be provided to the applicant. Conditional approval of an application shall expire 180 days after the date of the resolution granting conditional approval. The Planning Board may extend the expiration time, not to exceed two additional periods of 90 days each. Upon Planning Board acceptance of the completion of the conditional approval requirements as stated in the conditional approval resolution, the Planning Board chairman shall sign the plat, granting final approval.

**Section 240. Filing of Plat**

The sub-divider shall file the plat, or section thereof, in the Office of the County Clerk within 62 days after the date of final approval; otherwise the plat shall be considered void and must again be submitted along with complete application and appropriate fees to the Planning Board for approval before filing in the Office of the County Clerk.

**Section 245. Modification of Designs After Approval**

If at any time it is demonstrated that unforeseen conditions make it necessary to modify the location or design of improvements required by the Planning Board, the board may authorize such modifications, provided these modifications are within the spirit and intent of the board's approval and do not substantially alter the function of any such improvement required by the board. Any such authorization issued under this section shall be in writing and shall be entered into the record of the board.

**ARTICLE 3. MAJOR SUBDIVISION REVIEW PROCEDURE**

**Section 305. Preliminary Plat Procedure**

The preliminary plat review procedure shall follow the steps outlined for minor subdivision approval as set forth in Sections 205 through 230 of this law, and shall then continue with the provisions of this Article as follows.

**Section 310. Preliminary Action**

Within 62 days of the close of the public hearing, the Planning Board shall approve, with or without modifications, or disapprove the preliminary application and state its reasons for disapproval. The time in which the Planning Board must take action may be extended by mutual consent of the sub-divider and the Planning Board. Within five days of approval, the action of the Planning Board shall be noted on three copies of the preliminary plat and reference made to any modifications determined. One copy shall be returned to the sub-divider and the other two copies retained by the Planning Board.

**Section 315. Effect of Approval**

Approval of a preliminary application shall not constitute approval of the final application, but shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion thereof for formal approval, the sub-divider shall comply with this law and all requirements set forth by the Planning Board in their review of the preliminary plat.

**Section 320. Application--Final Plat**

All major subdivisions shall require final application approval by the Planning Board. If the final application is not submitted for approval within six months of preliminary application approval, the Planning

Board may revoke the preliminary application approval. The sub-divider shall file an application with appropriate fees for final application approval, accompanied by documentation as specified in Article 5 of this law, with the Planning Board. Such application shall be submitted at least ten days prior to the meeting at which it is to be considered by the Planning Board.

**Section 325. Official Submission Date**

The Planning Board shall establish an official submission date for the major subdivision final application. Such date shall be the date that the Planning Board determines the application to be complete, including all information required in Article 4 of this law.

**Section 335. Public Hearing**

A public hearing shall be held by the Planning Board after a complete application is filed and prior to rendering a decision. This hearing shall be held within 62 days of the official submission date of the application. The sub-divider shall attend the hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before the hearing. Notice shall be given to the municipal clerk of any municipality bordering the town and within 500 feet of the project within ten days of the hearing. The hearing shall be closed within 120 days after it has been opened. The public hearing may be waived by the Planning Board if the final application is in substantial agreement with the preliminary application. If the final application is not in substantial agreement with the approved preliminary application, then the public hearing shall be conducted.

**Section 340. Guarantees for Required Improvements**

In order that the town has the assurance that construction and installation of public improvements will be guaranteed, the applicant shall either 1) construct all improvements as required by this law, and by the Planning Board, prior to final approval of the application, or 2) furnish guarantee as provided in Town Law Section 277 and Article 8 of this law.

**Section 345. Action on Application**

The Planning Board shall by resolution 1) grant final approval by the signature of the Planning Board chairman on the plat, 2) conditionally approve, with or without modifications (see Section 350 below), or 3) disapprove the application; within 62 days of the close of the public hearing. If the public hearing has been waived, the Planning Board shall act within 62 days of the final application official submission date. The time in which the Planning Board must take action may be extended by mutual consent of the sub-divider and the Planning Board. A certified copy of any resolution granting conditional or final approval shall be filed with the board, with the Town Clerk, and mailed to the applicant within five business days of the action. If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board, including reference to the provisions violated by the application. Within 30 days of final action on any matter referred to the County Planning Board pursuant to Section 220 of this law, the Planning Board shall file a report of the final action it has taken with the County Planning Board.

**Section 350. Conditional Approval**

A statement of the requirements that shall accompany the application which, when completed, will authorize the signing of the conditionally approved plat shall be provided to the applicant. Conditional approval of an application shall expire 180 days after the date of the resolution granting conditional approval. The Planning Board may extend the expiration time, not to exceed two additional periods of 90 days each. Upon Planning Board acceptance of the completion of the conditional approval requirements as stated in the conditional approval resolution, the Planning Board chairman shall sign the plat, granting final approval.



**Section 355. Approval of Plats in Sections**

Prior to granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be divided into two or more sections and may in its resolution granting conditional or final approval state such requirements as it deems necessary to ensure the orderly development of the plat be completed before such sections may be signed by the Planning Board chairman. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Planning Board, may be granted concurrently with conditional or final approval of the entire plat. In the event the owner shall file only a section of such approved plat in the Office of the County Clerk, the entire approved plat shall be filed within 30 days of the filing of such section with the Town Clerk. Such section shall encompass at least ten percent of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed in the Office of the County Clerk within three years of the filing of the first section with the County Clerk.

**Section 360. Filing of Plat**

The sub-divider shall file the plat, or section thereof, in the Office of the County Clerk within 62 days after the date of final approval; otherwise the plat shall be considered void and must again be submitted along with complete application and appropriate fees to the Planning Board for approval before filing in the Office of the County Clerk. When filing a plat which has been approved pursuant to the provisions of Article 7 (Cluster Development) of this law, a copy of the plat shall be filed with the Town Clerk who shall make appropriate notations and references thereto in the Town Zoning Law or map.

**Section 365. Modification of Designs After Approval**

If at any time it is demonstrated that unforeseen conditions make it necessary to modify the location or design of improvements required by the Planning Board, the board may authorize such modifications, provided these modifications are within the spirit and intent of the board's approval and do not substantially alter the function of any such improvement required by the board. Any such authorization issued under this section shall be in writing and shall be entered into the record of the board.

**Section 370. Public Acceptance of Improvements**

The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the town of any road, park, playground, recreation area, easement, public utility, or any other improvement. The plat shall be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication, and provision for the costs of developing and maintaining any such improvements.

**ARTICLE 4. DOCUMENTS TO BE SUBMITTED**

**Section 400. General**

Minor subdivisions must comply with Sections 410 and 420 below.

Preliminary applications for major subdivisions must comply with Sections 410, 430 and 440 below.

Final applications for major subdivisions must comply with sections 450 and 460 below.

**Section 410. Application Requirements for All Subdivisions**

All applications for minor subdivisions and preliminary plats for major subdivisions shall include the following:

1. Ten copies of the application form.
2. A nonrefundable application fee.
3. A copy of any covenants or deed restrictions which are intended to cover all or part of the tract.
4. Ten copies of the plat prepared at a scale of not more than 100 feet to the inch.
5. A statement of the nature and extent of the interest of any state employee, or officer or employee of the town in the applicant pursuant to General Municipal Law Section 809, when applicable.
6. An environmental assessment form (EAF) and, when applicable, a draft environmental impact statement (EIS) pursuant to 6 NYCRR Part 617.

**Section 420. Minor Subdivision Plat Requirements**

All minor subdivision plats shall be prepared and drawn in conformity with Appendix A of this law and shall show:

1. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, the location and type of all monuments, and including elevation contours at USGS intervals, minimum, and referenced corners of the tract; and shall be made and certified to by a licensed land surveyor.
2. The proposed pattern of parcels and lots; including parcel and lot widths, depths, and areas within the subdivided area. Calculations of lot areas shall exclude public road areas.
3. The locations of all zoning front, side and rear yard lines; zoning district lines and the names of all applicable zones; federal floodplains; wetlands; and easements.
4. The words "final plat."
5. Any other specifications required by the Planning Board.

**Section 430. Preliminary Plat--Major Subdivision Application Requirements**

Preliminary plat applications for major subdivisions shall contain the following:

1. All items specified in Section 410 above.
2. If the application is for a subdivision in sections, covering only a part of the sub-divider's entire holding, a map of the entire subdivision, drawn at a scale of not less than 300 feet to the inch showing an outline of the platted area with its proposed roads and indication of the probable future road system with its grades and drainage in the remaining portion of the subdivision and the probable future drainage layout of the entire subdivision shall be submitted. The section submitted shall be considered in the context of the entire subdivision.

**Section 440. Preliminary Plat--Major Subdivision Plat Requirements**

The preliminary plat for major subdivisions shall be prepared and drawn in conformity with Appendix A of this law and shall show:

1. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, the location and type of all monuments, and referenced corners of the tract; and shall be made and certified to by a licensed land surveyor.
2. The proposed pattern of parcels and lots; including parcel and lot widths, depths, and areas within the subdivided area. Calculations of lot areas shall exclude public road areas.
3. The locations of all zoning front, side and rear yard lines, zoning district lines and the names of all applicable zones.

4. The parcels of land proposed to be dedicated to public use and the conditions of such dedication.
5. The location of existing property lines, easements, buildings, water courses, wetlands, rock outcrops, wooded areas, federal floodplains, and other significant existing features for the proposed subdivision and adjacent property.
6. The location of existing wells, on-site sewage disposal systems, sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
7. Contours with intervals of five feet or less, or as required by the Planning Board, including elevations on existing roads; and a grading plan, where natural contours are to be changed more than two (2) feet.
8. The width and location of any roads or public ways or places shown on the comprehensive plan, within the area to be subdivided, and the width, location, grades and road profiles of all roads or public ways proposed by the developer.
9. The approximate location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes; and connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law; and profiles of all proposed water and sewer lines.
10. A storm drainage plan indicating the approximate location and size of proposed lines and their profiles; and connection to existing lines or alternate means of disposal.
11. Plans and cross-sections of the proposed location and type of sidewalks, road lighting standards, road trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and sub-base, the location of manholes, basins and underground conduits.
12. Preliminary designs of any bridges or culverts which may be required.
13. The words "preliminary plat."
14. Any other specifications required by the Planning Board.

**Section 450. Final Plat--Major Subdivision Application Requirements**

Final plat applications for major subdivisions shall contain the following:

1. Ten copies of the application form.
2. A nonrefundable application fee.
3. Copies of agreements or other documents showing the manner in which public open space areas are to be maintained and the provisions made therefor.
4. Offers of cession and covenants governing the maintenance of unceded open space, bearing the certificate of approval of the town attorney as to their legal sufficiency.
5. A map indicating the location of monuments marking all underground utilities as actually installed.
6. Ten copies of the plat prepared at a scale of not more than 100 feet to the inch.

**Section 460. Final Plat--Major Subdivision Plat Requirements**

The final plat shall be prepared and drawn in conformity with Appendix A of this law and show:

1. Sufficient data from an actual field survey to determine readily the location, bearing and length of every road line, lot line, boundary line, and to reproduce such lines upon the ground.
2. The length and bearing of all straight lines; the radii, length, central angles and cord bearings for road curves; the dimensions and angles of the lines of each lot; and all dimensions in feet and decimals of a foot.
3. Road lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.

4. The locations of all zoning front, side and rear yard lines; zoning district lines and the names of all applicable zones; federal floodplains; wetlands; and easements.
5. Public open spaces for which deeds are included, and those spaces title to which is reserved by the developer.
6. Lots and blocks numbered and lettered in accordance with the prevailing town practice.
7. Permanent reference monuments.
8. The words “final plat.”
9. Any other specifications required by the Planning Board.

**Section 470. Final Plat—Lot-Line Adjustment**

1. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, the location and type of all monuments, and referenced corners of the tract; and shall be made and certified to by a licensed land surveyor.
2. Outline of existing structures, rights-of-way, easements, and unique features.

**Section 480. Waiver of Submission Requirements**

The Planning Board may waive any of the submission requirements above where it deems that the information is either not applicable or necessary for a particular review.

**ARTICLE 5. GENERAL DESIGN STANDARDS**

**Section 505. General**

Land to be subdivided shall be of such character that it can be used safely for development without danger to public health or safety; the subdivision plan shall be in harmony with the Comprehensive Plan and the Zoning Law for the community, and all required improvements shall be constructed and installed in conformance with Town specifications.

**Section 510. Future Re-subdivision**

Where land is subdivided into lots substantially larger than the minimum size required in the zoning district in which the subdivision is located, the lots and roads shall be laid out so as to permit future resubdivision in accordance with the requirements contained in this law.

**Section 515. Approval of Substandard Parcels**

All parcels shall comply with the provisions of the Zoning Law, except that the Planning Board may, in unique circumstances, approve parcels which are substandard in terms of size or dimension in the following circumstances:

1. where land is to be conveyed to an adjacent landowner for purposes of combination with an adjacent parcel and where the lot line separating the parcels is eliminated.
2. where land is to be used for essential facilities.

**Section 520. Lot Arrangement**

1. The lot arrangement shall be such that in constructing a building in compliance with the Zoning Law there will be no foreseeable difficulties for reasons of topography or other natural conditions, and each lot shall have a buildable area, free from development restrictions such as wetlands, federal floodplains, steep slopes, rock outcrops, or unbuildable soils.
2. All lot dimensions and areas shall conform to the requirements of the Zoning Law, except where such requirements have been modified pursuant to Article 7 (Cluster Development) of this law.

3. Extremely elongated lots having a depth to width ratio greater than 5:1 shall be avoided.
4. Side lot lines shall be approximately at right angles to straight roads or radial to curved roads. Lot lines shall generally not joint at less than a 75-degree angle or greater than a 105-degree angle. Lot lines shall be straight on large lots, except where the topography of the site would make this impractical.
5. Where a community sewage disposal system is not required, each lot shall have sufficient area so as to make adequate provision for such on-site sanitary disposal systems as are required by 10 NYCRR Appendix 75-A, Wastewater Treatment Standards – Individual Household Systems.
6. Refer to the Town of Cape Vincent current Zoning Law for other lot requirements.

**Section 525. Lot Access**

1. Each lot shall directly abut a public or approved private road meeting the requirements of this law, as required by Town Law Section 280-a. Lots that do not have frontage on a public road must be accessible by a private right-of-way that is a minimum of 50’ wide that abuts a public road.
2. All lots shall be designed so as to allow for safe access.
3. All lots shall be designed so as to allow for the construction of driveways with a grade of 10 percent maximum within the road right-of-way.
4. Where a watercourse separates a road from abutting lots, provision shall be made for access to all lots by means of culverts or other structures.

**Section 530. Monuments**

Permanent monuments shall be set at the subdivision boundaries at all corners, and at such other points as required by the Planning Board. Such monuments shall be of either iron rods or pipes, or concrete.

**Section 535. Water Supply and Sewage Disposal**

All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the New York State and County Health Department.

**Section 540. Preservation of Natural Features**

Top soil moved during the course of construction shall be replaced so as to cover all areas of the subdivision and shall be stabilized by seeding and plantings. Existing vegetation should be conserved by the sub-divider where possible. Care shall be exercised in construction so as to avoid damage to existing trees and shrubs. Streams, lakes, ponds, and wetlands shall be left unaltered unless such alteration would serve to enhance the utility and quality of the subdivision. Easements along water courses as a part of a comprehensive recreational and open space plan for the development are encouraged. Unique physical, historical, and cultural sites which add value to the community, such as large trees or groves, water courses and falls, historic spots, vistas and similar irreplaceable assets shall be preserved where possible.

**Section 545. Park and Recreation Areas**

Upon a finding by the Planning Board that a proper case exists for requiring that park/recreational space be suitably located on the plat for playgrounds or other recreational purposes, the Planning Board may require that the developer satisfactorily develop any such area shown on the plat. Any such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the town based on projected population growth to which the particular subdivision will contribute. Upon such finding, the Planning Board shall require that not more than 10 percent of the total area of the subdivision be allocated for park or recreational use. Such area may be dedicated to the town by the sub-divider if the

Town Board approves such dedication. Alternatively, park or recreational space may be conveyed to a homeowners' association for control and joint private ownership and maintenance.

**Section 550. Storm Water Management**

No storm water shall be caused to be discharged upon neighboring properties, across public sidewalks or into public streets. Surface water drainage facilities shall be designed to handle all on-site runoff (ten-year-storm frequency as the minimum design criteria), and the discharge into public storm sewers shall be at a rate which can be adequately handled by existing storm sewers and drainageways. Where storm sewers do not exist, the Planning Board may approve alternative means of discharging stormwater upon approval of a stormwater management plan, where such alternative adequately protects the public health, safety and welfare.

**Section 555. Development in Federal Floodplains**

All subdivisions and lot-line-adjustments shall comply with the provisions of any existing or future Town of Cape Vincent Flood Damage Prevention Law.

**Section 560. Steep Slopes**

Development of steep slope sites of over 15 percent grade will be conditionally accepted only if there is no prudent or feasible alternative site, and erosion and sedimentation control measures are incorporated in the design, construction, and operation of the development consistent with the NYSDEC New York Standards and Specifications for Erosion and Sediment Control.

**ARTICLE 6. ROAD STANDARDS**

**Section 605. General**

Roads shall be of sufficient width, suitably located, and adequately constructed to conform to the comprehensive plan, and to accommodate the prospective traffic and afford access for fire fighting, snow removal, school buses, and road maintenance equipment. The arrangement of roads shall be in harmony with surrounding areas and adjoining properties, and shall be coordinated so as to compose a convenient system. Roads shall be graded and improved in accordance with the Town's road specifications. (See Appendix B.) Storm drainage facilities, water mains, sewers, lights, signs, trees and fire hydrants shall be provided as required.

**Section 610. Road Grades**

The road plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all roads shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the roads. Road grades shall conform as closely as possible to the original topography, and shall not be greater than ten percent. No grade shall be more than three percent within 50 feet of any intersection. All changes in grade shall be connected by vertical curves of length and radius such that clear visibility shall be provided for a safe distance. A combination of steep grades and curves shall be avoided.

**Section 620. Road Connections to Adjacent Properties**

The arrangement of roads shall provide for the continuation of principal roads of adjoining subdivisions, and for the proper projection of principal roads into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic, and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Stub roads providing access to parcels adjacent to the subdivision may be required. Turnarounds may not be required for stub roads which do not provide access to dwellings within the subdivision.

**Section 625. Dead-End Roads**

1. The creation of dead-end roads may be allowed whenever such type of development will not interfere with normal traffic circulation in the area.
2. A 20-foot wide easement may be required to provide for the continuation of pedestrian traffic and utilities to the next road or public property.
3. Roads designed to be permanently dead-ended shall not generally exceed 800 feet in length or 20 dwelling units. Such roads shall be terminated in a circular turn-around having a minimum right-of-way radius of 75 feet and a pavement radius of 50 feet.
4. Roads designed to be dead-ended shall have a "No Outlet" or "Dead End" sign at the entrance.

**Section 630. Intersections**

1. In general, all roads shall join each other so that for a distance of at least 100 feet the road is approximately at right angles to the road it joins. Roads shall not intersect at angles of less than 60 degrees.
2. Intersections of minor roads with collector or major roads shall, in general, be at least 500 feet apart.
3. Road jogs with centerline offsets of less than 125 feet shall be avoided.
4. All road rights-of-ways at intersections shall be rounded by curves of at least 20 feet radius and curbs shall be adjusted accordingly.
5. All corner lots shall be cleared of all growth and other obstructions, except for isolated trees, a level of three feet or higher above the centerline of the road, so as to achieve safe visibility for traffic entering the intersection.
6. No intersection of more than two roads is allowed.

**Section 635. Curve Radii**

In general, road lines shall be connected with a curve, the radius of which for the centerline of road shall not be less than 200 feet on collector roads, and 100 feet on minor roads.

**Section 640. Partial Roads**

Partial roads of less than full width are prohibited

**Section 645. Road Names**

All roads shall be named and the names placed on the plat. Road names shall not be numbers or letters. Road names shall be selected so as not to be confused in sound or spelling with existing or platted road names. Roads that join or align with roads of an abutting or neighboring property shall bear the same name. Signs bearing road names shall be erected by the sub-divider at all intersections.

**Section 650. Underground Utilities**

Underground utilities shall be placed, wherever possible, in the road right-of-way between the paved roadway and the road line to simplify location and repair of utilities. Underground service connections shall be installed to the lot line of each lot for all required utilities prior to road pavement. Where topography is such as to make impractical the inclusion of underground utilities within the road right-of-way, perpetual unobstructed easements at least 15-foot wide shall be provided with satisfactory access to the road. Such easements shall be cleared and graded where required.

## **ARTICLE 7. CLUSTER DEVELOPMENT**

### **Section 710. Authority**

The Planning Board is authorized and empowered pursuant to Section 278 of the Town Law to modify certain provisions of the Zoning Law as allowed by this Article, simultaneously with the approval of any subdivision application within the town.

### **Section 720. Applicable Provisions**

The Planning Board may consider, or require, applications for subdivisions which include the following deviations from the Zoning Law for any one of the following purposes:

1. to eliminate side and rear yard requirements to allow for innovative attached housing types;
2. to reduce side and rear yard requirements for existing structures on the site of a plat where, in unique and special circumstances, it will result in the more efficient use of land;
3. to reduce road frontages to allow cul-de-sacs;
4. to reduce lot areas, widths, depths, yard sizes, lot coverage, and road frontages to accomplish cluster development.

### **Section 730. General Criteria for Cluster Development**

The Planning Board may allow, or require, cluster development when the proposed development:

1. will be in harmony with the general purpose, goals, objectives, and standards of the comprehensive plan and this law;
2. complies with all applicable provisions of the Zoning Law, except as modified pursuant to the authority of this law;
3. will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare;
4. will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property;
5. will be served adequately by essential public facilities and services such as roads, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; and
6. will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.

### **Section 740. Required Clustering**

Cluster development may be required by the Planning Board to meet any one of the following objectives:

1. The clustering of development will reserve open space, recreational areas, large groves of trees, water courses and falls, beaches, historic spots, vistas and other similar assets, in furtherance of the comprehensive plan for the community;
2. The clustering of development will aid in the provision of road right-of-ways or for the protection of future road right-of-ways in furtherance of the comprehensive plan for the community;
3. The clustering of development will provide for the more economical and efficient provision of municipal utilities and road services.



**Section 750. Determination of Overall Development Density**

Cluster development subdivision applications shall include the submission of a sketch plat showing a conventional, un-clustered subdivision which complies with all provisions of the zoning district in which it is located. The purpose of this sketch plat shall be to aid the Planning Board in determining the maximum number of dwelling units permissible, the overall development density, on the parcel under the Zoning Law. All lots on the sketch plat shall be buildable lots. The Planning Board shall make a determination of the maximum permissible number of dwelling units permissible on the parcel prior to the acceptance of an application for a cluster development subdivision.

**Section 760. Approval of Cluster Open Space**

The area, configuration, location, ownership, use and maintenance of residual open spaces created by clustering shall be subject to review and approval of the Planning Board.

**Section 770. Use of Cluster Open Space**

The developer may be required to establish cluster open space for a recreational area within the actual development or to donate land for recreational use elsewhere within the Town. An alternative may be the payment of a recreation fee to the Town for the establishment of a recreational area. This fee would be based on the size of the cluster development.

**Section 780. Undedicated Cluster Open Space**

If cluster open space is not dedicated to public use, it shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the cluster open space; method of maintenance; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Planning Board; and any other specifications deemed necessary by the Planning Board.

**ARTICLE 8. FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS**

**Section 805. Required Public Improvements**

All public improvements required pursuant to this law shall be constructed and completed to the standards required by state and local laws, rules, and regulations. Applicants for subdivision plats shall provide the town with acceptable financial security in an amount sufficient to guarantee the installation of basic public improvements. Such public improvements may include public water supply, sewage disposal systems, storm drains and sewers, roads, pavement markings and traffic signs and signals, sidewalks, and other public required improvements. The developer will be required to enter into a written agreement with the Town Board that binds all parties to the terms, conditions, and obligations for the provision of public improvements.

**Section 810. Time Limit on Installation of Improvements**

The construction or installation of any improvements or facilities, other than roads, for which a financial guarantee has been made pursuant to this Article shall be completed within one year from the date of the approval of the subdivision plat. Road improvements shall be completed within two years from the date of approval of the subdivision plat. At the end of such time, if the required public improvements are not completed and accepted by the town, the town may use as much of the financial security required by this article to construct and install, maintain, or perfect the improvements as necessary to meet all applicable state and local laws, ordinances, rules, and regulations.

**Section 815. Extension of Time Limit**

The applicant may request an extension of time to perform required public improvements provided reasonable cause can be shown for the inability to construct and install said improvements within the required time. Such extension of time shall not exceed six months.

**Section 820. Inspections of Improvements**

At least five days prior to commencing construction of required public improvements the applicant shall pay to the Town Clerk the inspection fee required by the municipality and shall notify the Town Board or an official designated by the Town Board in writing of the time when the construction of such improvements will be commenced so that the Town Board may cause inspections to be made to assure that all applicable specifications and requirements shall be met in the construction of such improvements, and to assure the satisfactory completion of public improvements required by the Planning Board.

**Section 825. Financial Security Options**

Acceptable financial security shall be provided to the town in the form of a bond executed by a surety company, a certified check, or an irrevocable letter of credit drawn in favor of the town. Any such financial security shall be presented to the Town Clerk in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this law.

**Section 830. Review of Proposed Financial Security**

All required public improvements shall be shown on subdivision plats and the total amount of the required financial security shall be based thereon. Such estimates shall be certified by a licensed professional engineer, and shall be reviewed by the Town Board for financial adequacy as a guarantee of construction and of reasonable performance during a warranty period. The Town Board and the town attorney shall jointly review the guarantee agreement for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

**Section 835. Schedule of Improvements**

When a guarantee agreement has been approved by the Town Board and the required surety bond, certified check, or letter of credit has been received by the Town Clerk, the town and the applicant shall enter into a written agreement itemizing the required public improvements, establishing a schedule for the construction and installation of such improvement, and itemizing the cost of construction and installation for each improvement. Whenever feasible, costs shall be organized by logical phases of work completion in order to facilitate the partial release of funds held as a financial guarantee by the municipality to the applicant as work is satisfactorily completed.

**Section 840. Staged Refunding of Financial Guarantees**

At such times as the applicant wishes to have guarantee funds released in consideration of work performed and accepted, the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a date certain. This statement shall use the same item structure as was employed in the written agreement itemizing the required public improvements. The applicant, after preparing such statement, shall submit it for review, approval, and signature by an engineer acting on behalf of the town, by the appropriate municipal inspectors, and by the town fiscal officer. If the statement is approved by the town fiscal officer, the statement shall be forwarded promptly to the Town Clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the applicant makes staged refunding possible, the Town Clerk will then direct in writing to the surety company of financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant.

**Section 845. Acceptance of Required Public Improvements**

When the project inspector, following final inspection of the project, certifies to the Planning Board and the Town Board that all required public improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept the public improvements.

## Appendix A

### Town of Cape Vincent Subdivision Law

**I. PURPOSE:** The purpose of this Appendix is to set forth the plat requirements for both minor and major subdivisions, and shall be provided by the sub-divider to the surveyor performing the work.

**II. PLAT REQUIREMENTS:** The plat shall contain the following information:

A. A ***title block*** containing subdivision name, name of town and county, date (different for each revision), scale, surveyor's name/company.

B. A ***certification block*** with the following statement:

As owner, I hereby certify that I have caused the land described by this plat to be surveyed, divided, mapped, dedicated, and access rights reserved as represented on the plat.

\_\_\_\_\_

*Date*

\_\_\_\_\_

*Owner Signature*

C. A ***stamp or seal*** from the surveyor (and engineer if appropriate) showing license number.

D. The following ***statement*** for signature by the Planning Board Chair:

Plat Approved: \_\_\_\_\_

*Town of Cape Vincent Planning Board Chair* *Date*

E. ***Notes*** containing any covenant and deed restrictions.

F. The plat itself should cover all of the land being subdivided, at a scale of not more than 100 feet per inch and not less than 50 feet per inch, including any residual land retained by the owner, and shall include the following:

1. The name of all subdivisions and owners of record for lots immediately adjacent to the parcel being subdivided.
2. The following boundaries, if they exist, in the area adjacent to the subdivision or on the parcel: zoning boundaries, municipal boundaries, flood hazard areas, wetlands, property boundaries, easements, rights-of-way.
3. Parcels to be dedicated to public use and conditions.
4. Buildings, water courses, wells, septic systems and sewer lines, wooded areas, and other significant features on the parcel and adjacent parcels.

5. Contour intervals of five feet (or two feet when required by the Planning Board).
6. Width and location of streets and roads, and shall indicate the names of all existing and proposed streets and roads.
7. Location of all proposed facilities.
8. Storm drainage, culverts (with sizes indicated) and arrows indicating direction of flow.
9. Details such as cross-sections, plans, drains, etc.
10. Lot lines of all proposed lots, including bearings, distances, corners, and monuments (with descriptions).
11. Area of each lot (not to include area inside public rights-of-way).
12. North point prominently indicated on the plat and oriented to coincide with the locator map.

G. ***Additional Markings Required To Be Displayed On The Plat.*** One or more may be selected as determined by the Planning Board.

1. WETLANDS RESTRICTIONS APPLY  
Lot(s) \_\_\_\_\_ subject to any development, housing, building and use restrictions under Article 24, State of New York Environmental Conservation Law.
2. FLOODPLAIN RESTRICTIONS APPLY  
Lot(s) \_\_\_\_\_ subject to any development, housing, building and use restrictions under National Flood Insurance Program.
3. SUBDIVISION RESTRICTIONS APPLY  
Further Subdivision of Lot(s) \_\_\_\_\_ prohibited as an agreed upon condition for approval of this plat.
4. BUILDING RESTRICTIONS APPLY  
Lot(s) \_\_\_\_\_ subject to building restrictions as an agreed upon condition for approval of this plat. Restriction is as follows:
5. WATER SUPPLY/SANITATION CERTIFICATION  
All sanitation and water supply facilities are designed to meet the minimum specifications of the County Department of Health.  
Licensed Engineer Name \_\_\_\_\_  
License Number \_\_\_\_\_  
Date \_\_\_\_\_
6. CERTIFICATION OF MONUMENTATION  
Surveyor certifies that monuments have been set as shown on the plat.

- H. ***Conflicts of Requirements:*** If conflicts between this Appendix and the primary subdivision law occur, the Planning Board shall be contacted for resolution.
  
- I. ***Waiver of Plat Requirements:*** The Planning Board may waive any of the requirements in this Appendix in the event that the information is not applicable or necessary.

**Town of Cape Vincent  
Water District Law**

# Town of Cape Vincent

## Local Law #3

### Water District Law

Article #1. – Statement of Authority. The Town Board of the Town of Cape Vincent, pursuant to the authority granted it under Article 12-a of the Town Law and Sections 10 and 20 of the Municipal Home Rule Law, hereby enacts as follows:

Article #2. – Statement of Purpose. The Town Board of the Town of Cape Vincent sits as commissioners of all water districts in the Town of Cape Vincent. Previously the Town Board has enacted certain rules and regulations to govern users of the water system within those districts by Local Laws. After having utilized such regulation for a period of time, the Town Board is desirable of making certain changes or alterations to refine those rules and regulations to suit current conditions and to provide greater clarity. It is the purpose of this local law to amend the prior rules and regulations towards that end.

Article #3. – Enactment. The Town Board of the Town of Cape Vincent hereby makes the following Local Law No. # 3 2019

Section 1. – Rates. The Town Board as Commissioners of all water districts may from time to time adopt rates by resolution after public hearing, including at a budget hearing to be held no less frequently than annually. Rates shall be composed of the following elements:

- A. Capital. This shall include all principal and interest required to retire any indebtedness and any additional sums allocated by the Town Board to establish, fund or increase reserve accounts. The elements shall be assessed as follows:
- A Flat Charge Per Residential Unit. A flat charge shall be billed to users (a user is a property owner/parcel owner), based on the number of units. A full unit will be addressed as a Single Family Unit (EDU) and will be defined as a parcel with a structure on it that has at least one bathroom and a kitchen or kitchen area. If there are multiple EDU's on one residential parcel, there will be a minimum of one flat charge for each such unit. One half an EDU will be assigned to all parcels on which a curb stop exists but does not have the capability of using water. A quarter EDU will be defined as a vacant parcel within the District which is a lot of record. The EDU charges will be adjusted by adoption of the annual Town Budget. The number of units shall be determined each year as of the March 1<sup>st</sup> tax status date.
  - Commercial property, institutions and businesses will be assigned EDUs by the Town Board within the annual Budget (Appendix A)
- B. Operation and Maintenance. This shall include the cost of purchasing the water from the Village of Cape Vincent (DANC for WD #2) and maintaining the distribution and supply systems, and any administrative expenses. The rate shall be based on anticipated metered consumption at an amount per 1,000 gallons of water usage. That rate shall be set by the Town Board as Water Commissioners in the annual budget on



a per 1,000 gallons of water usage as metered and whenever the Town Board deems necessary.

Section 2. – Connection to Distribution System.

- A. All property owners inside or outside a district shall properly fill out an application form (Water Service Connection Application – Appendix “B”) and pay a fee with the application per Section 2 B-1 schedule.
- B. Fees may be revised by resolution of the Town Board as Water Commissioners. Fees as of the enactment of this law shall be:
  - 1) Connection fees shall include the following fixed fee plus any labor, equipment and material expenses incurred by the District. If actual incurred costs exceed the connection fee the property owner is responsible for those additional costs:
    - a) Single Family Residence \$1,500.00
    - b) Farm 1,500.00
    - c) Restaurant/Bar 1,500.00
    - d) Motel/Hotel/Multiple Dwelling 1,500.00
    - e) Mobile Home Park 1,500.00
    - f) Public Recreation Area 1,500.00
    - g) School 1,500.00
    - h) Correctional Facility/Prison 1,500.00
    - i) Commercial Establishment (i.e. store) 1,500.00
    - j) Laundromat 1,500.00
    - k) Car Wash 1,500.00
- C. The connection to be installed by the Water District shall be from the water main to the outlet curb stop and shall include an installed meter. It shall be the property owner’s responsibility to connect the curb stop with the meter in the residence. If required, a meter pit/vault will be installed after the outlet curb stop; it shall be the property owner’s responsibility to connect to the curb stop after the meter pit/vault to the residence. (A meter pit/vault requires two curb stops). The connection materials must meet Town Standardized Specifications and shall be inspected by Town Inspectors at the time of installation. No on site water system shall be connected to the District System.
- D. Where connection within the District requires the extension of a main or lateral, such extension shall be the sole cost of the property owner. No main shall be extended across private property unless an easement is provided.
- E. In the event a main or lateral is extended under Section 2D hereof; and, within five (5) years of such extension other users are added to such extension, the original property owner that paid for such extension shall be rebated for a portion of the cost of the original extension, pro-rated on a per foot basis, which rebate shall be charged to the new person connecting as an additional connection fee.

Section 3. – Water Meters.

- A. The water meters and pits are the responsibility of the Water District and shall be owned and installed by the Water District. (Subject to Section 8B)
- B. Any user within the District projected to be a user of 100,000 gallons per day or more, that requires a special meter pit/vault or meter, shall have the Water District install the same, the expense of which may be capitalized and amortized to the user in monthly installments on its water bill over a period to

be agreed upon by the user and the Town Board, not to exceed twenty four months. Amortization shall include principal plus interest at a rate mutually agreed by both parties.

- C. All Water leaks on the homeowners side of the meter are the responsibility of homeowners. In the event of a water leak more than 1,000,000 gallons. The homeowner will be charged the Town water rate for 1,000,000 gal and the village water rate for all water over the first 1,000,000.

Section 4. – Meter Reading, Billing, Payment, Late Payment and Penalties.

- A. Meter readings. Where applicable, meters will be read on or about the last week of March, June, September and December. Except Water District #1 which will be read one month earlier at the end of February, May, August, and November.
- Consumers having a 2 inch or greater meter shall be read the last week of each month.
- D. Water bills. Water bills will be mailed on or about the first of the month following meter readings.
- E. Payment of Bills. All water bills are due and payable when prepared. All bills are payable at the Supervisors Office without penalty, up to and including the due date indicated on the water bill. If the billing due date falls on a weekend or a legal holiday, payment without penalty shall be extended to the next business day. Any payment received after the due date will be assessed a twenty percent (20%) penalty. The date of a check does not enter into the criteria of determination of penalty imposition, only the envelope postmark. Payments may be made by E-Check or credit card on-line through the Town website link. No partial payments will be accepted. Payments not received within 30 days past the due date will result in termination of service.
- E. Additional readings and billing. Any request for, or requirement for, additional readings separate from the regularly scheduled readings will be performed with a charge of twenty dollars (\$20.00) imposed.
- F. Unpaid Bills. Any water bills, including penalties, more than sixty (60) days delinquent as of October 31, shall be added onto the property owner's Town Tax bill as a special assessment.

Section 5. – Termination of Service.

- A. Water service will be terminated for nonpayment of water bills or violation of these regulations.
- B. Seasonal property owners may request service be shut off once per calendar year with no charge applicable. Additional shut off requests will be charged twenty dollars \$20.00 per request.

Section 6. – Restoration of Service.

- A. When service has been terminated per Section 5 (A), service will not be restored until all bills, penalties and service charges are paid in full. This includes an additional fee of fifty dollars (\$50.00) for service restoration.

- B. When service has been terminated per Section 5 (B), the property owner may request that service be restored at no cost once per calendar year. Additional restoration service requests will be billed twenty dollars \$20.00 per occurrence.

Section 7. – Transfer of Property Ownership.

- A. It is the responsibility of the current property owner to notify the Supervisor’s Office of the impending date of transfer and request a meter reading for final billing.
- B. The Supervisor’s Office shall, upon notice of the impending transfer of property, make arrangements for reading the meter if applicable. Upon meter reading, a final bill will be prepared and mailed to the owner. Final bill payments are due at the Supervisor’s Office within five (5) days. Upon receipt of payment, water records will be changed to reflect the new owner.
- C. This constitutes a special reading and the fee of twenty dollars (\$20.00) applies.

Section 8 - Maintenance Responsibilities.

- A. The Town has the responsibility of maintenance of all facilities within the highway right-of-way and/or within any granted easement limits.
- B. The property owner has the responsibility of maintenance within the boundaries of his property beyond the outlet curb stop, including insuring that the meters do not freeze or are otherwise damaged. The property owner is responsible for the cost of replacing meters that have been damaged due to misuse or freezing. The District may notify a property owner to make certain repairs on the owner’s property if the failure to repair would affect the water system. The failure to timely make such repairs shall be grounds for termination of service. Service can be terminated as the result of tampering with a meter, and if mandated conservation practices are not adhered to.

Section 9. – Hydrants.

- A. Hydrants are solely for the purpose of fire protection. Hydrants shall not be turned on except by authorized fire departments for the sole purpose of fighting fires or by Town maintenance personnel for maintenance, flushing, repair or testing.

Section 10. – Multi-Dwelling Units.

- C. All requests for water service to multi-dwelling units shall be brought to the Town Board for consideration. The Town Board shall determine whether a single meter per building or a separate meter for each dwelling unit will be required. In no event may the owner of a multi-dwelling unit buy water from the District and make a profit on the resale of water.

Section 11. – Outside Users.

A district is not obligated to provide service to any outside users, but will do so upon request, whenever feasible, subject to the following:

- A. The connection and meter shall be located within the district. All property owners must fill out water connection application and pay the applicable fees.
- B. Where service is provided to outside users, it shall be provided only if the outside user agrees to sign the Town’s Standard Outside User Agreement. (Appendix C) Such agreement is contingent upon the outside user obtaining all necessary easements and paying for any fees that may be incurred by the town pursuant to the contract.
- C. It shall be the responsibility of the outside user to properly install and maintain all mains, laterals, and other appurtenant features to deliver water from the boundaries

of the Water District or District Rights of Way to the outside user's premises. The outside user shall be fully responsible for all maintenance of all facilities outside the boundaries of the District or District right of way. In the event of a leak, the Town and District retain the right to turn off water to the outside user until such leak is properly repaired.

- D. Initial connection fees and ongoing fees to be charged to outside users for the use of water and for capital charges shall be in an amount equal to that charged to users within the District.
- E. Outside users shall be subject to all rules and regulations as laid out in the Water District Law, as from time to time amended, including payment of bills, late payments and penalties.
- F. In the event that the Town as Commissioners of all Water Districts, should institute conservation measures due to a shortage of water supply, all outside users shall be equally subject to such conservation measures and penalties for non-compliance as inside users.
- G. All water users shall have a curbstop outside the residents and a Town water Meter and radio inside the residents. The property owner shall sign an easement allowing the Town access to the meter at all times.
- H. No more than 4 tax parcels can be connected to an outside district.
- I. Where there are more than one residents within an outside district, The water usage discrepancy between the master meter and the total residents meters will be divided between the users and added to the quarterly water bill.

Section 12. – Restrictions on Use.

- A. Should lower than normal pressure or other emergency-type situations occur in the water distribution system or should a serious fire hazard exist, a restriction may be placed on water usage above basic health and sanitation requirements. If water restrictions are imposed, compliance is mandatory.

Section 13. – Manner of Payment.

- A. All payments for water usage and charges are payable at the Supervisor's Office. Payments may be made in person, US Postal service or on-line with an E-check or by credit card through the link on the Town's website.

Section 14. – Penalties for Offenses.

- A. The opening of a water hydrant by an unauthorized person or evidence that attempts have been made to by-pass a meter or in any manner obtain water from the District without proper payment will result in prosecution under the penal laws of New York State.
- B. A violation of these regulations may result in the termination of water service to the violator. All violations of these regulations shall be brought to the attention of the Town Board for disposition.

- C. A person found to be in violation of these regulations shall be guilty of a violation and shall be subject to a fine not to exceed Five Hundred (\$500.00) per offense. Each week of continued violation shall constitute a separate offense.
- D. Where appropriate, the District may seek injunctive relief in a court of competent jurisdiction for enforcement of any provision of these regulations.

Section 15 – Temporary Users

The Town has the discretion to allow outside users temporary access to the municipal water supply when necessary. The charge for water to temporary users shall be based upon meter readings and charged at 1.5 times the current water rates.

Article 4 – Repealer. This Local Law shall supersede all prior Local Laws and/or Regulations relative to the governing of any Water Districts within the Town of Cape Vincent, and they shall be upon the effectiveness of this Local Law, null and void.

Article #5. – Severability. If any part of this Chapter shall be found to be void, voidable, or unenforceable for any reason whatsoever, it shall not affect the validity or enforceability of any remaining section or provision of this Chapter.

Article #6. – Effective Date. This Local Law shall take effect immediately upon filing with the Secretary of State.

**Town of Cape Vincent**  
**Common Water Law 2016**

**Appendix A**

**Units Table**

TYPE OF USER		ASSESSMENT FACTOR
Business/store		1- unit
Single Family Residence		1-Unit
Mobile Home Parks		1-Unit per pad
Cottages/ Cabins		1-Unit per Cottage/Cabin
Restaurants		1-Unit per 16 seats
Campgrounds		1/4 – Unit per site
Motel		1/4- Unit per room
Churches		1-Unit
Schools		1-Unit per 14 students/staff
Prisons		1 Unit per 14 beds
Vacant land with curb stop		1/2 – Unit
Vacant land		¼- Unit
Farms--	Under 50 animals	1- Unit
	Under 100 animals	5- Units
	Under 500 animals	10- Units
	Over 500 animals	15- Units

# WATER SERVICE CONNECTION APPLICATION

Appendix "B"

## Town of Cape Vincent Water District

Please print clearly

Name: _____ 911 Property Address: _____ _____ Tax Map Parcel# _____	Address for Water Billing Summer: _____ _____ Winter: _____ _____
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I, \_\_\_\_\_ state that I am the owner of the property listed above, Town of Cape Vincent and within the boundaries of Water District #1, and hereby request connection to the water distribution system of this district.

I acknowledge that the fee for this connection is \_\_\_\_\_ (See attached Exhibit A).

I further acknowledge that the cost of actual physical connection to the meter pit/vault/curb stop provided is solely my responsibility.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

Please return original copy of application, with check, to the Supervisor's Office, Town of Cape Vincent, PO Box 680, Cape Vincent, New York 13618. (your check and copy of this application is your receipt).

OFFICE USE ONLY	
Date Received _____	Date Installed _____
Account Number _____	Meter Number _____
Type of User _____	
Other Information _____	

Section 2. Connection to Distribution System.

- A. A property owner shall properly fill out an application form (water service connection Application) and pay a fee with the application per Section 2. (B-1) schedule.
- B. Fees shall be:
  - 1. Connection fees shall include the following fixed fee plus any labor, equipment and material expense incurred by the district, if costs exceed the connection fee.
    - a. Single Family Residence \$1500.00
    - b. Dairy Farm 1500.00
    - c. Restaurant/ Bar 1500.00
    - d. Motel/Hotel/ Multiple Dwelling 1500.00
    - e. Mobile Home Park 1500.00
    - f. Public Recreation Area 1500.00
    - g. School 1500.00
    - h. Correctional Facility/Prison 1500.00
    - i. Commercial establishment (store) 1500.00
    - j. Laundromat 1500.00
    - k. Car wash 1500.00
- C. The connection to be installed by the water district shall be from the water main to the meter pit with meter and outlet curb stop.
- D. Where connection within the district requires the extension of a main or lateral, such extension shall be at the sole cost of the property owner. No main shall be extended across private property unless an easement is provided.
- E. In the event a main or lateral is extended under section 2.D hereof, and, within five (5) years of such extension other users are added to such extension, the original property owner that paid for such extension shall be rebated a portion of the cost of the original extension, prorate on a per foot basis, which rebate shall be charged to the new person connecting as an additional connection fee.



# APPENDIX D-1: VILLAGE OF CAPE VINCENT LOCAL WATERFRONT CONSISTENCY REVIEW LAW

VILLAGE OF CAPE VINCENT

Local Law #\_\_\_ of the Year 2023

Be it enacted by the Village Board of Trustees of the Village of Cape Vincent as follows:

## **General Provisions**

### **I. Title**

This law may be known as the Village of Cape Vincent Local Waterfront Revitalization Program (LWRP) Consistency Review Law.

### **II. Authority and Purpose.**

- A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
- B. The purpose of this law is to provide a framework for the agencies of the Village of Cape Vincent to incorporate the policies and purposes contained in the Town and Village of Cape Vincent Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions located within the waterfront revitalization area; and to assure that such actions and direct actions undertaken by Village agencies are consistent with the LWRP policies and purposes.
- C. It is the intention of the Village of Cape Vincent that the preservation, enhancement, and utilization of the unique waterfront revitalization area of the Village occur in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate growth. Accordingly, this law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: degradation or loss of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural waterfront processes; impairment of scenic or historical resources; losses due to flooding, erosion, and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.
- D. The substantive provisions of this local law shall only apply while there is in existence a Town and Village of Cape Vincent Local Waterfront Revitalization Program that has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

### III. Definitions.

- A. "Actions" include all the following Type I or Unlisted actions under SEQRA, except for minor actions (see III.J.):
  - (1) projects or physical activities, such as construction or any other activities that may affect natural, manmade, or other resources in the waterfront revitalization area, or the environment, by changing the use, appearance, or condition of any resource or structure, that:
    - i. are directly undertaken by an agency; or
    - ii. involve funding by an agency; or
    - iii. require one or more new or modified approvals, permits, or review from an agency or agencies.
  - (2) agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;
  - (3) adoption of agency rules, regulations, and procedures, including local laws, codes, ordinances, executive orders, and resolutions that may affect coastal resources or the environment; and
  - (4) any combination of the above.
- B. "Agency" means any board, agency, department, office, other body, or officer of the Village of Cape Vincent
- C. "Waterfront Revitalization Area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Village of Cape Vincent, as shown on the coastal area map on file in the office of the Secretary of State and as delineated in the Town and Village of Cape Vincent LWRP (Map 1).
- D. "Coastal Assessment Form (CAF)" means the form, a copy of which is appended to this local law, used by an agency or other entity to assist in determining the consistency of an action with the Town and Village of Cape Vincent Local Waterfront Revitalization Program.
- E. "Code Enforcement Officer" means the Building Inspector and/or Code Enforcement Officer of the Village of Cape Vincent.
- F. "Consistent" means that the action will fully comply with the LWRP policy standards, conditions, and objectives and, whenever practicable, will advance one or more of them.
- G. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to, a capital project, rulemaking, procedure making and policy making.
- H. "Environment" means all conditions, circumstances, and influences surrounding and affecting the development of living organisms or other resources in the coastal area.
- I. "Local Waterfront Revitalization Program" or "LWRP" means the Town and Village of Cape Vincent Local Waterfront Revitalization Program approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law), a copy of which is on file in the Office of the Clerk of the Village of Cape Vincent.

- J. "Minor actions" include the following Type II actions under SEQRA, which are not subject to review under this law:
- (1) maintenance or repair involving no substantial changes in an existing structure or facility;
  - (2) replacement, rehabilitation, or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by local law where structures may not be replaced, rehabilitated, or reconstructed without a permit;
  - (3) repaving of existing paved highways not involving the addition of new travel lanes;
  - (4) street openings and right of way openings for the purpose of repair or maintenance of existing utility facilities;
  - (5) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected;
  - (6) granting of individual setback and lot line variances, except in relation to a regulated natural feature;
  - (7) minor temporary uses of land having negligible or no permanent impact on waterfront resources or the environment;
  - (8) installation of traffic control devices on existing streets, roads, and highways;
  - (9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
  - (10) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations, and soils studies that do not commit the agency to undertake, fund, or approve any Type I or Unlisted action;
  - (11) official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s);
  - (12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
  - (13) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
  - (14) collective bargaining activities;
  - (15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
  - (16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
  - (17) purchase or sale of furnishings, equipment, or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials;
  - (18) adoption of regulations, policies, procedures, and local legislative decisions in

- connection with any action on this list;
- (19) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
  - (20) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
  - (21) adoption of a moratorium on land development or construction;
  - (22) interpreting an existing code, rule, or regulation;
  - (23) designation of local landmarks or their inclusion within historic districts;
  - (24) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property, or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to waterfront resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;
  - (25) local legislative decisions such as rezoning where the Village Board of Trustees determines the action will not be approved.

#### **IV. Management and Coordination of the LWRP.**

- A. The Village Zoning Enforcement Officer shall be responsible for overall management and coordination of the LWRP, especially involving consistency review and recommendations.
- B. In performing this task, the Zoning Enforcement Officer shall:
  - (1) Inform the Village Board of Trustees on implementation, priorities, work assignments, timetables, and budgetary requirements of the LWRP.
  - (2) Assist in applications for funding from State, Federal, or other sources to finance projects under the LWRP, as needed per request of the Village Board of Trustees or their designee.
  - (3) Coordinate and oversee liaison between Village agencies and departments to further implementation of the LWRP.
  - (4) Coordinate with NYS Department of State (DOS) or other State agencies regarding consistency review for actions by State or Federal agencies. Coordination shall include providing an informal opinion on the proposed action to DOS, at DOS's request, within 15 days of said request, regardless of any requirement for a local consistency decision. .
  - (5) Prepare an annual report on progress achieved and problems encountered in implementing the LWRP and recommend actions necessary for further implementation to the Village Board of Trustees.
  - (6) Perform other functions regarding the Waterfront Revitalization Area and direct such actions or projects as are necessary, or as the Village Board of Trustees may

deem appropriate, to implement the LWRP.

- (7) An annual summary report of all activities related to the implementation of the LWRP will be prepared by the Zoning Enforcement Officer and provided to the Village Board of Trustees and the public for review.
- C. The Cape Vincent Village Board of Trustees, or their designee, will prioritize and advance LWRP projects. The Village will direct the appropriate Village agency or a grant-writer to prepare applications for funding from State, Federal, and other sources to finance LWRP projects.
- D. In order to foster a strong relationship and maintain an active liaison among the agencies responsible for implementation of the LWRP, the Zoning Enforcement Officer shall schedule at least semi-annually a LWRP coordinating council/assembly, including but not limited to representatives of the Village Board of Trustees, Planning Board, Zoning Board of Appeals, and such other departments or individuals charged with LWRP implementation.

#### **V. Review of Actions.**

- A. Whenever a proposed action is in the waterfront revitalization area, each Village agency shall, prior to approving, funding, or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in Section I below. No action in the coastal area shall be approved, funded, or undertaken by an agency without such a determination.
- B. The Zoning Enforcement Officer shall be responsible for coordinating review of actions in the Village waterfront revitalization area for consistency with the LWRP, and will advise, assist, and make consistency recommendations for other Village agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative, and other actions included in the program.
- C. The Zoning Enforcement Officer will assist each agency with preliminary evaluation of actions in the waterfront revitalization area, and with the preparation of a CAF. Whenever an agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action to be in the waterfront area, the agency shall refer such application or direct action to the Zoning Enforcement Officer, within ten (10) days of its receipt, for preparation of a CAF, a copy of which is appended to this local law.
- D. The Zoning Enforcement Officer shall require the applicant to submit all completed applications, EAFs, and any other information deemed necessary to its consistency recommendation. The recommendation shall indicate whether, in the opinion of the Zoning Enforcement Officer, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and objectives and shall elaborate in writing the basis for its opinion. The Zoning Enforcement Officer shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards and objectives or to greater advance them. Such recommendation shall go to the agency within thirty (30) days of receipt of the

- completed information submitted by the applicant.
- E. If an action requires approval of more than one agency, decision making will be coordinated between agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency. Only one CAF per action will be prepared. If the agencies cannot agree, the Zoning Enforcement Officer shall designate the consistency review agency.
  - F. Upon recommendation of the Zoning Enforcement Officer, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in section J. herein. Prior to making its determination of consistency, the agency shall consider the consistency recommendation of the Zoning Enforcement Officer. The agency shall render a written determination of consistency based on the CAF, the Zoning Enforcement Officer recommendation, and such other information as is deemed necessary to its determination. No approval or decision shall be rendered for an action in the waterfront area without a determination of consistency. The designated agency will make the final determination of consistency.
  - G. The Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to this law. The Zoning Board of Appeals shall consider the written consistency recommendation of the Zoning Enforcement Officer in the event and at the time it makes a decision to grant such a variance and shall impose appropriate conditions on the variance to make the activity consistent with the objectives of this law.
  - H. Where an Environmental Impact Statement (EIS) is being prepared or required, the draft EIS must identify applicable LWRP policies and standards and include a discussion of the effects of the proposed action on such policy standards. No agency may make a final decision on an action that has been the subject of a final EIS and is located in the waterfront area until the agency has made a written finding regarding the consistency of the action with the local policy standards referred to in Section J herein.
  - I. In the event the Zoning Enforcement Officer's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and explain the manner and extent to which the action is consistent with the LWRP policy standards.
  - J. Actions to be undertaken within the Waterfront Revitalization area shall be evaluated for consistency in accordance with the following summary of LWRP policies, which are derived from and further explained and described in the Town and Village of Cape Vincent LWRP, a copy of which is on file in the Village of Cape Vincent Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV-Proposed Land and Water Uses and Projects of the LWRP, in making their consistency determination. The action shall be consistent with the State Coastal Management Policies:

Policy 1: Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.

Policy 2: Facilitate the siting of water dependent uses and facilities on or adjacent to coastal water.

Policy 3: Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of the State public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.

Policy 4: Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.

Policy 5: Encourage the location of development in areas where public services and facilities essential to such development are adequate.

Policy 6: Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

Policy 7: Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.

Policy 8: Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.

Policy 9: Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.

Policy 10: Further develop commercial fish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.

Policy 11: Buildings and other structures will be sited in the coastal areas so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

Policy 12: Activities of development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands, and bluffs.

Policy 13: The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.

Policy 14: Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.

Policy 15: Mining, excavation, or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.

Policy 16: Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.

Policy 17: Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.

Policy 18: To safeguard vital economic, social and environmental interests of the State and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State has established to protect valuable coastal resource areas.

Policy 19: Protect, maintain, and increase the level and types of access to public water related recreation resources and facilities.

Policy 20: Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.

Policy 21: Water dependent and water enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related uses along the coast.

Policy 22: Development when located adjacent to the shore will provide for water-related recreation whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development.



Policy 23: Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation.

Policy 24: Prevent impairment of scenic resources of statewide significance.

Policy 25: Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.

Policy 26: Conserve and protect agricultural lands in the State's coastal area.

Policy 27: Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.

Policy 28: Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.

Policy 29: The development of offshore uses and resources, including renewable energy resources, shall accommodate New York's long-standing ocean and Great Lakes industries, such as commercial and recreational fishing and maritime commerce, and the ecological functions of habitats important to New York.

Policy 30: Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to State and National water quality standards.

Policy 31: State coastal area policies and management objectives of approved local Waterfront Revitalization Programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.

Policy 32: Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.

Policy 33: Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.

Policy 34: Discharge of waste materials into coastal waters from vessels subject to State jurisdiction will be limited so as to protect significant fish and wildlife habitats,

recreational areas and water supply areas.

Policy 35: Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.

Policy 36: Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.

Policy 37: Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.

Policy 38: The quality and quantity of surface water and groundwater supplies, will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

Policy 39: The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.

Policy 40: Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.

Policy 41: Land use or development in the coastal area will not cause national or State air quality standards to be violated.

Policy 42: Coastal management policies will be considered if the State reclassifies land areas pursuant to the prevention of significant deterioration regulations of the Federal Clean Air Act.

Policy 43: Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.

Policy 44: Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

- K. If the agency determines that an action will be inconsistent with one or more LWRP policy standards or objectives, such action shall not be undertaken unless modified to

be consistent with the LWRP policies.

- L. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Zoning Enforcement Officer. Such files shall be made available for public inspection or audits upon request.

**VI. Enforcement.**

In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Building Inspector or any other authorized official of the Village shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is ineffect.

**VII. Violations.**

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this law shall have committed a violation, punishable by a fine not exceeding five hundred dollars (\$500.00) for a conviction of a first offense and punishable by a fine of one thousand dollars (\$1000.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
- B. The Village Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

**VIII. Severability.**

The provisions of this law are severable. If any provision of this law is found invalid, such finding shall not affect the validity of this law as a whole or any law or provision hereof other than the provision so found to be invalid.

**IX. Effective Date.**

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

**Village of Cape Vincent**  
**Coastal Assessment Form**

A. INSTRUCTIONS

1. Applicants, or, in the case of direct actions, Village agencies shall complete this Coastal Assessment Form (CAF) for proposed actions which are subject to the LWRP Consistency Review Law. This assessment is intended to supplement other information used by a Village agency in making a determination of consistency with the policy standards set forth in the LWRP Consistency Review Law.
2. Before answering the questions in Section C, the preparer of this form should review the policies and policy explanations contained in the Town and Village of Cape Vincent Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the offices of the Village Clerk. A proposed action should be evaluated as to its beneficial and adverse effects upon the waterfront area and its consistency with the policy standards.
3. If any question in Section C on this form is answered "yes", the proposed action may affect the achievement of the LWRP policy standards contained in the Consistency Review Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards and conditions, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Describe nature and extent of action:

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2. Type of Village agency action (check appropriate response):

a. Directly undertaken (e.g., construction, planning activity, agency regulation, land transaction)

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b. Financial assistance (e.g. grant, loan, subsidy)

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c. Permit, approval, license, certification

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d. Agency undertaking action:

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3. If an application for the proposed action has been filed with a Village, the following information shall be provided:

a. Name of applicant

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b. Mailing address:

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c. Telephone number:

(\_\_\_\_) \_\_\_\_\_

d. Property tax number:

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e. Application number, if any:

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4. Will the action be directly undertaken, require funding, or approval by a State or Federal agency?

Yes \_\_\_\_ No \_\_\_\_

If yes, which State or Federal agency?

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Town and Village of Cape Vincent Local Waterfront Revitalization Program

5. Location of action (Street or Site Description and nearest intersection):

\_\_\_\_\_  
\_\_\_\_\_

6. Size of site (acres): \_\_\_\_\_

7. Amount (acres) of site to be disturbed:

\_\_\_\_\_

8. Present land use:

\_\_\_\_\_

9. Present zoning classification:

\_\_\_\_\_

10. Describe any unique or unusual landforms on the project site (i.e., bluffs, wetlands, other geological formations):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Percentage of site that contains slopes of 15% or greater: \_\_\_\_\_

12. Streams, lakes, ponds, or wetlands existing within or continuous to the project area?

(a) Name \_\_\_\_\_

(b) Size (in acres) \_\_\_\_\_

13. Is the property serviced by public water? Yes \_\_\_\_\_ No \_\_\_\_\_

14. Is the property serviced by public sewer? Yes \_\_\_\_\_ No \_\_\_\_\_

C. WATERFRONT ASSESSMENT

Check either "Yes" or "No" for each of the following questions. If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

1. Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas found within the waterfront area identified in the LWRP? YES NO

(a) Significant fish or wildlife habitats? \_\_\_ \_\_\_

(b) Scenic resources of local or State-wide significance? \_\_\_ \_\_\_

(c) Important agricultural lands? \_\_\_ \_\_\_

(d) Natural protective features in a coastal erosion hazard area? \_\_\_ \_\_\_

Town and Village of Cape Vincent Local Waterfront Revitalization Program

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2. Will the proposed action have a significant effect upon:
- (a) Scenic quality of the waterfront environment? \_\_\_ \_\_\_
  - (b) Development of future or existing water-dependent uses? \_\_\_ \_\_\_
  - (c) Operation of the State's major ports? \_\_\_ \_\_\_
  - (d) Land or water uses within a small harbor area? \_\_\_ \_\_\_
  - (e) Designated State or Federal freshwater wetlands? \_\_\_ \_\_\_
  - (f) Commercial or recreational use of fish and wildlife resources? \_\_\_ \_\_\_
  - (g) Existing or potential public recreation opportunities? \_\_\_ \_\_\_
  - (h) Structures, sites, or districts of historic, archaeological, or cultural significance to the Village, State, or nation? \_\_\_ \_\_\_
  - (i) Stability of the shoreline? \_\_\_ \_\_\_
  - (j) Surface or groundwater quality? \_\_\_ \_\_\_

3. Will the proposed action involve or result in any of the following: YES NO

- (a) Physical alteration of land along the shoreline, underwater land, or surface waters? \_\_\_ \_\_\_
- (b) Physical alteration of two (2) acres or more of land located elsewhere in the waterfront area? \_\_\_ \_\_\_
- (c) Expansion of existing public services or infrastructure in undeveloped or low-density areas of the waterfront area? \_\_\_ \_\_\_
- (d) Siting or construction of an energy generation facility not subject to Article VII or VIII of the Public Service Law? \_\_\_ \_\_\_
- (e) Mining, excavation, filling or dredging in surface waters? \_\_\_ \_\_\_
- (f) Reduction of existing or potential public access to, or along, the shoreline? \_\_\_ \_\_\_
- (g) Sale or change in use of publicly owned lands located on the shoreline or underwater? \_\_\_ \_\_\_
- (h) Development within a designated flood or erosion hazard area? \_\_\_ \_\_\_
- (i) Development on a beach, dune, bluff, or other natural feature that provides protection against flooding or erosion? \_\_\_ \_\_\_
- (j) Construction or reconstruction of erosion protective structures? \_\_\_ \_\_\_
- (k) Diminished or degraded surface or groundwater quantity and/or quality? \_\_\_ \_\_\_
- (l) Removal of ground cover from the site? \_\_\_ \_\_\_

4. PROJECT

	<u>YES</u>	<u>NO</u>
(a) If a project is to be located adjacent to shore:		
(1) Does the project require a waterfront location?	—	—
(2) Will water related recreation be provided?	—	—
(3) Is the foreshore and/or lands immediately adjacent to the foreshore or the water's edge at the site publicly owned? Will public access to the foreshore be provided?	—	—
(4) Will it eliminate or replace a water-dependent use?	—	—
(5) Will it eliminate or replace a recreational or maritime use or resource?	—	—
(b) Is the project site presently used by the community neighborhood as an open space or recreation area?	—	—
(c) Will the project protect, maintain and/or increase the level and types or public access to water-related recreation resources or facilities?	—	—
(d) Does the project presently offer or include scenic views or vistas that are known to be important to the community?	—	—
(e) Is the project site presently used for commercial or recreational fishing or fish processing?	—	—
(f) Will the surface area of any local creek corridors or wetland areas be increased or decreased by the proposal?	—	—
(g) Is the project located in a flood prone area?	—	—
(h) Is the project located in an area of high coastal erosion?	—	—
(i) Will any mature forest (over 100 years old) or other locally important vegetation be removed by the project?	—	—
(j) Do essential public services or facilities presently exist at or near the site? Does the proposed activity require the provision of new public services or infrastructure in undeveloped or sparsely populated area?	—	—
(k) Will the project involve surface or subsurface liquid waste disposal?	—	—
(l) Will the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?	—	—
(m) Will the project involve shipment or storage of petroleum products?	—	—



Town and Village of Cape Vincent Local Waterfront Revitalization Program

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- (n) Will the project involve the discharge of toxics, hazardous substances or other wastes or pollutants into coastal waters? \_\_\_ \_\_\_
- (o) Will the project involve or change existing ice management practices? \_\_\_ \_\_\_
- (p) Will the project alter drainage flow, patterns, or surface water runoff on or from the site? \_\_\_ \_\_\_
- (q) Will the proposed activity result in the draining of stormwater runoff or sewer overflows? Will best management practices be utilized to control storm water runoff into waterfront waters? \_\_\_ \_\_\_
- (r) Will the project cause emissions that would exceed Federal or State air quality standards or generate significant amounts of nitrates or sulfates? \_\_\_ \_\_\_
- (s) Will the project affect any area designated as a tidal or freshwater wetland? \_\_\_ \_\_\_
- (t) Will the project utilize or affect the quality or quantity of sole source or surface water supplies? \_\_\_ \_\_\_

B. REMARKS OR ADDITIONAL INFORMATION TO SUPPORT OR DESCRIBE ANY ITEM(S)

CHECKED "YES" (Add any additional sheets if necessary)

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If you require assistance or further information in order to complete this form, please contact the Zoning Enforcement Officer.

**Please submit completed form, along with a copy of a site/sketch plan to:**

Village of Cape Vincent Zoning Enforcement Officer

(315) 654-2533

127 E. Joseph St.

PO Box 337

Cape Vincent, NY 13618

Preparer's Name (Please print): \_\_\_\_\_

Affiliation: \_\_\_\_\_

Telephone Number:(\_\_\_\_\_) \_\_\_\_\_

Date: \_\_\_\_\_

# APPENDIX D-2: TOWN OF CAPE VINCENT LOCAL WATERFRONT CONSISTENCY REVIEW LAW

TOWN OF CAPE VINCENT

Local Law # [REDACTED] of the Year 2023

Be it enacted by the Town Board of Trustees of the Town of Cape Vincent as follows:

## General Provisions

### I. Title

This law may be known as the Town of Cape Vincent Local Waterfront Revitalization Program (LWRP) Consistency Review Law.

### II. Authority and Purpose.

- A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
- B. The purpose of this law is to provide a framework for the agencies of the Town of Cape Vincent to incorporate the policies and purposes contained in the Town and Village of Cape Vincent Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions located within the waterfront revitalization area; and to assure that such actions and direct actions undertaken by Town agencies are consistent with the LWRP policies and purposes.
- C. It is the intention of the Town of Cape Vincent that the preservation, enhancement, and utilization of the unique waterfront revitalization area of the Town occur in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate growth. Accordingly, this law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: degradation or loss of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural waterfront processes; impairment of scenic or historical resources; losses due to flooding, erosion, and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.
- D. The substantive provisions of this local law shall only apply while there is in existence a Town and Village of Cape Vincent Local Waterfront Revitalization Program that has been adopted in accordance with Article 42 of the Executive Law of the State of New

York.

### III. Definitions.

- A. "Actions" include all the following Type I or Unlisted actions under SEQRA, except for minor actions (see III.J.):
- (1) projects or physical activities, such as construction or any other activities that may affect natural, manmade, or other resources in the waterfront revitalization area, or the environment, by changing the use, appearance, or condition of any resource or structure, that:
    - are directly undertaken by an agency; or
    - involve funding by an agency; or
    - require one or more new or modified approvals, permits, or review from an agency or agencies;
  - (2) agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;
  - (3) adoption of agency rules, regulations, and procedures, including local laws, codes, ordinances, executive orders, and resolutions that may affect coastal resources or the environment; and
  - (4) any combination of the above.
- B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Cape Vincent
- C. "Waterfront Revitalization Area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town of Cape Vincent, as shown on the coastal area map on file in the office of the Secretary of State and as delineated in the Town and Village of Cape Vincent Joint LWRP (Map 1).
- D. "Coastal Assessment Form (CAF)" means the form, a copy of which is appended to this local law, used by an agency or other entity to assist in determining the consistency of an action with the Town and Village of Cape Vincent Local Waterfront Revitalization Program.
- E. "Code Enforcement Officer" means the Building Inspector and/or Code Enforcement Officer of the Town of Cape Vincent.
- F. "Consistent" means that the action will fully comply with the LWRP policy standards, conditions, and objectives and, whenever practicable, will advance one or more of them.
- G. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to, a capital project, rulemaking, procedure making and policy making.
- H. "Environment" means all conditions, circumstances, and influences surrounding and affecting the development of living organisms or other resources in the coastal area.
- I. "Local Waterfront Revitalization Program" or "LWRP" means the Town and Village of Cape Vincent Local Waterfront Revitalization Program approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law), a copy of which is on file in the Office of the Clerk of the Town of Cape Vincent.

- J. "Minor actions" include the following Type II actions under SEQRA, which are not subject to review under this law:
- (1) maintenance or repair involving no substantial changes in an existing structure or facility;
  - (2) replacement, rehabilitation, or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by local law where structures may not be replaced, rehabilitated, or reconstructed without a permit;
  - (3) repaving of existing paved highways not involving the addition of new travel lanes;
  - (4) street openings and right of way openings for the purpose of repair or maintenance of existing utility facilities;
  - (5) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected;
  - (6) granting of individual setback and lot line variances, except in relation to a regulated natural feature;
  - (7) minor temporary uses of land having negligible or no permanent impact on waterfront resources or the environment;
  - (8) installation of traffic control devices on existing streets, roads, and highways;
  - (9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
  - (10) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations, and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action;
  - (11) official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s);
  - (12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
  - (13) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
  - (14) collective bargaining activities;
  - (15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
  - (16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
  - (17) purchase or sale of furnishings, equipment, or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials;

- (18) adoption of regulations, policies, procedures, and local legislative decisions in connection with any action on this list;
- (19) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
- (20) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- (21) adoption of a moratorium on land development or construction;
- (22) interpreting an existing code, rule, or regulation;
- (23) designation of local landmarks or their inclusion within historic districts;
- (24) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property, or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to waterfront resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;
- (25) local legislative decisions such as rezoning where the Town Board of Trustees determines the action will not be approved.

#### **IV. Management and Coordination of the LWRP.**

- A. The Town Zoning Enforcement Officer shall be responsible for overall management and coordination of the LWRP, especially involving consistency review and recommendations.
- B. In performing this task, the Town Zoning Enforcement Officer shall:
  - (1) Inform the Town Board on implementation, priorities, work assignments, timetables, and budgetary requirements of the LWRP.
  - (2) Assist in applications for funding from State, Federal, or other sources to finance projects under the LWRP, as needed per request of the Town Board or their designee.
  - (3) Coordinate and oversee liaison between Town agencies and departments, to further implementation of the LWRP.
  - (4) Coordinate with NYS Department of State (DOS) or other State agencies regarding consistency review for actions by State or Federal agencies. Coordination shall include providing an informal opinion on the proposed action to DOS, at DOS's request, within 15 days of said request, regardless of any requirement for a local consistency decision.
  - (5) Prepare an annual report on progress achieved and problems encountered in implementing the LWRP and recommend actions necessary for further implementation to the Town Board.

- (6) Perform other functions regarding the Waterfront Revitalization Area and direct such actions or projects as are necessary, or as the Town Board may deem appropriate, to implement the LWRP.
- (7) An annual summary report of all activities related to the implementation of the LWRP will be prepared by the Town Clerk and provided to the Town Board and the public for review.
- C. The Cape Vincent Town Board, or their designee, will prioritize and advance LWRP projects. The Town will direct the appropriate Town agency or a grant-writer to prepare applications for funding from State, Federal, and other sources to finance LWRP projects.
- D. In order to foster a strong relationship and maintain an active liaison among the agencies responsible for implementation of the LWRP, the Zoning Enforcement Officer shall schedule at least semi-annually a LWRP coordinating council/assembly, including but not limited to representatives of the Village Board of Trustees, Planning Board, Zoning Board of Appeals, and such other departments or individuals charged with LWRP implementation.

**V. Review of Actions.**

- A. Whenever a proposed action is located in the waterfront revitalization area, each Town agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in Section I below. No action in the coastal area shall be approved, funded, or undertaken by an agency without such a determination.
- B. The Zoning Enforcement Officer shall be responsible for coordinating review of actions in the Town waterfront revitalization area for consistency with the LWRP, and will advise, assist and make consistency recommendations for other Town agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative, and other actions included in the program.
- C. The Zoning Enforcement Officer will assist each agency with preliminary evaluation of actions in the waterfront revitalization area, and with the preparation of a CAF. Whenever an agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action to be located in the waterfront area, the agency shall refer such application or direct action to the Town Zoning Enforcement Officer, within ten (10) days of its receipt, for preparation of a CAF, a copy of which is appended to this local law.
- D. The Zoning Enforcement Officer shall require the applicant to submit all completed applications, EAFs, and any other information deemed necessary to its consistency recommendation. The recommendation shall indicate whether, in the opinion of the Zoning Enforcement Officer, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and objectives and shall elaborate in writing the basis for its opinion. The Zoning Enforcement Officer shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it

consistent with LWRP policy standards and objectives or to greater advance them. Such recommendation shall go to the agency within thirty (30) days of receipt of the completed information submitted by the applicant.

- E. If an action requires approval of more than one agency, decision making will be coordinated between agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency. Only one CAF per action will be prepared. If the agencies cannot agree, the Zoning Enforcement Officer shall designate the consistency review agency.
- F. Upon recommendation of the Zoning Enforcement Officer, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in Section I herein. Prior to making its determination of consistency, the agency shall consider the consistency recommendation of the Zoning Enforcement Officer. The agency shall render a written determination of consistency based on the CAF, the Zoning Enforcement Officer recommendation, and such other information as is deemed necessary to its determination. No approval or decision shall be rendered for an action in the waterfront area without a determination of consistency. The designated agency will make the final determination of consistency.
- G. The Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to this law. The Zoning Board of Appeals shall consider the written consistency recommendation of the Zoning Enforcement Officer in the event and at the time it makes a decision to grant such a variance and shall impose appropriate conditions on the variance to make the activity consistent with the objectives of this law.
- H. Where an Environmental Impact Statement (EIS) is being prepared or required, the draft EIS must identify applicable LWRP policies and standards and include a discussion of the effects of the proposed action on such policy standards. No agency may make a final decision on an action that has been the subject of a final EIS and is located in the waterfront area until the agency has made a written finding regarding the consistency of the action with the local policy standards referred to in Section I herein.
- I. In the event the Zoning Enforcement Officer's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and explain the manner and extent to which the action is consistent with the LWRP policy standards.
- J. Actions to be undertaken within the waterfront revitalization area shall be evaluated for consistency in accordance with the following summary of LWRP policies, which are derived from and further explained and described in the Town and Village of Cape Vincent LWRP, a copy of which is on file in the Town of Cape Vincent Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV-Proposed Land and Water Uses and Projects of the LWRP, in making their consistency determination. The action shall be consistent with the State Coastal Management Policies:

Policy 1: Restore, revitalize, and redevelop deteriorated and underutilized waterfront

areas for commercial, industrial, cultural, recreational, and other compatible uses.

Policy 2: Facilitate the siting of water dependent uses and facilities on or adjacent to coastal water.

Policy 3: Further develop the State's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of the State public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.

Policy 4: Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.

Policy 5: Encourage the location of development in areas where public services and facilities essential to such development are adequate.

Policy 6: Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

Policy 7: Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.

Policy 8: Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.

Policy 9: Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.

Policy 10: Further develop commercial fish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the State's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.

Policy 11: Buildings and other structures will be sited in the coastal areas so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

Policy 12: Activities of development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands, and



bluffs.

Policy 13: The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.

Policy 14: Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.

Policy 15: Mining, excavation, or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.

Policy 16: Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.

Policy 17: Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.

Policy 18: To safeguard vital economic, social and environmental interests of the State and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State has established to protect valuable coastal resource areas.

Policy 19: Protect, maintain, and increase the level and types of access to public water related recreation resources and facilities.

Policy 20: Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.

Policy 21: Water dependent and water enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related uses along the coast.

Policy 22: Development when located adjacent to the shore will provide for water-related recreation whenever such use is compatible with reasonably anticipated

demand for such activities, and is compatible with the primary purpose of the development.

Policy 23: Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation.

Policy 24: Prevent impairment of scenic resources of statewide significance.

Policy 25: Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.

Policy 26: Conserve and protect agricultural lands in the State's coastal area.

Policy 27: Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.

Policy 28: Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.

Policy 29: The development of offshore uses and resources, including renewable energy resources, shall accommodate New York's long-standing ocean and Great Lakes industries, such as commercial and recreational fishing and maritime commerce, and the ecological functions of habitats important to New York.

Policy 30: Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to State and National water quality standards.

Policy 31: State coastal area policies and management objectives of approved local Waterfront Revitalization Programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.

Policy 32: Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.

Policy 33: Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.

Policy 34: Discharge of waste materials into coastal waters from vessels subject to State jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.

Policy 35: Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.

Policy 36: Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.

Policy 37: Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.

Policy 38: The quality and quantity of surface water and groundwater supplies, will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

Policy 39: The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.

Policy 40: Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.

Policy 41: Land use or development in the coastal area will not cause national or State air quality standards to be violated.

Policy 42: Coastal management policies will be considered if the State reclassifies land areas pursuant to the prevention of significant deterioration regulations of the Federal Clean Air Act.

Policy 43: Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.

Policy 44: Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

- K. If the agency determines that an action will be inconsistent with one or more LWRP policy standards or objectives, such action shall not be undertaken unless modified to be consistent with the LWRP policies.
- L. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Zoning Enforcement Officer. Such files shall be made available for public inspection or audits upon request.

**VI. Enforcement.**

In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Building Inspector or any other authorized official of the Town shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is ineffect.

**VII. Violations.**

- C. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this law shall have committed a violation, punishable by a fine not exceeding five hundred dollars (\$500.00) for a conviction of a first offense and punishable by a fine of one thousand dollars (\$1000.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
- D. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

**VIII. Severability.**

The provisions of this law are severable. If any provision of this law is found invalid, such finding shall not affect the validity of this law as a whole or any law or provision hereof other than the provision so found to be invalid.

**IX. Effective Date.**

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

**Town of Cape Vincent**  
**Coastal Assessment Form**

A. INSTRUCTIONS

1. Applicants, or, in the case of direct actions, Town agencies shall complete this Coastal Assessment Form (CAF) for proposed actions which are subject to the LWRP Consistency Review Law. This assessment is intended to supplement other information used by a Town agency in making a determination of consistency with the policy standards set forth in the LWRP Consistency Review Law.
2. Before answering the questions in Section C, the preparer of this form should review the policies and policy explanations contained in the Town and Village of Cape Vincent Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the offices of the Town Clerk. A proposed action should be evaluated as to its beneficial and adverse effects upon the waterfront area and its consistency with the policy standards.
3. If any question in Section C on this form is answered "yes", the proposed action may affect the achievement of the LWRP policy standards contained in the Consistency Review Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that is consistent with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards and conditions, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Describe nature and extent of action:

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2. Type of Town agency action (check appropriate response):

a. Directly undertaken (e.g., construction, planning activity, agency regulation, land transaction)

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b. Financial assistance (e.g. grant, loan, subsidy)

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c. Permit, approval, license, certification

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d. Agency undertaking action:

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3. If an application for the proposed action has been filed with a Town, the following information shall be provided:

a. Name of applicant

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b. Mailing address:

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c. Telephone number:

(\_\_\_\_) \_\_\_\_\_

d. Property tax number:

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e. Application number, if any:

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4. Will the action be directly undertaken, require funding, or approval by a State or Federal agency?

Yes \_\_\_\_ No \_\_\_\_

If yes, which State or Federal agency?

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Town and Village of Cape Vincent Local Waterfront Revitalization Program

5. Location of action (Street or Site Description and nearest intersection):

\_\_\_\_\_  
\_\_\_\_\_

6. Size of site (acres): \_\_\_\_\_

7. Amount (acres) of site to be disturbed:  
\_\_\_\_\_

8. Present land use:  
\_\_\_\_\_

9. Present zoning classification:  
\_\_\_\_\_

10. Describe any unique or unusual landforms on the project site (i.e., bluffs, wetlands, other geological formations):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Percentage of site that contains slopes of 15% or greater: \_\_\_\_\_

12. Streams, lakes, ponds, or wetlands existing within or continuous to the project area?

(a) Name \_\_\_\_\_

(b) Size (in acres) \_\_\_\_\_

13. Is the property serviced by public water? Yes \_\_\_\_\_ No \_\_\_\_\_

14. Is the property serviced by public sewer? Yes \_\_\_\_\_ No \_\_\_\_\_

C. WATERFRONT ASSESSMENT

Check either "Yes" or "No" for each of the following questions. If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

1. Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas found within the waterfront area identified in the LWRP? YES NO

(a) Significant fish or wildlife habitats? \_\_\_ \_\_\_

(b) Scenic resources of local or State-wide significance? \_\_\_ \_\_\_

(c) Important agricultural lands? \_\_\_ \_\_\_

(d) Natural protective features in a coastal erosion hazard area? \_\_\_ \_\_\_

Town and Village of Cape Vincent Local Waterfront Revitalization Program

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2. Will the proposed action have a significant effect upon:
- (a) Scenic quality of the waterfront environment? \_\_\_ \_\_\_
  - (b) Development of future or existing water-dependent uses? \_\_\_ \_\_\_
  - (c) Operation of the State's major ports? \_\_\_ \_\_\_
  - (d) Land or water uses within a small harbor area? \_\_\_ \_\_\_
  - (e) Designated State or Federal freshwater wetlands? \_\_\_ \_\_\_
  - (f) Commercial or recreational use of fish and wildlife resources? \_\_\_ \_\_\_
  - (g) Existing or potential public recreation opportunities? \_\_\_ \_\_\_
  - (h) Structures, sites, or districts of historic, archaeological, or cultural significance to the Village, State, or nation? \_\_\_ \_\_\_
  - (i) Stability of the shoreline? \_\_\_ \_\_\_
  - (j) Surface or groundwater quality? \_\_\_ \_\_\_

3. Will the proposed action involve or result in any of the following: YES NO

- (a) Physical alteration of land along the shoreline, underwater land, or surface waters? \_\_\_ \_\_\_
- (b) Physical alteration of two (2) acres or more of land located elsewhere in the waterfront area? \_\_\_ \_\_\_
- (c) Expansion of existing public services or infrastructure in undeveloped or low-density areas of the waterfront area? \_\_\_ \_\_\_
- (d) Siting or construction of an energy generation facility not subject to Article VII or VIII of the Public Service Law? \_\_\_ \_\_\_
- (e) Mining, excavation, filling or dredging in surface waters? \_\_\_ \_\_\_
- (f) Reduction of existing or potential public access to, or along, the shoreline? \_\_\_ \_\_\_
- (g) Sale or change in use of publicly owned lands located on the shoreline or underwater? \_\_\_ \_\_\_
- (h) Development within a designated flood or erosion hazard area? \_\_\_ \_\_\_
- (i) Development on a beach, dune, bluff, or other natural feature that provides protection against flooding or erosion? \_\_\_ \_\_\_
- (j) Construction or reconstruction of erosion protective structures? \_\_\_ \_\_\_
- (k) Diminished or degraded surface or groundwater quantity and/or quality? \_\_\_ \_\_\_
- (l) Removal of ground cover from the site? \_\_\_ \_\_\_



4. PROJECT

	<u>YES</u>	<u>NO</u>
(a) If a project is to be located adjacent to shore:		
(1) Does the project require a waterfront location?	—	—
(2) Will water related recreation be provided?	—	—
(3) Is the foreshore and/or lands immediately adjacent to the foreshore or the water's edge at the site publicly owned? Will public access to the foreshore be provided?	—	—
(4) Will it eliminate or replace a water-dependent use?	—	—
(5) Will it eliminate or replace a recreational or maritime use or resource?	—	—
(b) Is the project site presently used by the community neighborhood as an open space or recreation area?	—	—
(c) Will the project protect, maintain and/or increase the level and types or public access to water-related recreation resources or facilities?	—	—
(d) Does the project presently offer or include scenic views or vistas that are known to be important to the community?	—	—
(e) Is the project site presently used for commercial or recreational fishing or fish processing?	—	—
(f) Will the surface area of any local creek corridors or wetland areas be increased or decreased by the proposal?	—	—
(g) Is the project located in a flood prone area?	—	—
(h) Is the project located in an area of high coastal erosion?	—	—
(i) Will any mature forest (over 100 years old) or other locally important vegetation be removed by the project?	—	—
(j) Do essential public services or facilities presently exist at or near the site? Does the proposed activity require the provision of new public services or infrastructure in undeveloped or sparsely populated area?	—	—
(k) Will the project involve surface or subsurface liquid waste disposal?	—	—
(l) Will the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?	—	—
(m) Will the project involve shipment or storage of petroleum products?	—	—

Town and Village of Cape Vincent Local Waterfront Revitalization Program

- (n) Will the project involve the discharge of toxics, hazardous substances or other wastes or pollutants into coastal waters?      \_\_\_ \_\_\_
- (o) Will the project involve or change existing ice management practices?      \_\_\_ \_\_\_
- (p) Will the project alter drainage flow, patterns, or surface water runoff on or from the site?      \_\_\_ \_\_\_
- (q) Will the proposed activity result in the draining of stormwater runoff or sewer overflows? Will best management practices be utilized to control storm water runoff into waterfront waters?      \_\_\_ \_\_\_
- (r) Will the project cause emissions that would exceed Federal or State air quality standards or generate significant amounts of nitrates or sulfates?      \_\_\_ \_\_\_
- (s) Will the project affect any area designated as a tidal or freshwater wetland?      \_\_\_ \_\_\_
- (t) Will the project utilize or affect the quality or quantity of sole source or surface water supplies?      \_\_\_ \_\_\_

B. REMARKS OR ADDITIONAL INFORMATION TO SUPPORT OR DESCRIBE ANY ITEM(S)

CHECKED "YES" (Add any additional sheets if necessary)

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If you require assistance or further information in order to complete this form, please contact the Zoning Enforcement Officer.

**Please submit completed form, along with a copy of a site/sketch plan to:**

Town of Cape Vincent Zoning Enforcement Officer

(315) 654-3660

(315) 654-3795

1964 NYS Route 12E

Cape Vincent, NY 13618

Preparer's Name (Please print): \_\_\_\_\_

Affiliation: \_\_\_\_\_

Telephone Number:(\_\_\_\_\_) \_\_\_\_\_

Date: \_\_\_\_\_

# APPENDIX E: GUIDELINES FOR NOTIFICATION AND REVIEW

## *Guidelines for Notification and Review of State Agency Actions within the Town and Village Waterfront Revitalization Area*

### I. PURPOSE OF GUIDELINES

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (the Act) (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the Town or Village of Cape Vincent whenever an identified action will occur within an area covered by the approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist the Town or Village in carrying out their review responsibilities in a timely manner.
- C. The New York State Secretary of State is required by the Act to confer with state agencies and the Town or Village of Cape Vincent when notified by the municipality that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

### II. DEFINITIONS

- A. **Action** means:
  - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
  - 2. Occurring within the boundaries of an approved LWRP; and
  - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.
- B. **Consistent to the maximum extent practicable** means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action

will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
3. That will result in an overriding regional or statewide public benefit.

C. **Local Waterfront Revitalization Program** or **LWRP** means a program prepared and adopted by the Town and Village and approved by the Secretary of State pursuant to Executive Law, Article 42, which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

D. **Municipal chief executive officer** is the Village of Cape Vincent Mayor and the Town of Cape Vincent Supervisor.

E. **Local program coordinator** is the Zoning Enforcement Officer for the Town of Cape Vincent and the Zoning Enforcement Officer for the Village of Cape Vincent. These individuals are the primary parties responsible for management and coordination of the LWRP and are directly involved in ensuring that consistency reviews occur in coordination with State or Federal agencies. They represent the designated Village Trustee or Town Councilor responsible for ensuring all development activity within the WRA is consistent with the LWRP. The general management structure for implementing the LWRP in each community is found in 5.4 of the LWRP. Further details specifying these roles are outlined in the Local Waterfront Consistency Review laws for each community (see Appendix D-1 and D-2 of the Town and Village of Cape Vincent LWRP).

### III. NOTIFICATION PROCEDURE

A. When a state agency is considering an action as described in II. DEFINITIONS, the state agency shall notify the Town or Village of Cape Vincent.

B. Notification of a proposed action by a state agency:

1. Shall fully describe the nature and location of the action;
2. Shall be accomplished by use of existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and Town or Village of Cape Vincent; and
3. Should be provided to the local program coordinator of the Town or Village of Cape Vincent as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. The timely filing of a copy

of a completed Coastal Assessment Form with the municipal chief executive officer should be considered adequate notification of a proposed action.

- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the municipal chief executive officer can serve as the state agency's notification to the Town or Village of Cape Vincent.

#### **IV. LOCAL GOVERNMENT REVIEW PROCEDURE**

- A. Upon receipt of notification from a state agency, the Town or Village of Cape Vincent will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local program coordinator identified in the LWRP, the state agency should promptly provide the affected local government with whatever additional information is available which will assist the affected local government to evaluate the proposed action.
- B. If the Town or Village of Cape Vincent cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the Town or Village of Cape Vincent's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the Town or Village of Cape Vincent does not notify the state agency in writing of its finding within 30 days, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the approved LWRP.
- D. If the Town or Village of Cape Vincent notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of the approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V. RESOLUTION OF CONFLICTS shall apply. The Town or Village of Cape Vincent shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the Town or Village of Cape Vincent shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

#### **V. RESOLUTION OF CONFLICTS**

- A. The following procedure applies whenever the Town or Village of Cape Vincent has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
  - 1. Upon receipt of notification from Town or Village of Cape Vincent that a proposed action conflicts with its approved LWRP, the state agency should contact the local program coordinator to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and Town or Village of Cape Vincent

representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the Town or Village of Cape Vincent.

2. If the discussion between the Town or Village of Cape Vincent and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the Town or Village of Cape Vincent shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
3. If the consultation between the Town or Village of Cape Vincent and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the Town or Village of Cape Vincent and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
4. Within 30 days following the receipt of a request for assistance, the Secretary, or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and Town or Village of Cape Vincent.
5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

### ***Procedural Guidelines for Coordinating NYS Department of State (DOS) and LWRP Consistency Review of Federal Agency Actions***

#### **I. FEDERAL AGENCY ACTIVITIES**

- A. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed federal activities to the local program coordinator and other interested parties.
- B. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed federal activity.

- C. The review period will be twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.
- D. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed federal activity.
- E. A copy of DOS' "concurrence" or "objection" letter to the federal agency will be forwarded to the local program coordinator.

## **II. ACTIVITIES REQUIRING FEDERAL LICENSES, PERMITS AND OTHER REGULATORY APPROVALS**

- A. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the local program coordinator and will identify the Department's principal reviewer for the proposed federal activity.
- B. Within thirty (30) days of receiving such information, the local program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed federal activity with the LWRP policies.
- C. When DOS and the local program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the local program coordinator upon receipt.
- D. Within thirty (30) days of receiving the requested information or discussing possible problems of a proposed federal activity with the principal reviewer for DOS, whichever is later, the local program coordinator will notify DOS of the reasons why a proposed federal activity may be inconsistent or consistent with the LWRP policies.
- E. After the notification, the local program coordinator will submit the municipality's written comments and recommendations on a proposed federal activity to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.
- F. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed federal activity, DOS will contact the local program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" to the applicant.
- G. A copy of DOS' "concurrence" or "objection" letter to the applicant will be forwarded to the local program coordinator.

**III. FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS (TOWN OR VILLAGE OF CAPE VINCENT)**

- A. Upon receiving notification of a proposed federal financial assistance, DOS will request information on the federal financial assistance from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the local program coordinator. A copy of this letter will be forwarded to the local program coordinator and will serve as notification that the proposed federal financial assistance may be subject to review.
- B. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the local program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
- C. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major federal financial assistance.
- D. The local program coordinator must submit the municipality's comments and recommendations on the proposed federal financial assistance to DOS within twenty days (or other time agreed to by DOS and the local program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed federal financial assistance with the LWRP policies.
- E. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the local program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
- F. A copy of DOS' consistency decision letter to the applicant will be forwarded to the local program coordinator.



## **APPENDIX F: SUPPORTING DOCUMENTS FOR LOCAL ADOPTION OF THE LWRP**

*Documents in this appendix include SEQRA documents, local law resolutions, and board resolutions leading to the formal adoption of this LWRP by the Village of Cape Vincent and the Town of Cape Vincent. [to be included upon the formal adoption of the LWRP]*

## **APPENDIX G: CLUB STREET FEASIBILITY STUDY**

*Documents in this appendix include the 2021 Club Street Feasibility Study (also known as the Cape Vincent Waterfront Feasibility Study), prepared by Edgewater Consultants on behalf of the Village of Cape Vincent.*



# Cape Vincent Waterfront

Feasibility Study  
August 2021



# 04 — Inventory 0

Location Map	04
Existing Conditions	06
Drone Photography	08
Community Input	12
History	14



# — Inventory

Location Map



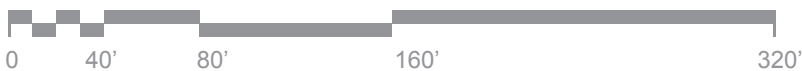


# — Inventory

Existing Conditions

- (A) Ferry Dock
- (B) Property to be Demolished
- (C) Existing Covered Slips
- (D) Existing Public Pier
- (E) Village Greens
- (F) Cape Vincent Historical Museum
- (G) Private Residence
- (H) Veteran's Memorial
- (I) Local Businesses

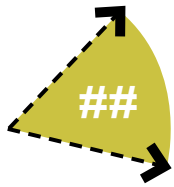
SCALE: 1"=80'-0"





# — Inventory

Drone Photography



Drone Photo on  
Following Page

SCALE: 1"=80'-0"



0

— **Inventory**  
Drone Photography

1





# O

## — Inventory Community Input



# O

## — Inventory

History

### **INDIAN TERRITORY**

Traces of an Iroquois prehistoric village have been found in this area of New York. It has also been determined that the Onondaga Indians established themselves in this land for hunting purposes. Samuel de Champlain and his colony are the first record of white men occupying the area on their expedition to the Iroquois country.

### **MONOPOLIZING INDIAN TRADE**

The relative ease of water travel allowed early French explorers, traders and missionaries to extend their presence while early British-English settlers were establishing their colonies along the Atlantic coast. Of the French, missionary priests Father Chaumont and Father Dablon arrived as missionaries among the Onondaga Indians. At this time both the French and English were looking to monopolize Indian trade and extend their influence into the native tribes. The French established themselves at Niagara and the English established themselves at Oswego by building a trading post, missions, and homes at both forts.

### **BRITISH INFLUENCE**

Carleton was important in colonial history, as the British military maintained a presence there from the mid-1770's until after the War of 1812. The British navy found Carleton Island to be strategically significant due to location at the mouth of the St. Lawrence, its deep harbor, elevated interior and easily accessible stands of hardwood trees. In 1778, the British built Fort Halimand, the remnants of which together with the surrounding acreage are today owned and conserved by The Thousand Island Land Trust.

### **EARLY NEW ENGLAND SETTLERS**

Beginning in the 1770's, early settlers moving west from New England sought environments which were rich in game, timber for homes, mills and shipbuilding, land suitable for farming, and rivers and lakes which facilitated communication, commerce, and defense. In 1788, land speculators Alexander Macomb and William Constable purchased five massive land tracts from the State of New York. Soon after the acquisition, Macomb went bankrupt and his interests were assumed by James LeRay de Chaumont. The LeRay family contributed some of their personal assets to the financing of the American Revolutionary War and assisted Benjamin Franklin in soliciting financial support from the King of France. After independence of the colonies had been won, Jacques LeRay de Chaumont purchased and settled some 800,000 acres in Northern New York. The tract of land extends from what is today Fort Drum where their home was sited, to Alexandria Bay named for Alexander LeRay, to Cape Vincent and including Chaumont, named for the family home in France, to Lake Ontario and back to Fort Drum.

### **FLIGHT OF THE FRENCH**

The involvement of LeRay, a Frenchman with U.S. citizenship, attracted a number of his wealthy, aristocratic countrymen who sought to flee the French Revolution. These French expatriates, some associated with Napoleon Bonaparte, found the largely unsettled lands owned by LeRay to be particularly suitable for

# 02

## — Concept

Large-Scale Connections

### Key



Significant Destinations



Pedestrian Connections

### Examples of Pedestrian Connections



Bike Lanes (Separate from Sidewalk)



Complete Streets (Bike/Pedestrian Lane Mix)



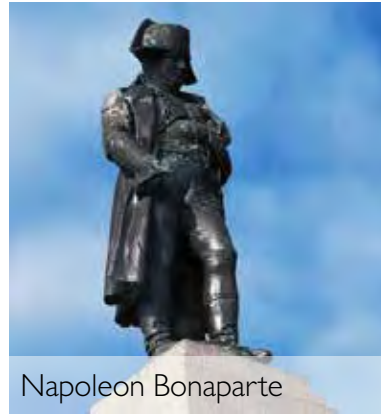
Hybrid



# 02 — Concept Theme

## 1000 Islands

The waterfront design is reflective of the already well established tourism campaign of “1000 Islands”. This concept embodies many ideas that all sum up what it means to live in Cape Vincent - from the deep French heritage to its significant agrarian industry to its height in seasonal tourism from the 19th century. The design of this park is inspired by all these significant elements. The park features numerous undulating legacy gardens, which abstract the original concept of the French parterre gardens to pay homage to Cape Vincent's French heritage. Furthermore, the planting beds are intended to symbolically represent the 1000 island landscape as each planting bed represents a different community within the “1000 islands”. Metaphorically, this park will not only bring the citizens of the community together but it could also bringing the communities surrounding Cape Vincent together as well (From Henderson Harbor to Prescott). To further commemorate Cape Vincent's agrarian past, some of the planting islands are designed to be productive gardens to support local permaculture. Lastly, to drive home Cape Vincent's rich history, a legacy walk is proposed in the park. This will highlight Cape Vincent's journey throughout time. At select locations in the park, there will be various interactive site features that will reflect a specific point in time in Cape Vincent's History. These site features will range from life-size bronze sculptures to park benches to historical anchors found on site. This way, visitors and residents alike can celebrate the rich history and culture of Cape Vincent as they immerse themselves along the waterfront.



Napoleon Bonaparte



French Parterre Garden



Fishing Culture

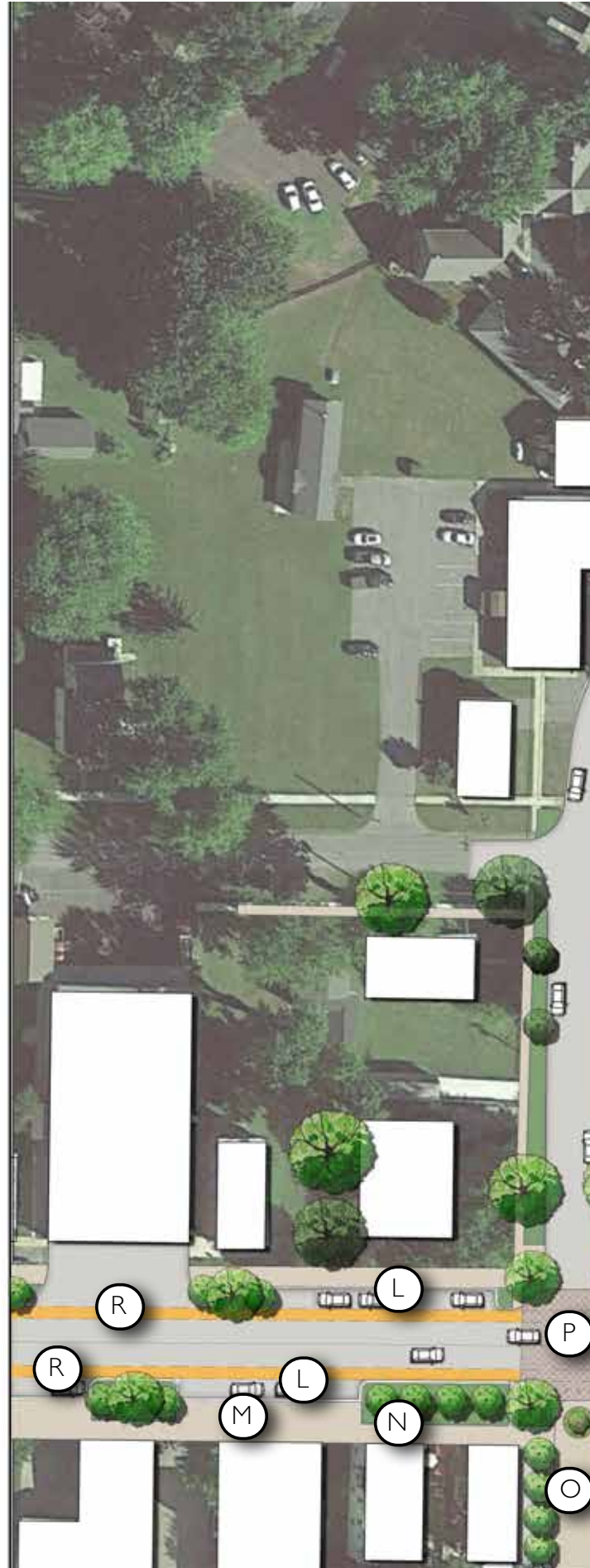
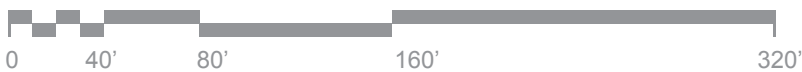


Onondaga Indians

# 02 — Concept Masterplan

- (A) Proposed Broadside Pier
- (B) Event Lawn/Flex Space
- (C) Boater Facilities w/ Restroom
- (D) Splash Pad
- (E) Pedestrian Promenade
- (F) Improved Parking
- (G) Club Street Pedestrian Street
- (H) Kids Playground
- (I) Existing Public Broadside Pier
- (J) Village Green
- (K) Memorial Gardens
- (L) Improved Parallel Parking
- (M) Public Flex Space to Complement Local Businesses
- (N) Enhanced Pedestrian Sidewalks
- (O) Public Plaza
- (P) Raised Intersection
- (Q) Ferry Dock Extension
- (R) Bike Lane

SCALE: 1"=80'-0"



# 02

— **Concept**  
Phasing Diagram

## PHASING

### Phase 1

- Event Lawn
- Splash Pad
- Boater Facilities
- Stadium Seating

### Phase 2

- Kids Play Zone
- Recreation Lawn

### Phase 3

- Memorial Gardens
- Pedestrian Promenade
- Reflective Water Feature
- Legacy Trail Completion

### Phase 4

- Broadway St. Road Diet

SCALE: 1"=80'-0"



# 02

— **Concept**  
Phase I



# 02

— **Concept**  
Phase 2





# 02

— **Concept**  
Phase 3

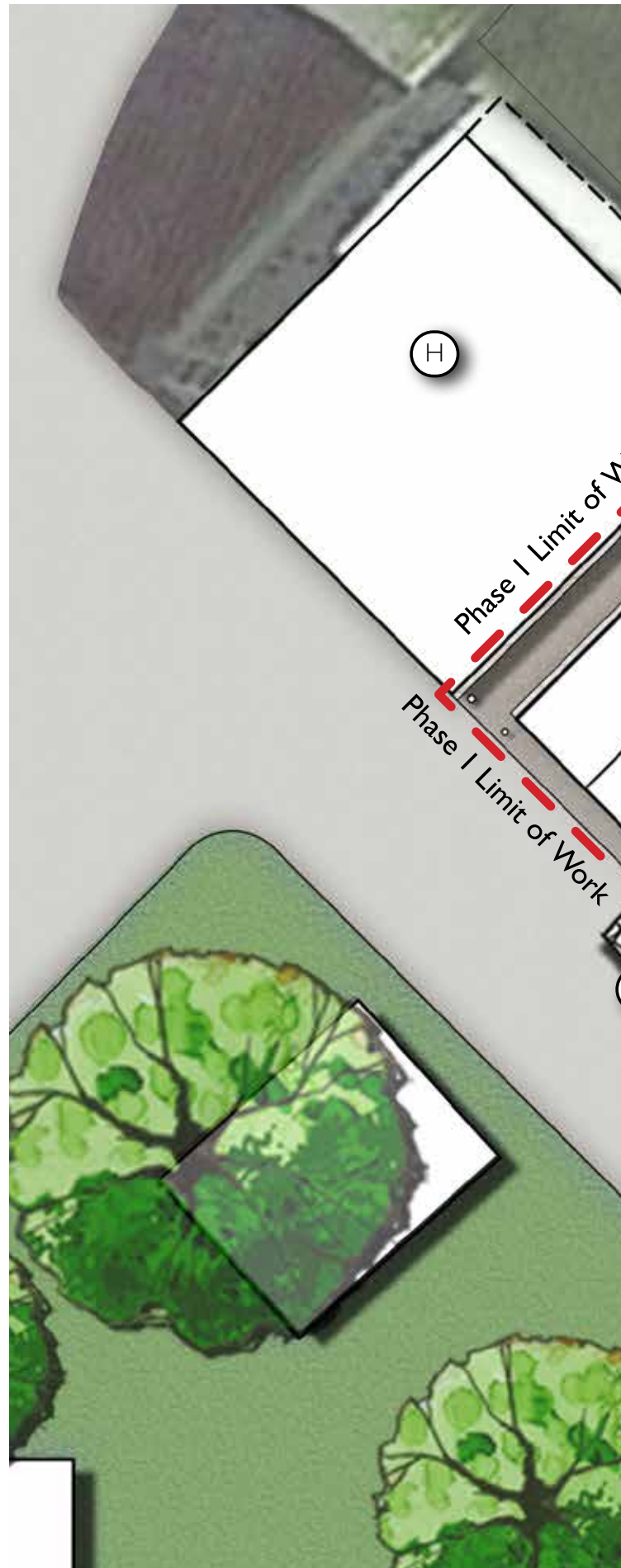
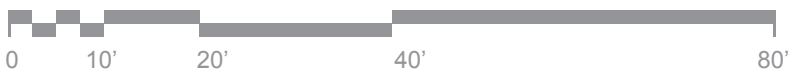


# 02

## — Concept Phase I Enlargement

- (A) Proposed Broadside Pier
- (B) Event Lawn/Flex Space
- (C) Boater Facilities w/ Restroom
- (D) Splash Pad
- (E) Pedestrian Promenade
- (F) Stadium Seating
- (G) Adirondack Chairs w/ Firepit
- (H) Mixed Use Building
- (I) Entry Sign
- (J) Food Trucks
- (K) Bench Swings
- (L) Planting Bed
- (M) Large Boulder Bollards

SCALE: 1"=20'-0"



# 02

## — Concept Phase I Enlargement



A Splash Pad/Waterfront Interface



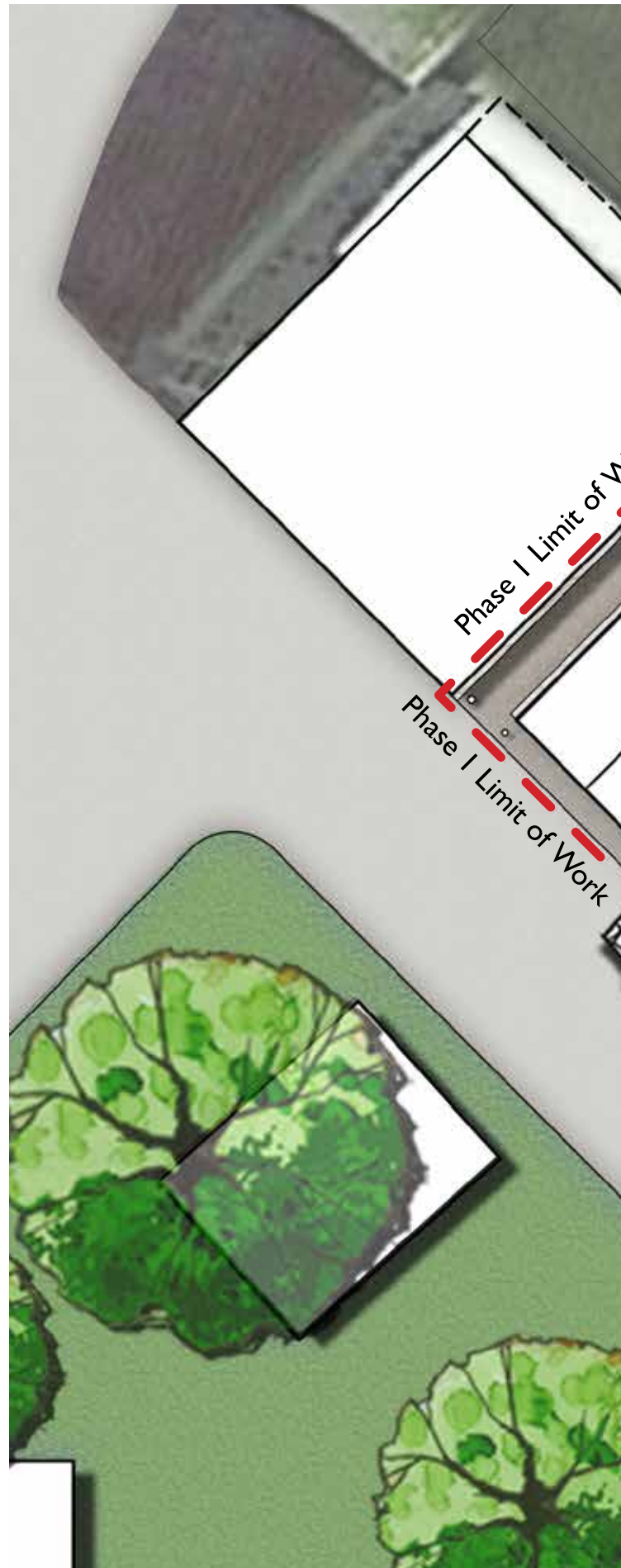
B Event Lawn



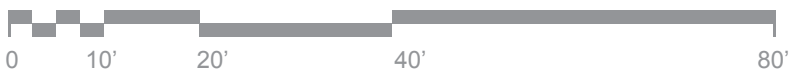
C Stadium Seating



D Bench Swings

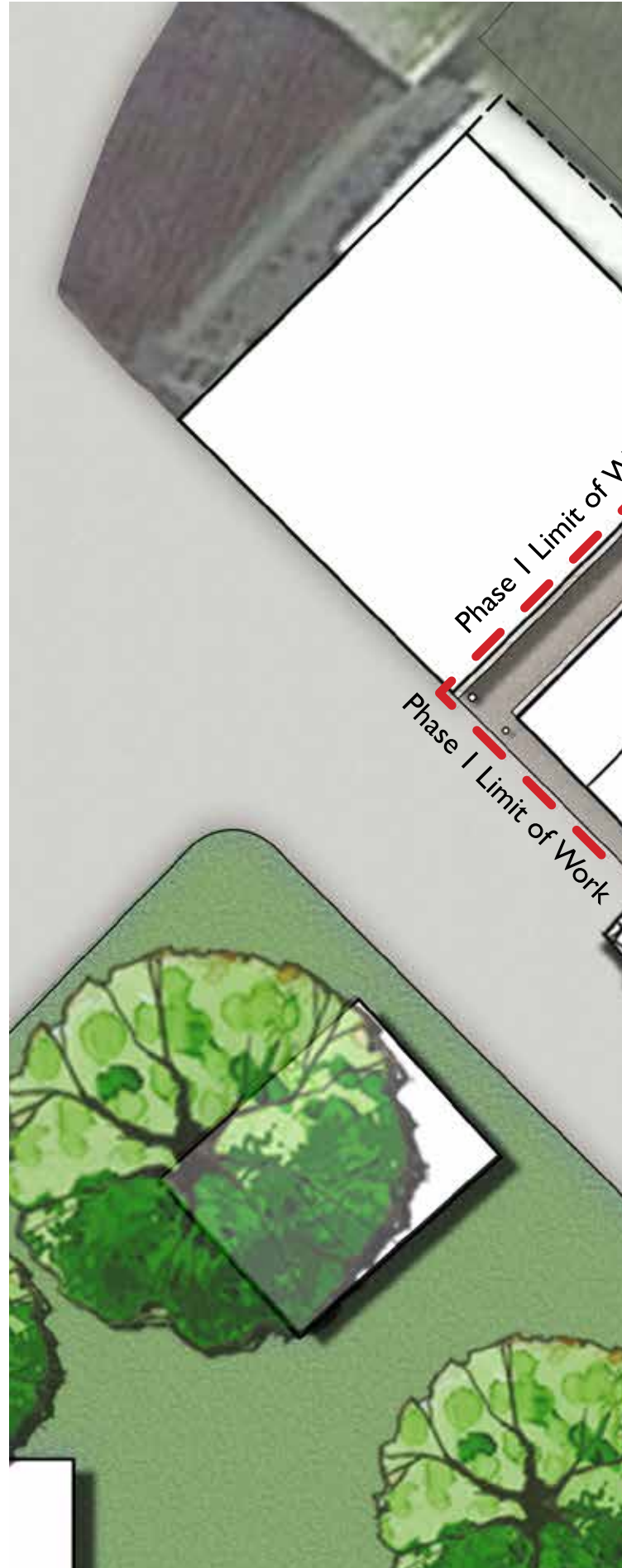


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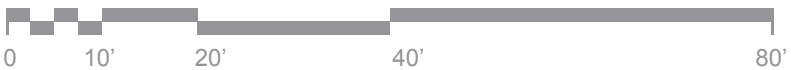


# 02

## — Concept Phase I Enlargement



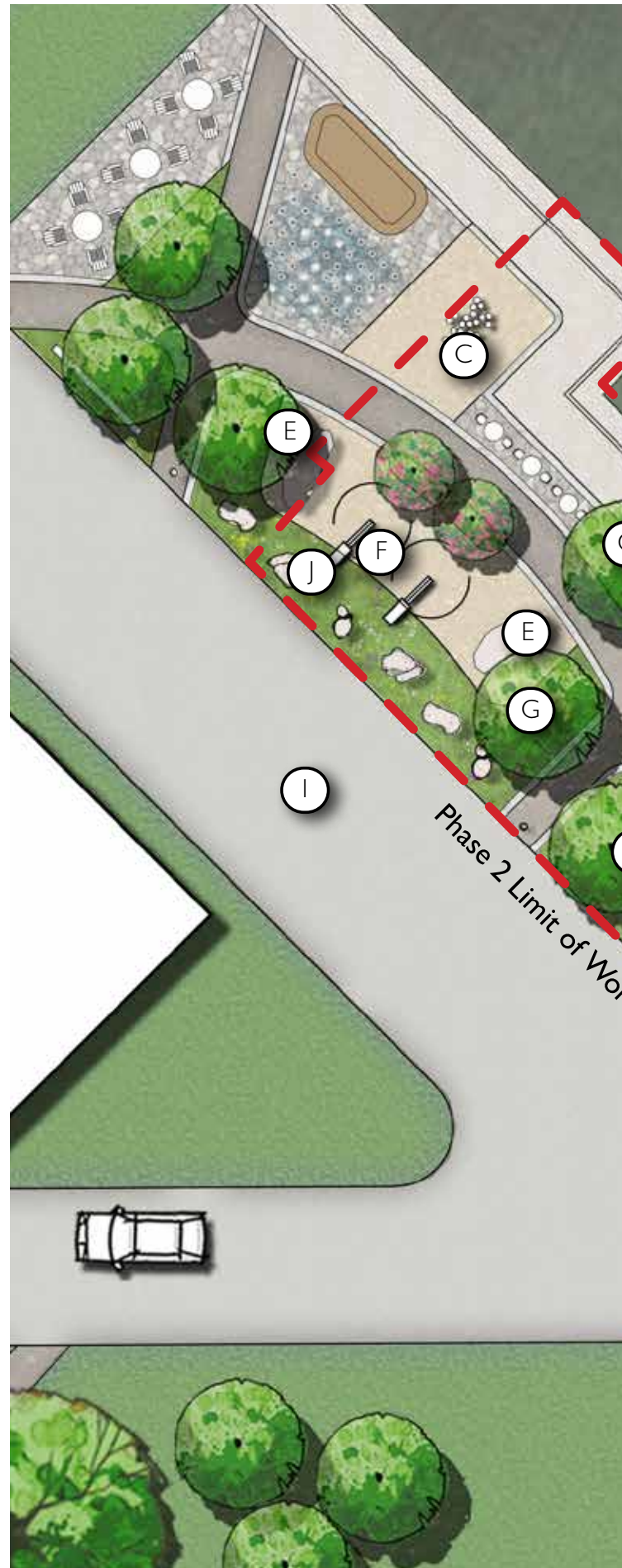
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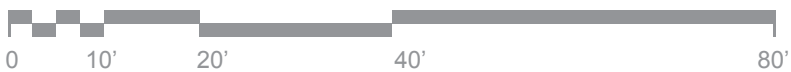
# 02

## — Concept Phase 2 Enlargement

- (A) Proposed Broadside Pier
- (B) Event Lawn/Flex Space
- (C) Earthscape Tree Stump Course
- (D) Pedestrian Promenade
- (E) Natural Rock Structure
- (F) Tarzan Swing
- (G) Planting Bed
- (H) Gravel Path
- (I) Club Street (Partially Closed)
- (J) Large Boulder Bollards



SCALE: 1"=20'-0"

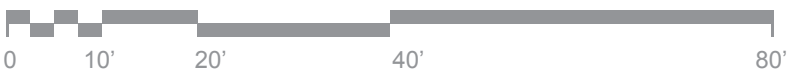


# 02

## — Concept Phase 2 Enlargement



SCALE: 1"=20'-0"

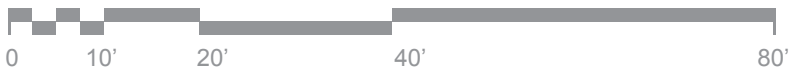


# 02

## — Concept Phase 2 Enlargement



SCALE: 1"=20'-0"

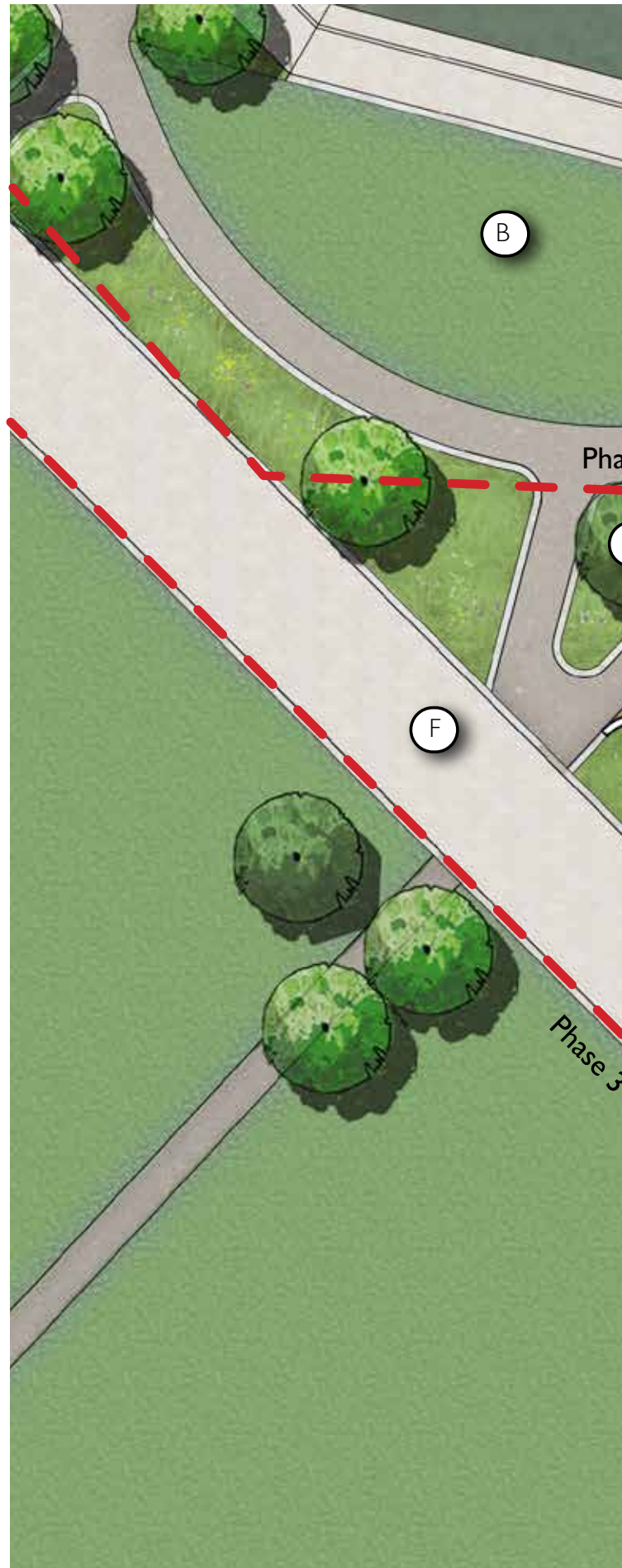
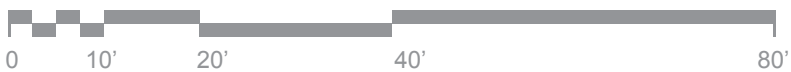


# 02

## — Concept Phase 3 Enlargement

- (A) Undulating Memorial Gardens
- (B) Event Lawn/Flex Space Extension
- (C) Reflective Water Feature
- (D) Pedestrian Promenade
- (E) Fisherman's Plaza
- (F) Club Street Pedestrian Street
- (G) Seat Wall

SCALE: 1"=20'-0"





# 02

## — Concept Phase 3 Enlargement



(A) Planter w/ Seat Wall



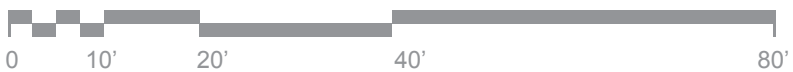
(B) Memorial Water Feature



(C) Sun Loungers

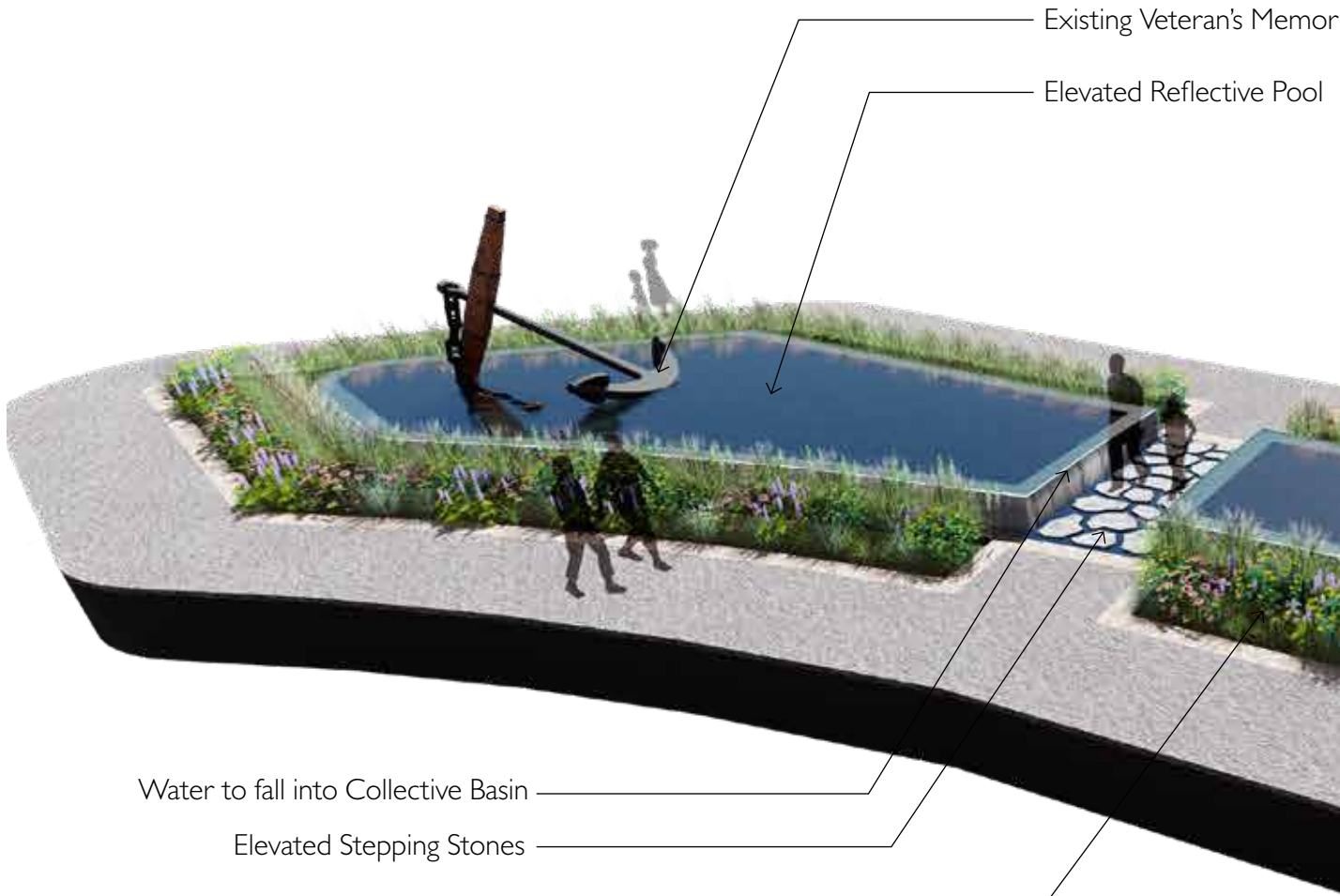


SCALE: 1"=20'-0"



# 02

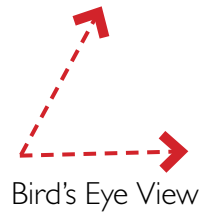
## — Concept Veteran's Memorial



Water to fall into Collective Basin

Elevated Stepping Stones

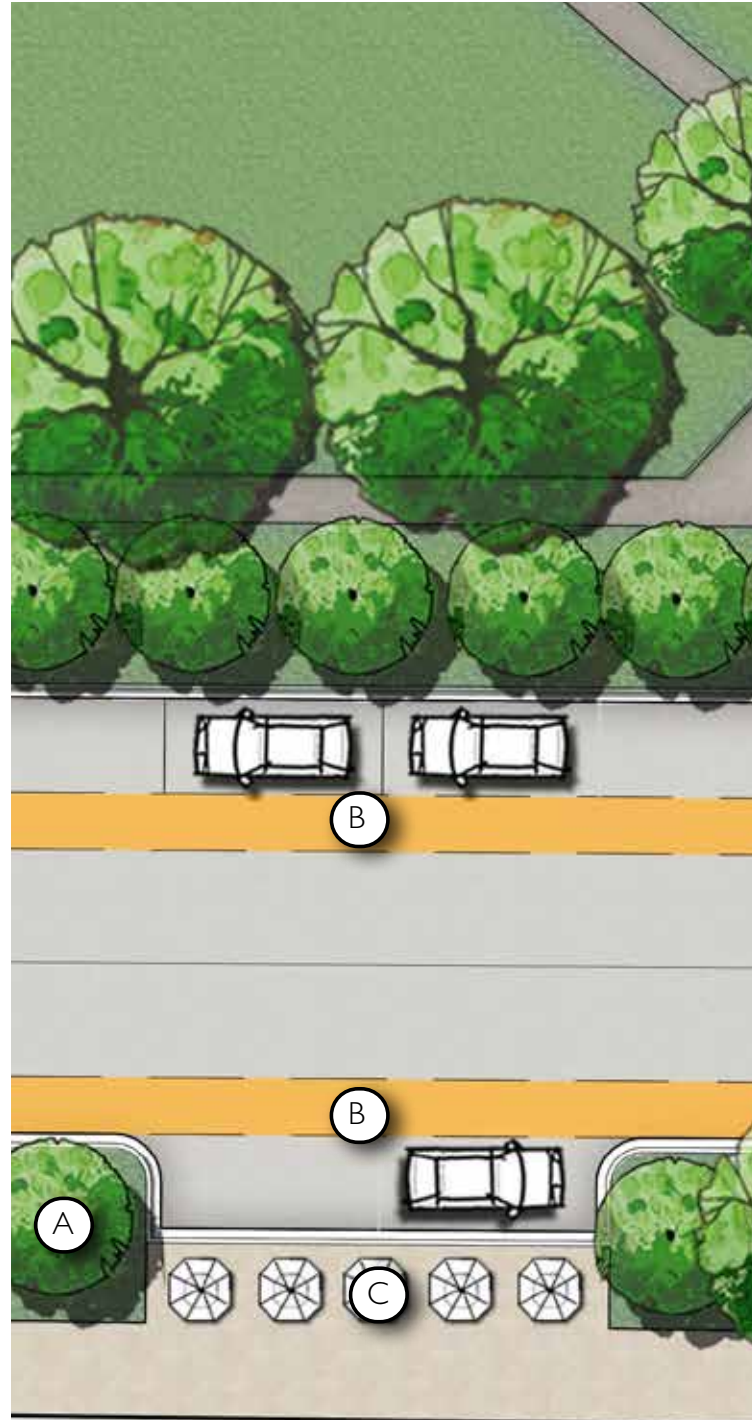
Vegetation to match  
Legacy Garden Plant  
Palette



Bird's Eye View

# 02

## — Concept Phase 4 Enlargement



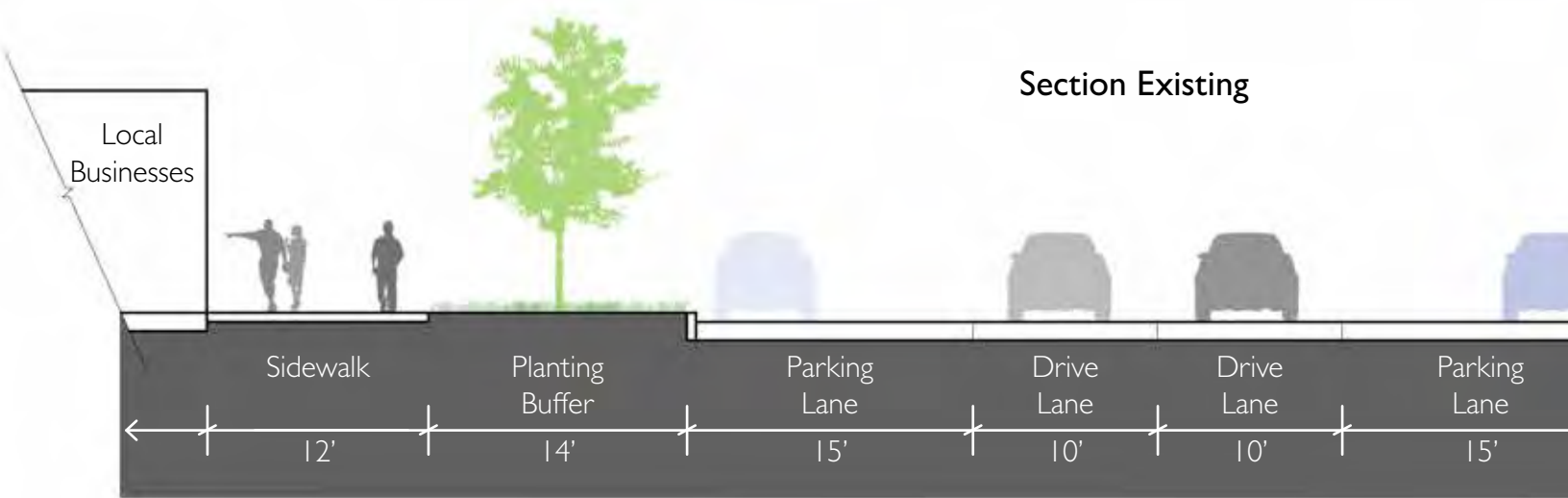
SCALE: 1"=20'-0"



# 02

## — Concept

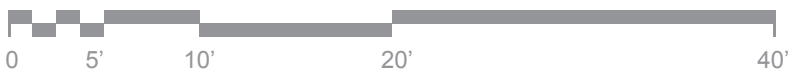
Site Sections



Existing Photo Reference



SCALE: 1"=10'-0"

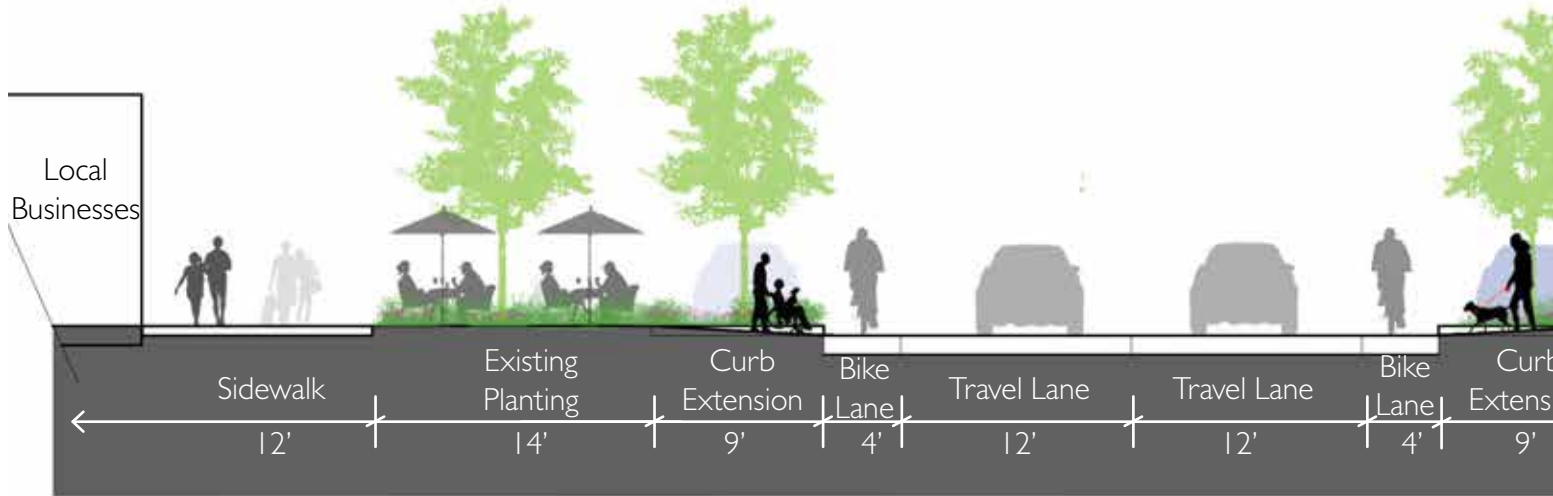


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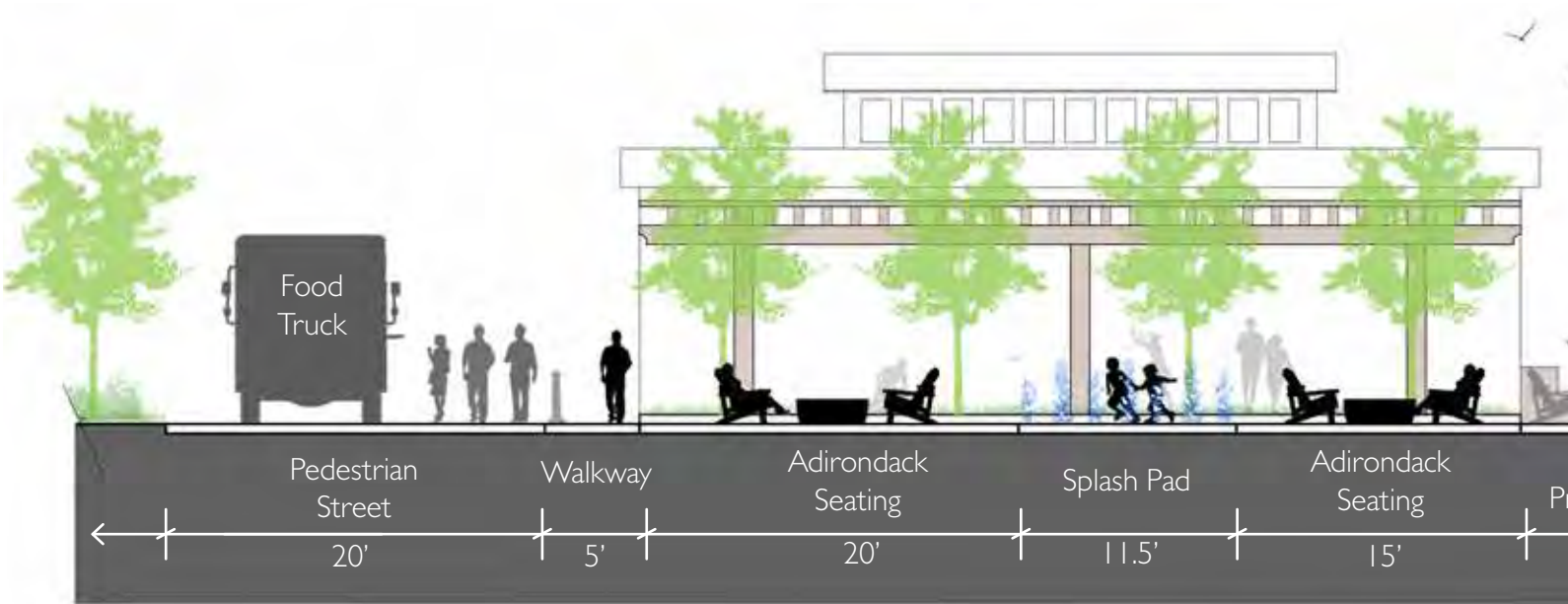
## — Concept

### Site Sections

Section A-A



Section B-B



SCALE: 1"=10'-0"



# 02

## — Concept Hardscape Materials



# 02

## — Concept Landscape Materials





## — Financials

Grant Funding Opportunities

### New York State Funding

- Bulk of economic and community development funding in NY is allocated with significant input from the **Regional Economic Development Councils**
  - Cape Vincent is served by the **North Country Economic Development Council**
    - Waterfront Revitalization activity **aligns closely** with the North Country's current economic development strategy
      - North Country's REDC considers tourism among its key strategic pillar, along with the revitalization of downtown districts
- Funding sources to consider when implementing feasibility study:
  - **Empire State Development**
  - **NY State Department of Homes and Community Renewal**
  - **Office of Parks, Recreation, and Historic Preservation**
  - **Department of State**

### Empire State Development

- It is an Economic Development Agency responsible for shepherding wealth and job creation in New York State
- Provide annual allocation for capital improvements that align with state and regional strategies
  - Two Categories for Capital Funding which are most applicable to our project include:
    - **Strategic Community Development Investment**
    - **Economic Growth Investment**
    - **Market NY Initiative**
  - Both programs have been specifically set aside to **address community infrastructure and other asset enhancement**
    - Funding is both available for planning and construction activity
  - There are no minimum/maximum funding allocations
    - Funding is very competitive
    - Projects are also evaluated based upon leveraged funds from the applicant
      - The more local funds are pledged, the better the chance of getting the project funded
- **Market NY Initiative** provides funds for property acquisition and development in support of tourism assets that align with state and regional objectives



**Edgewater Resources**  
518 Broad Street Suite 200  
Saint Joseph, Michigan 49085  
(269) 932 4502

## **APPENDIX H: NYS SIGNIFICANT COASTAL FISH AND WILDLIFE HABITAT RATING FORMS**

COASTAL FISH & WILDLIFE HABITAT RATING FORM

---

Name of Area: **Fox Island - Grenadier Island Shoals**

Designated: **August 15, 1993**

County(ies): **Jefferson**

Town(s): **Cape Vincent, Lyme**

7½' Quadrangle(s): **Cape Vincent South, NY**

---

**Score**      **Criterion**

- 12**      Ecosystem Rarity (ER)  
An extensive area of sheltered, shallow, open water, with beds of submergent aquatic vegetation; unusual on Lake Ontario, but somewhat common in Jefferson County.  
Geometric mean:  $(9 \times 16)^{1/2} = 12$
- 0**      Species Vulnerability (SV)  
No endangered, threatened or special concern species are known to reside in the area.
- 14**      Human Use (HU)  
An important recreational and commercial fishing area in eastern Lake Ontario, of regional significance.  
Additive division:  $9 + 9/2 = 14$ .
- 6**      Population Level (PL)  
One of the major concentration areas for migrant and wintering waterfowl in the eastern Ontario Plain ecological subzone. Geometric mean:  $(4 \times 9)^{1/2} = 6$ .
- 1.2**      Replaceability (R)  
Irreplaceable

---

SIGNIFICANCE VALUE = [( ER + SV + HU + PL ) X R]

= **38**

## DESIGNATED HABITAT: FOX ISLAND - GRENADIER ISLAND SHOALS

### HABITAT DESCRIPTION:

Fox Island - Grenadier Island Shoals is located in the northeastern corner of Lake Ontario, in the Towns of Cape Vincent and Lyme, Jefferson County (7.5' Quadrangle: Cape Vincent South, NY). The fish and wildlife habitat, also referred to as the "Hardscrabble", is an approximate 4,000 acre shallow water area, containing beds of submergent aquatic vegetation (e.g., wild celery, pondweeds), and patches of emergent wetland vegetation around the shoreline. Water depths in this area are generally less than 12 feet, but areas up to approximately 18 feet deep are included. Relatively large marsh areas (30-60 acres each) are located on Fox Island, and at the lower ends of Fox and Little Fox Creeks. The latter streams are the principal mainland tributaries draining into the area. Bottom substrates in Fox Island - Grenadier Island Shoals are predominantly rock and gravel, with silt and clay found in coves around the area. The shoals are sheltered from prevailing winds and severe wave action by Grenadier Island. Fox Island and Grenadier Island are essentially uninhabited and privately owned. The mainland side of the habitat is bordered by dense clusters of seasonal camps and permanent residences, active agricultural lands, abandoned fields, and woodlands.

### FISH AND WILDLIFE VALUES:

Fox Island - Grenadier Island Shoals is one of the most extensive shoal areas in Lake Ontario. Areas such as this are somewhat common within Jefferson County, but are very limited in extent elsewhere in the lake. The combination of productive aquatic beds, rock and gravel substrates, sheltered waters, and lack of human disturbance in this area provide highly favorable habitat conditions for many fish and wildlife species.

Fox Island - Grenadier Island Shoals is an important fish spawning and nursery area in Lake Ontario. These shoals are especially productive for resident warmwater species, including smallmouth bass, yellow perch, brown bullhead, and white perch. Fox Creek and Little Fox Creek are an integral part of the fisheries habitat in this area, attracting sizeable spawning runs of northern pike, brown bullhead, and white sucker. The entire shoal area is used by concentrations of all age classes of these species and is one of the most productive smallmouth bass spawning areas in the region. As a result of the abundant warmwater fisheries resources in this area, Fox Island - Grenadier Island Shoals supports substantial recreational use, attracting anglers from throughout the eastern Lake Ontario and St. Lawrence River coastal region. In addition, the "Hardscrabble" is one of only three areas in the region which support significant commercial fishing operations for yellow perch, white perch, and bullhead.

Fox Island - Grenadier Island Shoals is one of the major waterfowl concentration areas in eastern Lake Ontario. Extensive beds of submergent aquatic vegetation and concentrations of small fish in the area provide excellent food resources for a variety of migratory waterfowl species, especially diving ducks. Concentrations of waterfowl occur throughout the area during spring and fall migrations (March - April, and October - November, respectively), with several thousand birds observed there in some years. Scaup, common goldeneye, mergansers, American black duck, and mallard are most numerous in the area. Waterfowl also occur in Fox Island - Grenadier Island Shoals during winter, but the extent of this use is influenced by the extent of ice cover each year. Mid-winter aerial surveys of waterfowl abundance for the period 1986-1991 documented average concentrations of 2,667 (11,956 in peak year) birds in the area. Such population levels are unusual in the Eastern Ontario Plain ecological subzone.

### IMPACT ASSESSMENT:

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

The specific **habitat impairment test** is as follows.

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

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

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

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

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

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

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

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

Any activity that would substantially degrade water quality at Fox Island - Grenadier Island Shoals could affect the biological productivity of this area. All species of fish and wildlife may be adversely affected by water pollution, such as oil spills, excessive turbidity or sedimentation, waste disposal, and discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides). Spills of oil or other hazardous substances are an especially significant threat to waterfowl concentrations in this area. Disturbances of littoral areas or wetland vegetation through dredging, filling, bulkheading, or other shoreline construction activities could adversely affect fish and wildlife populations in the area. Any habitat disturbance would be especially detrimental during fish spawning and nursery

periods (April - July for most warmwater species). Barriers to fish migrations in Fox or Little Fox Creeks, whether physical or chemical, would reduce the contributions of these streams to fisheries resources throughout the area. Thermal discharges, depending on time of year, may have variable effects on use of the area by aquatic species and wintering waterfowl. Installation and operation of water intakes could have significant impacts on fish populations, through impingement of juveniles and adults, or entrainment of eggs and larval stages. Development of additional public access to Fox Island - Grenadier Island Shoals may be desirable to ensure that adequate opportunities for compatible human uses of the fish and wildlife resources are available. However, existing areas of natural vegetation bordering Fox Island - Grenadier Island Shoals should be maintained to provide cover for wildlife, soil stabilization, and buffer zones from human disturbances.

COASTAL FISH & WILDLIFE HABITAT RATING FORM

---

Name of Area: **Grenadier Island**

Designated: **August 15, 1993**

County(ies): **Jefferson**

Town(s): **Cape Vincent**

7½' Quadrangle(s): **Cape Vincent South, NY**

---

**Score**      **Criterion**

- 25**      Ecosystem Rarity (ER)  
A very large, isolated, and undisturbed island; rare in the Great Lakes Plain ecological region.
- 40**      Species Vulnerability (SV)  
Northern harrier (T), short-eared owl (SC), upland sandpiper (SC), vesper sparrow (SC), and grasshopper sparrow (SC) nesting area.  
Additive division:  $25 + 16/2 + 16/4 + 16/8 + 16/16 = 40$ .
- 0**      Human Use (HU)  
No significant wildlife related human uses of the area.
- 9**      Population Level (PL)  
An important area for wintering raptors in the Great Lakes Plain ecological region.
- 1.2**      Replaceability (R)  
Irreplaceable
- 

SIGNIFICANCE VALUE = [( ER + SV + HU + PL ) X R]

= **89**

## DESIGNATED HABITAT: GRENADIER ISLAND

### HABITAT DESCRIPTION:

Grenadier Island is located in the northeastern corner of Lake Ontario, in the Town of Cape Vincent, Jefferson County (7.5' Quadrangle: Cape Vincent South, NY). The fish and wildlife habitat is large, isolated and relatively undeveloped island of approximately 1,700 acres in size. Vegetation on the island consists of abandoned fields, shrubs and grasslands with little or no trees. The island had been previously used as pastureland.

### FISH AND WILDLIFE VALUES:

Grenadier Island is one of only five similar islands based on underlying geology, exposure to prevailing westerly winds, and lack of human disturbance. These large, isolated, relatively undisturbed islands are rare in the Great Lake Plain ecological region. The combination of extensive open grasslands and limited human disturbance on the island provide favorable habitat conditions for ground nesting birds.

Grenadier Island is an important passerine and raptor breeding area. Since 1987, several pairs of northern harriers (T) have been documented nesting on Grenadier Island. In 1990, a pair of short-eared owls (SC) were documented nesting on Grenadier Island. Lack of human disturbance, extensive grasslands, and abundant food sources combine to provide a high quality habitat for these raptors. Both of these raptors depend on the abundant meadow vole populations present on the island. In addition, upland sandpiper (SC), grasshopper sparrow (SC), and vesper sparrow (SC) are confirmed nesters on Grenadier Island. Other probable or confirmed nesting species on Grenadier Island include gray catbird, killdeer, red-winged blackbird, common grackle, song sparrow, bobolink, and eastern meadowlark. Grenadier Island is also a significant raptor wintering area, with documented use by rough-legged hawk, long-eared owl, and snowy owl. High meadow vole populations and lack of human disturbance combine to provide favorable winter habitat conditions for these birds. The island is probably visited by gulls and used by waterfowl as a refuge during storms, but the extent of this use is not well documented. There are no significant fish or wildlife related human uses of the area.

### IMPACT ASSESSMENT:

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

The specific **habitat impairment test** is as follows.

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

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

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



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

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

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

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

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

Any activity that would disturb nesting raptors at Grenadier Island during the nesting period (April - August) could adversely affect this population of ground nesting birds. Human activities in the nesting areas should be minimized during this period. Introduction or attraction of mammalian predators, including pet animals, could also be detrimental to the bird populations. All species of wildlife may be adversely affected by waste disposal, and discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides). The use of chemical pesticides or herbicides could adversely affect the birds nesting on Grenadier Island. Conversion of open fields to residential development would directly reduce the amount of available nesting and wintering habitat, especially if development introduced year-round residents to the island. Succession of the island's vegetation to forest would eliminate much of the habitat value for these groundnesting birds. Therefore, habitat management activities, such as manipulation of vegetative cover, may be necessary in the future to ensure the survival of the ground nesting birds at Grenadier Island. Suitable vegetative manipulation may be achieved through particular agricultural activities.

COASTAL FISH & WILDLIFE HABITAT RATING FORM

---

Name of Area: **Wilson Bay and Marsh**

Designated: **August 15, 1993**

County(ies): **Jefferson**

Town(s): **Cape Vincent**

7½' Quadrangle(s): **Cape Vincent South, NY**

---

**Score**      **Criterion**

- 16**      Ecosystem Rarity (ER)  
One of the largest, undisturbed, scrub-shrub and forested wetlands on Lake Ontario; rare in ecological subregion.
- 24**      Species Vulnerability (SV)  
Blanding's turtles (T) reside in the area; also black tern (SC) nesting. Additive division:  $25 + 16/2 = 33$ .
- 14**      Human Use (HU)  
An important waterfowl hunting area in the Thousand Islands region. Regionally significant birdwatching area.  
Additive division:  $9 + 9/2 = 14$ .
- 16**      Population Level (PL)  
Largest black tern colony in New York State; also a major spawning and nursery area for northern pike in the eastern Lake Ontario ecological subregion.
- 1.2**      Replaceability (R)  
Irreplaceable.
- 

SIGNIFICANCE VALUE = [( ER + SV + HU + PL ) X R]

= **84**

## **DESIGNATED HABITAT: WILSON BAY AND MARSH**

### **HABITAT DESCRIPTION:**

Wilson Bay and Marsh is located in the northeastern corner of Lake Ontario, approximately three miles south of the Village of Cape Vincent, in the Town of Cape Vincent, Jefferson County (7.5' Quadrangle: Cape Vincent South, NY). The fish and wildlife habitat encompasses the open waters of Wilson Bay, and an approximate 200 acre flood pond wetland located at the head of the bay. Wilson Bay has a maximum depth of approximately 25 feet, a sand and cobble bottom, and beds of submergent aquatic vegetation in shallow areas. Wilson Bay Marsh is located behind a barrier beach which has been stabilized by the construction of a road across its top. The wetland is dominated by an extensive area of flooded shrubs and emergent vegetation. The transition to surrounding uplands occurs through an equally extensive area of forested wetland. Several small intermittent streams drain into Wilson Bay Marsh, and exit mostly through a single culvert and water control wiew in the barrier beach. There is a second culvert at the northeast corner that only drains during high water. The land area surrounding the north, east, and south sides of Wilson Bay and Marsh is primarily rural farmland, including pastures, abandoned fields, and woodlots, along with some cottage development around the bay shoreline. The interior of the wetland area is essentially undisturbed, but some grazing and watering of livestock has occurred along its southern edge.

### **FISH AND WILDLIFE VALUES:**

Wilson Bay Marsh is one of the largest areas of predominantly scrub-shrub and forested flood pond wetland on Lake Ontario. In addition to its vegetative significance, the marsh is unusual because of its relative isolation and inaccessibility. Wilson Bay is an integral part of the habitat, especially for certain fish populations in the area, which move between the bay and marsh during their life cycle.

Wilson Bay Marsh is a valuable breeding area for a variety of waterfowl, including wood duck, American black duck, mallard, and blue-winged teal. A colony of black terns (SC) breed in the marsh, with an estimated 60 nesting pairs documented in 1989. Recent survey work documented 60 and 65 nesting pairs of birds in 1990 and 1991, respectively. This is the largest colony in New York State and comprises 25% of the total number of nesting black terns statewide. Both adult and juvenile black terns feed in the productive shallows of Wilson Bay. Other probable or confirmed nesting bird species in the area include common gallinule, belted kingfisher, eastern kingbird, marsh wren, red-winged blackbird, and Savannah sparrow. Concentrations of black-crowned night herons have also been reported roosting and feeding in the area. During spring and fall migrations (March - May, and September - November, generally), Wilson Bay and Marsh serve as resting and feeding areas for many bird species, including dabbling and diving ducks and a variety of passerine birds. Osprey (T) have also been observed using the area, but the extent of this use is not well documented. Blanding's turtles (T) have been documented to be residing in the area, using both marsh and upland areas during their life cycle. Other wildlife species occurring in Wilson Bay Marsh and around the bay shoreline include raccoon, muskrat, mink, beaver, painted turtle, snapping turtle, and northern water snake. The diversity and abundance of wildlife at Wilson Bay and Marsh provide substantial opportunities for fishing, hunting, trapping, swimming, birdwatching, and informal nature study. The most popular uses of the area are waterfowl hunting and birdwatching, which attracts visitors from throughout Jefferson County. Swimming and picnicing has become a popular use on the Wilson Bay side of the barrier beach. However, recreational uses are somewhat limited because the marsh is relatively inaccessible and privately owned.

Wilson Bay and Marsh is an important fish spawning and nursery area in Lake Ontario. Studies of Wilson Bay Marsh in the mid-1970's indicated that it was a major producer of northern pike, facilitated by the water level control structure on the outlet stream and by an abundance of fathead minnows (a forage species) in the area. Many adult pike enter the marsh to spawn in April and early May; young-of-the-year fish move out

into the bay beginning in early summer (before water levels fall below the outlet structure), or in the fall, after a freshet reopens the outlet. Young-of-the-year and juvenile northern pike are found throughout the weedy shallows in Wilson Bay, which supports a sizeable resident population of this species. Spawning runs of white sucker and brown bullhead also enter Wilson Bay Marsh in the spring. Like many areas around eastern Lake Ontario, Wilson Bay is a productive area for smallmouth bass, yellow perch, and white perch. The diverse warmwater fisheries in the bay support significant recreational use by Jefferson County anglers. In addition, species such as yellow perch, brown bullhead, and fathead minnow are sought after by local commercial fishermen.

#### IMPACT ASSESSMENT:

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

The specific **habitat impairment test** is as follows.

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

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

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

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

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

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

1. physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;

2. biological parameters such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and,
3. chemical parameters such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

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

Any activity that would substantially degrade water quality, increase turbidity or sedimentation, reduce water levels, or increase water level fluctuations in Wilson Bay and Marsh, could adversely affect fish and wildlife populations. Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides) may result in adverse impacts on fish and wildlife resources of the area. Elimination of wetland habitats, and significant human encroachment into the area, through dredging, filling, or construction of roads, could reduce its value to fish and wildlife. Construction and maintenance of shoreline structures should be designed to minimize disturbance of bottom substrates and submergent vegetation. Temporary habitat disturbances, such as firewood cutting, would be most detrimental during fish and wildlife breeding seasons, which generally extend from March through July for most species. However, habitat management activities, including expansion of productive littoral areas, may be designed to maintain or enhance populations of certain fish or wildlife species. Activities that would subdivide this large, undisturbed area into smaller fragments should be restricted. Barriers to fish migration through the marsh outlet, whether physical or chemical, could have significant impacts on fish populations in the area. Existing areas of natural vegetation within and bordering Wilson Bay and Marsh should be maintained for their value as cover for wildlife, perching sites, and buffer zones. However, development of public access to the area may be desirable to ensure that adequate opportunities for compatible human uses of the fish and wildlife resources are available.

COASTAL FISH & WILDLIFE HABITAT RATING FORM

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Name of Area: **St. Lawrence River Shoreline Bays**

Designated: **August 15, 1993**

County(ies): **Jefferson**

Town(s): **Clayton, Orleans, Alexandria, Cape Vincent**

7½' Quadrangle(s): **Clayton, NY; Thousand Island Park, NY; Alexandria Bay, NY;  
St. Lawrence, NY; Cape Vincent North, NY**

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<u>Score</u>	<u>Criterion</u>
<b>9</b>	Ecosystem Rarity (ER) Several shallow shoreline bays with dense beds of aquatic vegetation; rare in Jefferson County based on protected nature of bays.
<b>0</b>	Species Vulnerability No endangered, threatened or special concern species are known to reside in the area.
<b>16</b>	Human Use (HU) The St. Lawrence muskellunge fishery, which is dependent on these bays, attracts anglers from throughout New York State and beyond.
<b>16</b>	Population Level (PL) These bays comprise major spawning and nursery areas for muskellunge on the St. Lawrence River, of statewide significance.
<b>1.2</b>	Replaceability (R) Irreplaceable.

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SIGNIFICANCE VALUE = [( ER + SV + HU + PL ) X R]

= **38**

## DESIGNATED HABITAT: ST. LAWRENCE RIVER SHORELINE BAYS

### HABITAT DESCRIPTION:

The St. Lawrence River Shoreline Bays are located on the upper St. Lawrence River, between the Villages of Clayton and Alexandria Bay, in the Towns of Cape Vincent, Clayton, Orleans, and Alexandria, Jefferson County (7.5' Quadrangles: Cape Vincent North, NY; St. Lawrence, NY; Clayton, NY; Thousand Island Park, NY; and Alexandria Bay, NY). The fish and wildlife habitat consists of eight shallow bays along the River's mainland shoreline. From southwest (upriver) to northeast (downriver), these bays are: Peos Bay (20 acres); Millen Bay (35 acres); Rose Bay (30 Acres); Carrier Bay (160 acres); Grass Point Bay (190 acres); Cobb Shoal Bay, also known as Moore Landing Marsh (40 acres); Swan Bay (140 acres); and Point Vivian Marsh (75 acres). The latter four form an almost continuous three and one-half mile reach of productive littoral zone and wetland habitat. All of the bays are generally less than six feet deep (depending on River levels) and are somewhat sheltered from prevailing winds and wave action. Much of the land area surrounding the St. Lawrence River Shoreline Bays is privately owned, and has been developed into seasonal camps, permanent residences, and small craft harbor facilities (resulting in some habitat disturbance). Grass Point State Park and Collins Landing Wildlife Management Area are exceptions to the predominance of private land ownership. These two public areas provide direct access for public use of the resources associated with the habitat.

### FISH AND WILDLIFE VALUES:

The St. Lawrence River Shoreline Bays comprise a fairly extensive area of shallow riverine habitat. Relatively protected embayments supporting extensive beds are not common in Jefferson County. Although these areas have been subject to considerable human disturbance, they continue to be important fish spawning and nursery areas in the St. Lawrence River. All of the bays support productive populations of various warmwater species, including northern pike, brown bullhead, largemouth bass, and various forage fish species. Of special significance, however, is the use of these areas by muskellunge. Studies conducted by NYSDEC and others, in the mid-1980's, revealed that all eight bays serve as spawning and nursery areas for muskellunge. Further research may indicate the other bays in the vicinity are used by muskellunge. Spicer Bay, Blind Bay, and Mullet Creek Bay are potential future additions to the Shoreline Bays habitat, but are more wind-exposed and may fail to support spawning by this species. Muskellunge populations in the St. Lawrence River, which comprise a distinct subspecies from muskellunge populations found elsewhere in New York State, appear to be largely dependent on the habitat found within St. Lawrence River Shoreline Bays. This area, in combination with Grindstone Island Bays, comprise the majority of known muskellunge spawning and nursery habitat in the St. Lawrence. The recreational fishery for this species attracts anglers from throughout New York State, as well as from adjoining states and provinces.

### IMPACT ASSESSMENT:

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

The specific **habitat impairment test** is as follows.

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

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

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

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

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

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

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

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

Any activity that would substantially degrade water quality, increase turbidity or sedimentation, reduce water levels, or increase water level fluctuations in the St. Lawrence River Shoreline Bays could adversely affect fish and wildlife use of these areas. Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides) into any of the bays may result in adverse impacts on fish and wildlife resources. Spills of oil or other hazardous substances are a potentially serious threat to fish populations on the Shoreline Bays area and every effort should be made to prevent such contamination. Significant human disturbances of the area, through dredging, filling, construction of roads, waste disposal, or unlimited motorboat access development, could severely reduce the habitat's value as a spawning and nursery habitat. Such disturbances would be especially detrimental during fish spawning and nursery periods (March through July for most species). Existing areas of natural vegetation bordering the St. Lawrence River Shoreline Bays should be maintained for their value as cover for wildlife, perching sites, and buffer zones.



COASTAL FISH & WILDLIFE HABITAT RATING FORM

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Name of Area: **Carlton Island - Featherbed Shoals**

Designated: **August 15, 1993**

County(ies): **Jefferson**

Town(s): **Cape Vincent**

7½' Quadrangle(s): **Cape Vincent North, NY**

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<u>Score</u>	<u>Criterion</u>
<b>20</b>	Ecosystem Rarity (ER) An extensive area of riverine littoral zone, with beds of submergent aquatic vegetation; unusual in the Great Lake Plain, but somewhat common in the Eastern Ontario ecological subzone. Geometric mean: $(16 \times 25)^{1/2} = 20$ .
<b>0</b>	Species Vulnerability (SV) No endangered, threatened or special concern species are known to reside in the area.
<b>9</b>	Human Use (HU) The most popular walleye fishing area in the Thousand Islands region.
<b>6</b>	Population Level (PL) One of about 5 major concentration areas for migrant waterfowl in the Eastern Ontario Plain ecological subzone. Geometric mean $(4 \times 9)^{1/2} = 6$ .
<b>1.2</b>	Replaceability (R) Irreplaceable.

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SIGNIFICANCE VALUE = [( ER + SV + HU + PL ) X R]

= **42**

## DESIGNATED HABITAT: CARLETON ISLAND - FEATHERBED SHOALS

### HABITAT DESCRIPTION:

Carleton Island - Featherbed Shoals is located in the upper St. Lawrence River, to the west and south of Carleton Island, in the Town of Cape Vincent, Jefferson County (7.5' Quadrangle: Cape Vincent North, NY). The fish and wildlife habitat is an approximate 800 acre, shallow, open water area, containing extensive beds of submergent aquatic vegetation (e.g., wild celery, pondweeds, and muskgrass). Much of this area is less than six feet deep below mean low water (maximum depths are less than 18 feet) depending on water level in the St. Lawrence River. Bottom substrates around Carleton Island are predominantly rocky and sparsely vegetated, except in South Bay, on the southwest corner of the island, where the bottom is soft and silty. Featherbed Shoals, lying between Carleton Island and the mainland, has a predominantly sandy bottom, with rock outcrops that may be exposed during periods of low water (e.g., Roxy Islands). The shoals are somewhat sheltered from prevailing winds, but are subject to occasional rough water conditions. Carleton Island is privately owned, used only by a few seasonal residents and visitors. In contrast, the mainland shore in the vicinity of Carleton Island - Featherbed Shoals has been widely developed with summer cottages, camps, residences, and marinas.

### FISH AND WILDLIFE VALUES:

Carleton Island - Featherbed Shoals is one of the most extensive shoals in the St. Lawrence River. Riverine littoral areas such as this are unusual in the Great Lakes Plain ecological region, although they are somewhat common in the upper St. Lawrence. The combination of productive aquatic beds, rocky substrates, good water circulation, and lack of human disturbance in this area provides highly favorable habitat conditions for a variety of fish and wildlife species.

Carleton Island - Featherbed Shoals is one of about 5 major waterfowl concentration areas in the St. Lawrence River. The shoals provide excellent food resources for a variety of migratory bird species, including large numbers of loons, grebes, and diving ducks, such as scaup, canvasback, common goldeneye, and mergansers. Concentrations are especially significant during fall migration (October - November primarily), with over 10,000 ducks observed in the area in some years. The shoals are also regularly used by migratory waterfowl and waterbirds during spring migration (March - April), and to a lesser extent during winter, depending on the amount of ice cover in the area. Aerial winter waterfowl counts for 1986 through 1991 show an average of 1266 ducks with 5319 in peak year. Various species of gulls and terns, including common tern (T), feed in the area during ice out periods, but the extent of this use has not been documented.

Carleton Island - Featherbed Shoals is probably an important fish spawning and nursery area in the St. Lawrence River. Although quantitative data are generally lacking, the shoals provide suitable habitat for various resident warmwater species, including smallmouth bass, yellow perch, rock bass, and pumpkinseed. Other fish species found in the area include walleye and muskellunge, which attract a significant amount of recreational fishing pressure in the area. Nearshore areas west of Carleton Island comprise one of the most heavily fished locations for walleye in the St. Lawrence River. This general area has provided a high quality walleye fishery since the late 1970's, with many trophy size fish harvested. Angling pressure for this species is concentrated during August and September. The abundant warmwater fish populations that exist throughout Carleton Island - Featherbed Shoals provide diverse recreational fishing opportunities, attracting anglers from throughout the Thousand Islands region.

### IMPACT ASSESSMENT:

A **habitat impairment test** must be applied to any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization

program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific **habitat impairment test** is as follows.

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

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

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

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

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

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

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

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

Any activity that would substantially degrade water quality in Carleton Island - Featherbed Shoals could affect the biological productivity of this area. All species of fish and wildlife may be adversely affected by water pollution, such as oil spills, excessive turbidity or sedimentation, waste disposal, and discharges of

sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides). Spills of oil or other hazardous substances are an especially significant threat to waterfowl concentrations in this area. Disturbance of littoral areas or wetland vegetation, through dredging, filling, bulkheading, or other shoreline construction activities (including development of motorboat access facilities), could adversely affect fish and wildlife through direct loss of habitat or increased human disturbance during fish spawning and nursery periods (April - July for most warmwater species).

Significant boat traffic within the area during fall may also inhibit use of the area by migrant waterfowl. However, development of additional public access to the area may be desirable to ensure that adequate opportunities are available for compatible human uses of the fish and wildlife resources. Substantial alteration or fluctuation of water levels in the St. Lawrence River could also affect fish and wildlife use of Carleton Island - Featherbed Shoals, but potential impacts may be beneficial to some species and detrimental to others. Thermal discharges, depending on time of year, may also have variable effects on use of the area by aquatic species and wintering waterfowl. Installation and operation of water intakes could have significant impacts on fish populations, through impingement of juveniles and adults, or entrainment of eggs and larval stages.