

# Village of Lewiston Local Waterfront Revitalization Program

## **Draft Amendment**

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Village of Lewiston Board of Trustees, December 18, 1989

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## **GLOSSARY**

AOC - Area of Concern

ECL - Environmental Conservation Law

EIS - Environmental Impact Statement

FEMA - Federal Emergency Management Agency

FIRM - Flood Insurance Rate Map

LWRP - Local Waterfront Revitalization Program

NDZ - No Discharge Zone

NOAA - National Oceanic and Atmospheric Administration

NPDES - National Pollution Discharge Elimination System

NYCRR - New York Code of Rules and Regulations

NYS - New York State

NYS DEC - New York State Department of Environmental Conservation

NYS DOS – New York State Department of State

NYS DOT - New York State Department of Transportation

NYS OGS – New York State Office of General Services

OCM – Office of Coastal Management

OCS – Outer Continental Shelf

SEQR - State Environmental Quality Review

SPDES - State Pollution Discharge Elimination System

USACE – United States Army Corps of Engineers

USDOI – United States Department of Interior

USDOT - United States Department of Transportation

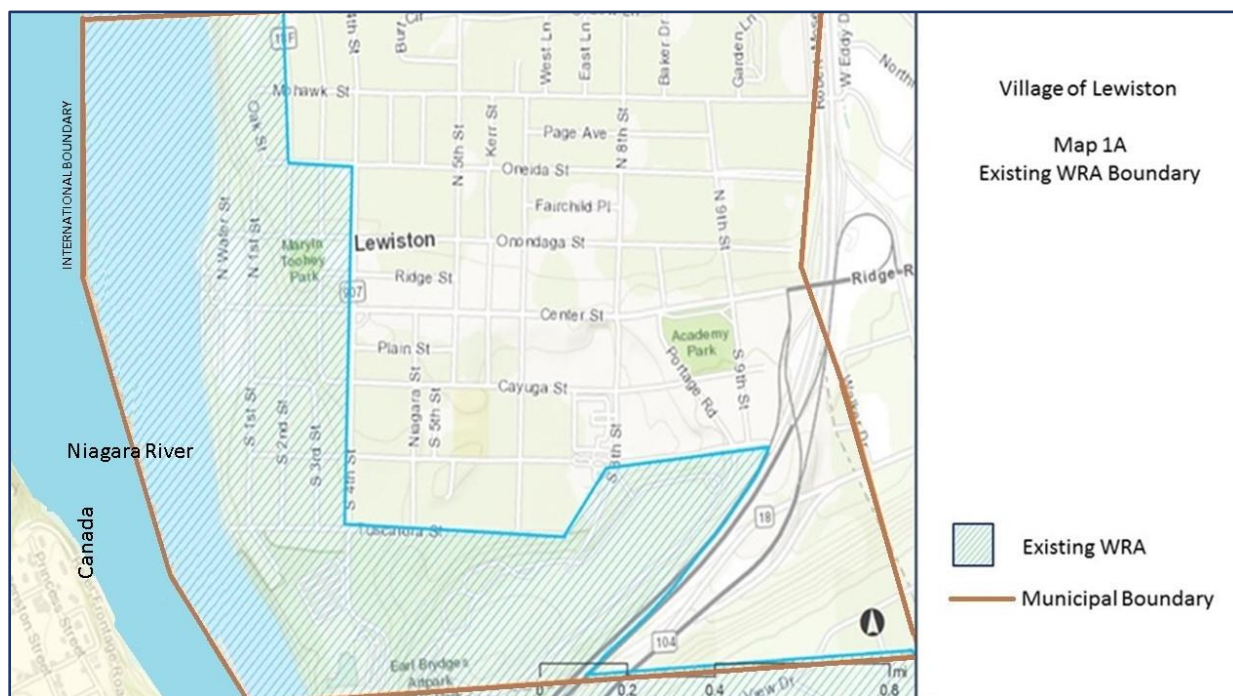
USEPA - United States Environmental Protection Agency (also, EPA)

WAF – Waterfront Assessment Form

WRA - Waterfront Revitalization Area

## EXISTING VILLAGE OF LEWISTON WATERFRONT REVITALIZATION AREA

Map 1A. Existing Village of Lewiston WRA Boundary (Approved in 2012)



The following description of the current WRA boundary is included in the currently approved Lewiston LWRP and illustrated above.

- The WRA boundary first contacts the Village from the north at the confluence of the eastern and northern limits of the Village, commonly delineated as the Village Line;
- the boundary runs easterly along the northern Village Line to the east right-of-way line of Second Street (known as State Route 18F), where it intersects with the Village Line; then,
- southerly along the east right-of-way line of Second Street to the north right-of-way line of Oneida Street; then,

- easterly along the north right-of-way line of Oneida Street to the east right-of-way line of Fourth Street; then,
- southerly along the east right-of-way line of Fourth Street across Tuscarora Street and to the southern right-of-way line of Tuscarora Street; then,
- easterly along the southern right-of-way line of Tuscarora Street to a point approximately 390 feet east of the eastern right-of-way line of Seventh Street (not surveyed) coincident with the southeast corner of Parcel No. 3178, as recorded in the Niagara County Clerk's Office, Lockport, New York (Liber 1671, page 21); then,
- northeasterly along the eastern property lines of Parcels No. 3178 and 3177, as recorded above, to the intersection of the east property line of Parcel No. 3177 with the south right-of-way line of Seneca Street, approximately 24 feet west of the west right-of-way line of South Eighth Street; then,
- easterly along the south right of way line of Seneca Street to the intersection with the centerline of Robert Moses Parkway right of way; then,
- southwestly following the centerline of the Robert Moses Parkway right of way to the Town of Lewiston line; then,
- westerly along the Village/Town of Lewiston line to the Village waterside boundary; then
- northerly along the Village Waterside Boundary to the northern limit of the Village at the Village/Town line, to the point of beginning.

The waterside boundary of the WRA is established by the waterside boundary of the Village. This boundary is coterminous with the portion of the New York State/United States border with Canada in the Niagara River.

### **PROPOSED VILLAGE OF LEWISTON WATERFRONT REVITALIZATION AREA**

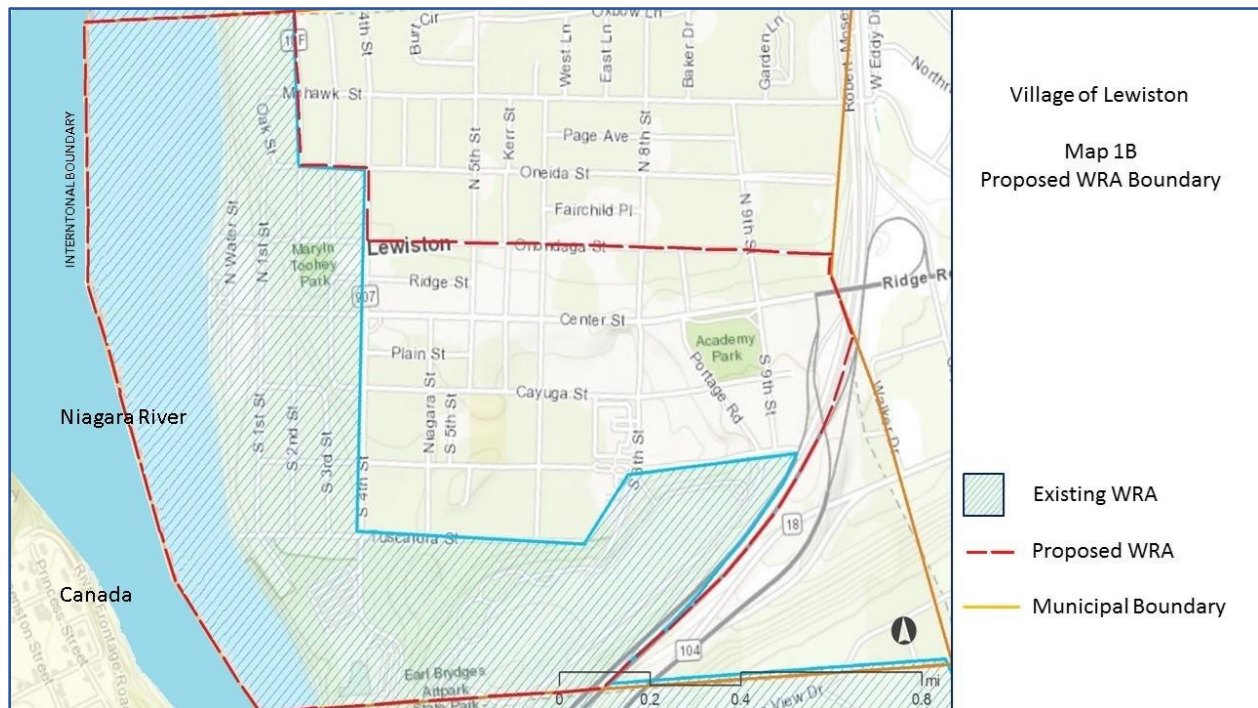
This amendment to the Lewiston LWRP proposes an expansion of the landward boundary of the WRA, to encompass most of the Niagara River watershed within the Village boundaries and the village's commercial corridor that complements, supports, and depends on the water-dependent and -enhanced uses located along the Niagara River. The expansion is also incorporating additional portions of the network of sidewalks and trails that connect the clusters of water-dependent uses at Lewiston Landing and the Artpark with each other and the Village's commercial corridor. This expansion of the WRA is consistent with smart growth principles and will boost the revitalization of already developed areas with existing infrastructure, while also protecting the water quality and resources of the Niagara River watershed. The landward expansion of the WRA boundary also allows for better coordination of future actions and initiatives aimed to improve connectivity of the existing commercial areas with the water-dependent businesses along the shoreline, improve walkability, and provide for a holistic framework for public and private planning and implementation efforts throughout the WRA.

The landward expansion of the Lewiston WRA also expands the landward side of the State's coastal area.

The proposed Village of Lewiston WRA boundary, as illustrated on Map 1B. Proposed Village of Lewiston WRA Boundary, starts on the northern side of the village, at the intersection of the village's municipal boundary with the town of Lewiston and the east right-of-way line of Second Street, also known as State Route 18F; then, it continues southerly along the east right-of-way line of Second Street, across Mohawk Street, to the intersection with the north right-of-way line of Oneida Street; then, the proposed WRA boundary continues

- easterly along the north right-of-way line of Oneida Street to the east right-of-way line of Fourth Street; then,
- southerly along the east right-of-way line of Fourth Street to the intersection with the north right-of-way line of Onondaga Street; then,
- easterly along the north right-of-way line of Onondaga Street, across Fifth Street, Kerr Street, North Eight Street and North Nine Street, to a point of intersection with the village's municipal boundary with the town of Lewiston; then,
- southerly and southeasterly along the municipal boundary, across Ridge Road, to the intersection with the east right-of-way line of the northbound of Niagara Scenic Parkway, former Robert Moses Parkway; then,
- southwesterly along the east right-of-way line of the northbound of Niagara Scenic Parkway to the intersection with the southern side of the village's municipal boundary with the town of Lewiston; then,
- westerly along the municipal boundary, across the extension of Portage Road and South Fourth Street within the Artpark, to the intersection with the eastern bank of Niagara River; then,
- westerly across Niagara River to the intersection to the Canadian border; then,
- northerly along the Canadian border, for approximately 1.07 miles, to a point of intersection with a line extending the northern village boundary across Niagara River; then,
- easterly along the northern village boundary with the Town of Lewiston, to the point of the beginning.

### Map 1B. Proposed Village of Lewiston WRA Boundary



The waterside of the WRA, located between the eastern bank of the Niagara River and the border with Canada, has a width that varies from approximately 475 feet on the southern side of the village to under 1,500 feet on the northern side of the village.



## SECTION II – INVENTORY AND ANALYSIS OF EXISTING CONDITIONS WITHIN THE WATERFRONT REVITALIZATION AREA

This section presents the existing conditions within the proposed Village of Lewiston WRA described in Section I of this LWRP and describes issues that the village will address and opportunities that will help the village further its waterfront revitalization efforts.

### REGIONAL CONTEXT AND HISTORICAL DEVELOPMENT PATTERNS

The Village of Lewiston, New York, encompasses approximately 676 acres and in 2010 had a population of approximately 2,700 people. It is located in western New York State, about 7 miles north of Niagara Falls and about 25 minutes north of Buffalo. The western edge of the Village is located on the eastern shore of the Niagara River as depicted in Figure 1. Regional Location, below.

Figure 1. Regional Location



Source: NYS DOS Geographic Information Gateway.

The Village of Lewiston is a highly developed area distinguished by its residential characteristics, historic architecture, and Center Street shopping district. A portion of the Earl W. Brydges Artpark State Park is located within the Village boundaries.

The Lower Niagara River and the waterfront area historically played a key role in the commerce and growth of the Niagara Frontier. Early Indians vied for the control of Great Lakes access afforded by the River and established important settlements in the vicinity. The old Lewiston Trail, which followed Center Street in the Village, traversed the ridge of prehistoric Lake Iroquois and was the major Indian transportation route and trade artery between the Niagara Frontier and the Mohawk Valley.

Recorded activities of European explorers can be traced to 1615 when Stephen Brule, an interpreter for the French explorer Champlain, visited the Neuter Indians and spent the winter in the area. He was followed by numerous traders and explorers, who established Lewiston as the primary transfer point of goods through the area via the Niagara Portage around the falls (which have since receded

to their present location six miles downriver). The first trading post was established in 1720 by Chaubert Joncaire, a French trader, and in 1764, Captain John Montrossor built the first tram railway in America to transport goods up the Niagara Escarpment. The natural landing point at Lewiston and the western

terminus of the Lewiston Trail to Albany made the community a major frontier trading settlement, with a thriving portage business, before 1800.

In 1798, the Village of Lewiston was created by the New York State Legislature when the State Surveyor was requested to survey and establish a village of one square mile opposite Queenston, Ontario in honor of New York's Governor Lewis. In 1811, Lewiston became a major port as the Niagara Customs House was moved to the Lewiston docks from Fort Niagara. By 1817, lake steamers were arriving at the Lewiston docks at the foot of Center Street. By the end of the 19<sup>th</sup> century, the population of the Village was over 6,000, more than twice the current population, with development spreading out from the center of the waterfront.

Although waterfront commerce declined greatly with the completion of the Erie Canal, and subsequently the Welland Canal, lake freight via steamers to Toronto and the St. Lawrence River was still important into the early 1900's. The growth of the railroads in America further diminished the activity of lake commerce but supported the growth of tourism and recreation in the area. Lake steamers continued to carry passengers from Lewiston until 1938, when ice jams destroyed the docks. The Great Gorge Scenic Railway from Niagara Falls to Lewiston ran to the docks (with its adjacent hotels) until the 1930's.

During the past few decades, Lewiston has become known as a charming and quaint village that enjoys hosting visitors from far and wide. The local area is home to many restaurants and small businesses, and institutions such as Artpark are renowned for their theatrical and artistic venues. Several festivals and events sponsored by the local arts council, business organization and historical association attract tens of thousands of annual visitors<sup>1</sup>. With increased recreational use of Lake Ontario and the Niagara River, the natural landing point at Lewiston Landing provides rare access along the steeply embanked Niagara River gorge. The Village includes a designated historic district known as the Plain Street Historic District. Small, locally owned retail establishments and restaurants distinguish the commercial core. The Village's commercial district experienced significant improvements in the mid-1990s with an Intermodal Surface Transportation Equity Act (ISTEA) grant from the Federal Highway Administration that allowed for new pedestrian-oriented historic lighting, brick pavers, and enhanced street tree plantings. The Village also has smaller parks, such as Seneca Park with its flowering trees, benches, and artistic sculptures; the Marilyn Toohey Park; Hennepin Park; 3-acre Academy Park; and Richard F. Soluri Park, formerly known as the Plateau, which is a 42-acre park with a dog park and habitat area.

## Niagara River

The Niagara River flows in a south to north direction, from Lake Erie into Lake Ontario, and has an annual average flow rate of 5,700 cubic meters per second. This flow accounts for 83% of the water flowing into Lake Ontario and significantly influences Lake Ontario's water quality and fish productivity. Velocity and flow in the river itself are regulated by a control structure<sup>2</sup> above Niagara Falls, operated primarily to divert water for hydroelectric generation purposes. The Niagara River has many uses. These include a source of drinking water, fish and wildlife habitat, recreational activities, and power generation. It also provides employment to millions of people. The river is also the source of water for many industries and the receiver of their effluents; a receiver of the treated effluents of a number of municipalities that line both shores; and a source of potable water for the City of Niagara Falls.<sup>3</sup> The Niagara River also receives stormwater discharges and combined sewer overflows from some of the communities along it.

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1 Today's Historic Lewiston - <http://historiclewiston.org/history/>

2 Regulated under the Niagara River Water Diversion Treaty

3 Niagara River Remedial Action Plan Stage 2 Update and addendum - [www.dec.ny.gov/docs/water\\_pdf/nrstage2addfinal.pdf](http://www.dec.ny.gov/docs/water_pdf/nrstage2addfinal.pdf)

The Niagara River runs through a steep gorge upriver from Lewiston and is well protected from wind and storm action, which creates nearly continuous calm water, excellent for boating and water activities. These activities increase even more when Lake Ontario and the mouth of the River are roughened by winds, as the area acts as a safe harbor large enough to support numerous water sports (sailing, water skiing, fishing, etc.). In addition, the River widens at Lewiston which provides a natural refuge from the swift river current and a safe shelter for boat launching and landing. This offers excellent navigational waters that attracted the early lake steamers to Lewiston in the 1800's. Just north of the Lewiston Landing the river has a protected area for spawning of perch and smelt.

## OVERVIEW OF PLANNING EFFORTS IMPACTING THE WRA

### Village of Lewiston Master Plan

In February 2004, the Village of Lewiston created and adopted a new Master Plan, to function as a guide for future responsible decision-making regarding development in the Village. The Master Plan supports further improvements to the Lewiston Landing, proposes to increase walkability within the Village, recommends annual improvements to the aging local water distribution and sewage collection systems and continued maintenance, and recommends enhancing housing opportunities within the Village while continuing to develop the Village as a historic, cultural and economic center of the Niagara Frontier. To implement the recommendations of the updated Master Plan, the Village drafted and adopted a local Historic Preservation Law and a zoning amendment that expanded the Business District to connect with the Waterfront District.

### Artpark Master Plan

Artpark was established in 1974, as a State park and a cultural institution and is regarded as a summer outdoor music venue. It is located in the Village and Town of Lewiston, on the Niagara Gorge. Since the early 1990s, the cultural nonprofit institution Artpark & Company programs and manages Artpark<sup>4</sup> in collaboration with New York State Parks.



Source: POWER ARTPARK 2030

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<sup>4</sup> <https://www.artpark.net/content/pages/about-artpark>



A new Artpark Master Plan is being developed to maximize overall park usage and enhance visitors' experience<sup>5</sup>. The Plan further develops the Artpark as an internationally recognized, financially sustainable destination where the arts, ecology, technology and culture interact on a broad scale with unprecedented impact year-round.<sup>6</sup>

### Western New York Regional Economic Development Strategic Plan

This plan establishes regional goals meant to coordinate the efforts of five counties to promote projects that support regional capacity and economic development and proposes measures and benchmarks for quantifiable results<sup>7</sup>.

### Niagara (County) Communities Comprehensive Plan

Niagara Communities Comprehensive Plan 2030<sup>8</sup> has a countywide perspective and emphasizes a multi-municipal approach to planning and informed decision-making. The purpose of this plan completed in 2009 is to provide a framework for achieving five high priority goals:

- Encouraging desirable and appropriate growth and development
- Strengthening the local economy
- Improving the delivery of services
- Prioritizing and coordinating capital improvements
- Improving the quality of life for County residents

### Niagara River Greenway Plan

The Niagara River Greenway Plan is a comprehensive plan focusing on the development of a greenway of interconnected parks, river access points and waterfront trails along the right bank of the Niagara River from Lake Ontario to Lake Erie.

In 2007, in support of its operating license for the Niagara Power Project, the New York Power Authority (NYPA) guaranteed to provide \$2 million per year for each of the next fifty years, or until 2057, to fund recreational and environmental improvement projects to the Niagara River Greenway, in accordance with the guidelines of the Greenway Plan. The Greenway is defined by the municipal boundaries of 13 municipalities. Focus areas were identified along Niagara River, within each municipality, as illustrated in Figure 2. The entire Village of Lewiston is one of the focus areas.

Figure 2. Niagara River Greenway Focus Areas



<sup>5</sup> <https://www.artpark.net/master-plan>

<sup>6</sup> <https://www.wnypapers.com/news/article/featured/2019/01/12/135497/lewiston-artpark-company-begins-long-range-master-plan-process>

<sup>7</sup> [www.oneregionforward.org/plan/the-wny-regional-economic-development-strategic-plan](http://www.oneregionforward.org/plan/the-wny-regional-economic-development-strategic-plan)

<sup>8</sup> [www.niagaracounty.com/Portals/0/docs/NCCompPlan/CoverPageandAcknowledgements.pdf](http://www.niagaracounty.com/Portals/0/docs/NCCompPlan/CoverPageandAcknowledgements.pdf)

The principles of the Niagara River Greenway Plan are centered on promoting high-quality, ecologically sensitive and sustainable activities and development, and on coordinating the efforts of various constituents, organizations and municipalities that comprise the Niagara River Greenway.

## Niagara River Area of Concern

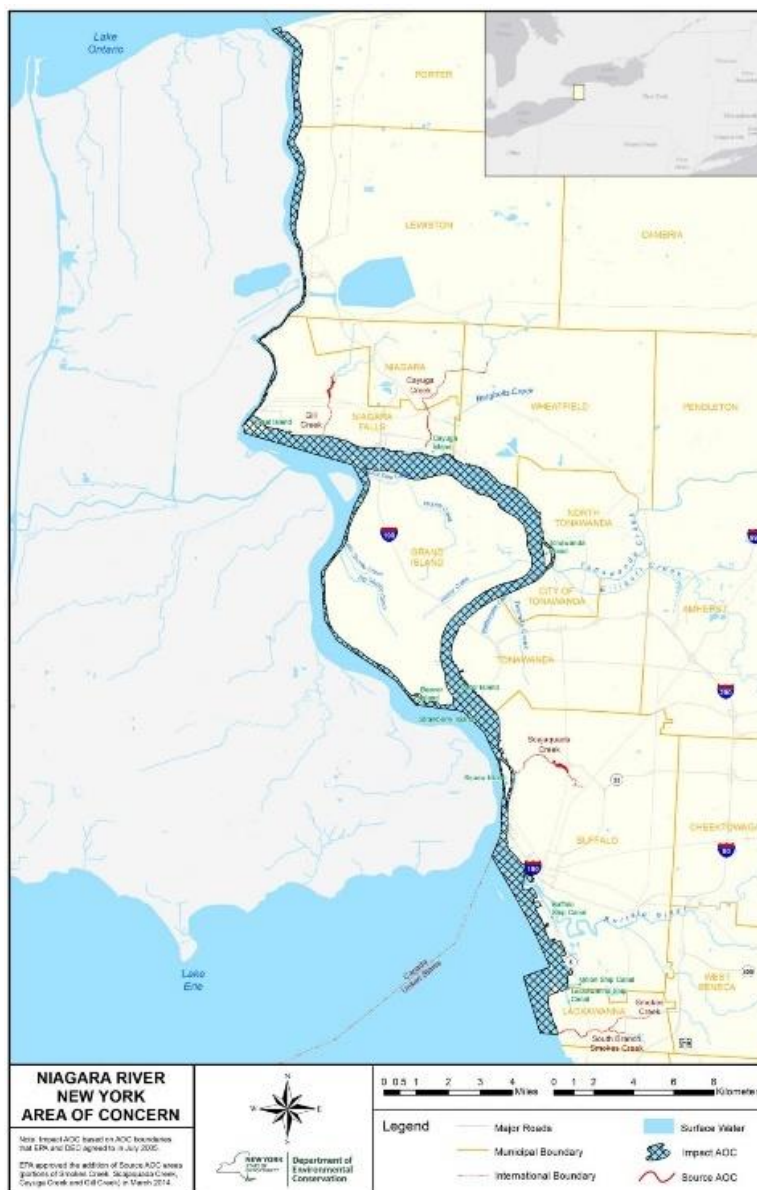
The entire Niagara River was designated as a binational Area of Concern<sup>9</sup> (AOC) in 1987 because 43 identified past industrial sites were considered to have been the main cause for the extensive degradation of aquatic habitats along the river. The green cross hatched in Figure 2 indicates the extent of the AOC. Toxic chemicals such as PCBs, mirex, chlordane, dioxin, dibenzofuran, hexachlorocyclo-hexane, polycyclic aromatic hydrocarbons (PAHs), and pesticides were found in the waters and sediments of the river.

### Figure 3. Niagara River Area of Concern Map

The Great Lakes Water Quality Agreement outlined the process for restoring Areas of Concern and the development of a Remedial Action Plan (RAP) to address the beneficial use impairments that have resulted from the pollution on each of the 43 sites. Remedial Actions Plans are developed in three stages. Stage I identifies specific beneficial use impairments and the sources of pollution, Stage II lays out restoration actions and a plan for implementing those actions, and State III provides documentation that all the beneficial use impairments have been addressed and that the AOC is ready to be delisted.

A combined Stage I/II RAP was developed for the Niagara River in 1994, followed by the development of the Niagara River Toxics Management Plan, which provided a summary of the progress being made toward the reduction of “priority toxics” carried in point and non-point source discharges to the river. An update to the Stage II RAP was completed in December of 2009.

An **Addendum to Stage 2 Remedial Action Plan** was prepared 2012 to briefly (a) outline the existing Beneficial Use Impairments (BUIs) and



<sup>9</sup> <https://www.epa.gov/great-lakes-aocs/about-niagara-river-aoc>

(b) tentatively identify a series of project-specific actions needed to accomplish the remedies and to ultimately justify re-designation of the BUI. This document also assisted government and non-government organizations in focusing their efforts and funding opportunities on the most immediate “action-oriented” projects needed within the AOC, or its contributing watershed. In addition, this document was used to support a more thorough strategic re-evaluation and planning process, to prioritize implementation projects specifically designed to address BUI removal targets, and to direct public and non-public support as appropriate. Efforts are continuing to be made to delist the following five BUIs: restrictions on fish and wildlife consumption; fish tumors or other deformities; restrictions on dredging activities; degradation of benthos; and bird or animal deformities or reproduction problems.

### Western New York Stormwater Coalition

The Western New York Stormwater Coalition<sup>10</sup> (WNYSC) Stormwater Management Program (SWMP) Plan was developed to comply with the NYS DEC State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s) issued under the Federal Stormwater Phase II rule (issued in 1999), which requires MS4 owners and operators, in U.S. Census-defined urbanized or other designated areas, to develop a SWMP Plan.

The Western New York Stormwater Coalition (WNYSC) is a forum for forty-two municipal entities, including the Village of Lewiston, to utilize regional collaboration to identify and share existing resources and develop programs to reduce the negative impacts of stormwater pollution. The SWMP Plan prepared by the WNYSC is a shared document providing policy and management guidance for the regulated municipalities and agencies that are members of the Coalition.

The Western New York Stormwater Coalition (WNYSC) Stormwater Management Program (SWMP) Plan has been developed to provide descriptions of minimum control measures, general permit requirements, methodology for compliance with permit requirements, and best management practices for public education and outreach on stormwater impacts, illicit discharge detection & elimination, construction site runoff control, post-construction stormwater management, and pollution prevention / good housekeeping for municipal operations. In the Village of Lewiston, the Superintendent of Public Works is also the Stormwater Management Officer, responsible for the implementation and enforcement of the SWMPP policies and management guidance.

### New York State Construction Stormwater Toolbox

Owner/operators with projects covered under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity (the Construction Permit) are required to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) that meets criteria set forth by New York State Department of Environmental Conservation (NYS DEC)<sup>11</sup>. All SWPPPs must include practices consistent with the New York Standards and Specifications for Erosion and Sediment Control. Many construction sites must also comply with the New York State Stormwater Management Design Manual to address post-construction stormwater discharges.

The New York State Standards and Specifications for Erosion and Sediment Control<sup>12</sup> was updated in 2016 by NYS DEC and provides standards and specifications for the selection, design and implementation of erosion and sediment control practices for the development of Erosion and Sediment Control Plans for the SPDES General Permit for Stormwater Discharges from Construction Activity.

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<sup>10</sup> <http://www2.erie.gov/environment/index.php?q=western-new-york-stormwater-coalition>

<sup>11</sup> <https://www.dec.ny.gov/chemical/8694.html>

<sup>12</sup> <https://www.dec.ny.gov/chemical/29066.html>

The New York State Stormwater Management Design Manual<sup>13</sup>, as updated in 2015, provides designers with a general overview on how to size, design, select, and locate stormwater management practices at a development site to comply with State stormwater performance standards. This manual is a key component of the Phase II State Pollution Discharge Elimination System (SPDES) general permit for stormwater runoff from construction activities from all sizes of disturbance. The manual is intended primarily for engineers and other professionals who are engaged in the design of stormwater treatment facilities for new developments and could be used to assess the adequacy of SWPPPs. It does not address the temporary control of sedimentation and erosion from construction activities, nor the development of Stormwater Pollution Prevention Plans.

### **Niagara County Stormwater Management Program Plan**

Niagara County is a member of the WNYSC and used their SWMP Plan as a basis for the County's SWMP Plan. The Model SWMP Plan written by the WNYSC has been modified to apply to the specific requirements for implementation by Niagara County. Niagara County is a Traditional Non-Land Use Control MS4 as defined by GP-0-15-003 Part X.B. As such, the County must comply with the requirements set forth in Part VIII of the permit which differ from the requirements of most WNYSC members (Traditional MS4s). Niagara County included work done by the WNYSC that applies to Traditional MS4s where it is beneficial to the County's program or accomplishes regional stormwater goals that benefit County residents.

### **Niagara Falls National Heritage Area and Management Plan**

Congress created the Niagara Falls National Heritage Area<sup>14</sup> in 2008, to preserve, protect and promote the historic, natural and cultural resources of the region and its significant historical associations with American Indians, early European exploration, the French and Indian War, the American Revolution, the War of 1812, and the Underground Railroad. The heritage area includes the City of Niagara Falls, the villages of Youngstown and Lewiston and the western portions of the towns of Porter and Lewiston. Designation comes with limited financial and technical assistance through the National Park Service. Heritage areas seek to engage residents, governments, and organizations in telling their stories, working in partnership to protect special resources, and reach out to the American public. The purposes for which the Niagara Falls National Heritage Area was created, as delineated in Section 421 of the legislation, are:

- (1) to recognize the national importance of the natural and cultural legacies of the area, as demonstrated in the National Park Service study report entitled Niagara National Heritage Area Study dated 2005;
- (2) to preserve, support, conserve, and interpret the natural, scenic, cultural, and historic resources within the National Heritage Area;
- (3) to promote heritage, cultural, and recreational tourism and to develop educational and cultural programs for visitors and the general public;
- (4) to recognize and interpret important events and geographic locations representing key developments in American history and culture, including Native American, Colonial American, European American, and African American heritage;
- (5) to enhance a cooperative management framework to assist State, local, and Tribal governments, the private sector, and citizens residing in the National Heritage Area in conserving, supporting,

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<sup>13</sup> <https://www.dec.ny.gov/chemical/29072.html>

<sup>14</sup> <https://parkplanning.nps.gov/document.cfm?parkID=504&projectID=31850&documentID=46548>



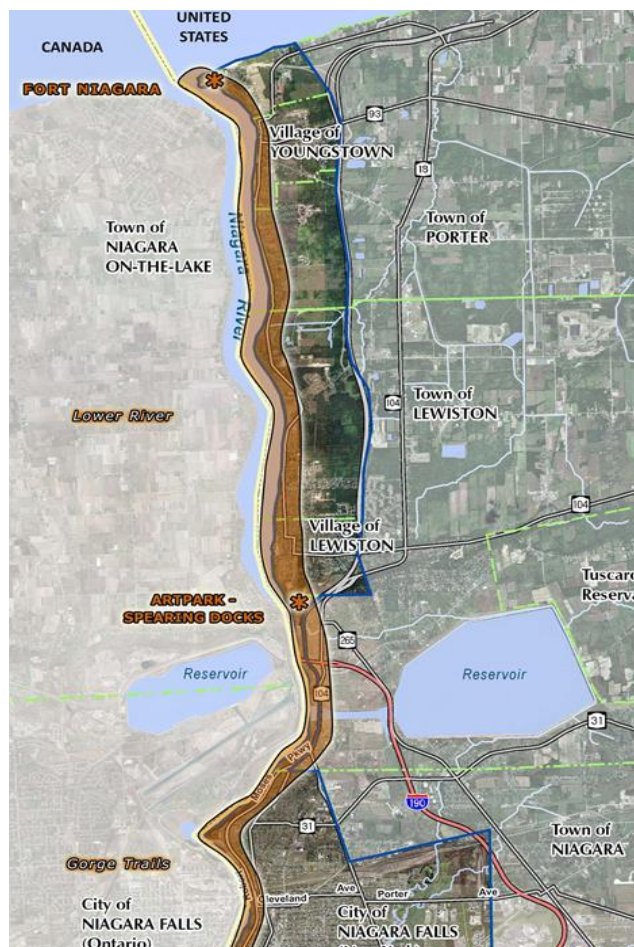
- enhancing, and interpreting the significant historic, cultural, and recreational sites in the National Heritage Area;
- (6) to conserve and interpret the history of the development of hydroelectric power in the United States and its role in developing the American economy; and
  - (7) to provide appropriate linkages among units of the National Park System within and surrounding the National Heritage Area, to protect, enhance, and interpret resources outside of park boundaries.

Figure 4. Niagara Falls National Heritage Area and Management Plan

The legislation established boundaries for the Niagara Falls National Heritage Area and requested the preparation of a management plan specifying the goals, policies, strategies, recommendations, and actions needed to meet the heritage area's purposes. A Niagara Falls National Heritage Area Management Plan was developed and approved in 2012. A non-profit board operates the Niagara Falls National Heritage Area and looks forward to implementing the Plan.

By focusing on the visitor experience in the historic commercial districts of the communities within the primary heritage area boundary, the Villages of Youngstown and Lewiston and the City of Niagara Falls, heritage area programs aim to directly support small business development and the enhancement of community character.

Programs and projects proposed within the National Heritage Area will also be customized to the revitalization goals and strategies of each community.



### Bike Buffalo Niagara - Regional Bicycle Master Plan 2020

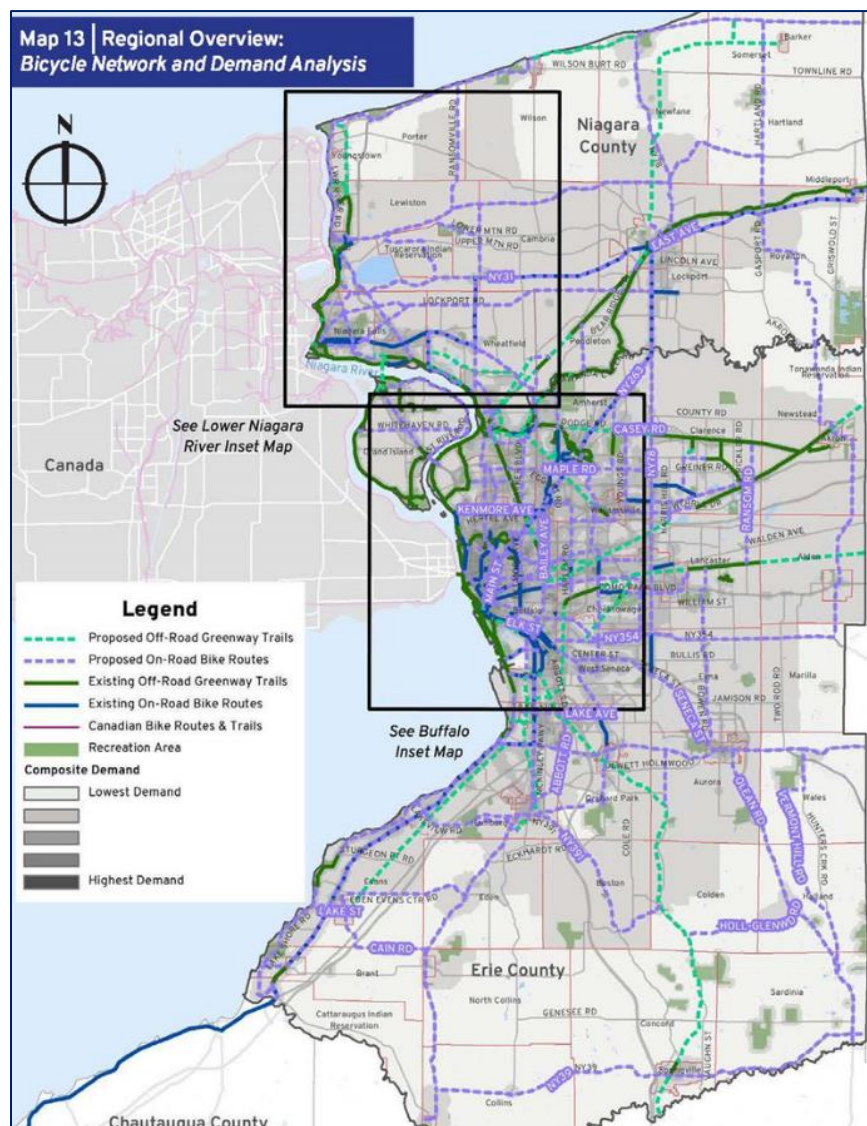
The Greater Buffalo Niagara Regional Transportation Council (GBNRTC) and its partners have developed a regional bicycle plan for Erie and Niagara Counties. The Bike Buffalo Niagara<sup>15</sup> initiative created a plan for the development of a fully integrated bicycle network that aims to provide safe and direct connections between destinations within cities, towns, and villages of the region. The recommended bicycle network provides a collection of off-road and on-road corridors that connect.

The Plan includes goals and objectives; an inventory of existing conditions; community input to identify desirable routes; priority corridors to close gaps in the network; and design guidelines that support

<sup>15</sup> <https://www.gbnrtc.org/regional-bike-buffalo-niagara-master-plan>

bicycling as a safe, comfortable, and healthy form of transportation, recreation and physical activity. Over 7 miles of trail segments are proposed to be developed in the Village of Lewiston along Lower River Rd, Main St, N 4<sup>th</sup> Street, N 2<sup>nd</sup> Street, Oneida St, and S 4<sup>th</sup> Street.

Figure 5. Bicycle Network and Demand Analysis



### Reports of the Niagara Power Project Relicensing Process

The Niagara Power Project<sup>16</sup> in Lewiston, Niagara County, New York, is one of the largest non-federal hydroelectric facilities in North America. In 1957, a 50-year license for operation of the Project was issued by the Federal Power Commission (now the Federal Energy Regulatory Commission, or FERC) to the Power Authority of the State of New York (now the New York Power Authority, or NYPA). The Project first produced electricity in 1961. The operating license for the Project expired in August 2007 and NYPA had to conduct a relicensing process consisted in a series of investigations of the potential effects of water level and flow (when used in this report the term “flow” means velocity) fluctuations on

<sup>16</sup> <https://www.nyapa.gov/power/generation/niagara-power-project>

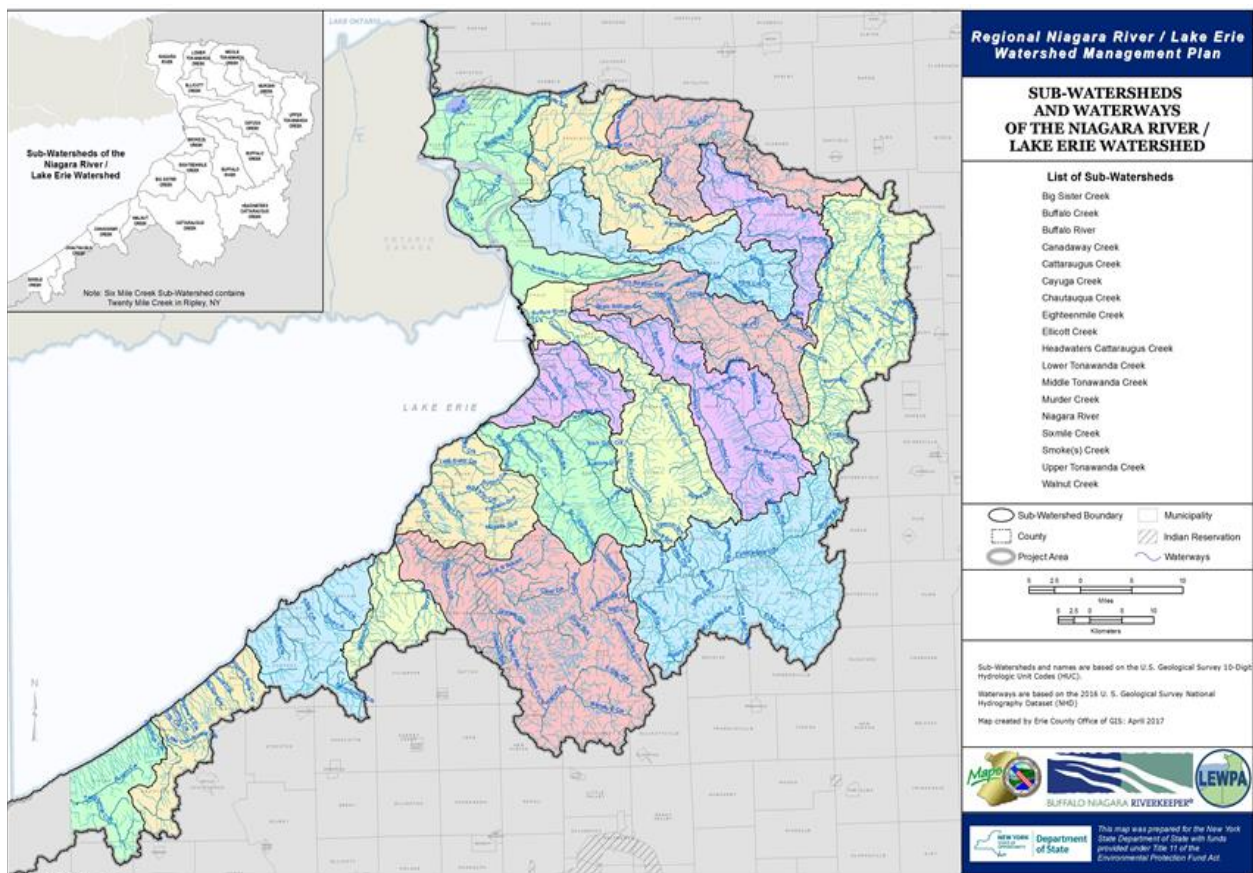


aquatic and terrestrial habitat. The Investigation Area includes U.S. waters of the mainstem upper Niagara River and mainstem lower Niagara River and portions of its tributaries and associated riparian habitats. The lower Niagara River was defined in these investigations as the United States portion of the Niagara River from the tailrace of the Niagara Power Project downstream to Lake Ontario, including the waterside of the Lewiston WRA. The reports of the investigations completed in 2005 provide an abundance of related information about the Village of Lewiston.

## Niagara River Watershed Management Plan

*Development and industry in the past several hundred years have severely altered the habitat and water quality in the Niagara River. Over 60% of the shoreline is lined with sheet metal or rock boulders that are difficult and dangerous to traverse for both people and animals. Habitat and fish populations are severely degraded by the New York Hydropower project due to widely fluctuating water levels... Public access is a major issue on the Niagara River... Chemical contamination from PCBs, mirex, chlordane, PAHs, dioxin, and pesticides has listed the Niagara River as an Area of Concern by the International Joint Commission, a regulatory agency of U.S.-Canada shared waters. Fish consumption advisories exist for many fish in the upper and lower Niagara River. The river is also afflicted by sewer overflows and stormwater runoff. Sewage and stormwater raise bacteria levels in the river and elevate levels of phosphates and nitrates, nutrients which can cause algae blooms and low dissolved oxygen.<sup>17</sup>*

Figure 6. Sub-Watersheds and Waterways of the Niagara River/Lake Erie Watershed



<sup>17</sup> Buffalo Niagara Waterkeeper - <https://bnwaterkeeper.org/places/niagara-river/>

To address these noted issues in the Niagara River, the Niagara River Watershed Management Plan was completed in 2014 by the Buffalo Niagara Riverkeepers, a community-based organization. This Plan focuses on assessing the current conditions, trends, and major contributors to water quality conditions in the Niagara River watershed. The Niagara River Watershed encompasses lands that drain to the Niagara River, as illustrated in Figure 6. Sub-Watersheds and Waterways. This plan outlines the watershed's geographic setting, geology, topography, hydrology, climate and precipitation, the current demographics and population trends in the watershed, the water quality conditions and most significant impairments found in the watershed when the plan was developed, ecological resources and important habitat assessment work, laws and practices that guide and control land use, current and recently completed water-related projects, and identifies recommendations and general actions to address the issues identified. This Plan is a comprehensive resource and supports the expansion of the Lewiston WRA and the development of this amendment to the approved Lewiston LWRP.

### **Sportfishery Restoration & Spending Plan for the Lake Ontario System**

The purpose of this Plan developed in 2007 was to describe the use of funds from the settlement of a major natural resource damages (NRD) claim to implement projects selected to restore injuries to sportfishing in the New York waters of the Lower Niagara River, Lake Ontario, and the St. Lawrence River (hereafter referred to as the Lake Ontario system). This Plan was prepared by the NYS DEC in its capacity as Trustee for New York's natural resources. Two of the projects proposed in this Plan to be funded with settlement funds were implemented along the banks of the Niagara River in the Village of Lewiston: a public fishing access project and river access trails improvements in Artpark, proposed by the Office of Parks, Recreation and Historic Preservation (OPRHP), and improvements to the Village of Lewiston public boat launch.<sup>18</sup>

## **DEMOGRAPHIC AND ECONOMIC CONSIDERATIONS**

The population of the Village of Lewiston has changed from 2,781 in 2000 to 2,701 in 2010, a decrease of 2.8 percent. The renewed economic development efforts conducted in the region after 2010 could create conditions for an increase of population in the region and the Village.

Median age in the Village is a relatively high 50.7 years, compared to a County-wide average of 42.3 years in 2010; 817 persons, or 30.2 percent, were 62 or older in 2010. Because of the high concentration of elderly, the number of persons per household, 2.01 in 2010, is lower than the County average. Of the 1,289 households in the Village, 51% were family households, married couples with or without children, and 49% were non-family households.

In 2010, some 59% of the working population was in the labor force; unemployment was 4.50% of the labor force. To a considerable extent, a large proportion of the employed, 45.2%, were executives, administrators, managers, professionals or administrative support, including clerical workers. This high concentration of managerial-type personnel is reflected in the median household income of \$52,926 in 2010. Of the 1,394 persons in the civilian labor force in 2010, 59% were employed in retail, educational services, health care, entertainment and food service industries. Approximately 9.5% persons in 2010 had income below the poverty level. Approximately 91% of the population in 2010 had graduated high school with 29% earning a bachelor's degree or higher. The median value of owner-occupied units was \$89,100 and median monthly rent was \$672 in 2000.

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<sup>18</sup> <https://www.dec.ny.gov/outdoor/40068.html>



The Demand for Local Services and Infrastructure Created by an Aging Population<sup>19</sup>, a report developed in 2007 by the Buffalo Branch of the Federal Reserve Bank, indicates that between 2005 and 2030 Upstate New York is expected to experience a 40% increase in the number of older people, more than twice the rate of the previous 25 years and far above the rate expected for people under sixty-five years old. The report indicates that the greatest demand for services and infrastructure tends to be in areas already experiencing fiscal stress due to rising expenditures and eroding tax base, such as larger cities, inner ring suburbs and large counties that contain these areas – areas often experiencing slow economic and population growth as a result. These local governments that face the increased demand for services and infrastructure also face difficult decisions in where to allocate stressed resources, financial and otherwise. This also has a ripple effect on community-based groups that serve older populations as they may face difficulties in meeting demands because these groups often rely on local governments for resources. Within the Lewiston WRA, the three areas that serve as catalysts for the Village's future economic development and growth are the Lewiston Landing Park and Marina, the Artpark, and the cluster of business along most of Center Street. A report<sup>20</sup> drafted in 2014 for the Buffalo/Niagara region, which includes the Village of Lewiston, examines the region's trends and reveals potential new revitalization opportunities for the best focus of local efforts and investment.

The report is based on an analysis of the amount and distribution of non-taxable property in a community, with a focus on developed downtown areas and identification of existing non-taxable development that could be improved to become taxable. The report includes a visual representation of those properties that generate noticeable taxes. The height of the shapes in the graphic is proportional with the tax generated by each property.



Source: *The Dollars & Sense of Development Patterns, The Buffalo Niagara Regional Report, 2014*

## EXISTING LAND USE AND ZONING DISTRICTS

Lewiston's development began at the foot of Center Street on a narrow band of relatively accessible waterfront, which gave the incentive for economic growth. The Village encompasses approximately one square mile and is considered a stable, well-established community of predominantly residential character. The land area within the Lewiston WRA consists of approximately 388 acres, based on available GIS data from Niagara County. Land uses within the Lewiston WRA consist of residential uses, parkland, commercial businesses and public/institutional uses, as depicted in Map 2. Land Use within the WRA. Within Lewiston, the Zoning Law, Subdivision Regulations, and Building Regulations regulate land use.

The Zoning Law and Subdivision Regulations were originally adopted in 1973, and last amended in 2013. These regulations apply to all developments requiring subdivision or site plan approval, and regulate and

<sup>19</sup> <http://www.niagaracounty.com/County-Information/Niagara-Communities-Comprehensive-Plan>

<sup>20</sup> The Dollars & Sense of Development Patterns, The Buffalo Niagara Regional Report - <https://drive.google.com/file/d/0B11YkMXnIAM9WGxVdXIU08wNzg/view>

restrict the location, construction and the use of buildings and structures, and the use of land within the Village. No parcel of land may be subdivided and no land requiring site plan approval under Village Zoning Law may be developed or improved unless the approval is granted pursuant to these regulations.

The Building Regulations were originally adopted in 1968, and last amended in 2003. These regulations implement the New York State Uniform Fire Prevention and Building Code, and promote a clean, wholesome and attractive environment within the Village. The regulations require a building permit for any new construction, followed by inspections by the Building Inspector before a certificate of occupancy is granted. The regulations prescribe regular inspections by the Building Department and necessary enforcement to maintain minimum building standards that protect the health and safety of residents and owners of property located in the Village.

Residential use in the Lewiston WRA, consists primarily of single-family residences with two-family dwellings dispersed throughout the Village. Multi-family dwellings are concentrated along the area of Seneca Street and Tuscarora Street between South Fifth Street and South Seventh Street. Existing residential uses are well established and the opportunity for new residential development is limited. The Village will examine additional means to promote the preservation of wooded areas, protect steep slope areas as green space and control encroachment of structures in these areas. In water structures on the Niagara River are controlled by State regulations and are generally limited to mooring and docking of boats owned by adjacent upland property owners.

Public parkland is located throughout the WRA and serves as an important recreational resource for the Community (See Map 2. Land Use within the WRA). Lewiston Landing, Academy Park, Hennepin Park, Marilyn Toohey Park, Richard F. Soluri Park and the playground adjacent the Village Hall are public parks owned and maintained by the Village. The parks are open to the general public year-round host various festivals and recreation programs. The southern part of the WRA is occupied by Earl W. Brydges State Park (Artpark). Artpark is a popular venue for summer musical entertainment, performing arts and recreational programs. In addition, Artpark offers a nature trail, fishing, hiking, picnic tables, pavilions, cross-country skiing and other passive recreational opportunities.



Commercial development is primarily located along Center Street with the highest concentration of commercial uses located between South Fourth Street and the Niagara Scenic Parkway. Neighborhood business uses and mixed business/residential uses, such as small businesses, shops and offices; bed and breakfasts; restaurants; and Niagara Crossing Hotel and Spa, are allowed along both sides of Center Street. The commercial corridor, formed by the areas described above, provides dining and shopping opportunities and additional recreational uses that complement those offered by the Neighborhood around Water Street, the four-block area west of First Street and between Onondaga and Cayuga Streets.

A unique feature of this neighborhood around Water Street is its accessibility from both the land and water. Adequate maintenance and improvements to the public sites within this area would further encourage the expansion of private recreation and related commercial uses within the WRA and improve the local economy and tax base. Increased use and redevelopment in this area, however, must be carefully planned and designed, to be compatible with surrounding residential uses and ensure the preservation of important natural and scenic resources.





Foreign Wars (VFW) Memorial with Hennepin Park, the Historic District and the Artpark, the Center Street Business District and Lewiston Landing Waterfront Park, the Onondaga Trail and a diverse public playground at Marilyn Toohey Park. The three areas within the WRA that serve as catalysts for the Village's future economic development and growth are the Lewiston Landing Park and Marina, the Artpark, and the concentration of business along most of Center Street.

### Existing Zoning Districts

The Village is fully zoned. Commercial zoning is concentrated along Center and Portage Streets, while residential and open space districts occupy the rest of the community. A comprehensive assessment of the impact of the Zoning Law on the implementation of this LWRP is presented in Section V of the LWRP. The Village of Lewiston is divided into the following types of zoning districts illustrated on Map 3. Existing Zoning Districts within the Proposed Lewiston WRA:

- R-1 Districts or Low Density Residential Single-Family Districts
- R-1a Districts or Medium Density Residential Single-Family Districts
- R-2 Districts or Residential Two-Family Districts
- R-3 Districts or Residential Multifamily Districts
- R-4 Districts or Residential Multi-Family-Professional Office Districts
- R-5 Districts or Residential Townhouse Districts
- RB Districts or Restricted Business Districts
- RB-2 District or Retail Business District
- B-1 District or General Business District
- O-P District or Open and Public District
- W-D District or Waterfront Development District

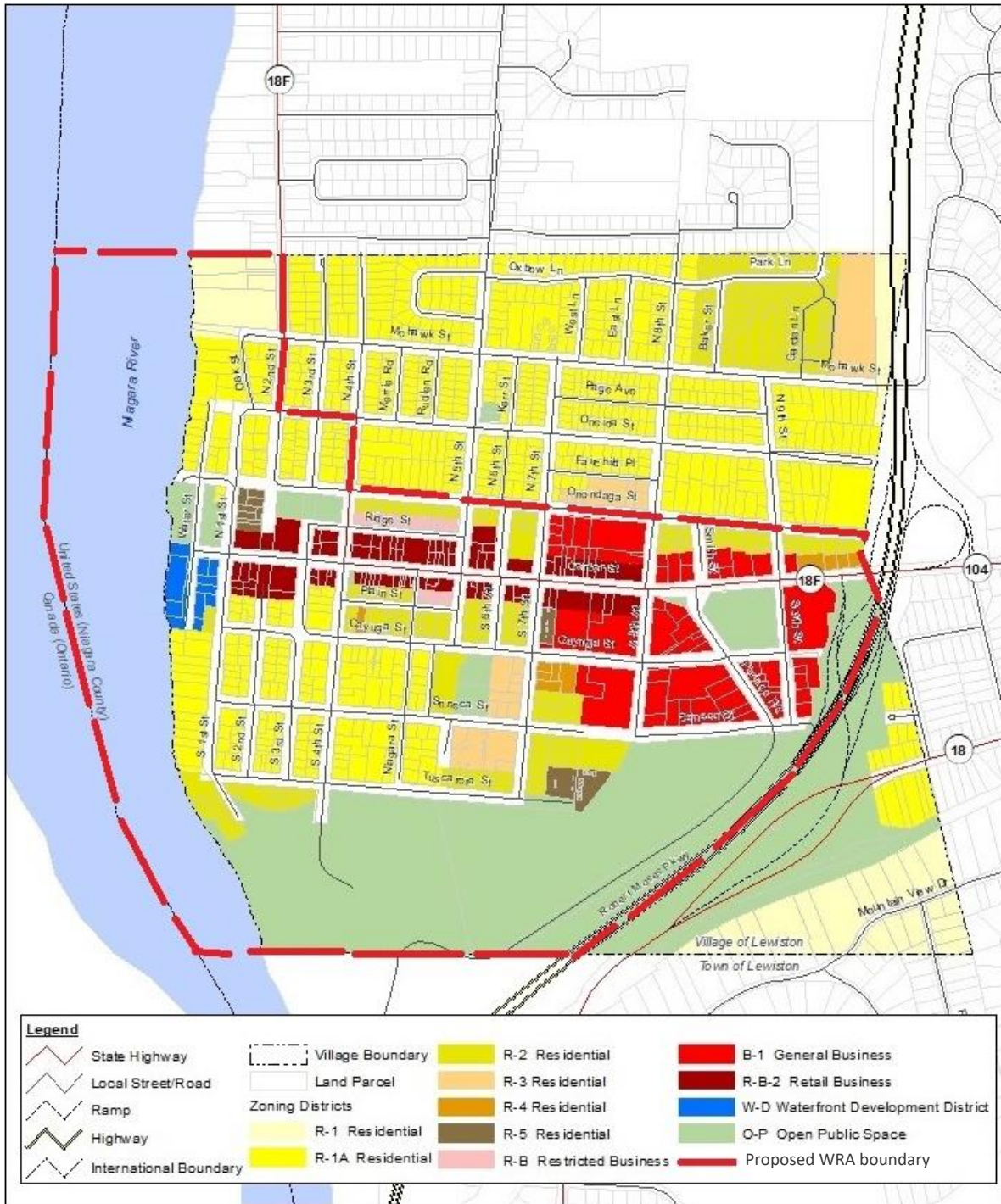
The R-1 and R-1a districts cover approximately 40% of the WRA and provide for low and medium-density of single-family residences. These districts also allow for single-family cluster residential developments subject to the development plan regulations included in the Village of Lewiston Code, Appendix B- Zoning, Section 10. Bed and breakfast residences are allowed only within the R-1a district.

In 2003, the Village extended the RB-2 Retail Business District along Center Street, from Fourth to First Street, to promote and enhance the continuity of use as a retail shopping area – allowing for the development of retail business and personal service establishments, and complementary waterfront uses subject to a special use permit, such as bed & breakfasts (when such use is a secondary use of the premises) and other overnight accommodations. Rezoning of properties on North First Street and North Second Street, between Center and Onondaga Streets, from R-1A, Residential Single-Family Medium Density, to R-5, Residential Townhouse, occurred in 2003. The R-5 Residential Townhouse District allows the development of townhouse dwellings, which requires a special use permit, and creates a transition from the Retail Business to the Waterfront Development District.

The O-P Open and Public District preserves and enhances publicly owned open spaces and recreational areas. Open space zoning includes Lewiston Landing Park and adjacent area to the east, Artpark, and identified linkages up the hill to Center Street and the Village Hall on Fourth. The W-D Waterfront Development District was adopted by the Village in 1989, with amendments in 1990 and 1991, to ensure that lands along the river are used mainly for water-dependent, water-enhanced and related activities.

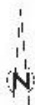
The W-D Waterfront Development District along both sides of North Water Street, generally south of Center Street, allows a mix of water-dependent and water-enhanced commercial and recreational uses.

Map 3. Existing Zoning Districts within the Proposed Lewiston WRA



0 250 500 750 1,000  
Feet

Coordinate System:  
NAD 1983 StatePlane New York  
West FIPS 3103 Feet



VILLAGE OF LEWISTON  
NIAGARA COUNTY, NEW YORK

ZONING DISTRICTS

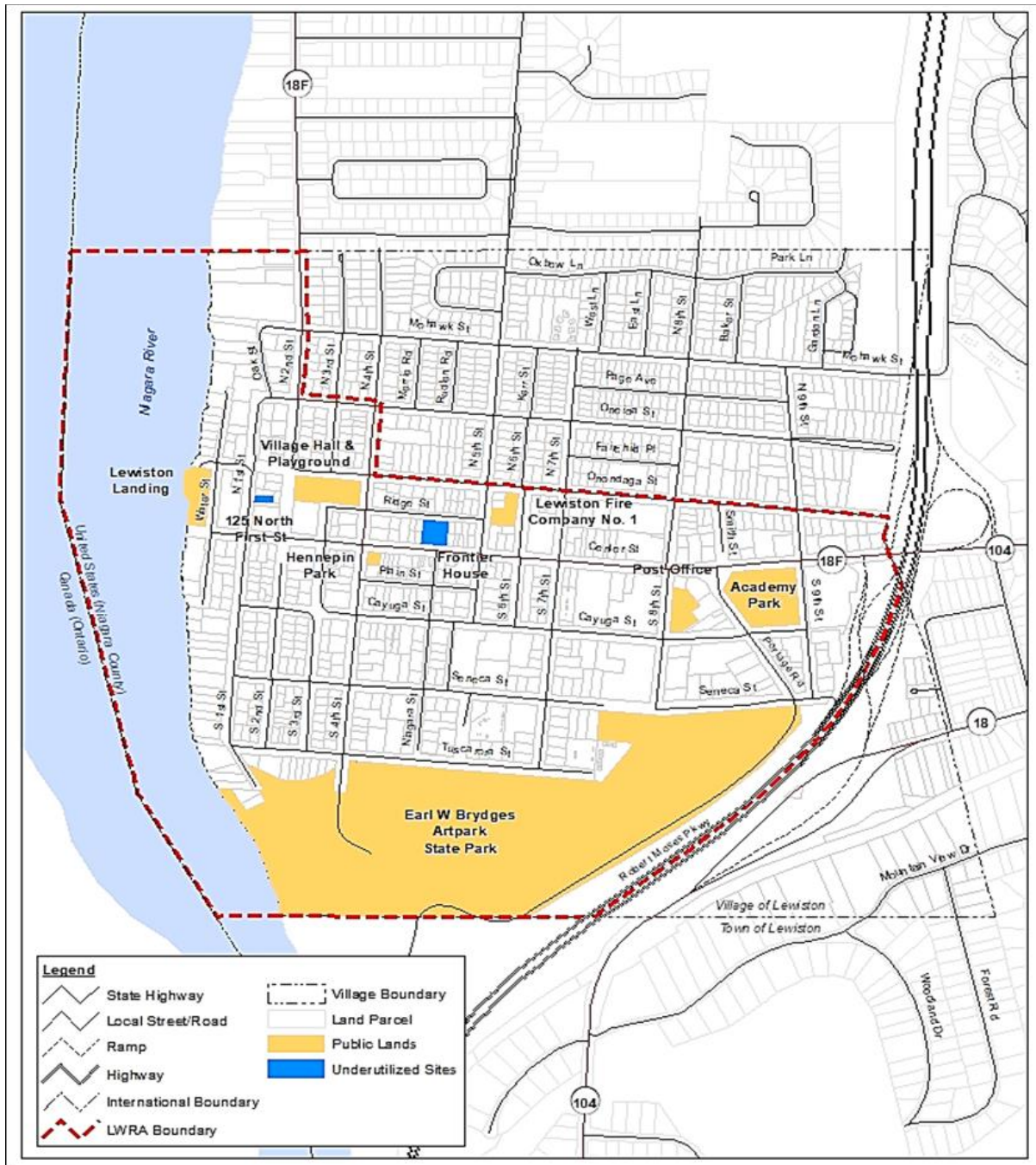
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## LAND OWNERSHIP

### Public Lands

Most of the land within the Lewiston WRA is in private ownership. Map 4. Public Lands and Underutilized Sites illustrates the public lands owned by the Village of Lewiston in parks or other land held by the Village, and the State of New York, who owns and operates Artpark.

Map 4. Public Lands and Underutilized Sites





Map 4 also illustrates underutilized sites, which are discussed below.

### Lewiston Landing Park and Marina

The Lewiston Landing Park and Marina is a site owned by the Village and generally delineated to the west by the shoreline and on the upland by the North Water, Center, and Onondaga Streets. The top of the bank to Water Street and adjacent to the park is also publicly owned and used for roadside parking for parking trailered and non-trailered vehicles. To cover annual maintenance expenses the Village leases some of the docks of the marina. Located adjacent to the top of the park, in a former hotel built in 1870, is the Water Street Landing, a privately-owned restaurant. The owner of this restaurant also owns the Whirlpool Jet Boat which leases Village docks on the waterfront below the restaurant.

### Artpark

The Earl W. Brydges (Artpark) State Park is owned by the State of New York and managed by the Office of Parks, Recreation and Historic Preservation (OPRHP) in partnership with the Artpark & Company, a not-for profit organization. Artpark's amphitheater has become one of the most popular concert venues in Western New York. The site also offers scenic views of the Niagara River gorge, and fishing areas.

## ABANDONED, UNDERUTILIZED AND DETERIORATED SITES AND STRUCTURES

Outside of Academy Park and Artpark, the Village is nearly all developed and there are only two buildable sites remaining in the WRA totaling approximately 1.50 acres. Both sites are located in established residential areas and are zoned to encourage single-family residential development.

Village has identified two properties totaling approximately 0.50 acres that are abandoned with deteriorated structures and are considered underutilized. These sites include the Frontier House, located on Center Street between North Fourth Street and North Fifth Street, and a deteriorated and abandoned residential site on North First Street adjacent to the Niagara Crossing Hotel and Spa (former Barton Hotel).

The deteriorated and abandoned site on North First Street faces Lewiston Landing and is located in an area zoned for Residential Townhouse Development. However, since the parcel is approximately 0.25 acres the potential redevelopment opportunity is limited for single-family residential development. Other residential property in the area is in relatively good condition and has not seen the same level of deterioration.

The Frontier House is a private structure listed on the National Register of Historic Places. It was built in 1824 by Benjamin Barton and was known as the finest hotel west of Albany, hosting many famous guests. The property is currently privately owned and vacant. The structure has fallen into disrepair and efforts are ongoing by current owners to restore the property. The



parcel is zoned for retail business and the opportunity exists for the property to be used for a variety of retail businesses and personal service establishments.

### Underwater Lands

Ownership of all submerged lands lying under the Lakes Erie and Ontario and the Niagara River, within the territorial limits of New York State, is held by the State of New York, unless ownership has been granted to any other person or entity. Water grant index maps provided by the NYS Office of General Services (OGS) Bureau of Land Management for the Lewiston WRA are included in Appendix B, together with the documents of the easement granted to the Village in 2010.

According to maps provided by the NYS Office of General Services, most of the underwater land of the nearshore area within the Village of Lewiston is owned by the State of New York. In 1895, however, the State made four "beneficial enjoyment grants" which generally convey full ownership rights to upland property owners, provided that the underwater lands were subsequently conveyed to these owners. Ownership rights, however, do not exempt owners from local, State, and Federal regulations governing the use of the underwater lands or the waters flowing over these lands.

According to the NYS OGS maps, the four underwater parcels, all of which are adjacent to the shoreline, include: (1) a parcel extending for the entire length of the block between the Oneida and Onondaga streets right-of-way, about 465 feet, and extending off-shore for 125 feet on the north side and 100 feet on the south side; (2) a parcel extending south of the Seneca Street right-of-way for approximately 260 feet and extending off-shore for about 120 feet; (3) a small parcel, 67 1/2 feet by 119 feet, located just north of the Tuscarora Street right-of-way; and (4) a parcel located between the Tuscarora and Fourth Streets right-of-way, which extends for 935 feet at the shoreline and extends off-shore for 100 feet on the north side and 73 1/2 feet off the south side. These areas are not reflected on property tax maps and can only be confirmed by a property survey. The actual location of these parcels with respect to the shoreline may have been altered with changes in the shoreline due to filling, erosion, or other natural factors.

### Development Pattern

The current development patterns found within the WRA are reflected in building permits issued during the past decade and the projects that are under development or currently under review. Generally, the building permits issued during the past decade were for improvements to existing residential and commercial property.

Currently, a three-building mixed-use development is under construction on a 4.1-acre site located between Center Street, North Eighth Street and Onondaga Streets.



Proposed for the site are three two-story buildings that will feature a restaurant with a drive through window and retail spaces on the first floor, with additional commercial space on the second floor. The second building will host retail businesses on the ground floor and the opportunity for restaurant space on the second floor. The third building is expected to offer space for commercial tenants while two-bedroom apartments will be available on the second floor. The site is zoned for retail business and will improve an area of the commercial corridor on Center Street that has seen increasing economic activity.



## EXISTING WATER USE

The WRA stretches over 5,760 linear feet along the Niagara River. Steep banks crown the shoreline north of Onondaga Street and south of Cayuga Street, limiting the potential for public access to water-dependent uses and the development of in-water structures within the Lewiston WRA. The northern portion of the shoreline above Onondaga Street is privately owned. The southern portion of the shoreline within the Lewiston WRA, below Cayuga Street, is bordered by Artpark and privately-owned lands. Most of the eastern bank of the Niagara River within the Lewiston WRA is steep and does not allow for easy access to water.

### Boat Launches and Marinas

The only public access to the river's water is offered at the foot of Onondaga Street, west of North Water Street, along a narrow band of shoreland. Most of the recreational public water-dependent uses within the Lewiston WRA are concentrated here. There are no industrial or commercial water-dependent uses located along the shoreline within the Lewiston WRA.



*Source: NYS DOS Geographic Information Gateway*

In 2010, the NYS Office of General Services (OGS) granted to the Village an easement for the shoreland area with the most access to the river water and the adjacent underwater lands. The site is part of the Lewiston Landing Park and Marina. The documents granting the easement to the Village are included in Appendix B.

Lewiston Landing Marina located along the most accessible portion of the shoreline within the Village offers water-dependent uses such as fishing and boating and structures such as a boat launch and a floating dock with docking fingers. A privately-owned former coal silo (1,000+ square feet) located on the northern side of Lewiston Landing Park was rehabilitated and is currently used as a seasonal restaurant. A public pavilion and a fish cleaning station that are in need of renovation are located near the marina and next to the stairs connecting the shoreline with the upland portion of the Lewiston Landing Park and the adjacent parking area. This site also provides opportunities for scenic views and passive recreation such as walking and bird watching. County Sheriff and local fire departments don't allow swimming in Niagara River. Accordingly, a sign prohibiting swimming is installed at this site.

Access to a private marina adjacent and south of the Lewiston Landing Marina is provided via a marginal paved road at the end of Center Street, which also provides boaters with access to the Water Street Landing restaurant located upland from the private marina.

In the first half of 2017 and 2019, the shoreline in the Village of Lewiston was severely flooded. The extended high levels of the river water during those seasons prohibited the use of the docks and

adjacent facilities and resulted in damages to the public shoreline structures, substantial loss of revenue for the Village, and high costs for repairs.

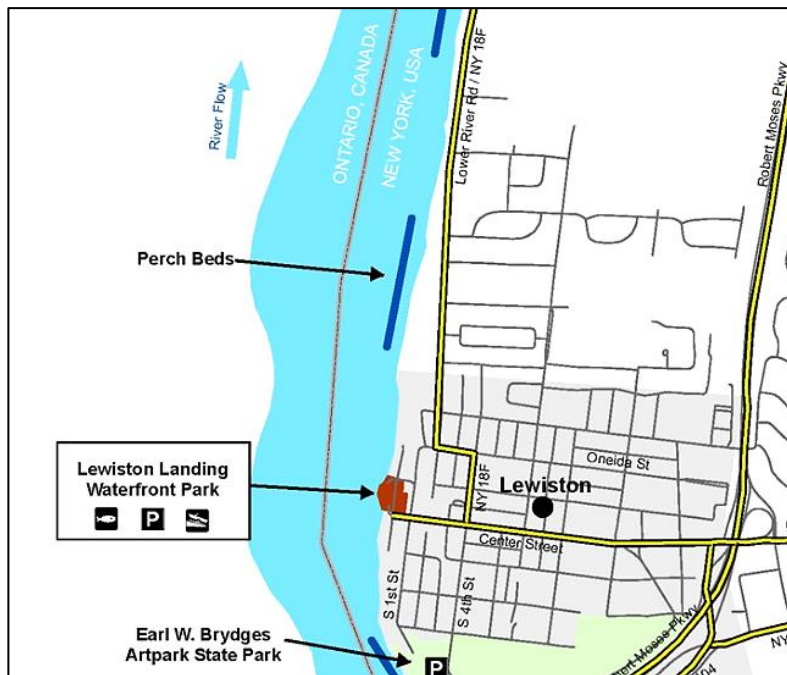


To address those recurrent issues the Village proposed the installation of a new and elevated sheet pile bulkhead that will elevate the adjacent shoreland to 252 feet and the reconstruction of the other damaged structures and utilities. This is a large project that is being developed with State grants and funding from the Lake Ontario Resiliency and Economic Development Initiative (REDI). The elevation of the shorelands and new docks were completed by mid-2020.

### Fishing and Hunting

Valuable fish spawning beds exist in the portion of the Niagara River just north of the WRA, which makes the waterside of the WRA an important sport fishing area. There are two shoreline-fishing sites accessible to the public, one is located on the northern side of the Lewiston Landing Park and the second is a pier wharf in Artpark. Fishing from boats is very common. There are no public or private hunting sites within the WRA.

Figure 7. Public Fishing Access Areas



Public fishing access areas within the Lewiston WRA are indicated on the Lower Niagara River Fishing Access maps prepared by NYS DEC, together with the location of known perch beds, north of the WRA.

## Swimming and Diving

The water quality of the Niagara River within the WRA is Class C and suitable for swimming. However, due to the topography of the shoreline, the strong currents of the river and the number of boats navigating most of the lower section of the Niagara River, there are no public outdoor swimming areas or diving public access sites along the Niagara River shoreline within the Lewiston WRA. Due to the dangerous river currents and the number of boats using the river, the patrols of the Niagara County Sheriff and municipal Fire Departments are forcing unaware swimmers out of the water, before harming themselves. Because of the use of the area for boating, and the natural conditions described above, a sign indicates that swimming is prohibited at Lewiston Landing.

## HARBOR MANAGEMENT AREA

The NYS Executive Law, Article 42-Waterfront Revitalization of Coastal Areas and Inland Waterways was amended in 1992 to provide local governments with the clear authority to comprehensively manage activities in nearshore areas within their WRA boundary. Pursuant to the 19 NYCRR Part 603, an LWRP must address existing water-dependent uses and potential conflicts and develop any necessary local controls.

Map 5. Harbor Management Area within Lewiston WRA



The Lewiston Harbor Management Area (HMA) depicted and labeled on the Map 5. Harbor Management Area within Lewiston WRA, or the waterside of the Lewiston WRA, encompasses the portion of the Niagara River along the Village shoreline and up to the Canadian border. The information provided within



this subsection addresses issues commensurate to the local conditions related to the use of surface waters and underwater lands within the HMA portion of the Lewiston WRA.

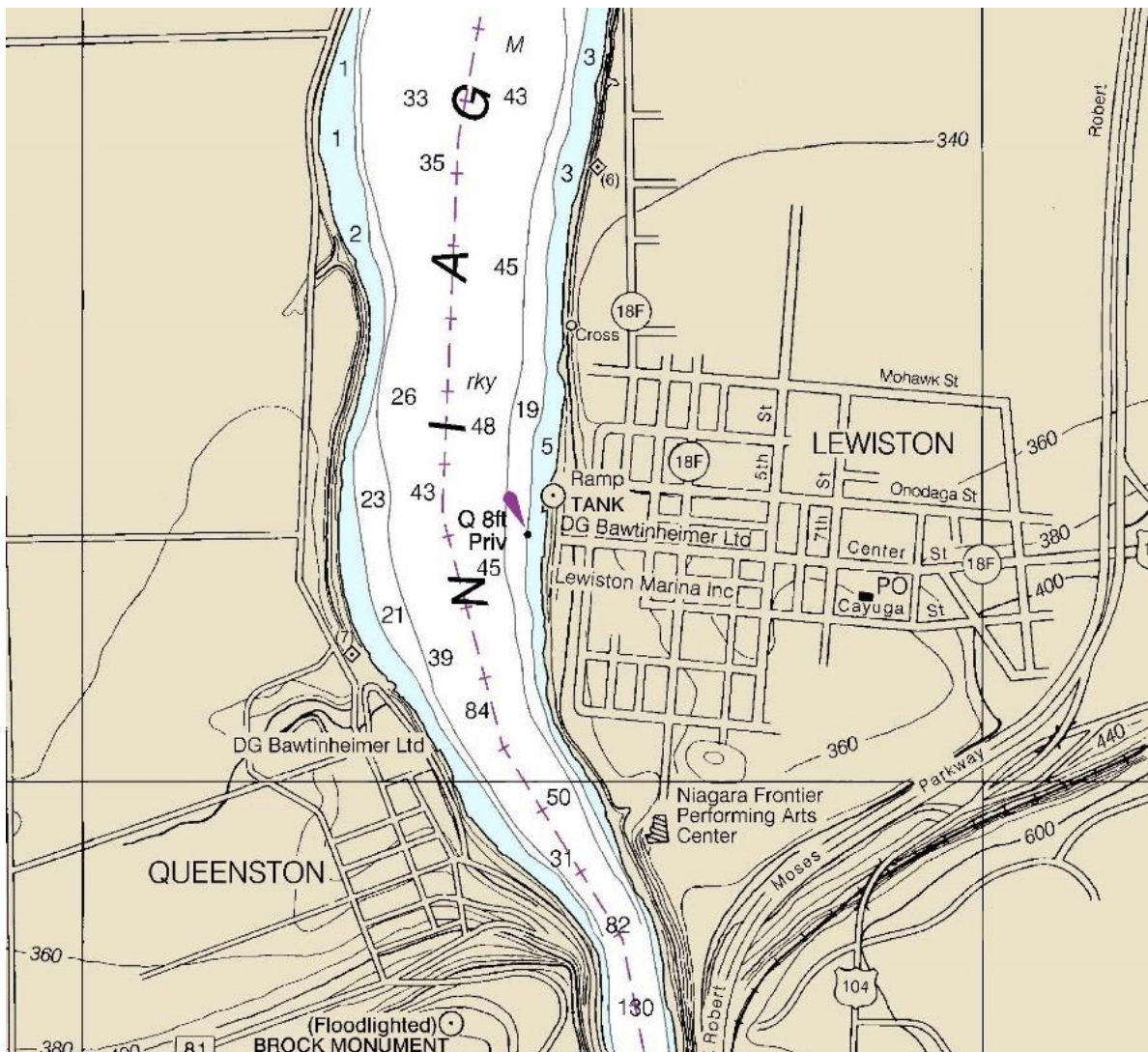
### Public Access to Niagara River

Lewiston Landing Park is the only public area within the WRA where the waters of the Niagara River can safely be accessed for recreational water-dependent uses, such as boating and fishing.

### Navigation on Niagara River

The Niagara River is patrolled by the Niagara County Sheriff's Office, New York Park Police, United States Border Patrol, and United States Coast Guard. In addition, Lewiston Fire Company No. 1 maintains a fire rescue boat based out of the Village owned marina. The Fire Company responds to fire and rescue calls, as well as emergency medical incidents, along the Lower Niagara River and calls for mutual aid on Lake Ontario.

Figure 8. Lower Niagara River Nautical Chart #14816, excerpt



The Niagara County Sheriff's Marine Patrol enforces the New York State Navigation Laws and focuses on boaters' safety and education along the Lower Niagara River. The Marine Patrol provides search and rescue capabilities and assistance for stranded boaters, accident investigation, regatta permit assistance, pollution control response and boating manufacturer standards compliance. The Marine Patrol operates multiple patrol boats within the 540 square miles of Niagara County waters, including the Lower Niagara River. The New York State Office of Parks, Recreation and Historic Preservation reimburses up to 75% of the overall budget of the Marine Patrol. The funding comes directly from New York State boat registration fees. New York State Navigation Law currently requires any operator of a Personal Watercraft (PWC), regardless of age, and all boat operators born after May 1, 1996 to first complete an approved Boater Safety Course. The Niagara County Sheriff's Marine Patrol conducts these courses throughout the year.<sup>21</sup>

There is no speed limit for boats navigating on Niagara River. The standard caveats apply to wake responsibility. Large commercial vessels and tugs with tows are often restricted in their ability to maneuver as defined in Rule 3 of the Inland Navigation Rules. Therefore, those vessels have the right of way over all recreational boats including sailboats.

Section 45 of the State Navigation Law forbids operating a vessel "at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing". Specifically, no vessel, other than a tending vessel or if involved in water skiing, may operate "within one hundred feet of the shore, a dock, pier, raft, float or an anchored or moored vessel at a speed exceeding five miles per hour". Even vessels further out may be required to operate at slower speeds, no wake or minimal wake, and should take every precaution to minimize unnecessary vessel wakes. "Slow Down: Minimum Wake" means you must operate fully off plane and completely settled in water.

The Village relies on the Niagara County Sheriff's Marine Patrol to enforce the New York State Navigation Laws.

### Noise Level

Pursuant to Article 4, Section 44 of the New York State Navigation Law, no person shall operate or give permission for the operation of any pleasure vessel in or upon the waters of this state in such a manner as to exceed a noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005. Any pleasure vessel designed, manufactured and sold for the sole purpose of competing in racing events, an authorized agent of the federal, state or municipal government operating a pleasure vessel necessary to carry out his or her official duty of enforcement, search and rescue, firefighting or research programs, pleasure vessels being operated by a boat or marine engine manufacturer for the purposes of testing and/or development and pleasure vessels manufactured prior to nineteen hundred sixty-five are exempt from the provisions above.

### Ice Management and Shoreline Erosion

A floating steel pontoon ice boom is placed across the entrance to the head of the Niagara River during the winter. The boom is installed prior to December 16 or prior to the water temperature at the Buffalo water intake reaching 4°C (39°F), whichever occurs first. The boom is opened by April 1, unless there is more than 250 square miles of ice east of Long Point (42°33'N., 80°03'W.); complete disassembly and removal of all floatation equipment is completed within two weeks thereafter.<sup>22</sup>

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<sup>21</sup> <https://www.niagarasheriff.com/specialtyUnits/5d2cb6c8635d26d43e8b4567>

<sup>22</sup> <https://nauticalcharts.noaa.gov/publications/coast-pilot/index.html>

The Village relies on the impact of the ice boom and other state and federal agencies designated to control the level of ice flowing down the Lower Niagara River.

### Vessel Waste and No Discharge Zone

It is illegal to discharge on-board sanitary wastes from boats into surface waters in areas designated by the State as Vessel Waste No Discharge Zones (NDZ). The entire Niagara River is a designated NDZs. Pursuant to the Clean Water Act, Section 312, all vessels operating within an NDZ are prohibited from discharging any sewage, treated or untreated, into the NDZ waters. To dispose of treated and untreated sewage waste within NDZs boaters are required to use appropriate vessel pump-out facilities available at certain marinas. Sanitary waste from boats often contains harmful levels of pathogens and chemicals that affect water quality, harm marine life and habitats and public health. There are no vessel waste pump-out facilities located within the Lewiston WRA. The Village is investigating the feasibility of installing a pump-out facility at Lewiston Landing, the only possible location within the Lewiston WRA.

### Water Levels

Downstream of the Robert Moses Plant tailrace, the lower Niagara River widens and emerges from the gorge at Lewiston, New York, subsequently dropping another 5 feet to Lake Ontario. Water levels in this reach are influenced by Treaty-mandated flows, generation flows, and Lake Ontario water levels. Water level fluctuations downstream of the Robert Moses Plant tailrace are typically much less than those observed upstream of the tailrace and are approximately 1.5 feet per day. The average daily water level fluctuation 1.4 miles downstream of the Robert Moses Plant tailrace, during the 2003 tourist season, was 1.44 feet. The daily fluctuations decrease progressively downstream (URS and Gomez and Sullivan, 2005)<sup>23</sup>.

To protect its only public access area to the river, from water level variation and damaging floods, the Village elevated the lower portion of Lewiston Landing to 252 feet and installed floating docks.

### Water Quality

The quality of Lower Niagara River water is partially dependent upon point sources and runoff from upstream uses in the entire Great Lakes System. As the River is a spillway of the system above Lake Ontario, much of the pollutants are carried from the upper lakes and move through the River. Recent problems associated with River pollution include seasonal algae bloom in Lake Erie and the East Branch of the Niagara River, occasional industrial discharges into the upper river (reference: "Niagara River Toxics Report") and possible leachate from toxic landfills into the drainage system, including the river upstream. The swift-running current of the Niagara River currently creates sufficient dilution and transmission of potential pollutants to reduce problems of water quality or sedimentation. Sediment samples taken off the Lewiston dock for a NYSDEC permit for dock renovation (Permit #932-07-0080; March, 1983) indicated total halogenated organics (THO) and mercury levels dramatically below allowable standards: THO samples-0.13 parts per million; mercury levels-0.11 parts per million; NYSDEC standard is 50 parts per million. Oxygen levels in the lower River are near saturation and are excellent for fish support.

Water quality is an important concern to the Village in support of fishing and recreation opportunities. The River is currently designated Class A -Special (International Boundary Waters) and should be retained as such to preserve this natural resource. The major concerns along the Village shoreline

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<sup>23</sup> Final Environmental Impact Statement for the Niagara Project - <https://www.nypa.gov/power/generation/niagara-power-project/niagara-relicensing>

include bank erosion and urban runoff. Overland runoff from the WRA exits indiscriminately into the Niagara River at numerous points. They often carry urban pollutants (salt, dust, settled particulates) and should be better managed. Lewiston intends to coordinate the development of a drainage study of road/residential runoff into the River, to ensure that recreation opportunities and critical fish habitats are not compromised.

### **Sediment Quality**

The Power Authority analyzed the sediment quality in the upper and lower Niagara River, Lewiston Reservoir, and forebay in 2003 (ESI, 2005). In this study, sediments were analyzed for multiple constituents, including 18 priority toxic pollutants identified in the Niagara River Toxics Management Plan and five additional parameters of interest (total polynuclear aromatic hydrocarbons (PAHs), cadmium, total organic carbon (TOC), total volatile solids, and grain size) to the New York DEC. Sediment collected from the upper and lower Niagara River was generally coarse material (primarily sand and gravel with lesser amounts of silt and clay) while sediment collected from the reservoir consisted primarily of silt and clay. The reservoir sediments typically had significantly higher carbon content than the coarser grain sediments encountered in the Niagara River. Although contaminant levels in sediment can be affected by a variety of factors, the physical and chemical characteristics of the sediment found in the reservoir (i.e., finer grained and higher organic carbon content) increases the adsorption potential of contaminants to these sediments compared to those from the Niagara River. In general, however, the constituents detected in the Lewiston Reservoir sediments (PAHs, PCBs, mirex, arsenic, lead, and mercury) were also detected in the Niagara River sediments. The detected constituent levels in the Lewiston Reservoir samples were similar to, and in some instances considerably less than, the levels detected in the Niagara River sediments (ESI, 2005). With the exception of one PCB Aroclor (Aroclor 1242), there were no constituents detected in the Lewiston Reservoir that were not detected in the upper Niagara River and/or the lower Niagara River, upstream of the tailrace. Sediment samples from the reservoir exceeded New York DEC sediment criteria for total PCBs, PAHs, mirex, arsenic, lead, and mercury. But as with the detections discussed above, any exceedance of a constituent in the Lewiston Reservoir was also exceeded in the upper Niagara River and/or the lower Niagara River upstream of the tailrace (ESI, 2005).

### **Niagara River Fish Consumption Advisory**

A variety of contaminants (e.g., mercury, PCBs, organic compounds) have been detected in various species of fish in the Niagara River. As a result of these contaminant levels, consuming any portion of certain fish species, or too much of any fish from the Niagara River, poses a health risk. As of late 2004, New York State Department of Health (NYS DOH) recommends consumption limits for Lake Ontario and Niagara River fish.

## **PUBLIC ACCESS AND RECREATION**

The Niagara River is a Great Lakes connecting channel and an international border between the United States (New York) and Canada (Ontario). The Niagara River flows northward from Lake Erie to Lake Ontario for a distance of 36 miles, conveying an average flow of about 200,000 cubic feet of water per second. The river is comprised of two parts, the Upper and Lower Niagara, separated at Niagara Falls. The Lower Niagara River is approximately 14 miles in length, and fishing opportunities exist from the Whirlpool north to the mouth of the river at Lake Ontario. Other activities in lower Niagara River also include boating and river hunting for ducks and waterfowl. The Lewiston Landing is the only up-river boat launch providing public access to game fishing in the river gorge and offering virtually year-round



sheltered river access. On-shore fishing opportunities exist at Lewiston Landing and at the fishing pier in Artpark.

### Lewiston Landing

The Village's boat launch is part of the planned Lewiston Landing Park, which was created in 1976 when, with funds from the NYS Division of Housing and Community Renewal, the Village purchased 2.25 acres of riverfront property. Together with other Village-owned land, this created an eight-acre site, suitable for development as a water-related park and recreation facility. In 1980, initial design work was completed with a grant from the National Endowment for the Arts and NYS DOS. Since then, a dock and double-wide (20 foot) boat launch, a shoreline retaining wall with a walkway on top, boat slips to accommodate 14-20 medium-sized boats, handicapped parking, and landscaping which includes plantings specially selected to control erosion caused by run-off were completed, maintained, repaired and improved. The boat launch, which was opened in 1983, is used almost year-round and is heavily used during the prime boating and fishing seasons. In 2017 and 2019 the lower side of the Lewiston Landing was flooded, and its facilities were damaged. Current efforts are undertaken by the Village and the State to upgrade Lewiston Landing facilities in a manner that will make them more resilient to the seasonal increase in the river water elevation above the recent flood levels.

### Artpark

The Earl W. Brydges Artpark State Park is the only other existing public recreation facility in the Village of Lewiston that has access to the Niagara River. Artpark is also partially located in the Town of Lewiston, although its major facilities and entrances are located within the Village. Artpark was established in 1974 by the State of New York on lands owned by New York State Power Authority (NYPA). It is currently programmed and managed by Artpark & Company, a nonprofit institution. Artpark has become a cultural, educational, and passive recreation resource for residents and visitors to the region and presents the finest amphitheater rock and pop concerts, interactive public art installations, outdoor festivals, gallery exhibits, art and theatre workshops, summer camps and more. The park is also home to a variety of historic sites and scenic nature trails. Lower Landing Archeological District is a key point in the Colonial Niagara Historic District. The park also has picnic facilities and provides landscape features for activities such as hiking, cross-country skiing, and fishing. The upper Artpark Gorge Trail offers a gradual climb to the top where it meets up with the rim trail that crosses the power plant to Devil's Hole State Park. The lower River's Edge Trail provides access to fishing by two staircases.<sup>24</sup>

The Artpark & Company Board of Directors is a volunteer assemblage comprised of community leaders, tourism officials and other esteemed Western New York businesspeople. Artpark delivers 150+ events attended by 150,000+ visitors, on 150+ acres of land over 110 days of summer. Ninety of these events are community & family programs delivered to over 50,000+ people at low or no cost. Artpark & Co. programming delivers \$13 million in estimated annual economic impact on the community.<sup>25</sup>

Facilities include a performing arts center, amphitheater, a fishing pier, nature trails and support facilities. Artpark's location on a steep slope descending from the Niagara Escarpment affords scenic views of the river area. Artpark is also a sensitive archeological area and includes two nationally designated historic sites, the Lewiston Indian Burial Mound and the Lewiston Portage Landing Site.

Over 250,000 people are estimated to visit Artpark each year. In 2018, to sustainably diversify and enhance the recreational uses and facilities offered by the park OPRHP solicited proposals from private entities interested to become partners and invest in the park's capital projects. This initiative did not

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<sup>24</sup> <https://parks.ny.gov/parks/113/details.aspx>

<sup>25</sup> <https://www.artpark.net/content/pages/about-artpark>



receive the expected attention from the private sector. Currently, the NYS OPRHP is investigating other means of enhancing the park's programs and implementing new capital projects.

The development of Artpark has helped to attract significant numbers of visitors to the Lewiston area and has benefitted local businesses and governments. It is expected that the performing and visual arts will continue to be the emphasis of programming for Artpark. There are additional opportunities, however, for cooperative efforts which could support the Village's waterfront revitalization efforts, as well as the recreational use of Artpark. Activities are programmed at Artpark only from Memorial Day to Labor Day. Although the grounds are open year-round, facilities are closed, and off-season use is limited. In addition, there is currently little joint promotion of facilities and activities and little physical connection between Artpark and the Lewiston Landing and current network of trails and sidewalks. There are several low-cost opportunities for coordinating Artpark's facilities and activities with the Village's waterfront development projects which would enhance the use of, and benefits derived from both.

### The Seaway Trail

The Seaway Trail is a major scenic route traveled by tourists curious to see the natural and cultural attractions of the lower Niagara River. It brings a significant number of tourists to the Village, which generates a substantial economic activity. The Seaway Trail enters the Village of Lewiston from the north, via Lower River Road, and continues along portions of Oneida and North 4<sup>th</sup> Streets before turning east and following Center Street, which hosts a cluster of small businesses along its eastern half and constitutes a significant portion of the Village's commercial area.

Center Street is also the only direct vehicular access to the shoreline, at Lewiston Landing, which is marked at Fourth Street by a gateway. The Niagara River Region Chamber of Commerce designed a waterfront logo and installed visitor-oriented signs with this logo. The signs reveal linkages between the Lewiston Landing area and the major transportation routes through the Village, which improve circulation and access to the waterfront area.

The Onondaga Street right-of-way between First and Second Streets, was developed as part of the Onondaga Street Trail and provides a connection between Lewiston Landing and the playground adjacent to the Village Hall. Table 1 below summarizes the ownership and accessibility characteristics of shoreline property (that is, property adjacent to the Niagara River).

Table 1. Shoreline Ownership and Accessibility, Village of Lewiston, New York

Ownerships	Location	Footage (feet)	Percent	Accessibility
Public (Local and State Government)	Lewiston Landing	1,595	27.7%	Open
Artpark	South Waterfront	1,150	20.0%	Limited Season
Private	Private Residences	2,720	47.3%	Closed
Commercial	North Waterfront	291	5.0%	Closed

## NATURAL RESOURCES AND MANAGEMENT

### Topography

The Village of Lewiston lies in the western part of Niagara County at the base of the Niagara Escarpment. It is part of the Iroquois Plain which stretches from the Escarpment to Lake Ontario and covers the entire northern half of Niagara County. The Plain is gently rolling near the Village and varies in elevation from 245 feet above sea level at the Lake to 600 feet at the Escarpment. The Escarpment is composed of mixed sandstones (Whirlpool, Grimsby and Thorold), capped by Lockport Dolomite, while the Iroquois Plain is Queenston Shale which underlies the entire area about 1,200 feet thick. These formations are generally overlain with glacial till and/or sandy, fine-textured soil of moderate to poor drainage characteristics. The Niagara Escarpment and Iroquois Plain are the northernmost geologic features of the region.

The Niagara Escarpment runs through the southwest portion of the Village of Lewiston and forms a dramatic backdrop to the community. The Escarpment at Lewiston was the original location of Niagara Falls, which eventually receded to its current position six miles to the south. The majority of the Village is built on the flat plain below the Escarpment which falls off toward the Niagara River near the waterfront. Most of the waterfront is bordered by steep bluffs of one hundred feet or more, with the exception of the area at the base of Center Street, known as the Lewiston Landing. Water access at this point has been a historical resource that initiated the formation of the community. Waterfront elevations range from 246.5 feet at the River to 350 feet along the western WRA boundary and as high as 550 feet at the top of the Escarpment (Figure 8. Lower Niagara River Nautical Chart #14816). Soils tend to be deep and moderately well-drained (Lacustrine Sand deposits) in the WRA and deep, poorly drained (Rhinebeck/Ovid) in the rest of the Village. Occasional outcroppings of glacial boulders embedded in a shale/red clay mixture occur in the WRA within Artpark.

Much of the Village drains to the Niagara River via overland flow and inadequate street ditching. Soils possess generally poor drainage characteristics and are subject to moderate erosion near the waterfront, due to steep slopes and their shale/clay composition. Development within the WRA is limited by soil composition and best restricted to residential and recreation uses.

### Steep Slopes

The difficult terrain is a major factor shaping land uses and development within the WRA. Most of the river is bordered by very steep and 30 to 100 feet high banks. Another steep slope crosses the waterfront area diagonally from around Mohawk Street at the river to the intersection of Seneca and Fourth Streets, causing the breaks in the grid pattern of the streets through this area. While the two blocks along the shoreline between Cayuga and Onondaga Streets to First Street forms the most accessible portion of the waterfront from the water and the land (via Center Street), the area is still relatively steep and hilly. Development on the west sides of both First Street and Water Street sits on top of the steep banks which traverse this area.

### Wetlands and Floodplains

The Lewiston shoreline has a very small flood-prone area, as determined by the Federal Emergency Management Agency. The only likely inland area of potential inundation is the gully in Artpark near the south Village line. This is the only portion of the waterfront unprotected by steep slopes along the shore where flood waters can encroach on adjacent property. Major flooding in the Village in past years were caused by ice jams in the River that caused ice levels to rise nearly seventy feet over normal water elevations. These events were significantly reduced by the installation of the ice boom at the mouth of

the River in Buffalo. The ice boom successfully limits down river ice accumulation and mitigates flood and erosion damage and keeps the Lower Niagara relatively ice-free most of the year. Flooding of the magnitude described above has not occurred in over 20 years and not since the ice boom has been utilized.

Shoreline erosion has resulted from two main causes -deterioration of the occasionally exposed shale/clay slopes near the waterfront and ice damage from winter jams. While ice jams have been curtailed by use of the ice boom upriver, the demise of local shale to red clay requires stabilization and vegetation cover to retard erosion damage. Any disturbance of slope areas needs to be accompanied by adequate pitching and appropriate tree/ground cover and restoration of exposed slopes, especially near the waterfront.

Based on NYSDEC county surveys, besides the riverine habitat of the Niagara River, there are no designated wetlands or significant wet areas located within the Village. However, based on the analysis of high altitude imagery of vegetation, visible hydrology and geography, in addition to the riverine habitat of the Niagara River, the National Wetlands inventory, indicates the existence of a 0.70 acre Freshwater Forested/Shrub Wetland habitat, classified as a PFO1B, within the Earl Brydges Artpark State park.

### Stormwater Management

Stormwater drainage within the Village of Lewiston, including the area within the coastal zone boundary, is accomplished through a system of closed conduits, open ditches, and generalized overland run-off. The stormwater collection system is a separate system with no known cross connections to the sanitary sewer system. Because of the relatively steep slopes in the coastal area, localized flooding and ponding is not prevalent. There are at least two known locations where stormwater conduits discharge directly to the Niagara River. The Village Public Works Department maintains all roadside ditches and will install drainage piping at the request of residents and businesses for a nominal fee. The closed piping is installed in rights-of-way where landowners prefer piping over open ditching.

One problem in the coastal area caused by uncontrolled overland runoff is bank erosion at various locations. Currently, the Village is a regulated municipal separate storm system (MS4), in accordance with a State Pollution Discharge Elimination System (SPDES) permit issued by NYSDEC. The MS4 is implemented by local law under Chapter 16 of the Village Code, which establishes minimum stormwater management requirements that extend across the entire Village. All land development activities require the preparation of a Storm Water Pollution Prevention Plan (SWPPP) for controlling stormwater runoff and pollutants from a site during and after construction activities. SWPPPs are prepared in accordance with the local law and based on technical requirements included in the New York Standards and Specifications for Erosion and Sediment Control updated in 2016 and New York State Stormwater Management Design Manual updated in 2015. Lewiston is planning to conduct a detailed study of the existing drainage patterns and related issues, to determine more specifically the best methods for improving the village-wide drainage system.

### Vegetation

Niagara County is in the Oak-Hickory forest biome indigenous to most of Western New York. Characteristic species include Red Maple, Beech, Hemlock, White Oak, Elm, Chestnut, Hickory and a variety of other oaks and hickories. Several plants that are on the New York State list of protected species occur in Niagara County, which include the showy Calciphilic group found along the Niagara River Gorge. Common species occasionally found in wooded areas or along bluffs include Butterfly-

Weed, American Bittersweet, various fern (Buckhorn, Curly-Grass, Maidenhair, Salvinia, Walking-Leak, Woodsia, etc.), Blue-Bottles, Golden-Seal, Lily, Cardinal Flower, Wild Crabapple, Bloodroot and Trillium.

Lewiston is an integral part of county flora groups. However, since the Village is mostly developed, many of the species indigenous to the area are not found and their propagation has been diminished. The only valuable forest areas in the Village coincide with the steep slopes encountered along the Escarpment, waterfront and between First and Third Streets (Onondaga to Cayuga, along inland slope). These areas are mostly unsuitable for urban development and have retained some mature trees and natural vegetation. These slope areas also present the primary landforms within the Village that offer diversity and represent a substantial natural resource in the coastal area.

### Wildlife Habitats and Management

The Niagara Gorge portion of the lower Niagara River is a mix of elevation drops and intermittent pools with depths of approximately 35 feet and greater, with maximum depths of about 200 feet in some areas. The lower Niagara River above the Robert Moses Plant tailrace ranges from about 300 to 800 feet wide and has boulder, cobble, and bedrock substrates. No Submerged Aquatic Vegetation (SAV) is present due to the lack of suitable substrate and possibly also due to relatively high velocity water (Aquatic Science and E/PRO, 2005). Emergent aquatic vegetation (EAV) is not present except in a very narrow strip near Devil's Hole Rapids.

The lower Niagara River from the Robert Moses Plant tailrace to Lake Ontario is typified by a narrow zone (less than 100 feet) along the shorelines where depth is less than 20 feet and the banks are steep-sided. Water depths in the channel are typically about 45 feet with a range of about 30 – 150 feet. The substrates are primarily bedrock and boulder with smaller substrates (cobble, small boulder, and some sand and silt) near shore. SAV is present downstream of the Robert Moses Plant tailrace where water depths are less than 20 feet and substrates are sand. The three predominant species of SAV that occur in these areas include wild-celery, Eurasian water milfoil, and sago pondweed. Little EAV occurs in this river reach (Stantec et al., 2005).

Coastal wetland habitats do not occur in the lower Niagara River because of the relatively steep slopes leading down to the water, coarse substrates, fast water velocities, and the lack of shallow water areas. These combined factors are not conducive to the development of large, fringe riverine wetlands, and these habitats likely have never existed in the lower river to any great extent (Stantec et al., 2005).

Downstream of Niagara Falls, the Lower Niagara River Rapids lie within the Niagara River gorge and extend from the Whirlpool Rapids Bridge downstream approximately 4.5 miles to the Lewiston Village line. It is classified as a significant aquatic habitat because the deep, fast-moving water of this segment of the river is rare.

The lower Niagara River supports warmwater, coolwater, and coldwater fisheries. Recruitment may occur from upper river fish populations through the Robert Moses and Sir Adam Beck Plants. The upper river populations are not expected to enhance lower river populations through passage over Niagara Falls, as survival is believed to be low. Salmonid populations in the lower Niagara River are directly supplemented through annual stocking of Lake Ontario and the lower Niagara River. Chinook salmon, coho salmon, brown trout, lake trout, rainbow trout (resident and steelhead), and Atlantic salmon are stocked in the lower Niagara River and/or the western basin of Lake Ontario. The lower Niagara River Rapids supports a productive coldwater fishery that is remarkable for its spawning runs of steelhead (rainbow trout). During spawning runs, this area supports one of the largest concentrations of steelhead known to occur in New York State. Substantial numbers of coho salmon, Chinook salmon, and brown trout also occur in the area during the spring and fall. Other species found in the lower river rapids



include smallmouth bass, walleye, white bass, yellow perch, lake trout, and rainbow smelt (New York DOS, 1987).

### Fish Resources

The lower Niagara River is one of the best fishing spots in Western New York, offering year-round game and pan fishing and numerous annual fishing derbies and excellent warmwater/ coldwater fisheries. The lower mile near Lake Ontario is fine spawning for smallmouth bass and panfish, such as perch, blackbass and smelt. Significant seasonal game fish include coldwater species, such as stocked coho, chinook and steelhead salmon, rainbow and brown trout, and warmwater species, such as northern pike, bass and walleye.

Lewiston's waters are renowned for local panfish species and contain smelt and perch habitat just north of the Village of Lewiston WRA. The nearby river gorge also is one of the best game fishing spots for area anglers. Varieties of rainbow trout and smelt are caught on-shore at the Village, while off-shore game fishing makes the landing an active boat launch site, year-round.

Fishery resources of the lower Niagara River are managed by New York DEC in conjunction with the agency's management of Lake Ontario fisheries. Management activities and fish community objectives for Lake Ontario, including the lower Niagara River, are summarized in the Annual Reports to the Lake Ontario Committee. Unlike the upper Niagara River, the management priority in the lower Niagara River has been cold water species. These fish support important recreational fisheries in Lake Ontario, as well as in the lower Niagara River. The lower Niagara River is also managed for some of the same species as the upper Niagara River, including muskellunge and walleye (New York DEC, 2002d).

The Niagara River is an "Area of Concern" (AOC) as defined in the Great Lakes Water Quality Agreement (GLWQA) between the United States and Canada. The binational AOC encompasses the entire River on both sides of the international border, as illustrated in Figure 3 at the beginning of this section. In the GLWQA, the United States and Canada defined 14 potential beneficial use impairments (BUIs) for Areas of Concern that could result from changes in the chemical, physical or biological integrity of the Great Lakes System. Ontario and New York State independently developed Remedial Action Plans (RAPs) for their respective portions of the River. In 2015, based on the results of a U.S. Fish and Wildlife Service (USFWS) study showing that fish tumors are no longer occurring at an elevated rate in the Niagara River, DEC proposed the delisting of Fish Tumors or Other Deformities impairment<sup>26</sup>.

In recent years, lake sturgeon, which is currently listed as threatened by New York DEC, has been increasingly important in the management plan for the lower Niagara River. The state has developed a Recovery Plan specifically for lake sturgeon (New York DEC, 2000b) in the lower Niagara River. The goal of this plan, developed in 1994 and updated in 2000, is to establish or maintain sufficient self-sustaining populations of lake sturgeon (in eight waters) to warrant its delisting from Threatened to Special Concern (New York DEC 2000b). One of these waters is the lower Niagara River. Management activities for the restoration of lake sturgeon include mark and recapture experiments and radio telemetry studies to identify spawning habitats.

### Wildlife Resources

The Lower Niagara River area is an excellent habitat for many local and migratory birds and waterfowl. The open river (year-round) and steep bluffs offer summer and winter refuge and good feeding conditions for gulls and various waterfowl species. Herring, Ring-billed, Bonaparte's and other gull

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<sup>26</sup> Niagara River Area of Concern Beneficial Use Impairment Removal Fish Tumors or Other Deformities - [https://www.dec.ny.gov/docs/regions\\_pdf/nrftbui.pdf](https://www.dec.ny.gov/docs/regions_pdf/nrftbui.pdf)

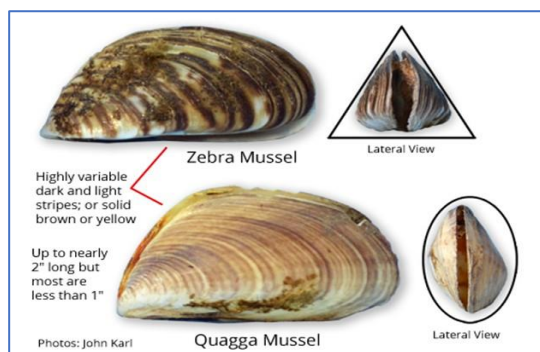
species are commonly found in abundance in the river gorge and along the lower river area. Wintering waterfowl populations (NYSDEC winter survey, 1970-1976 indicated an average of 2,135 on the Lower Niagara River) include the Black Duck, Mallard, Scaup, Canvasback, Bufflehead, Merganser and other species. These species are continually threatened by up-river pollution that affects both summer and winter waterfowl. The shores of the Niagara River also provide modest habitat for small birds and pheasant. Although the Village is urban in character, many species such as the sparrow and various songbirds occupy the wooded areas in limited numbers. Among the raptor species that may occasionally migrate through the area are the American and Arctic Peregrine Falcon, the Bald Eagle and the Turkey Vulture.

The Village of Lewiston contains no significant animal population, although deer, fox, coyote, and other mammals are known to exist in many parts of Niagara County. Undeveloped lands along the shoreline in Artpark, the southern part of the WRA, and south of the Village provide refuge for bird and waterfowl and are also likely to contain a variety of indigenous mammals including opossum, raccoon, skunk, chipmunk, squirrel, rabbit, mice, moles and other small animals. The only endangered animal that might occur in the area is the Indiana Bat, known to have existed as isolated individuals in Western New York.

### Invasive Species

#### Zebra and Quagga Mussels

Zebra and quagga mussels, both exotic, invasive species, have recently become abundant in the Niagara River. Zebra and quagga mussels ingest large amounts of plankton and other organic matter, which has greatly increased water clarity in the Great Lakes, enabling sunlight to penetrate deeper into the water and increase the growth of submerged aquatic vegetation (SAV) in much deeper water (Skubinna et al., 1995). The SAV are an important component of the aquatic habitats.



#### Round Goby

The Round Goby (*Neogobius melanostomus*) is an exotic invasive fish species. It has been in NY since only the late 1990s. By 2003, they became abundant in the Niagara River, Lake Erie and Lake Ontario. It is unknown what effect round goby will have on the fish community of the Niagara River, its tributaries, and/or the Lewiston Reservoir. Round gobies eat zebra mussels. In Lake Erie, round goby have been found in the stomachs of yellow perch, smallmouth bass, white bass, freshwater drum, white catfish, and walleye, and New York DEC believes round goby will continue to form a link between



contaminants in zebra mussels and important sport fish (NYSDEC, 2002a). Round gobies are also implicated in the botulism outbreaks that have occurred for several years in Lake Erie. During these outbreaks, many fish such as lake sturgeon, smallmouth bass, freshwater drum and rock bass and several birds such as gulls, loons, mergansers, and long-tailed ducks have died. The stomach contents of dead fish and birds often contain round goby and zebra mussels (New York DEC, 2002a).

## Cladophora Algae

Cladophora is a type of stringy (filamentous) algae that grows on rocks, wood, logs, and other hard underwater surfaces in freshwater ecosystems, including the Great Lakes basin. Water quality in some nearshore areas of Lakes Erie and Ontario remain a concern, in part due to seasonal widespread occurrences of nuisance algae (e.g., Cladophora). While Cladophora serves beneficial ecological purposes in natural amounts, excessive growth can occur under certain conditions. When a large amount of Cladophora detaches from the lake bottom, it can wash up along the shoreline and begin to decompose, potentially leading to undesirable odors, an environment suitable for the growth of bacteria, and an unfavorable recreational experience.<sup>27</sup> New York DEC made available an online reporting tool (web browser: <https://arcg.is/Or4Cue>; mobile device: <https://arcg.is/u195T>) to be used by the public to submit observations of accumulating Cladophora along the New York shorelines of Lakes Erie and Ontario, and the Niagara and Saint Lawrence Rivers.



Source: NYS DEC; photo credit: USGS

## Harmful Algal Blooms

Most algae are harmless and are an important part of the food web. Even large blooms are not necessarily harmful. However, some species of algae can produce toxins that can be harmful to people and animals. Blooms of algal species, such as blue green /cyanobacteria algae, that can produce toxins are referred to as harmful algal blooms (HABs)<sup>28</sup>.

Because it is hard to tell a HAB from non-harmful algal blooms, it is best to avoid swimming, boating, otherwise recreating in, or drinking water from an area with a bloom.



NYS DEC does not have the authority to close a waterway in the event of a hazardous bloom; however, it can close beaches that are operated by DEC, limited to a small number of beaches within the Adirondack and Catskill Parks. The NYS Office of Parks and Recreation, County officials or local Department of Health have the authority to close swimming beaches. Fishing in areas with concentrated blooms is also hazardous. DEC's guide for its Harmful Algal Bloom Program<sup>29</sup> was updated in 2019. The guide describes how NYS DEC identifies and documents cyanobacteria HABs, communicates health risks to the public, provides guidance on bloom management, and conducts research. Also, an online form allows the public to report any suspicious algal bloom, to alert DEC in order to set up potential monitoring.

So far, no HABs have been noticed or reported along the Niagara River.

<sup>27</sup> Cladophora Along the Great Lakes Shorelines - <https://www.dec.ny.gov/lands/117838.html>

<sup>28</sup> Harmful Algal Blooms (HABs) Know it, AVOID it, Report it! - <https://www.dec.ny.gov/chemical/77118.html>

<sup>29</sup> [https://www.dec.ny.gov/docs/water\\_pdf/habsprogramguide.pdf](https://www.dec.ny.gov/docs/water_pdf/habsprogramguide.pdf)

## AIR QUALITY

To protect human health and the environment from harm, the NYS DEC measures<sup>30</sup> levels of outdoor air pollution. NYS DEC also provides a forecast for some pollutants that can be harmful to human health, and data are available in real-time on DEC's AQI webpage<sup>31</sup>. Along with measuring and reporting air quality data, DEC also writes reports and network assessments for the public and technical community. DEC measures air pollutants at 50 sites that are a mix of federally mandated and supplemental monitoring networks. The sites located closest to Lewiston are located in Niagara Falls, Buffalo, and Amherst. Real-time direct reading measurements include gaseous criteria pollutants (ozone, sulfur dioxide, oxides of nitrogen, carbon monoxide), PM2.5 (fine particulate with diameter less than 2.5 microns), and meteorological data.

Figure 9. Air Quality Monitoring Sites



The New York State Ambient Air Quality Report for 2018<sup>32</sup> indicates a substantial decrease in the sulfur dioxide over the past decade, levels of ozone within standards considered healthy, and a concentration of inhalable particulates (PM2.5) lower than the national standards considered safe for human health, as reflected in the report's tables presented below.

<sup>30</sup> Air Quality Monitoring - <https://www.dec.ny.gov/chemical/8406.html>

<sup>31</sup> Air Quality Index - <http://www.nyaqinow.net/>

<sup>32</sup> 2018 Data Tables (PDF) - <http://www.dec.ny.gov/chemical/8536.html>



## SULFUR DIOXIDE - Continuous Pulsed Fluorescence

**Annual Averages 2008 through 2018**  
Annual Arithmetic Mean (ppb) - Primary Standard  
(12-month average not to exceed 30 PPB \* (4))

Station	Site No.	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Buffalo	1401-18	2.34	1.74	1.5	2.01	2.72	(2.4)	1.49	1.02	0.49	0.35	0.40
Brookside Terrace	1472-14	2.83	2.1	1.83	3.43	2.11	2.82	(1.52)	1.04	0.77	0.35	0.38
Dunkirk	0601-04	2.68	2.55	1.54	1.72	1.3	1.03	1.5	1.28	0.41	0.16	0.14
Niagara Falls	3102-25	2.13	1.58	1.53	2.74	3.47	xxx	xxx	xxx	xxx	xxx	xxx

## OZONE - Continuous UV Light Absorption

Comparison Between NYS Ambient Air Quality and Ambient Air Quality Standards for Calendar Year 2018

Station	Site No.	8-hr Running Average Begin Hour							4th Highest Daily Maximum 8-Hour Average-			
		Observations			Daily Highest Values, PPM				Not to exceed an avg of 0.075 ppm during the last 3 years, <i>changed</i> to 0.070 ppm beginning 1/1/2016*			
		Total Obs.	% Avail	Days >.070 PPM	1st	2nd	3rd	4th	2016	2017	2018	Avg.
Dunkirk	0604-01	5,720	92	4	0.078 25-May	0.073 18-Jun	0.072 24-May	0.072 26-May	0.069 24-May	0.066 27-Sep	0.072 25-May	0.068
Amherst	1451-03	5,703	97	1	0.074 25-May	0.073 26-May	0.070 28-May	0.069 24-May	0.074 11-Jun	0.066 12-Jun	0.069 25-May	0.069
Middleport	3120-02	5,545	94	1	0.071 9-Jul	0.07 28-May	0.069 25-May	0.069 26-May	0.07 18-Apr	0.062 19-Jul	0.069 9-Jul	0.067

## INHALABLE PARTICULATES (PM2.5)

Comparison Between NYS Ambient Air Quality and Ambient Air Quality Standards for Calendar Year 2018  
(Average of last 3 years= annual means not to exceed 12 µg/m<sup>3</sup> \*;  
and average of 98<sup>th</sup> percentile for last 3 years not to exceed 35 µg/m<sup>3</sup> \*, *changed* from 65 µg/m<sup>3</sup> on 12/17/06)

Station	Site No.	Total Obs.	Maximum Values, µg/m <sup>3</sup>			98th Percentile, µg/m <sup>3</sup>				Quarterly Averages, 2018				Annual Mean, µg/m <sup>3</sup>			
			1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	2018	2017	2016	3-yr Avg.	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	2018	2017	2016	3-yr Avg.
Buffalo (F)	1401-18	118	25.1 4-Jul	21.1 3-Dec	19.4 5-Aug	19.4	16.7	15	17.0	7.1	7.7	9.2	6.2	7.5	7.2	6.8	7.2
Buffalo (C)	1401-18	364	28.7 4-Jul	23.5 15-Aug	22.1 16-Aug	16.2	16.1	15.5	15.9	7.6	6.6	8.3	7.5	7.5	7.5	7.7	7.6
Grand Island Blvd (C)	1472-13	206	22.4 30-Jun	21.6 18-Jan	20.9 18-Jun	19.7	16.3	15.6	17.2	9.6	8.0	10.5	9.4	9.4	7.8	7.7	8.3
Brookside Terrace (C)	1472-14	364	23.4 18-Jun	21.6 15-Aug	21.5 27-Aug	17.5	13.6	14.7	15.3	7.2	6.4	8.5	7.0	7.3	7.0	6.6	7.0
Buffalo Near Road (C)	1455-02	337	18.6 1-Jul	18.2 27-Aug	17.6 26-May	16.1	16.1	15.2	15.8	7.5	7.1	7.5	7.6	7.4	7.8	7.8	7.7
Buffalo Near Road (F)	1455-02	116	26.5 4-Jul	19.8 5-Aug	17.8 1-Jul	17.8	15.0	13.7	15.5	7.7	7.3	9.3	6.1	7.6	7.4	6.7	7.2
Dunkirk (F)	0601-04	117	32 3-Dec	18.5 5-Aug	17.2 1-Jul	17.2	13.7	12.8	14.6	6.2	6.4	7.9	5.8	6.6	6.2	5.8	6.2
Amherst (F)	1451-03	118	20.6 3-Dec	18.4 5-Aug	17.8 7-Aug	17.8	14.7	12.5	15.0	6.9	6.4	8.2	6.0	6.9	6.6	6.10	6.5

## HISTORIC RESOURCES

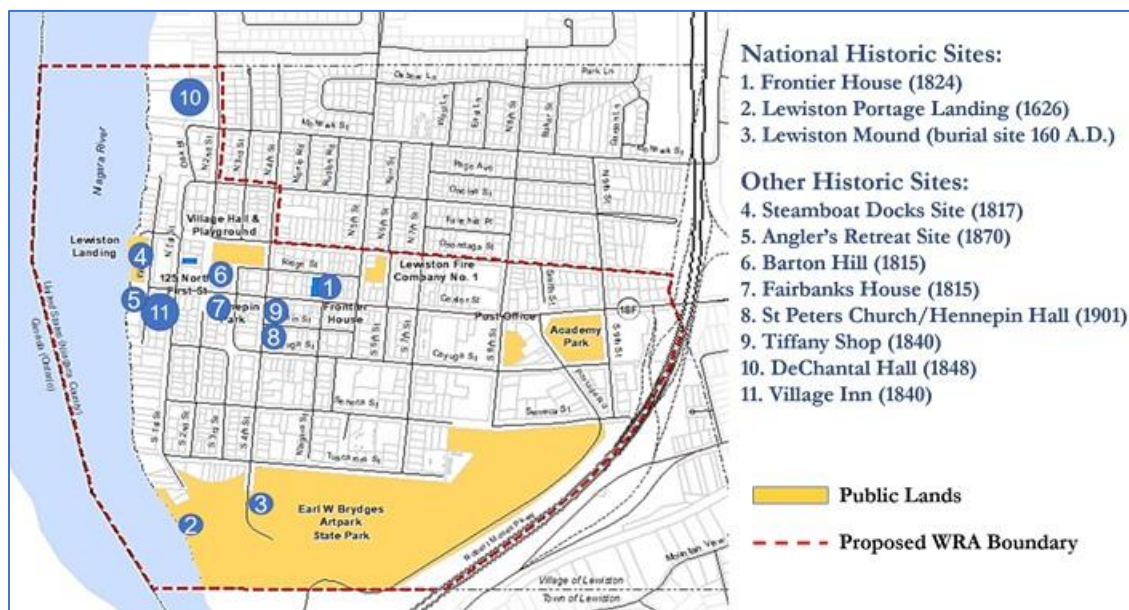
### Properties Listed in the National Register of Historic Places

The Village of Lewiston has been referred to as "the most historic square mile in America", a phrase coined by President Jimmy Carter in 1976. The vestiges of Lewiston's history still remain in many parts of the Village and provide a substantial resource of local and national importance. Center Street is the location of the old Lewiston Trail which traversed the ridge of pre-historic Lake Iroquois. This became a primary location for early structures, since 1800's goods arriving at the Center Street Locks had to be portaged up the hill to Fourth Street and move along Center Street to other destinations. Many more interesting, older (but not designated) structures exist along Center Street, Plain Street and Ridge Street.

The following three sites are listed on the National Register of Historic Places as compiled by the U.S. Department of Interior (USDOI), Heritage Conservation and Recreation Services:

- Frontier House at 460 Center Street (Registry No. PH0040118; 7/8/84) – built in 1824 by Benjamin Barton, it was known as the finest hotel west of Albany and hosted many famous guests. This building is currently in private ownership and vacant. The structure has fallen into disrepair and efforts are ongoing to restore the property to its early prominence.
- Lewiston Portage Landing Site in Artpark (registry No. Ph0040134; 7/18/74) – original site of early trade access to the Niagara Frontier and the Niagara Portage (approximately 1626).
- Lewiston Mound at Artpark (Registry No. PH0040126; 7/26/74) – early Indian burial site, carbon dated to 160 A.D. and site of pre-historic mammoth/mastodon finds.

Map 6. Historic Resources



Other historic sites and structures of local importance have been identified by the Village Historic Preservation Commission and identified on Map 6. Historic Resources.

Barton Hill and the Fairbanks House, two homes at the top of the hill at Center Street, were built by prominent community leaders. Around 1815 Barton Hill was the site of American gun placements during the War of 1812 and bears a State of New York historical marker commemorating the Battle of

Queenston Heights, October 1812 (placed 1901). Both are well maintained, attractive properties. Water Street Landing, , and the Village Inn are also notable historic buildings located near the river. Used for commercial purposes, they are in good condition. The site of the original steamboat docks is also an important historic landmark because its association with the Village's development. However, none of the original structures remain. Adjacent to the river, the Village Historic Preservation Commission has identified a historic area that encompasses Center, Plain and Cayuga Streets from Fourth Street to Fifth Street. St. Peter's Church and 400 Plain Street are also two significant contributing buildings located in this area. While the structures in this area have been subjected to enough modification to reduce their potential for designation as a national district, they still offer a complement to nearby WRA activities.

## VISUAL AND AESTHETIC RESOURCES

The Village has some dramatic visual resources that should be preserved as crucial components of waterfront development. These include the scenic view of the turbulent waters of the northern end of the Niagara Gorge, the wooded steep bank of the river seen from the water and the scenic river vistas accessible from the Lewiston Landing, Artpark and other public access sites within the WRA. All scenic views and viewsheds to and from the river are illustrated in Map 7. Viewsheds and Scenic Views within the WRA.

Probably the most outstanding vista in Niagara County (other than Niagara Falls) is the panorama available from the Niagara Scenic Parkway in the southeast corner of the Village, along with the Escarpment. This location provides an unobstructed view of the Village, lower river, Canada and Lake Ontario beyond. The City of Toronto across Lake Ontario is visible on clear days and nights. While only available to motorists and residents of Lewiston Heights atop the Escarpment, it offers breath-taking scale and an overall perspective of the Village atmosphere characteristic of Lewiston. This is a better promotion than any sign or advertisement and should not be compromised by future development.

Another excellent upland vantage point is the intersection of Center and Fourth Streets. To the south is a vista of the Lewiston-Queenston Bridge set against the bluffs of the Niagara Gorge and to the west is a view of Queenston Heights in Canada as it appeared to the American forces during the War of 1812.

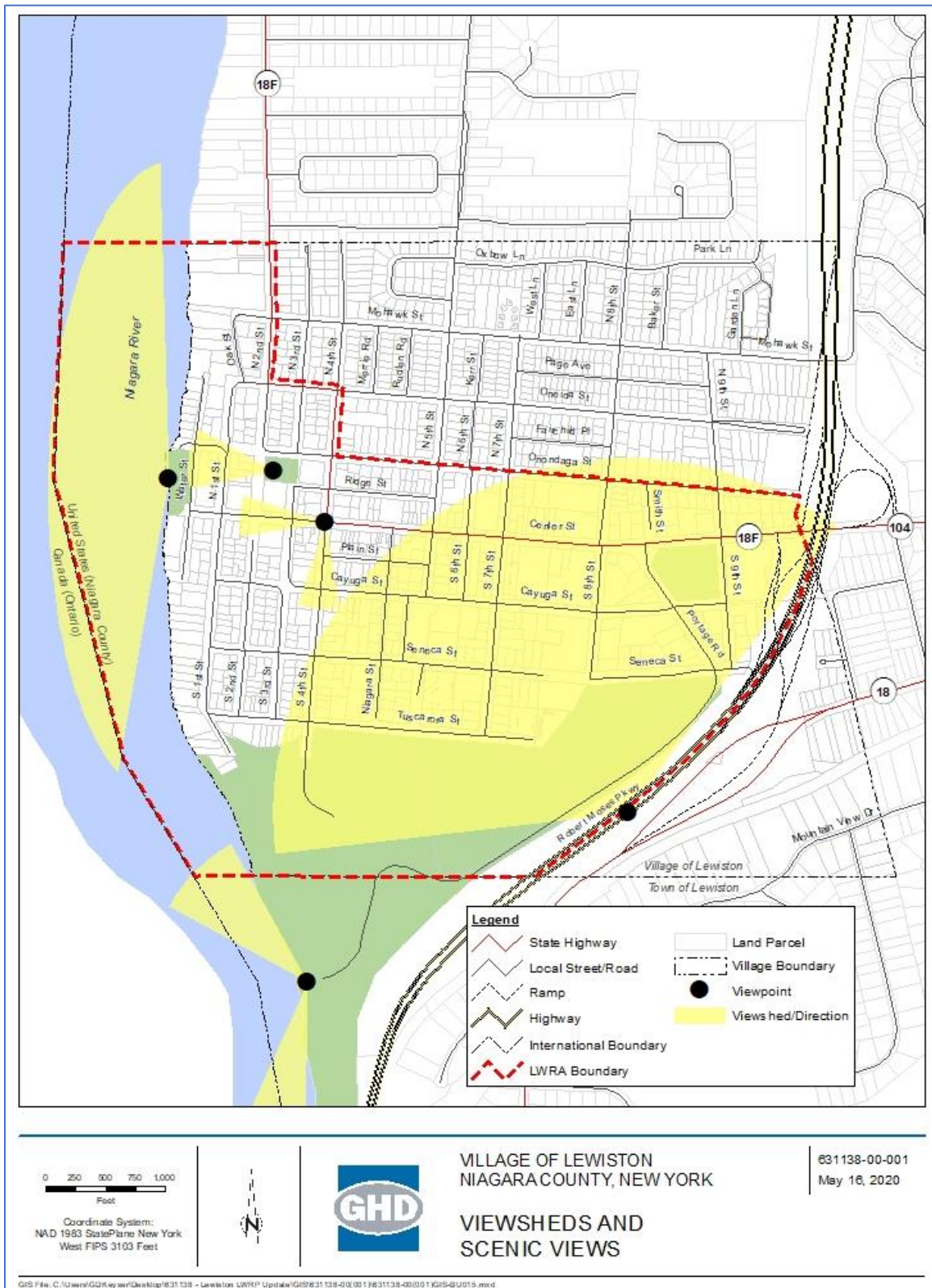
A more extensive vista of the Niagara Gorge is visible from the shoreline in Artpark. Visitors to the area are continually subjected to excellent views along the river (bluffs, power house, bridge etc.), due to Artpark's open character and this opportunity could be further developed with viewing areas and access trails.

The slopes near the river provide many local vantage points from which scenic views of the river can be enjoyed. These areas include two ridges which are situated along the shoreline and Third Street. Most land in these areas is privately owned residential property with limited public access. However, the public park behind Village Hall is well located to take advantage of the scenic vistas of the river. Situated at the top of the Onondaga Trail, the park is accessible to the public and can be further developed to enhance the visual potential of its location. The in-water aesthetics of the shoreline are also quite dramatic. Individuals observing the river can see either the Niagara Gorge with its bluffs or the wooded slopes of the Village rising from the river to the Escarpment.

New development in this area will be carefully sited to improve the visual qualities of the waterfront and preserve the vistas available from higher elevations within the Village. Wooded areas should be preserved to provide aesthetic appeal to the shoreline and soften the character of nearby urban development.



Map 7. Viewsheds and Scenic Views within the WRA

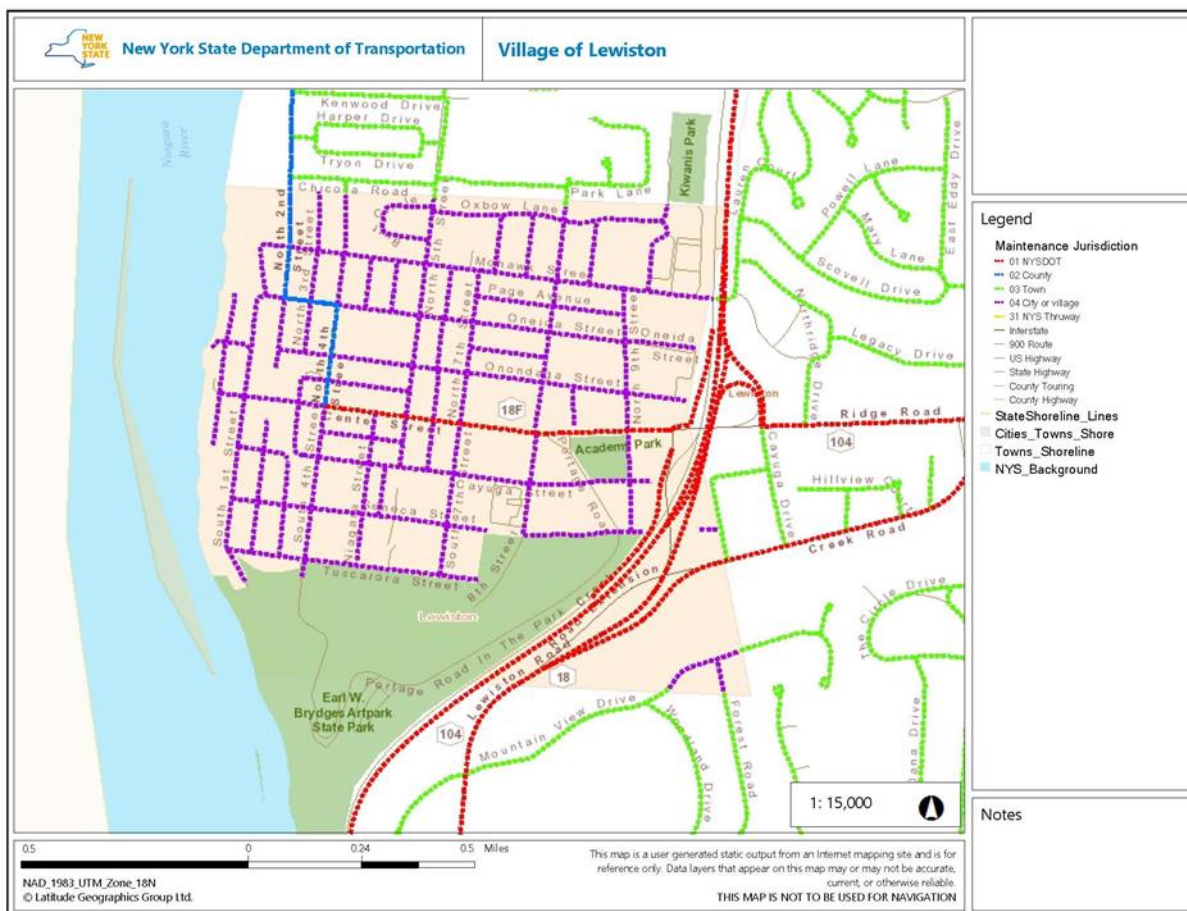




## TRANSPORTATION

The Village of Lewiston has excellent highway access to nearby cities via the Niagara Scenic Parkway, limited-access expressway to Niagara Falls and Buffalo via I-190, and N.Y. Route 104, from Ridge Road to Lockport. These arterials interchange at the Village line and exit onto Center Street. Center Street is the major east-west road in the Village, is the center of community activity, and links the Niagara Scenic Parkway on the east and the Lewiston Landing at the waterfront on the west and contains most of all commercial development in the Village. Center Street is also part of Route 18F, the designated New York State Seaway Trail. Following Center, Fourth, Oneida and Second Streets, Route 18F attracts numerous tourists annually to the scenic Niagara River drive between Lewiston and Lake Ontario. Figure 10<sup>33</sup> illustrates the street network within the Village and the entities responsible for road maintenance.

Figure 10. Street Network and Maintenance Jurisdiction

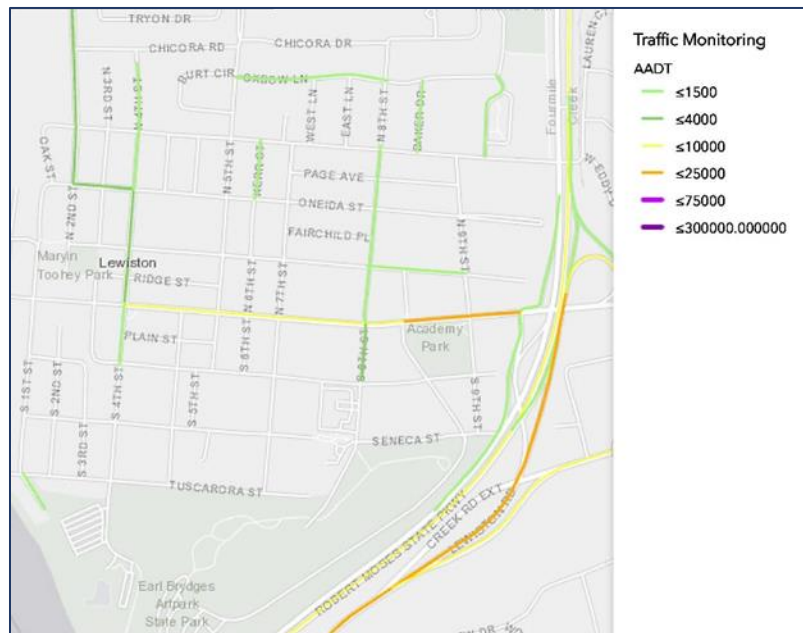


Internal circulation within the Village is accommodated by six collector streets to residential uses and community generators. Mohawk and Cayuga Streets provide additional east-west circulation, while Fourth, Fifth, Eighth and Portage Streets provide north-south circulation and access to major land uses. Portage and Fourth Streets are the entrances to Artpark and are heavily utilized by theater patrons and tourists throughout the season. Village streets occupy 211 acres of land and comprise 33 percent of total land use. The Village is laid out in a grid pattern and land is fully accessible by local streets.

<sup>33</sup> NYS DOT Roadway Inventory System Viewer - <https://www.dot.ny.gov/gisapps/roadway-inventory-system-viewer>

Principal traffic generators include Artpark, commercial development along Center Street, and the boat launch at the landing on the waterfront.

Figure 11. Annual Average Data Traffic



The circulation system is in good condition with pavement adequate for traffic conditions. However, Center Street is the only road with sidewalks and others have substantial shoulder and drainage problems. Some residential streets have been installed in the past to open up large blocks and these are quite narrow (Ridge, Plain, Niagara, Page, Fairchild, etc.). Since road drainage also handles adjacent land uses, improvements are needed to create a Village drain relief system.

Public transit services exist from Niagara Falls to Lewiston via regularly scheduled bus service. The route follows Lewiston Road and Center Street and loops around Fourth Street to link the Village with Mount St. Mary's Hospital, Niagara University and other regional bus routes. There is no rail service in Lewiston, although regular Amtrak service exists out of Niagara Falls.

### Pedestrian Circulations

The Onondaga Trail follows the Onondaga Street right-of-way from the intersection of Second and Onondaga Streets down the hill to First Street and provides a pedestrian connection and open space link to Lewiston Landing. Center Street is considered part of the Great Lakes Scenic Byway and provides a link between the shoreline and the Niagara Scenic Parkway.

### Parking

Public parking in the WRA is at a premium, especially near the landing and boat launch. Only eight to ten spaces exist on the landing, while approximately 75 to 100 spaces are designated on Water Street (including a private, gravel parking lot), some for trailers. This promotes some conflicts between parking and vehicular access on Water Street and causes overflow into on-street residential parking on adjacent streets during seasonal uses. Other public spaces exist at the Village Hall on Fourth and Onondaga Streets (20 to 30 spaces), numerous spaces at Artpark and public parking along most streets in the Village. However, none of these is adequately linked to the prime waterfront area (Lewiston Landing) and offer only marginal use at this time. Facilities at Artpark are currently inadequate during

performances, as extensive overflow is encountered on Village streets. Future improvements in waterfront activities and access will depend on adequate parking available to new development.

## HEALTH AND EMERGENCY SERVICES

Health services are concentrated in Mount St. Mary's, a Catholic hospital located in the Town of Lewiston. Other nearby hospital facilities are in Niagara Falls, about six miles south of the Village.

The Village contracts with the Town of Lewiston for Police services, while the Village and the Town share costs for the Volunteer Fire Company, Lewiston Fire Company No. 1. The Village pays on a contractual basis for the costs of operating the Fire Company and also pays for insurance for the Fire Company.

The Niagara County Department of Health monitors the quality of public water supplies, inspects septic systems, issues permits, inspects public pools and beaches for water quality, enforces no-smoking regulations in public places, and evaluates food service facilities.

The Public Health & Emergency Preparedness Division coordinates local health disaster planning with the National Center for Disease Control Preparedness Strategic National Stockpile, the National Response Plan and the Great Lakes Cross Border Initiative. This Division also provides Public Health Alerts and trains local Health Emergency Response Teams to be able to respond to local emergencies.

## DRINKING WATER SUPPLY, DISTRIBUTION AND QUALITY

The Village of Lewiston owns and maintains all distribution lines within its corporate boundary. The village purchases its potable water supply from the Niagara County Water Authority and has been adequate to meet demand. Water supplied to the Village is metered daily for billing purposes and to monitor system loss. The WRA is serviced by a complete distribution system managed by the village. The system is generally adequate to support future development at prevalent densities. The existing waterlines are aging, and the Village performs routine line maintenance and replacement as required.

The water source used by Niagara County Water Authority is located in the west branch of the Niagara River. The water quality is considered excellent; no use restrictions were experienced in 2019. The treatment plant uses pre-chlorination, coagulation, rapid mix, flocculation, sedimentation, and filtration processes to ensure the quality of the water. The Niagara County Water Authority also uses chlorination for disinfection. The water treatment plant has been approved as a direct filtration plant; however, water is treated using conventional filtration including all of the processes described above. In addition, fluoride and a corrosion inhibitor are added to the potable water prior to distribution. In 2019, the daily average volume of water treated and pumped into the entire distribution system was 15,724,036 gallons per day. In 2019, valve upgrades were completed at the Shawnee Road Pump Station and Filtration and filter controls upgrades were done at the Water Treatment Plant. Construction is ongoing for a chlorination system upgrade including the installation of a chlorine scrubber and HVAC upgrades at the Water Treatment Plant and improvements at the 102nd Meter Pit<sup>34</sup>.

## WASTEWATER COLLECTION AND TREATMENT

The Village of Lewiston, including the area within the coastal boundary is completely serviced by a separate wastewater collection system. All residential and commercial establishments are serviced. The regulations regarding the use of the public sewer system are included in Division 2 of Chapter 20 -

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<sup>34</sup> Niagara County Water District Annual Drinking Water Quality Report for 2019.

Water, Sewers and Sewage Disposal of the village Code. The total Village system consists of approximately 77,000 linear feet of sewer. The sanitary sewer system within the coastal boundary consists primarily of vitrified tile, gravity sewer, and ranges from thirty to fifty years old. All wastewater flows generated in the coastal area are tributary to a pump station and pumped over the Escarpment to a metering pit prior to connection to the Town of Lewiston's sewer system. The Village is included in the Lewiston Master Sewer Improvement Area (LMSIA), which includes the Towns of Lewiston and Porter and Village of Youngstown.

The sanitary sewer system is a vital part of the coastal areas' infrastructure. The existing system has limited capacity to support future development. Grease buildup in the collection system is a recurring problem during the summer months. The Village supports an ongoing maintenance program to maintain system efficiency and reduce infiltration and inflows. However, despite these efforts the sewer system continues to age with the Village replacing deteriorated infrastructure on an as needed basis. All wastewater collection system additions and improvements are designed and constructed in accordance with "10 States Standards", Niagara County Health Department, and NYSDEC Standards.

## **SOLID WASTE AND HAZARDOUS WASTE MANAGEMENT**

Solid Waste collection is the responsibility of the Village of Lewiston. The Department of Public Works collects both municipal and resident debris and garbage. No burning is allowed in the Village. All waste is disposed of at the Model Cities facilities in the Town of Lewiston under private contract. The contract contains no disposal restrictions and the facility possesses sufficient capacity for current and anticipated Village needs.

The NYS DEC has indicated that the Stauffer Chemical-ArtPark Site is within the Village of Lewiston coastal area. The inactive hazardous waste disposal site (Site Code #932049) is a landfill of approximately one acre located off of 4th Street in Artpark and was used for waste disposal from 1953 to 1969. An unknown quantity of asbestos, graphite, cinders, reactor bindings, scrap sulphur and metal, and silicon, zirconium and titanium oxides were disposed of at this site (NYS DEC Inactive Hazardous Waste Disposal Report, P. 9-397). Most the wastes had been covered by 1979, and soil samples collected in 1982 by the USGS indicated the presence of organic compounds of 20 parts per billion (ppb) for soil and one ppb for water. A State Superfund Phase investigation has been completed by the Niagara County Health Department and the US Environmental Protection Agency, and this indicated heavy metal and organic contaminants in soil and surface water.



## SECTION III – COASTAL POLICIES WITHIN THE LEWISTON WATERFRONT REVITALIZATION AREA

This section includes the State Coastal Policies and an indication of which policies are applicable within the Village of Lewiston Waterfront Revitalization Area described in Section I of this LWRP. Following the policy statements are explanation of policies, including local refinement necessary to relate to the Lewiston WRA. Each policy either promotes the beneficial use of natural and cultural resources, prevents their impairment, or deals with major activities that substantially affect numerous resources within the WRA. The policies are the basis for local, State and federal consistency determinations for activities affecting the waterfront revitalization area. Actions within the WRA must not be inconsistent with any of the coastal policies bellow.

The policies are presented below and organized under eleven categories: development, fish and wildlife, flooding and erosion hazards, general, public access, recreation, historic and scenic resources, agricultural lands, energy and ice management, water and air resources, and wetlands.

### DEVELOPMENT POLICIES

#### Policy 1

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

#### Policy 1A

**Revitalize Lewiston Landing Park and Marina for boating, fishing, and other related and compatible recreation and commercial uses.**

#### Policy 1B

**Revitalize Artpark State Park for cultural, recreational, and related and compatible commercial uses.**

#### Policy 1C

**Revitalize Center Street for tourism oriented commercial uses.**

#### Explanation of Policies

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 so as 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 that 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 give strong consideration to taking the 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.

Lewiston Landing Park and Marina, the Artpark State Park and Center Street are three areas within the WRA that serve as catalysts for the economic revitalization of the entire Lewiston WRA. Each of these areas has seen periodic deterioration and underutilization caused by economic downturns or weather events that increase the level of Niagara River and damaged the shoreline facilities. The continue restoration and expansion of these areas for tourism and recreational purposes is crucial to the economic revitalization of the waterfront.

At the Lewiston Landing park and Marina, the Village continues to improve shoreline stabilization, to upkeep and improve public amenities and recreation-oriented commercial uses, improve public enjoyment of the entire WRA, and encourage year-round use of the Lewiston Landing Park and Marina. The improvement of recreational uses is crucial to the revitalization of the Lewiston Landing and the

commercial area along Center Street. A Master Plan that will expand the use and programming of the Artpark is currently under development. Also, the revitalization of the commercial area along Center Street will complement the services and tourists' experience offered at Lewiston Landing and Artpark.

The following guidelines will be used to determine the consistency of a proposed action with this policy.

1. When an action is proposed to take place at Lewiston Landing, Artpark, or along Center Street:
  - a. Priority should be given to uses which are dependent on a location adjacent to the water and, in particular, those uses which expand boating facilities and increase water-related recreation opportunities (see also policies 2 and 21);
  - b. The action should enhance existing and anticipated recreational and related commercial uses within the target area, while minimizing any adverse impacts on surrounding residential areas;
  - c. The action should serve as a catalyst to private investment in the area, particularly for the improvement and expansion of private water-related recreational and commercial uses located in the two-block area south of Center Street;
  - 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 that is compatible with the character of the area, with consideration given to scale, architectural style, density, and intensity of use. New development should not compromise the traditional value and function of the Lewiston Landing for recreational boating, fishing, and transport;
  - f. The action should have the potential to improve the existing economic base of the community, and, at the 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 (see also Policy 25); and
  - h. The action should have the potential to improve multiple uses of the site (see also Policy 22).

## **Policy 2**

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

### **Policy 2A**

**Site compatible water-enhanced uses upland in the Lewiston Landing Park and area along Water Street.**

#### Explanation of Policies

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 two blocks area encompassing the Lewiston Landing Park and public parking area is subject to intense pressure from private development of non-water-dependent uses. In order to ensure coastal preference for water-dependent uses, new facilities on the waterfront will be sited that depend on access for use of the river. These include:

- Fishing
- Coastal Recreation
- Sea/Land Transfer Facilities (docks, launching, etc.)
- Flood/Erosion Control Structures (Bulkheads, etc.)
- Marine Repair/Service/Storage Facilities
- Support Services (parking, food, bait, etc.)

These uses will be given preferential treatment for waterfront location, access and operation. Land adjacent to shorefront parcels (e.g. Water Street) will be promoted for commercial facilities (restaurant, motel, etc.) consistent with existing uses and in sufficient quantity to satisfy waterfront demand only.

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 a given area, but a future demand is reasonably foreseeable, temporary non-water-dependent uses should be considered preferable to a non-water-dependent use which involves an irreversible or nearly irreversible commitment of land. Parking lots, passive recreational facilities, outdoor storage areas, or non-permanent structures are uses or facilities which would likely be considered "temporary" non-water-dependent uses.

New water-dependent and water-enhanced uses to be developed are to be sited and designed, so that they enhance, or at least do not detract from, the surrounding area and so that they avoid adverse impacts on valuable, natural and man-made waterfront resources. Consideration should be given to such factors as the protection of nearby residential areas from noise, odors, and traffic and the



preservation of natural protective erosion features. Affirmative approaches should be employed, so that water-dependent and water-enhanced uses and adjacent use will complement each other.

The following uses – which depend on proximity, access and/or utilization of the water – are allowed in the W-D Waterfront Development District: boat liveries and marinas; boat and boating accessories service, repair, sales and rental; fishing and tackle equipment and supplies sales; and, flood and erosion protection structures. The following water-enhanced uses are allowed in the W-D Waterfront Development District: tourist facilities (i.e., restrooms, snack bars, information areas, cultural and recreation facilities); restaurants and eating establishments; hotels and motels; bed and breakfast residences, tourist homes; and retail and service facilities complementary to the aforementioned uses.

### 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 Village of Lewiston is not considered a major port as defined by the policy statement above. Therefore, the state coastal policy regarding the development of major ports is not applicable to the Village of Lewiston WRA.

### Policy 4

**Strengthen the economic base of small harbor areas by encouraging 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. A long time ago, the Village's waterfront used to be the heart of local commerce, as described in the brief waterfront history included in Section II of the LWRP.

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. Particular 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.

However, today and for the foreseeable future, just recreational boating and recreational fishing are the compatible uses supported by the small public area that allows access to Niagara River, at Lewiston Landing Marina.

### **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 in close proximity to, 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 where outward expansion is occurring;
- increase the productivity 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.

The Village of Lewiston is an area of concentrated development where infrastructure and public services are adequate and available to the entire village. Infrastructure is adequate to accommodate future development, with the exception of storm water drainage which indiscriminately flows overland from upland areas into the Niagara River. 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 in order 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 the Village will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, as long as 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 and programs 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 the particular type of development and will 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 so as to maintain their viability as habitats.**

#### Explanation of Policy

Currently, there are no State or locally designated significant coastal fish and wildlife habitats within the Lewiston WRA.

### **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 by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, as defined in Environmental Conservation Law (ECL Section 27-0901(3)) "hazardous waste is waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- a. Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

- b. 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 (6NYCRR Part 317) has been adopted by DEC.

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, particularly into the State's air, land and waters. 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, not identified as hazardous wastes. Such pollutants are also controlled through State laws. The Stauffer Chemical-Artpark inactive hazardous waste disposal site will continue to be monitored by the State.

### **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 9A**

**Expand recreational use of Artpark for fishing, bird watching and other compatible passive recreational opportunities by promoting and improving access, trails and other facilities.**

### Explanation of Policies

Significant concentrations of fish and wildlife (bird) resources are found in the lower Niagara River. Fish resources include native and stocked species, which offer excellent year-round fishing opportunities. Wildlife resources include many species of resident and migratory birds and waterfowl, which are popular in the region for hunting and bird watching. Lewiston Landing provides one of the few points of public access to the waters of the lower Niagara River for recreational use. Artpark provides some additional opportunities for onshore fishing and passive recreational uses, such as birdwatching, wildlife photography, and nature study.

The recreational use of these resources and the associated economic benefits are to be maintained and expanded primarily through promotion of the resources and existing facilities and some improvement of access and recreational facilities. Provisions for increasing access and recreational facilities are described under Policies 19, 20 and 21. Continuation of the NYSDEC fish stocking program is essential to maintaining and increasing the recreational uses of the lower Niagara River. Such efforts shall be made in a manner which ensures the protection of renewable fish and wildlife resources and considers other activities dependent on them.

A fish bed north of the Lewiston Landing, along the shoreline and outside of the Lewiston WRA, is an important area for the seasonal breeding and feeding of smelt and perch which attracts game fish to the Lewiston WRA. The location of this fish bed and public fishing areas are identified on Figure 7. Public Fishing Access Areas included in Section II of the LWRP. The feeding grounds are essential to pan and sport/game fishing in the Lower Niagara River and represent a substantial resource of key importance to recreational development of the Village waterfront.

In order to protect and preserve the habitat, actions shall not be undertaken if such actions would destroy or significantly impair the viability of this area as a habitat. The value of the feeding grounds would be compromised if the habitat is destroyed or seriously impaired by road salt and highway chemical contamination, sedimentation from surface run off, siltation, high concentration of gas or oil contamination from boating or spills and sanitary sewage outflow or hazardous waste run-off. Activities



that could impair the fish habitats include new in-water structures in breeding beds, over-fishing, substantial increases in high-speed boating or small craft activity in habitat areas. As feasible, efforts should be undertaken to improve or strengthen the habitat values of this area.

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. Also, such efforts must be done in accordance with existing State law and in keeping with sound resource management considerations. Such considerations include biology of the species, carrying capacity of the resources, public demand, costs and available technology.

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

1. Consideration should be made as to whether an action will impede existing or future utilization of the local recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources should not lead to over-utilization of the resource or cause impairment of the habitat.
3. The impacts of increasing access to the local recreational fish and wildlife resources should be determined on a case-by-case basis.
4. Any public or private sector initiatives to supplement existing stocks (e.g., stocking with fish reared in a hatchery) or develop new resources (e.g. expanding the habitat) must be done in accordance with existing NYSDEC regulations and programs.

### **Policy 10**

**Further develop commercial fishing, 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

Commercial fishery development activities must occur within the context of sound fishery management principals developed and enforced within the State's waters by the NYS DEC 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.

Currently, there are no large commercial fishing activities or space for onshore commercial fishing facilities within the Lewiston WRA. However, charter captains provide the opportunity for recreational fishing charters along areas of the Niagara River and Lake Ontario.

## **FLOOD AND EROSION HAZARD POLICIES**

### **Policy 11**

**Buildings and other structures will be sited in the coastal area so as to minimize damage to property and 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.

Currently, there are no identified coastal erosion hazard areas within the Lewiston WRA or anywhere else along the Niagara River. Where human lives may be endangered by major coastal storms, all necessary emergency preparedness measures should be taken, including disaster preparedness planning.

## **Policy 12**

**Activities or 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.**

### Explanation of Policies

Within the Lewiston WRA, bluffs are the protective features that help safeguard lands and property from damage, as well as reduce the danger from flooding. 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 diverse effects are minimized. The bluffs will be protected from development that could lead to increased erosion.

Future bulkheading, shore protection and dock placement as part of the Lewiston Landing Waterfront Park will require careful planning and construction. The structures should enhance the natural shoreline and serve to reduce erosion, while affording safer public access.

## **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.**

### 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.

The proper protection of the shoreline and bluffs (both shoulder and toe) is critical to the development of both the Lewiston Landing and major private developments. The facilities along the shoreline at Lewiston Landing protect the boat launch and enhance public access at the bluff and prevent further slope deterioration. These structures perform two valuable purposes, they lessen and alleviate erosion and define public access areas, while promoting safer utilization (i.e. riverside groin protects launch ramp and enhances launch/retrieval cycles).

Guidelines to be considered in the construction of erosion control structures include:

1. Materials selection will be based on life cycle costing criteria, which considers not only initial costs but discounted maintenance costs for a minimum of 30 years (Present Worth Analysis).
2. Structures should be designed to be aesthetically pleasing, should be compatible with surrounding facilities and should not pose a barrier to public access.
3. Public and private structures should be subject to formal engineering review.

4. The viability of facilities must be demonstrated when considering alternatives such as non-structural controls.

The viability of facilities must be demonstrated when considering alternatives such as non-structural controls influenced by erosion control structures within the WRA. Structures will be planned in a manner which will not adversely affect drainage patterns or weaken shorelines. Proper slopes will be planned above and adjacent to structures to alleviate runoff, which can further exacerbate the action of erosion.

#### 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, human actions 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 shoreland thus increasing their rate of recession; and the failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of shorelands.

At Lewiston Landing Park and Marina, due to fluctuations in water levels and current velocity, with the exception of a river-side groin wall and finger pier extension(s), the current erosion control structures are either sheet piled bulkheads (shore-side), select rip-rap placement, or landside structures to protect upland bluffs. Docks and finger piers of the floating type that could adapt to the dynamics changes in water levels are preferred. Because of the high riverbank, the base flood elevation<sup>35</sup> is not influenced by erosion control structures within the WRA. Structures will be planned in a manner which will not adversely affect drainage patterns or weaken shorelines. Proper slopes will be planned above and adjacent to structures to alleviate runoff, which can further exacerbate the action of erosion.

#### 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, mining, excavation and dredging are not occurring within the Lewiston WRA.

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<sup>35</sup> FEMA defines the Base Flood Elevation (BFE) as the computed elevation to which the flood is anticipated to rise during the base flood or the 1-percent annual chance flood or 100-year flood. The Base Flood Elevation is a baseline determined based on historic weather data, local topography and soils etc., BFEs are shown on FEMA's Flood Insurance Rate Maps (FIRMs)

## Policy 16

**Public funds shall only be used for erosion protection 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 the protection of human life and existing investment in development 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 of such activities and development on the rate of erosion and on natural protective features and requires that careful analysis be made of such 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 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 any one, or a combination of, non-structural measures would afford the degree of protection appropriate both to the character and purpose of the activity or development, and to the hazard. If non-structural measures are determined to offer necessary protection, then consistency with the policy would require the use of such measures, whenever possible.

In determining whether or not non-structural 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.

The topography of the waterfront area of the Village is characterized by steep slopes and banks along the waterfront composed of clay and shale which are subject to surface erosion through weathering and ice damage. The local policy reflects nonstructural measures to reduce surface erosion. The use of development restrictions on 20% or greater slopes, minimum 50-foot setbacks, minimal slope manipulation and vegetation cover to stabilize banks along the waterfront will be utilized in the coastal area.

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.



## 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 in 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 take into account 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.

## 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 is intended to improve access to public lands along the shoreline and across the WRA. Lewiston Landing is in the only public access area that offers physical access to the Niagara River within the WRA. Topography and private ownership further restrict public access at other locations along the Niagara River, and Artpark has limited seasonal access. Lewiston Landing Waterfront Park and Artpark shall receive priority for maintenance of and improvements in access, parking, and connection with other areas of the Village.

As described in the Inventory and Analysis, the lower Niagara River is a major, growing recreational area for recreational fishing and boating. The Village of Lewiston is one of the few areas on the lower Niagara River where it is physically possible to provide access for boating and fishing, as well as access to the magnificent scenic vistas of the Niagara River gorge. Even with these opportunities, it is essential that access to the public water-related recreation resources and facilities within the Village's WRA is maintained and improved.

Existing public water-related recreation facilities within the Village of Lewiston include the Village boat launching, docking, and fishing facilities at Lewiston Landing Waterfront Park and very limited State facilities at Artpark (a fishing pier and nature trails). Artpark and the Lewiston Landing Waterfront Park and adjacent area also provide significant visual access opportunities

In addition, as feasible and subject to the relevant guidelines given below, public transportation services should be maintained and promoted, so as to provide access for the non-automobile-owning public and reduce traffic congestion that may impair public access.

The following additional 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 or beneficial by the public body having jurisdiction over such access as the result of a reasonable justification of the need to meet systematic 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 waterfront lands and waters.
- b. Public water-related recreation resources or facilities - all public lands or facilities 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.
- 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 including regular fares in any instance) of public transportation to a public water-related recreation resource or facility, except where the public body having jurisdiction over such fares determines that such substantial fare increases are necessary; and/or admission fees to such a resource or facility, and an analysis shows that such increases will significantly reduce usage by individuals or families with 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:
  - (1) 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.
  - (2) Sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation resource or facility.
  - (3) 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 Village or State government 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.
- See also policies 1, 2, 9, 20, 21, and 22.

## 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

Given the limited availability in the lower Niagara River of public facilities providing specific water-related recreational activities and the limited opportunities for developing such facilities to meet an increasing demand, access to publicly-owned lands adjacent to the river's edge should be provided, whenever practicable, for activities and pursuits which require only minimal facilities for their enjoyment. Where access to such lands cannot be provided or is not needed at this time, such lands shall nonetheless be retained in public ownership to ensure future opportunities for providing public access and/or developing needed public recreational facilities.

Within the WRA, such public lands include lands owned by the Village within the planned Lewiston Landing Waterfront Park site; lands owned by the State within Artpark that are not currently used for specific water-related recreational activities; and State-owned underwater lands.

While State-owned underwater lands 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. In particular, the provision of easements for mooring or docking facilities for adjacent property owners in the area north of Onondaga Street to the Village boundary must not conflict with the use of, or access to, public boating facilities at Lewiston Landing, the protection of offshore fish resources, or the preservation of natural erosion protection features and scenic values of shoreline bluffs.

The following additional 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 waterfront 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 waterfront 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 Policy 19 of "access", and "public lands or facilities").
  - b. A reduction in the existing 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 the public waterfront lands and/or waters.
    - (2) Sale, lease, or other conveyance of public lands that could provide public access to public waterfront lands and/or waters.
    - (3) Construction of private facilities which physically prevent the provision of convenient public access to public waterfront lands and/or waters from public lands and facilities.
2. The existing level of public access within public waterfront lands or waters shall not be reduced or eliminated.
    - a. A reduction 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 and along the shoreline 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 or (b) adequate access exists within one-half mile. 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 accessway.
  4. The Village or State government will not undertake or fund any project which increases access to public waterfront lands and/or waters 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 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.
  6. Proposals for increased public access to public waterfront lands or 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 resource. 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.
- See also policies 1, 2, 9, 19, 21, and 22.

## 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.**

### Policy 21A

**Improve and expand water-enhanced commercial facilities which support water-dependent recreational uses at Lewiston Landing.**

#### Explanation of Policies

As described in Section II, recreational opportunities along the lower Niagara River are extremely limited, while topography and existing development limit the potential for developing much-needed recreational facilities. The Village of Lewiston is uniquely situated to provide increased opportunities for water-related recreation in the lower Niagara River, as well as Lake Ontario, through the expansion, improvement and development of public and private recreational and supporting facilities.

The focus will be the continued improvements to the Lewiston Landing Waterfront Park, improve access, infrastructure, and boating facilities on the river; and support commercial facilities and services in the upland area.

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

1. Consistent with demand and the protection of other important waterfront resources, water-dependent and water-enhanced recreational uses shall have a higher priority than any non-water-related uses, including non-water-related recreation uses. In addition, water-dependent recreation uses shall have a higher priority than water-enhanced recreation uses. Determining a priority among water-dependent uses will require a case-by-case analysis. (See Policy 2 for definitions and additional provisions concerning water-dependent uses.)
2. Among the types of water-dependent recreation, provision of adequate boating services to meet future demand is particularly encouraged. Public and private boating facilities will include, as needed, parking, park-like surroundings, toilet facilities, and pump-out facilities.
3. Any development of water-related recreational facilities or increase in recreational use must be consistent with the preservation and enhancement of other important coastal resources and their capacity to accommodate anticipated use. Impacts on important coastal resources within the State coastal area and other local waterfront areas, as well as within the Lewiston



waterfront area, must be considered. Such resources include fish and wildlife habitats, natural erosion protection features, historic and cultural resources, scenic resources, and water resources.

See also policies 1, 2, 9, 19, 20, and 22.

### **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 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 provide, to the fullest extent permitted by existing law, 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
- Highways
- Utility transmission rights of way
- Sewage Treatment Facilities
- Schools, Universities\*
- Nature Preserves\*
- Large Residential Subdivisions
- Retail and Office Complexes

Appropriate recreation 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 recreation inadvisable as a multiple use, safety considerations should reflect recognition that some risk is acceptable in the use of recreation facilities.

## **HISTORIC AND SCENIC RESOURCES POLICIES**

### **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.**

#### Explanation of Policy

Reflecting its historic importance as a landing and portage site, pre-dating European settlement or the founding of the nation, the Lewiston WRA contains two sites listed on the National Register of Historic Places: Lewiston Mound and Lewiston Portage Landing Site, both located within the Artpark State park. In addition, most of the WRA is within a zone of potential archeological significance, as identified by the NYS Office of Parks, Recreation and Historic Preservation.

The historic structures identified in Section II, along with the many other attractive older buildings make a significant contribution to the appealing character of the Village. These resources directly complement the recreational and tourism potential of the waterfront and their preservation should be an integral part of revitalization efforts.

All practicable means shall be deemed to include the consideration and adoption of any techniques, measures, or controls to prevent a significant adverse change to 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 archeological resource, or components 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; entryways 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 resources 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 archeological resource or component thereof, to include all those features described in (a) 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 archeological resources and all actions within a 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 archeological 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. Within 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, earthwork, or component thereof of a recognized historic, cultural or archeological 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 USDO's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings of any building, structure, site or earthwork, or component thereof of a recognized historic, cultural or archaeological resource which does not involve a significant adverse change to the resource, as defined above.

Prior to undertaking major construction activities within the waterfront area, anyone proposing such activity shall consult with the State Historic Preservation Office to determine whether significant archaeological resources are present at the site and what measures are necessary to preserve these resources. All practicable means shall be used to preserve significant archaeological resources.

## Policy 24

### **Prevent impairment of scenic resources of statewide significance.**

#### Explanation of Policy

Currently, there are no scenic resources of statewide significance located within or adjacent to the Village of Lewiston.

## 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 25A

### **Prevent the impairment of the scenic quality of the lower Niagara River and the Niagara Escarpment.**

#### Explanation of Policies

The Village of Lewiston WRA provides rare opportunities to view the scenic vistas of the lower Niagara River. In addition, the Niagara Escarpment, a unique landform, provides the backdrop for the Village's waterfront area. The scenic quality of the lower Niagara River, as viewed from Lewiston, is the result primarily of its dramatic geology, natural vegetation, turbulent waters, and massive human-made structures. Lewiston's contributions to this resource are the tall, steep, wooded slopes which descend from the boundaries of the Village to the shore at the Lewiston Landing and the abrupt rise of the Niagara Escarpment cutting across the southeastern corner of the Village.

Any action that would impair the quality of these scenic resources is inconsistent with this policy. Impairment shall include: (1) the irreversible modification of geologic forms, including that resulting from the disturbance and/or acceleration of natural geological processes; (2) the destruction or removal of vegetation, whenever such vegetation contributes to the scenic quality of the resources; (3) the substantial and permanent reduction of the quality and/or quantity of water flowing in the Niagara River; (4) the addition or alteration of manmade structures which because of siting or scale will reduce views, as identified in Section II, or which because of scale, form, or materials will diminish the scenic quality of these resources.

No development, other than limited boating and fishing facilities, shall be permitted on the bluffs along the Niagara River or in the nearshore area (see Section IV, Proposed Land and Water Uses). The Niagara Escarpment shall not be breached, excavated, blasted, or otherwise altered or damaged and no development shall be permitted on the face of the Escarpment.

The WRA is also enhanced by its sloping topography, abundant vegetation and open spaces, and the historic village ambience created by existing buildings and street patterns. Redevelopment needs to be undertaken so as to preserve views from existing development to the maximum extent possible.

When considering a proposed action within the WRA, the Village, State and federal agencies shall ensure that the action will be undertaken so as to protect, restore or enhance the overall visual quality of the waterfront area. 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:

1. Structures and other development such as highways, power lines, and signs, should be sited 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. Structures should be clustered or oriented to retain views, save open space and provide visual organization to a development.
3. Sound, existing structures (especially historic buildings) should be incorporated into the overall development scheme.
4. Deteriorated and/or degrading elements should be removed.
5. The original landform should be maintained or restored, except when changes screen unattractive elements and/or add appropriate interest.
6. Vegetation should be maintained or added 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 creates views of coastal waters.
7. Appropriate materials, in addition to vegetation, should be used to screen unattractive elements.
8. Appropriate scales, forms and materials should be used to ensure that buildings and other structures are compatible with and add interest to the landscape.

## AGRICULTURAL LANDS POLICIES

### Policy 26

**Conserve and protect agricultural lands in the state's coastal area.**

#### Explanation of Policy

The Village of Lewiston, including its WRA, is a developed area which does not include any agricultural lands.

## 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>36</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>37</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

<sup>36</sup> 2015 New York State Energy Plan, Vol. 1, p. 27.

<sup>37</sup> 2015 New York State Energy Plan, Vol. 1, p. 10.

projected energy demand.<sup>38</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>39</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>40</sup> 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>41</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>42</sup>

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 NYS DOS 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.

## 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 hydroelectric power production, fish and wildlife and their habitats (See Policies 8, 9 and 10), flood levels and damage, rates of shoreline erosion damage, and 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. In particular, substantial changes in the use and installation of the ice boom in the Upper Niagara River should assess the potential effects on down-river coastal resources, erosion and flooding. Public investments and private improvements in

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<sup>38</sup> 2015 New York State Energy Plan, Vol. 1, pp. 25-26.

<sup>39</sup> 2015 New York State Energy Plan, Vol. 1, p. 27.

<sup>40</sup> 2015 New York State Energy Plan, Vol. 1, p. 9.

<sup>41</sup> 2015 New York State Energy Plan, Vol. 1, p. 7; 2015 New York State Energy Plan, Vol. 1, p. 11.

<sup>42</sup> 2015 New York State Energy Plan, Vol. 1, p. 17.



waterfront revitalization could be seriously jeopardized if the ice management facility were significantly altered or discontinued. Of prime concern in this and other prospective activities are clay-shale shoreline slopes, waterfront structures, geologic resources, archeological sites, fish habitats, and future recreational improvements.

### 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<sup>43</sup> 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 NYS DOS 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 consider a number of factors, including but not limited to: the potential effects upon maritime traffic, including

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<sup>43</sup> Outer continental shelf (OCS)

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

The Village of Lewiston no longer operates its wastewater treatment process. The Village is a member in a regional facility - the Lewiston Master Sewer Improvement Area (LMSIA). There are no industrial discharges in the Village, only commercial and residential. The outfall for the LMSIA is north of the WRA in the Town of Lewiston. The advanced treatment facility of the LMSIA has resulted in an effluent discharge of substantially better quality than previously discharged into the River by the Village in past years. Although the Village no longer treats its own wastewater, it maintains a rigorous sewer use enforcement program and sewer maintenance/rehabilitation program. The entire Village of Lewiston is serviced by public sewers. The continued operation and maintenance of this system is essential to sustain and enhance economic growth in the WRA.

### 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.**

### 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 limiting". 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. The Village of Lewiston has critical economic, environmental and social interests in the water quality classifications of the Niagara River. The current classification of the river as Class A - Special (International Boundary) supports and enhances existing and planned residential, tourism and recreational use of the waterfront area. In addition, the Village receives its drinking water from the Upper Niagara River (outside of the local waterfront area) and it is essential that the current classification and standards be maintained. There are no waters overburdened with contaminants within the local waterfront area.

### **Policy 32**

**Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are reasonably high, given the size of the existing tax base of these communities.**

### Explanation of Policy

The Village of Lewiston owns and operates a public sanitary sewer collection system. Furthermore, the Village is a member of the Lewiston Master Sewer Improvement Area, which includes the Towns of Lewiston and Porter and the Village of Youngstown. Therefore, this policy regarding the use of alternative sanitary waste systems is not applicable to the Village of Lewiston.

### **Policy 33**

**Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.**

### **Policy 33A**

**Ensure the proper siting of storm sewer outfalls to avoid conflicts with both water-dependent uses and protection of the fish habitat north of Lewiston Landing.**

### Explanation of Policies

The Village has separate sanitary and storm sewer systems, which eliminates the damaging impact of combined sewer overflows draining into coastal waters. Effective storm water drainage and runoff requires both structural and non-structural measures. Non-structural measures include proper grading, sloping, and landscaping and plantings selection. Structural modifications include effective storm water

collection systems designed for efficient storm water removal to alleviate ponding and localized flooding.

Guidelines for effective stormwater management:

1. Provide specific criteria in site plan review processes which focus on storm water removal techniques and downstream capacities.
2. Prepare a SWPPP in accordance with MS4 regulations found in Chapter 16 of the Village Code.
3. Examine grading changes, landscape amenities, and natural percolation as alternatives to piped storm water run-off.

### **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

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marina activities into the State's waters is regulated by State Law. 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. Also, specific effluent standards for marine toilets have been promulgated by the NYS DEC (6 NYCRR, 657). To further discourage the discharge of vessel waste materials, marinas to be constructed or expanded will provide pump-out facilities, unless adequate facilities are already available. Trash disposal collectors will also be provided at public and private recreational facilities located within the WRA.

### **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

Dredge spoil disposal in the Lewiston WRA will likely be off-site, as no adequate on-site area exists for proper disposal. Dredging should be limited within the WRA to that required for bulkhead and groin wall installations. Dredging, in general, should not adversely affect the water quality of the Niagara River, the natural protective capacity of shoreline bluffs, the fish habitats north of the Lewiston Landing, and river's scenic resources. 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 15, 19, 20, 24, 26, and 44). Dredged shore and river sediments (i.e.-muck, organics) shall be removed and disposed of off-site in a location approved by NYSDEC and/or the U.S. Army Corps of Engineers, if applicable.

### 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 soils into coastal waters.**

#### Explanation of Policy

Policy 33 elaborates on non-structural practices to be utilized within the Lewiston WRA to alleviate overland run-off which results in non-point source discharges. Through proper landscaping and planting methods and selection, road salt application rates and storage practices, and land use controls, non-point source pollution can be controlled. Proper street cleaning is one management practice which can lessen non-point source pollution.

### 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. The Village of Lewiston receives its public water supply from the Niagara County Water Authority, whose source is the Upper Niagara River. The Village of Lewiston has a crucial interest in any upstream activity affecting the quality of their water supply and/or the recreational value of their surface water. In addition, any action which adversely affects the fish and wildlife resources of the Niagara River is of utmost importance when considering the economic vitality of the WRA.

### 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 lands and scenic resources.**

#### Explanation of Policy

The terms "solid wastes" and "solid waste management facilities" are defined as in New York's Solid Waste Management Act (Environmental Conservation Law Section 27-0901). Solid wastes include sludge from air or water pollution control facilities, demolition and construction debris and industrial and commercial wastes.

Hazardous wastes are unwanted by-products of manufacturing processes 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.” The primary wastes attributable to the Village are municipal (domestic) wastes, trash, and white goods. The Village disposes of all municipal refuse off-site at a NYSDEC permitted sanitary landfill.

There is one known, inactive hazardous waste disposal site within the Lewiston WRA, the Stauffer-Artpark site. Any transport of hazardous wastes through the WRA, as regulated by State law, should be conducted in such a manner so as to protect the Village's groundwater and surface water supplies, existing and planned recreation areas identified in this LWRP, and important fish, wildlife and scenic resources identified in this LWRP (See Policies 22 and 25).

#### **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

There are no steam electric generating or industrial facilities located in the Village of Lewiston WRA. Therefore, the state coastal policy regarding effluent discharge from major steam electric generating and industrial facilities is not applicable to the Village of Lewiston WRA.

#### **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

The Lewiston LWRP 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 land and water use policies of the LWRP. Conversely, program decisions with regard to specific land and water use proposals and any recommendations with regard to specific sites for major new or expanded energy, transportation, or commercial facilities will reflect an assessment of their compliance with the air quality requirements of the State Implementation Plan.

#### **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.**

##### Explanation of Policy

The policies of the LWRP concerning proposed land and water uses and the protection and preservation of special management areas will be taken into account prior to any action to change prevention of significant deterioration land classifications in the coastal region or adjacent areas.

### 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 Lewiston LWRP incorporates the State's policies on acid rain. As such, it 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 POLICIES

### Policy 44

**Preserve and protect tidal and freshwater wetlands and preserve benefits derived from these areas.**

#### Explanation of Policy

Besides the riverine habitat of the Niagara River, the National Wetlands inventory, indicates the existence of a 0.70 acre Freshwater Forested/Shrub Wetland habitat, classified as a PFO1B, within the Earl Brydges Artpark State Park. There are no State-regulated wetlands within the Lewiston WRA.

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semi-aquatic vegetation and other wetlands so defined in the N.Y.S. Freshwater Wetlands Act (Environmental Conservation Law Article 24) and the N.Y.S. Protection of Waters Act (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; and
- aesthetic open space in many otherwise densely developed areas.

## SECTION IV – PROPOSED LAND AND WATER USES AND PROPOSED PROJECTS

This section of the LWRP describes the proposed land and water uses within the Lewiston WRA. Proposed projects that will be coordinated by the Village are also listed and described in this section.

### PROPOSED LAND AND WATER USES

The land area within the Lewiston WRA encompasses approximately 388 acres. Land uses within the Lewiston WRA consist of well-established residential uses, parkland, commercial businesses and public/institutional, as depicted in Map 2. Land Use within the WRA that is included in Section II of this LWRP. Future land and water uses that implement this LWRP are an extension of the current uses, permitted under the Village’s zoning law. No other land use or water use is proposed.

### PROPOSED PROJECTS WITHIN THE WRA

This part of Section IV of the LWRP lists and describes projects that will be coordinated or conducted by the Village to advance the implementation of the policies and purposes of this LWRP.

#### List of proposed projects

- Project 1 – Repair/reconstruct Staircase, Fish Cleaning Station and Pavilion
- Project 2 – Renovate Promenade and Design and Construct Ice-Skating Rink
- Project 3 – Boat Waste Pump-out Facilities
- Project 4 – Marina Maintenance and Improvements
- Project 5 – Boat Lifts, Dry Docks and Boat Repair Services
- Project 6 – Erosion Prevention Design at Lewiston Landing Park
- Project 7 – Wastewater Collection System Improvements
- Project 8 – Parking Study
- Project 9 – Comprehensive Drainage and Engineering Feasibility Study for Green Infrastructure Projects
- Project 10 – Improve Pedestrian Pathways and Circulation
- Project 11 – Bike Buffalo Niagara-Village Trails
- Project 12 – Improve the existing wayfinding system and signs
- Project 13 – Develop a commercial façade improvement program
- Project 14 - Identify ways to support the rehabilitation of waterfront residences.
- Project 15 – New and amended local laws
- Project 16 – Promoting waterfront cultural and recreational resources
- Project 17 - Expand visitor center and develop and encourage self-guided tours
- Project 18 - Maintain and improve all public parks within the WRA.
- Project 19 –Academy Park Master Plan
- Project 20 – Richard F. Soluri Park Master Plan

The proposed projects described below are grouped by common goals or objectives that the Village wants to reach. The Village will conduct an environmental quality review of each proposed project described below and of additional projects that will continue the Village efforts to implement the LWRP.

### ➤ Improve and Promote Lewiston Landing Park and Marina

Lewiston Landing Park is the only place within the Lewiston WRA that offers public access to the Niagara River and water-dependent recreational opportunities. The upkeep of this area and its waterfront attractions provide the impetus for adjacent private improvements and the economic growth of the upland commercial areas.



In 2000, the Village start developing a strategy for Lewiston Landing Park and adjacent publicly owned sites aimed at improving public access and recreational opportunities. Subsequently, walkways and docks, overlooks, a fish cleaning station and restrooms were constructed, and lighting was installed. The Village Department of Public Works buildings (i.e., garage, abandoned sewage treatment plant, pump station and storage building) were demolished and removed to provide increased open space and adjacent public parking area. Later, a new brick walkway was installed; a concrete retaining wall and soil-holding vegetation were constructed as erosion stabilization features, and wooden docks were removed and replaced with new aluminum docks. Parking for additional trailered and non-trailered vehicles was built. Over the past decades the Village was committed to maintain and periodically renovate and upgrade those facilities to make them safe and enhance user experience.

After the Niagara River flooded and damaged facilities along the landing in 2017, massive repairs were initiated and completed at the end of 2019. To increase resiliency to water level fluctuations the landing was elevated by 2 feet, and a long floating dock and attached finger docks were installed.

However, efforts to increase resiliency and enhance visitor experience will continue along with the Village's uninterrupted efforts to maintain existing facilities.



Source: DOS staff, June 2018 & September 2020

### Project 1 – Repair/reconstruct Staircase, Fish Cleaning Station and Pavilion

A new staircase connecting the top of the bluff with the landing will be designed and constructed concurrent with the reconstruction of a public pavilion and the renovation of the existing fish cleaning station, which will include accessible bathrooms.



**Estimated Cost:** \$460,000

**Potential Funding Sources:** NYS DOS, Niagara River Greenway Commission, Empire State Development Corporation, Village

**Potential Project Partners:** N/A

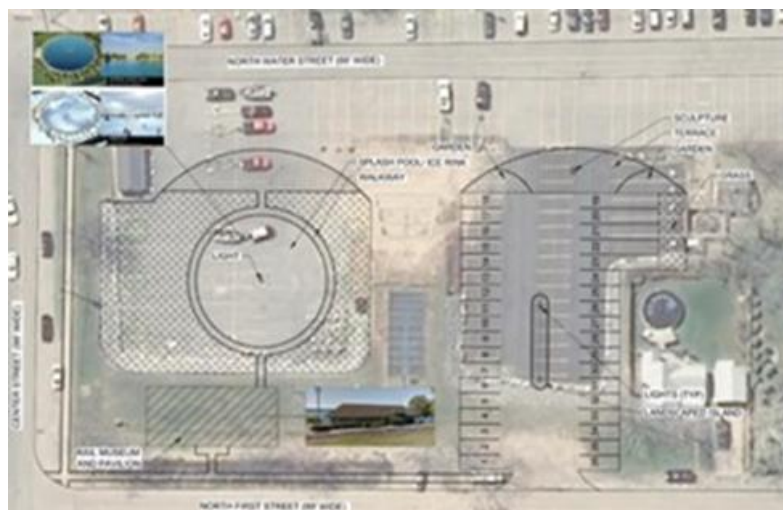
**Potential Permitting:** Village, Niagara County Department of Health

**Village Code Amendment:** None

**Implementing LWRP Policies:** 1,1A, 2, 2A, 5, 9, 19,20

### Project 2 – Renovate Promenade and Design and Construct Ice-Skating Rink

Improve the existing promenade; design and construct public ice-skating rink/wading pool to encourage year-round use of the Lewiston Landing Park. The design will include an abundance of green infrastructure elements.





**Estimated Cost:** \$620,000.00

**Potential Funding Sources:** NYS DOS, Niagara River Greenway, Empire State Development Corporation (NYS ESD), Environment Facilities Corporation (NYS EFC), Village

**Potential Project Partners:** NA

**Potential Permitting:** Village, Niagara County Department of Health

**Village Code Amendment:** None

**Implementing LWRP Policies:** 1, 5, 20, 21, 22, 25

### **Project 3 – Boat Waste Pump-out Facilities**

Sanitary wastes from boats cannot be discharged in areas designated by the State as Vessel Waste No Discharge Zones (NDZ). The entire Niagara River is a designated NDZs. The Village will conduct a study to assess if the installation of a pump-out facility will be a sustainable investment, if the current sewerage infrastructure is adequate, and if its use will not overwhelm the capacity of the existing marina.

**Estimated Cost:** \$14,000

**Potential Funding Sources:** NYS DOS, Niagara River Greenway Commission, Empire State Development Corporation (NYS ESD), NYS DEC, Environmental Facilities Corporation (NYS EFC), Niagara County, Lewiston Village

**Potential Project Partners:** NYS DEC, Niagara County Department of Health

**Potential Permitting:** Village

**Village Code Amendment:** None

**Implementing LWRP Policies:** 18, 34

### **Project 4 – Marina Maintenance and Improvements**

The Village of Lewiston will maintain and periodically renovate, repair, and complete minor improvements to its public marina facilities.

**Estimated Cost:** \$24,000/year

**Potential Funding Sources:** Village, NYS DOS, Niagara River Greenway Commission, Empire State Development Corporation

**Potential Project Partners:** NA

**Potential Permitting:** Village, DOS, USACE

**Village Code Amendment:** None

**Implementing LWRP Policies:** 1, 2, 5, 9, 11, 14, 19, 20

### **Project 5 – Boat Lifts, Dry Docks and Boat Repair Services Feasibility Study**

The installation of boat lifts at and adjacent to Lewiston Landing would provide dry docking for vessels without having to remove the boat from the water entirely. Dry storage would prolong the life of the boat by reducing maintenance and preventing hull damage from wet storage conditions. In addition, a dry-docking system would improve boating safety by making it safer to dock and board. The benefits would exceed the cost of installing boat lifts and the waterfront can bring in additional revenue with minimal maintenance. The Village will conduct a study to assess the feasibility of these proposed improvements and necessary collaboration and agreements with the owners of the sites and businesses adjacent to the public Lewiston Landing Marina and recommend future actions.

**Estimated Cost:** \$24,000

Potential Funding Sources: NYSDOS, Niagara River Greenway Commission, Empire State Development Corporation, Village

**Potential Project Partners:** NA

**Potential Permitting:** Village, DOS, DEC, USACE

**Village Code Amendment:** None

**Implementing LWRP Policies:** 1, 2, 5, 9, 11, 14, 19, 20

### **Project 6 – Erosion Prevention Design at Lewiston Landing Park**

The Village will examine alternative designs to prevent further erosion of the steep slopes within the Lewiston Landing Parks. The Village will implement the design that will prove to be the most effective in preventing erosion and ensuring a safe use of the site.

**Estimated Cost:** \$90,000

**Potential Funding Sources:** NYS DOS, Niagara River Greenway Commission, Empire State Development Corporation, Village

**Potential Project Partners:** NA

**Potential Permitting:** Village

**Village Code Amendment:** None

**Implementing LWRP Policies:** 1, 2, 5, 9, 11



### **Project 7 – Wastewater Collection System Improvements**

All residential and commercial establishments within the Village are completely serviced by a separate wastewater collection system, which consists of approximately 77,000 linear feet of primarily vitrified tile gravity sewer that ranges from thirty to fifty years old. All wastewater flows generated in the coastal area are tributary to a pump station that discharges the flows over the Escarpment to a metering pit, prior to entering the Town of Lewiston's sewer system. The Village is included in the Lewiston Master Sewer Improvement Area (LMSIA), which includes the Towns of Lewiston and Porter and the Village of Youngstown.

The Village of Lewiston will examine the current conditions and potential future needs and prepare a plan for potential expansion and improvements to the existing wastewater collection system, in accordance with the Niagara County Health Department and NYS DEC standards.

**Estimated Cost:** \$50,000

**Potential Funding Sources:** NYS EFC, NYS DEC Empire State Development Corporation

**Potential Project Partners:** NA

**Potential Permitting:** Village, DEC, Niagara County Health Department

**Village Code Amendment:** None

**Implementing LWRP Policies:** 1, 2, 5, 9, 11

### **Project 8 –Parking Study**

A comprehensive parking study will be conducted to assess parking constraints and conflicts in the WRA, especially along the waterfront near the landing and boat launch. The goal of the study is to evaluate current parking conditions and identify appropriate strategies to improve parking. The study will inventory current parking facilities, evaluate current parking supply and

demand, review current parking restrictions, assess the impact of future development and development recommendations to better manage parking and maximize the use of existing parking facilities in the WRA.

**Estimated Cost:** \$24,000

**Potential Funding Sources:** NYS DOS, Empire State Development Corporation

**Potential Project Partners:** NA

**Potential Permitting:** Village, NYS DOT

**Village Code Amendment:** None

**Implementing LWRP Policies:** 1, 1A, 1B, 1C, 2, 2A, 21, 22A, 22B

### ➤ **Improve Water Quality, Enhance Recreational Fishing and Decrease Shoreline Erosion**

The runoff created during rainfalls depends on soil infiltration rate, soil water capacity, and stormwater drainage system. Stormwater runoff from developed land, including residential and business properties and roadways, contributes sediment and contaminants to the Niagara River, which impacts the River's water quality and fish habitat. The fishing opportunities within the Lewiston WRA are one of the primary attractions of waterfront activities. Anglers are attracted year-round due to fishing and boating opportunities off Lewiston Landing and in the area.

#### **Project 9 – Comprehensive Drainage and Engineering Feasibility Study for Green Infrastructure Projects**

A comprehensive study of the existing drainage system is needed to address problems of stormwater and overland runoff which affect shoreline erosion and Niagara River water quality. The study will examine the source of drainage problems, overland flow patterns, outfall locations and the impact to waterfront land and the Niagara River. The patterns and infrastructure within the WRA will provide necessary information and recommendations for improving drainage. The study will also propose drainage system improvements, cost estimates, and implementation phases.

**Estimated Cost:** \$54,000

**Potential Funding Sources:** NYSDOS, NYS ESD, NYS EFC, Village

**Potential Project Partners:** DEC, NYSDOS

**Potential Permitting:** Village, NYSDOS, NYSDEC, USACE

**Village Code Amendment:** None

**Implementing LWRP Policies:** 18, 33, 37

### ➤ **Improve and Promote Revitalization and Connectivity**

The Village of Lewiston covers approximately one square mile and has well-established commercial areas and adequate local laws. The local government will focus its efforts to promote investment in key areas of the Village that have the potential to generate village-wide social and economic benefits. Also, the Village is fortunate to have a considerable number of historic sites, recreational landmarks, local entrepreneurs, and sidewalks that make everything reachable within walkable distance. Improvements made to the streetscape and building facades within key areas will enchant visitors and lead them to visit other areas of the Village. Center Street is the major vehicle and pedestrian link between the shore and Niagara Scenic Parkway. Improving streetscape and facades along this corridor would stimulate reinvestment in property



and businesses. Investment in this area of the Village is critical to strengthening the economic vitality of the community and will complement development that has occurred along the waterfront.

### Project 10 – Improve Pedestrian Pathways and Circulation

Improve existing, and design and build, new pathways along the Onondaga Street right-of-way, between Second and First Streets, to link open space sites and provide better pedestrian access to Lewiston Landing Park and other local attractions.

**Estimated Cost:** \$ 240,000

**Potential Funding Sources:** NYS ESD, NYS DOS

**Potential Project Partners:** Lewiston Historical Society, local and regional business associations, Niagara River Region Chamber of Commerce, Niagara County

**Potential Permitting:** DOT, Niagara County

**Potential Village Code Amendment:** No

**Implementing LWRP Policies:** 1, 19, 20

### Project 11 – Bike Buffalo Niagara-Village Trails

As part of a regional plan and effort to complete a network of bike trails that connects destinations within and between villages, towns and cities of the Erie Niagara Region, the Village of Lewiston is going to design and implement a series of bike trail segments along local streets and through public parks. The proposed trail segments and conceptual trail design are presented in the graphics provided below.

**Estimated Cost:** TBD

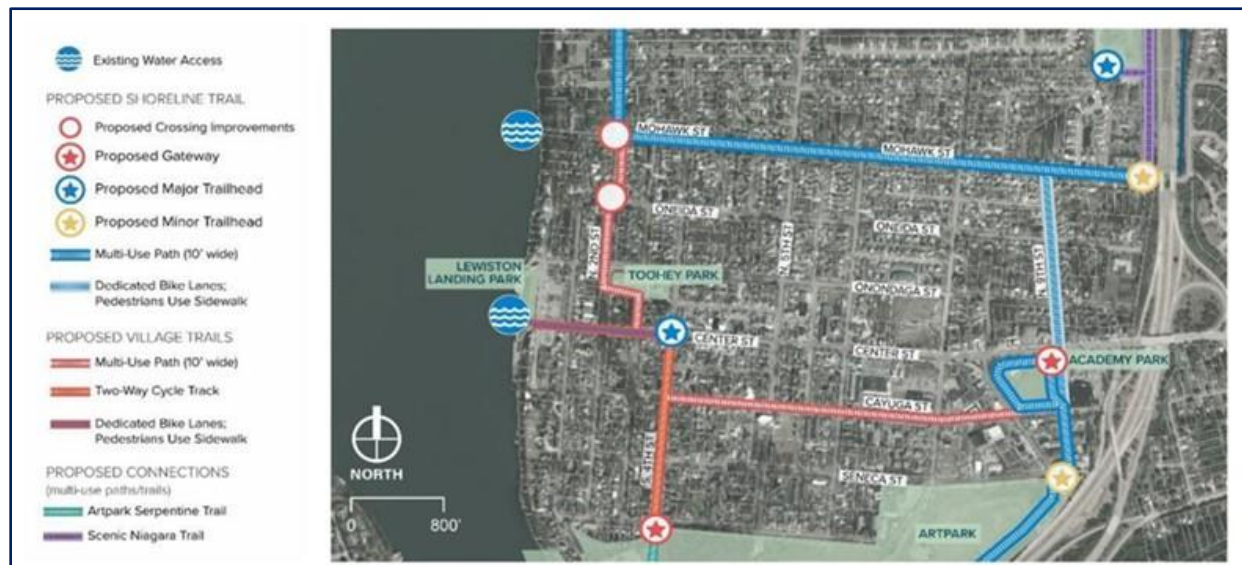
**Potential Funding Sources:** NYS ESD, NYS DOS, NYSDOT, Niagara Greenway

**Potential Project Partners:** New York State Department of Transportation

**Potential Permitting:** NYS DOT

**Potential Village Code Amendment:** No

**Implementing LWRP Policies:** 1, 18, 19, 20







### Project 12 – Improve the existing wayfinding system and signs

Identify if the current wayfinding system is efficient in helping people navigate the streets of the Village and find with ease the landmarks of interest and recommend and implement improvements to the existing signage system.

**Estimated Cost:** \$ 240,000

**Potential Funding Sources:** NYS ESD, NYS DOS, NYPA

**Potential Project Partners:** Lewiston Historical Society, local and regional business associations, Niagara River Region Chamber of Commerce, Niagara County

**Potential Permitting:** NA

**Potential Village Code Amendment:** No

**Implementing LWRP Policies:** 1, 20

### Project 13 – Develop a commercial façade improvement program

Investigate ways to better support local businesses and develop a program that will assist businesses or property owners within certain targeted investment areas to improve the façade of buildings within the commercial area.

**Estimated Cost:** \$ 240,000

**Potential Funding Sources:** NYS ESD, NYS EFC, NYS HCR

**Potential Project Partners:** local and regional business associations, Niagara River Region Chamber of Commerce, Niagara County

**Potential Permitting:** Village

**Potential Village Code Amendment:** No

**Implementing LWRP Policies:** 1, 18, 23



### **Project 14 - Identify ways to support the rehabilitation of waterfront residences.**

A study will be conducted to identify methods used in New York State and other places and potential funding sources to encourage and support residents in certain target areas to upkeep their properties.

**Estimated Cost:** \$ 240,000

**Potential Funding Sources:** NYS ESD, NYS HCR

**Potential Project Partners:** Lewiston Historical Society, local and regional business associations, Niagara River Region Chamber of Commerce, Niagara County

**Potential Permitting:** Village

**Potential Village Code Amendment:** No

**Implementing LWRP Policies:** 1, 18, 23

### **➤ Improve Local Land and Water Use Controls**

The local government has a very important role to play in protecting the quality of surface and ground water and reducing shoreline erosion.

### **Project 15 – New and amended local laws**

Investigate the need and benefits of new and amended laws meant to improve water quality, such as a local law controlling pet waste, planting requirements, etc.

**Estimated Cost:** \$ 24,000

**Potential Funding Sources:** NYS ESD, NYS DOS, NYSHPO, NYS HCR

**Potential Project Partners:** Lewiston Historical Society, local and regional business associations, Niagara River Region Chamber of Commerce, Niagara County

**Potential Permitting:** NA

**Potential Village Code Amendment:** yes

**Implementing LWRP Policies:** 6

### **➤ Improve Community Visibility**

Cultural and recreational events and activities improve the well-being of individuals and promote the growth of inclusive communities. Lewiston will continue to promote its cultural and recreational resources, such as Artpark, Lewiston Landing, and The Seaway Trail, to restore its vibrant community image. The Village of Lewiston will seek ways to involve the Lewiston Historical Society, local and regional business associations, Niagara River Region Chamber of Commerce, Artpark, New York State, Niagara County and other organizations in a coordinated effort to rebuild Lewiston's visibility and attract more tourists and new businesses to the area.

### **Project 16 – Promoting waterfront cultural and recreational resources**

A study will be conducted to identify ways in which the local government may play a more active role and coordinate its efforts with the local business community and the Artpark to promote the Village as a vibrant waterfront tourist attraction, and to develop supporting marketing materials and programs.

**Estimated Cost:** \$ 50,000

**Potential Funding Sources:** NYS ESD, NYS DOS, Niagara River Greenway

**Potential Project Partners:** Lewiston Historical Society, local and regional business associations, Niagara River Region Chamber of Commerce, Artpark, New York State, Niagara County

**Potential Permitting:** NA

**Potential Village Code Amendment:** No  
**Implementing LWRP Policies:** 1, 5, 9, 21, 23, 25

### **Project 17 - Expand visitor center and develop and encourage self-guided tours**

Establish a walking and biking route that features cultural, historic, recreation and waterfront landmarks and attractions, and prepare maps and marketing materials.

**Estimated Cost:** \$ 200,000

**Potential Funding Sources:** NYS ESD, NYS DOS

**Potential Project Partners:** Lewiston Historical Society, local and regional business associations, Niagara River Region Chamber of Commerce, Artpark, New York State, Niagara County

**Potential Permitting:** No

**Potential Village Code Amendment:** None

**Implementing LWRP Policies:** 1, 20

### **➤ Improve Public Parks and Access to Scenic Views**

Surroundings affect residents and tourists' sense of well-being. Public parks and scenic areas enhance visitor's experience and residents' sense of place and help both groups reconnect with nature. Parks are temporary gathering places for a large range of residents and open spaces to exercise. Staying physically active is one of the best ways to keep your mind and body healthy. During the COVID-19 pandemic, people visited parks, trails, and open spaces to relieve stress, get some fresh air, and stay active while practicing social distancing and covering coughs and sneezes.



### **Project 18 - Maintain and improve all public parks within the WRA.**

The Village of Lewiston will maintain the public parks and park amenities and facilities located within the WRA.

**Estimated Cost:** \$200,000

**Potential Funding Sources:** NYS ESD, NYS DOS, NYS OPDHP, Niagara County

**Potential Project Partners:** Lewiston Historical Society, local and regional business associations, Niagara River Region Chamber of Commerce, Artpark, New York State, Niagara County

**Potential Permitting:** NA

**Potential Town Code Amendment:** No

**Implementing LWRP Policies:** 1, 18, 19, 21, 25, 33

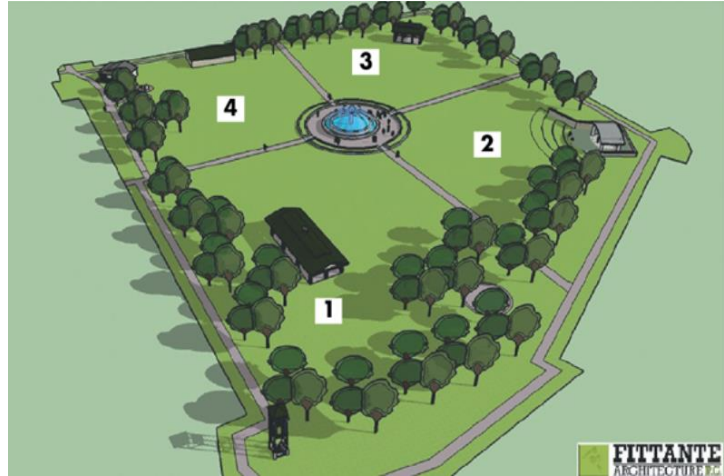


### Project 19 –Academy Park Master Plan and Implementation

The Academy Park is a 6-acre Village owned recreational resource situated along Center Street on the east side of the Village. Various conceptual plans<sup>44</sup> were developed for the park. Currently, the park provides a variety of outdoor recreational resources and serves as the focal point for local festivals.

Improvements are needed to enhance users experience and maximize the use of this local recreational asset.

The first step is to complete a park master plan to identify new facilities and upgrades needed to meet the needs of the community. . Based on the recommendations of the master plan, designs and construction plans will be produced to construct and install proposed improvements. The Village will seek funding and volunteers to implement this project



**Estimated Cost:** \$ 400,000

**Potential Funding Sources:** NYS ESD, NYS DOS

**Potential Project Partners:** Lewiston Historical Society, local and regional business associations, Niagara River Region Chamber of Commerce, Niagara County

**Potential Permitting:** NA

**Potential Village Code Amendment:** No

**Implementing LWRP Policies:** 1, 18, 19, 21, 25, 33

### Project 20 – Richard F. Soluri Park Master Plan

Richard F. Soluri Park, formerly known as the Plateau, is a 42-acre former New York Power Authority brownfield, located between Artpark and Niagara Scenic Parkway, within the Lewiston WRA. The park is currently owned by the Village<sup>45</sup> and provides passive recreational opportunities and includes a habitat area and a dog park.

Improvements are needed to expand use of this Village recreational asset to include bocce ball, croquet, picnic shelter and restrooms. The first step is to complete a park master plan to identify new facilities and upgrades needed to meet the needs of the community. Based on the recommendations of the master plan, designs and construction plans will be produced to



<sup>44</sup> <https://www.wnypapers.com/news/article/featured/2018/11/10/134833/village-of-lewiston-seeks-to-develop-academy-park-peach-festival-likely-to-move>

<sup>45</sup> <https://www.wnypapers.com/news/article/featured/2019/06/08/137437/monument-for-the-mayor-park-named-in-honor-of-richard-soluri-video-photos>

construct and install proposed improvements. The Village will seek funding and volunteers to implement this project

**Estimated Cost:** \$ 400,000

**Potential Funding Sources:** NYS ESD, NYS DOS,

**Potential Project Partners:** Lewiston Historical Society, local and regional business associations, Niagara River Region Chamber of Commerce, Niagara County

**Potential Permitting:** NA

**Potential Village Code Amendment:** No

**Implementing LWRP Policies:** 1, 18, 19, 21, 25, 33

## SECTION V - TECHNIQUES FOR LOCAL IMPLEMENTATION OF THE LEWISTON LWRP

This section of the LWRP describes the local land and water use controls that support the implementation of the LWRP policies, and the local management structure that will ensure the implementation of the LWRP and conduct reviews of actions to determine consistency with LWRP policies and purposes. This section also includes a description of the financial resources necessary to implement the LWRP. Other local and private actions that will implement the LWRP policies and purposes and in which the Village of Lewiston will have limited or no involvement are also presented in this section.

### LOCAL LAWS AND REGULATIONS NECESSARY TO IMPLEMENT THE LWRP

The purpose of the Village of Lewiston ordinances is to promote the public health, safety, convenience, order, prosperity and general welfare of the community and protect and enhance its coastal resources. The following land and water use controls are necessary to implement the LWRP policies and purposes. These following regulations establish the procedures and authority for development approval within the WRA. The standards contained therein provide applicable elements for the advancement of LWRP policies, related to development, natural resources, waterfront protection from flood/erosion, water quality, and wetlands, and the review of actions proposed within the WRA.

#### **Zoning Ordinance and Land Subdivision Regulations**

The Zoning Ordinance provides for use and development control of parcels, bulk regulations, overall design, yard and lot coverage requirements. The Subdivision Regulations address street, utility and land improvement standards consistent with public development requirements and provide design criteria for the layout of streets, lots, blocks, etc., in accordance with natural features and the accommodation of land for public purposes. It also includes detailed review procedures.

#### Zoning Ordinance

The Zoning Ordinance is included in Appendix B of the Village Code. The Village has eleven (11) zoning districts, of which all are found within the WRA and are illustrated on the Map 3. Zoning Districts included in Section II of the LWRP.

The Village amended its Zoning Law (1989; amended 1990, 1991) to establish the W-D Waterfront Development District, to facilitate revitalization of the waterfront and fulfill the goals of the LWRP. Permitted principal uses include those which depend on proximity, access and/or utilization of the water, such as: boat liveries and marinas; boat and boating accessories service, repair, sales and rental; fishing and tackle equipment sales and supplies sales; and flood and erosion protection structures. The following water-enhanced uses are allowed in the W-D Waterfront Development District: tourist facilities (i.e., restrooms, snack bars, information areas, cultural and recreation facilities); restaurants and eating establishments; hotels and motels; bed and breakfast residences, tourist homes; and retail and service facilities complementary to the aforementioned uses.



In 2003, the Village extended the RB-2 Retail Business District along Center Street, from Fourth to First Street, to promote and enhance the continuity of use as a retail shopping area – allowing for the development of retail business and personal service establishments, and complementary waterfront uses subject to a special use permit, such as bed & breakfasts (when such use is a secondary use of the premises) and other overnight accommodations. Rezoning of properties occurred on North First Street and North Second Street, between Center and Onondaga Streets, from R-1A Residential Single-Family Medium Density to R-5 Residential Townhouse. The R-5 Residential Townhouse District allows the development of townhouse dwellings (requires a special use permit) and creates a transition from the Retail Business to the Waterfront Development District.

The intent of the O-P Open and Public District is to delineate publicly owned and/or open spaces. No use, structure or accessory use or structure shall be undertaken along the shoreline that will contribute to flooding and erosion or inhibit public control efforts, permanently reduce existing access, substantially reduce public vistas, or jeopardize coastal resources in accordance with the Village's LWRP.

Section 10 of the Zoning/Appendix B, General Provisions and Permitted Modifications, calls for existing natural features to be retained, such as trees, brooks, drainage channels and views/vistas. No use shall be undertaken which eliminates or substantially reduces the view/vista of an existing property due to height, bulk or orientation of structure.

#### Subdivision Regulations

The Village of Lewiston Land Subdivision Regulations authorizes the Planning Commission to review and approve plats for the subdivision of land in conformity with the Village's official map and Comprehensive Plan. The subdivision regulations set forth application procedures, review considerations and standards, plan specifications, design standards and required land improvements for the minor and major subdivision of land in the Village.

In addition, this ordinance sets forth design standards for layout of streets, lots, utilities, landscaping and ground cover, preservation of natural features, avoidance of floodplains, drainage improvements, and inclusion of adequate recreation area sites. The design standards also require that, to the fullest extent possible, all existing trees and shrubbery shall be conserved and the unique physical features, such as historic landmarks and sites, rock outcroppings, hilltop lookouts, and desirable natural contours, shall be preserved.

#### **Views and Vistas**

Part A of Section 10 of the Village Zoning requires that: *Existing natural features such as trees, brooks, drainage channels and view/vistas shall be retained. Whenever such features interfere with the proposed uses of such property, retention of the maximum amount of such features consistent with the use of the property shall be required. No use shall be undertaken which eliminates or substantially reduces the view/vista of an existing property due to height, bulk or orientation of structure.*

#### **Protection of Existing Trees and Shrubs**

Part E. *Preservation of natural features*, included in the Design Standards included in the Subdivision Regulations of the Village Code, require that all existing trees and shrubbery shall be conserved within the proposed subdivision, to the fullest extent possible.

#### **Fire Prevention and Protection Ordinance**

The Fire Prevention and Protection Ordinance sets up fire regulations and procedures within the Village. Specifically, a section of the code limits the storage, manufacture and transportation of explosives,

flammable liquids, liquefied petroleum gases, chemicals and other hazardous agents in accordance with the 1970 American Insurance Association Fire Prevention Code. As many such agents are transported through Lewiston, designated routes are established to protect Village residents (Creek Road Extension and Route 104 South).

The Ordinance prohibits the storage and transport of hazardous materials within the WRA. It also furthers the policies of the LWRP by protecting coastal resources through restriction/limitation of hazardous substances. This Fire Prevention and Protection Ordinance adopted in 1972 is included in Chapter 8 of the Village Code.

### **Sewers and Sewage Disposal Regulation**

The Sewers and Sewage Disposal Regulation, included in Article II of Chapter 20 of the Village Code, provides for restrictions of sewer discharge into a water course, industrial waste permits, discharge limitations and treatment standards consistent with NYSDEC regulations. These regulations prohibit the discharge of any stormwater, groundwater, roof runoff, subsurface drainage or drainage from downspouts, yard drains, sump pumps, yard foundations and ponds, or lawn sprays into any sanitary sewer, except as provided by the rules and regulations, and the discharge of chemicals that may interfere with treatment processes or/and could create public health hazards. These regulations will enhance water quality policies of the LWRP in protecting coastal waters and aid in implementing local actions consistent with State regulations.

### **Solid Waste Management and Littering Ordinances**

The Solid Waste Management Ordinance provides for the control and disposal of solid waste and the promotion of resource recovery. The Ordinance encourages energy recovery and furthers LWRP policies on solid waste management and water quality through restriction of waste collection and disposal. These regulations are included in Chapter 9, Article III of the Code of Ordinances, amended in 1991. The Littering Ordinance prohibits the throwing or deposition of litter in or upon any public spaces and private or commercial premises. These regulations are included in Chapter 9, Article IV of the Code of Ordinances, amended in 1991. The enforcement of these municipal ordinances impacts the health and quality of life of village residents and visitors, and the water quality of local waterways, by minimizing the quantity of litter and potential pollutants that could be moved by stormwater runoff.

### **Parks and Recreation Ordinance**

This ordinance provides for the use and operation of Village parks, which are defined as places so designated by resolution of the board of trustees from time to time and located within the Village and places owned or leased by the Village and operated by the Village for parks and recreation purposes. It also describes activities prohibited in parks. Wading and swimming are activities prohibited in any park waters or waters adjacent to any parks in the Village, such as Lewiston Landing located along Niagara River. It also creates the Village Parks, Recreation and Conservation Board, which has the power to plan, establish policy, maintain an open-space index, develop capital improvements and advise the Village Board on environmental matters affecting parks, recreation and conservation. The Board works in cooperation with the Planning Board in reviewing development applications. As part of the review process for use and development in accordance with zoning, the Board will help implement the LWRP in environmental reviews of actions within the WRA. The Board will also advise on development and management of the Lewiston parks and green spaces in the WRA. This ordinance, first adopted in 1978 and amended in 1980 and 1989, constitutes Chapter 13 of the Village Code.

### Speed on Waterways

Section 13-11 of the Village Code defines a watercraft<sup>46</sup> as *all manner of devices, gasoline-powered or otherwise, submersible and/or floating and as also defined in the (NYS) Navigation Law of the state* and establishes a speed limit of five miles per hour for watercraft on the waters of the Niagara River between the northerly line of Onondaga Street as extended into the river and the southerly line of Cayuga Street as extended into the Niagara River and for a distance of 100 feet from the shoreline. It also prohibits any watercraft movement that creates a wake.

### Steep Slopes Protection

Section 10 of the Zoning/Appendix B, General Provisions and Permitted Modifications, calls for the protection of steep slope areas by requiring a development plan for all activities occurring on natural slope areas of not less than twenty percent. The development plan procedure is intended to permit regulation of the location of structures and improve circulation and other site qualities and to ensure the application of adequate standards relating to public health, safety and welfare and convenience both in the use and occupancy in buildings and facilities. The development standards include provisions requiring application of appropriate Storm Water Management Practices during construction to mitigate the potential for erosion and the retention, or minimal removal, of natural features such as trees, brooks and drainage channels that otherwise may have an adverse impact on the steep slopes if these features were to be removed.

Also, part A.6 of Section 10 of the Zoning Ordinance requires that: *The existing Niagara escarpment shall not be breached, excavated, blasted or otherwise altered or damaged*<sup>47</sup>.

As part of the review process, the Village considers environmental factors as part of the State Environmental Quality Review (SEQR). The development plan application requires sufficient engineering drawings, renderings and other material as necessary to document the current condition of the site in order for the Village to evaluate the potential impact that the proposed development may have on the environment including steep slope areas. Proposed development that is determined to have a significant adverse impact on steep slope areas can be further evaluated and impacts mitigated through an Environmental Impact Statement.

### Stormwater Management and Erosion and Sediment Control

The Village is a regulated municipal separate storm water system (MS4) in accordance with a State Pollution Discharge Elimination System (SPDES) permit issued by the NYS DEC. The MS4 is implemented by Chapter 16 of the Village Code and is intended to require development to conform to requirements of the NYSDEC to reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution through stormwater management practices and ensure that these management practices are properly maintained.

### Flood Damage Protection

There are no designated flood hazard areas within the Village. Flooding issues that may affect the Lewiston WRA are stormwater related drainage issues from current development patterns, which are currently regulated under Chapter 16 of the Village Code and will be further addressed in the study proposed in section V of the LWRP.

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<sup>46</sup> [https://library.municode.com/ny/lewiston/codes/code\\_of\\_ordinances?nodeId=CO\\_CH13PARE\\_ARTIINGE\\_S13-11SPWA](https://library.municode.com/ny/lewiston/codes/code_of_ordinances?nodeId=CO_CH13PARE_ARTIINGE_S13-11SPWA)

<sup>47</sup> [https://library.municode.com/ny/lewiston/codes/code\\_of\\_ordinances?nodeId=CO\\_APBZO\\_S10GEPRPEMO](https://library.municode.com/ny/lewiston/codes/code_of_ordinances?nodeId=CO_APBZO_S10GEPRPEMO)

### **Preservation of Freshwater Wetlands**

This ordinance is part of Chapter 15. Planning of the Village Code and incorporates and adopts by reference the provision of Article 24 of the NYS Environmental Conservation Law. It also indicates that the provisions for activities requiring a permit, the application procedures and the method for granting permits and other considerations required in Environmental Conservation Law §§ 24-0701, 24-0703 and 24-0705 are hereby adopted and incorporated herein by reference.

### **Historic Preservation Law**

The Village Historic Preservation Law protects buildings, structures and sites within the WRA that have unique character, special aesthetic interest, or represent fine architectural products of distinct periods in the area's history. The local law requires a certificate of appropriateness from the Historic Preservation Committee prior to the issuance of a building permit for alterations, improvements or construction to a designated property or site. The Historic Preservation Commission may impose conditions or determinations that are more restrictive than those prescribed that are in the zoning law, building code and other laws applicable to historic preservation activities. The regulations are included in Article IV, Chapter 15 of the Village Code.

### **Local Waterfront Revitalization Program Consistency Review Law**

State and federal coastal management laws require State and Federal agencies to determine that a proposed action which they may directly undertake, fund, or approve within the boundaries of an approved LWRP is consistent with the policies and purposes of that LWRP. An action which is inconsistent may not be undertaken, except in extraordinary cases which meet the strict tests established for exceptions.

To secure this significant benefit of an approved LWRP, the municipality must make a similar commitment to ensure consistency of local government actions with the LWRP policies and purposes. This is achieved by making sure that local laws implementing the program, such as the zoning law, reflect the provisions of the LWRP and by reviewing local actions for consistency with the LWRP policies. The LWRP Consistency Review Law establishes the consistency review requirements for actions directly undertaken, approved, or funded by the municipality.

The purpose of the LWRP Consistency Review Law is to provide the legal framework for the review of local government/agencies actions proposed within the WRA, to ensure that the proposed actions are consistent with the LWRP policies and purposes. The minor actions listed in the LWRP Consistency Review Law are not subject to this law. A Waterfront Assessment Form (WAF) is provided in the law, to identify the type of the proposed local action and its potential impact on the WRA and initiate the local consistency review process.

Chapter 15 of the Village Code was amended in early 2021 to include the Village's LWRP Consistency Review Law. The amended Chapter 15, including the LWRP Consistency Review Law and its Waterfront Assessment Form, is included in Appendix A of the LWRP.

### **Village Planning Commission**

Chapter 15 of the Village Code provides for the creation of the Planning Commission and sets up a series of review processes that will be conducted by the commission, such as the environmental quality review, historic preservation review, and the review of actions proposed within the WRA for consistency with the LWRP policies and purposes.

The Commission has, by law, advisory responsibilities to the Village Board of Trustees. Article II establishes the executive authority for review of actions within the WRA. The Planning Commission provides its advice and recommendations to the Village Board for consideration in determining the consistency of the proposed action with the WRA with the LWRP policies and purposes. The Planning Commission also has specific responsibilities for approval of development plans within the Village.

Chapter 15 of the Village Code will be amended to separate the provisions for the environmental quality review of proposed actions within the Village from those provisions regarding the LWRP consistency review of actions proposed within the WRA. The review of the Village's proposed actions within the WRA will be conducted pursuant to the LWRP Consistency Review Law, which will amend Chapter 15 of the Village Code.

## **OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THIS LWRP**

In addition to adopting and enforcing the above legislation, the Village government will need to undertake several actions to implement the LWRP. Other actions necessary to implement the LWRP need to be undertaken primarily by private groups or other public agencies. Many actions require the cooperation of different levels of government, community groups, or the business community. The Village, however, usually must take the lead in initiating actions which will implement the LWRP.

### **Resiliency & Economic Development Initiative (REDI)**

As part of the State's initiative to increase the resilience of shoreline communities and bolster economic development in the region, the Village of Lewiston is completing major improvements and mitigation measures to Lewiston Landing supported by REDI grant funding. Proposed improvements include the installation of shoreline stabilization measures; construction of a new landing/pathway with railings; replacing existing boat docks with floating structures; and installing new utilities.

### **Power Artpark 2030**

A Master Plan is currently being developed for Earl W. Brydges Artpark State Park to serve as a long-term roadmap toward improvements of park facilities, programs, grounds, and connectivity with surrounding communities, with the main objective to maximize overall park usage and potential focus on visitor experience, technological advancement, and ecologically-conscious cultural leadership within the Buffalo-Niagara cultural ecosystem.

### **Western New York Stormwater Coalition**

The Village of Lewiston is one of the forty members of the Western New York Stormwater Coalition (WNYSC) that developed and implements the Stormwater Management Program for MS4s in Erie and Niagara Counties. A plan was developed in 2010 that describes each of the six minimum control measures and the best management practices that must be developed and implemented by each MS4 to reduce the amount of pollutants carried by stormwater and discharged into the local waterbodies.

### **Niagara River Greenway Commission**

The Commission advances the Niagara River Greenway Plan, to restore the ecological health of the Niagara River and enhance public access for all, while enhancing the development of world-renowned scenic, natural, historic, cultural and recreational resources of the Niagara River Corridor.

### **Buffalo Niagara Waterkeeper**

The mission of the Buffalo Niagara Waterkeeper is to protect and restore the quality of water and surrounding ecosystems along the Niagara River and its tributaries for the benefit of current and future generations.



## LOCAL MANAGEMENT STRUCTURE FOR IMPLEMENTING THE LWRP

### Management and Coordination of Village Actions

Local actions directly undertaken, funded, or approved within the Lewiston WRA and subject to the LWRP Consistency Review Law must be reviewed by the Village government or agencies for consistency with LWRP policies and purposes. Local minor actions identified in the LWRP Consistency Review Law are not subject to the consistency review process described in the body of this law. Proposed local actions that are not minor actions are subject to the Village of Lewiston LWRP Consistency Review Law and shall be reviewed for consistency with the LWRP policies and purposes, as indicated in the body of this law.

The consistency review process starts with the identification of the type of local action proposed within the WRA and the completion and submission for review of a Waterfront Assessment Form (WAF). The WAF is included in the Village of Lewiston LWRP Consistency Review Law and consists of a series of questions about any proposed project. The answers provided in the completed WAF help determine if the proposed action conflicts with any of the LWRP policies. The LWRP Consistency Review Law, including the WAF, is included in Appendix A of the LWRP.

As indicated in the LWRP Consistency Review Law, the Mayor of the Village of Lewiston is the LWRP Coordinator responsible for the coordination the management local actions and initiatives that implement the policies and purposes of the approved Lewiston LWRP. As indicated in the LWRP Consistency Review Law, the LWRP Coordinator is also responsible for the following:

- (1) Inform and discuss with the Village Board of Trustees and agencies the implementation, priorities, work assignments, timetables, and budgetary requirements of the LWRP.
- (2) Instruct agencies to make applications for funding from State, federal, or other sources to finance projects under the LWRP.
- (3) Coordinate and oversee liaison between Village agencies and regional, State and federal agencies, to further implementation of the LWRP.
- (4) Provide NYS Department of State (DOS) with an informal opinion on the consistency with the LWRP of a State or federal action proposed within the WRA, regardless of any requirement for a local consistency decision and within 15 days of DOS request for such informal opinion.
- (5) Coordinate the preparation of an annual report on LWRP consistency reviews and determinations, and the progress of LWRP implementation.
- (6) Discuss with the Village Board of Trustees and the Waterfront Advisory Committee the need for the development of an LWRP amendment.

The Lewiston Planning Commission is assigned to also act as the Waterfront Advisory Committee (WAC) responsible for conducting LWRP consistency reviews of all actions proposed by the Village within the WRA, described and mapped in the approved Village of Lewiston LWRP. The WAC also prepares written findings and recommendations regarding the consistency of each action proposed by the Village, State and federal agencies, with the LWRP policies and purposes. In addition, the Mayor will assign the WAC to complete other LWRP-related tasks, as necessary.

The written findings and recommendations prepared by the WAC will be used by the Village government and Village agencies, as defined in the LWRP Consistency Review Law, to make decision regarding the LWRP consistency and future implementation of actions proposed within the Lewiston WRA.

The WAC will also review actions proposed by State and federal agencies within the Lewiston WRA and draft written findings to be provided by the LWRP Coordinator (the Mayor) to State agencies and NYS DOS, to help state agencies make their determination of consistency.

Any board, department, office, or officer of the Village of Lewiston, defined in the LWRP Consistency Review Law as agencies, must review its actions proposed within the WRA for consistency with the approved LWRP policies and purposes, and make a determination of consistency, in writing. Local agencies don't need to conduct consistency reviews of minor actions listed in the LWRP Consistency Review Law. An agency review of the proposed action will be initiated by identifying if the action is subject to the consistency review process, which will be followed by the completion of a Waterfront Assessment Form. Prior to making a determination of consistency, each agency must consider the consistency recommendation of the Waterfront Advisory Committee. The agency's determination of consistency must be based on the content of the completed WAF, the Waterfront Advisory Committee's recommendation, and the requirements of other applicable local laws. No approval or decision shall be rendered for an action in the WRA without a determination of consistency.

The Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to the LWRP Consistency Review Law. The Zoning Board of Appeals shall consult with and consider written consistency recommendations of the Waterfront Advisory Committee prior to making a decision to grant any variance for any action proposed in the WRA and shall impose appropriate conditions on the variance to make the proposed activity consistent with the LWRP policy standards and objectives.

The Building inspector or any other authorized official of the Village shall issue a stop work order and all work shall immediately cease on activities performed in violation of the LWRP Consistency Review Law.

The Village Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce the LWRP Consistency Review Law.

A copy of the approved Lewiston LWRP, including the LWRP Consistency Review Law must be on file in the Office of the Clerk. Also, the Office of the Village of Lewiston Clerk will provide applicants with a blank copy of the Waterfront Assessment Form (WAF) necessary to be completed to initiate the consistency review of a local actions proposed within the WRA.

### **Village of Lewiston Review of State and Federal Actions**

Each set of municipal, State, and federal consistency requirements ensure that proposed agency actions within the coastal area of New York State are consistent with and advance the policies of the New York State Coastal Management Program (NYS CMP), at each governmental level. Each LWRP approved by the NYS Secretary of State and the federal Office for Coastal Management amends and refines the NYS CMP by defining and addressing conditions within a specific municipal waterfront revitalization area within the coastal area of the State.

Each level of government in the coastal area has separate consistency review procedural requirements. Each agency within each level of government follows associated procedural requirements to ensure that actions or activities proposed within the coastal area of the State and subject to an approved LWRP included in the NYSCMP meet consistency obligations.

Municipalities with approved LWRPs are required to conduct consistency reviews of local actions and review state and federal actions proposed within the WRA and subject to the locally adopted LWRP approved by the NYS Secretary of State and the federal Office for Coastal Management. However, the local review of State and federal actions proposed within the local WRA concludes just with the written findings of the local review and the opinion of the local government about the consistency of the

proposed State or federal action, while the local review of a local actions must conclude with a local determination of consistency, as described above.

State agencies must review and determine the consistency of their action proposed within a WRA of an approved LWRP with the policies of that LWRP. However, in making their consistency determinations, State agencies are obligated to consider the local government's written findings and opinion based on the municipality's consistency review of the proposed State action.

Regarding federal actions proposed within a WRA subject to an approved LWRP, only the Department of State has the authority to make consistency decisions concurring with, or objecting to, an applicant's consistency certification or a federal agency's consistency determination. In accordance with CZMA, its implementing regulations, and the NYCMP, that authority cannot be subsumed, preempted, or abrogated by any federal, other State, or any local agency. However, the NYS DOS is obligated to consider the local government's written findings and opinion based on the municipal consistency review of the proposed Federal action.

To help coordinate municipal, State, and federal decision-making and avoid conflicting decisions between agencies at different levels of government, as part of the NYS DOS' review of federal activities, municipalities with approved LWRPs are notified by the NYS DOS of the proposed activities and provided the opportunity to inform the NYS DOS and other agencies of actual or potential conflicts between activities being considered and the policies and purposes of their approved LWRPs. This notification and consultation process ensure the NYS DOS and other State agencies are provided with relevant information when assessing and considering the consistency of an activity with the WRA covered by an approved LWRP. A municipality's detailed knowledge of local circumstances often results in the identification of key information that is not otherwise available to or known by the NYS DOS and other State and federal agencies when assessing and considering activities and their effects.

The LWRP Coordinator, as described in the Village of Lewiston LWRP Consistency Review Law, is designated to provide adequate and timely feedback to the NYS DOS and other State agencies on the consistency of state and federal agencies actions proposed within the Village of Lewiston WRA. All State and Federal actions proposed within the Village of Lewiston WRA will be reviewed in accordance with the guidelines inserted below, which were established by the NYS DOS and refined to reflect the participation of the Village of Lewiston.

## **GUIDELINES FOR NOTIFICATION AND REVIEW OF STATE AGENCY ACTIONS PROPOSED WITHIN THE WRA COVERED BY THE APPROVED LEWISTON LWRP.**

### **I. Purposes of Guidelines**

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (the Act) (Article 42 of the Executive Law) and the New York State Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the New York State Secretary of State (Secretary) to be consistent to the maximum extent practicable with the policies and purposes of the approved Village of Lewiston Local Waterfront Revitalization Program (LWRP). 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 Village of Lewiston whenever an identified action will occur within the Waterfront Revitalization Area (WRA) covered by the approved Lewiston LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist the Village of Lewiston in carrying out their review responsibilities in a timely manner.

- C. The Secretary is required by the Act to confer with state agencies when notified by the Village of Lewiston government that a proposed state agency action may conflict with the policies and purposes of the approved Lewiston LWRP.

These guidelines establish a procedure for resolving such conflicts.

## II. Definitions

- A. Action means:
1. A "Type I" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
  2. Occurring within the boundaries of the WRA within which the policies and purposes of the approved Village of Lewiston LWRP apply; 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 Village of Lewiston 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 the approved Lewiston 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 the approved Village of Lewiston 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. Coastal Assessment Form or CAF means the form used by the State agency to assess the consistency of its actions proposed within the Lewiston WRA with the policies and purposes of the approved Lewiston LWRP.
- D. Environmental Impact Statement or EIS means a form used by an agency to assist it in determining the environmental significance or non-significance of actions, pursuant to 6 NYCRR 617 (SEQR)
- E. Local Waterfront Revitalization Program or Lewiston LWRP means the program prepared and adopted by the Village of Lewiston Village Board of Trustees and approved by the Secretary 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.
- F. New York State Secretary of State or Secretary means the head of the New York State Department of State (NYS DOS), which is the state agency responsible for administering and coordinating activities essential for the implementation of the New York State Coastal Management Program (NYS CMP), including approved LWRPs.
- G. LWRP Coordinator means the Mayor of the Village of Lewiston, responsible for coordinating the preparation of local written findings and opinion and the transmission of the findings to the State agencies proposing actions within the Lewiston WRA.

- H. Waterfront Advisory Committee means the Village Planning Commission, which is responsible for conducting LWRP consistency reviews of State actions proposed within the Lewiston WRA and writing local findings and opinion to be provided to the appropriate state agency contact.
- H. Village means the Village of Lewiston
- I. Village Board of Trustees is the government or legislative body of the Village of Lewiston that adopted the Village of Lewiston LWRP.
- J. Waterfront Revitalization Area or Lewiston WRA is the portion of the State's coastal area covered by the approved Village of Lewiston LWRP

### **III. Notification Procedure**

- A. When a State agency is considering an action as described in II. DEFINITIONS within the WRA boundary described and mapped in the approved Lewiston LWRP, the State agency shall notify the LWRP Coordinator.
- B. Notification of a proposed State agency action:
  - 1. Shall fully describe the nature and location of the action;
  - 2. Shall be accomplished by use of other existing State agency notification procedures, or through any alternative procedure agreed upon by the State agency and the Village of Lewiston government; and
  - 3. Should be provided to the LWRP Coordinator as early in the planning stages of the action as possible, but in any event at least 30 days prior to the State agency's decision on the action. The timely filing of a copy of a completed Coastal Assessment Form (CAF), available to State agencies, to the LWRP Coordinator should be considered adequate notification of a proposed action.
- C. If the proposed action will require the preparation of a draft environmental impact statement (EIS), the filing of this draft document with the LWRP Coordinator can serve as the State agency's notification to the Village of Lewiston.

### **IV. Local Government Review Procedure**

- A. Upon receipt of notification from a state agency, the LWRP Coordinator will be responsible for evaluating the proposed State agency action against the policies and purposes of the approved Village of Lewiston LWRP. Upon request of the Village of Lewiston LWRP Coordinator, the State agency should promptly provide whatever additional information is available which will assist the Waterfront Advisory Committee to evaluate the proposed action.
- B. If the Waterfront Advisory Committee cannot identify any conflicts between the proposed action and the applicable policies and purposes of the approved Lewiston LWRP, the LWRP Coordinator should notify in writing the State agency of the finding. Upon receipt of the written finding, the State agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the LWRP Coordinator does not notify the State agency in writing of the finding within the established review period, the State agency may then presume that the proposed action does not conflict with the policies and purposes of the approved Village of Lewiston LWRP.
- D. If the Village of Lewiston notifies the State agency in writing that the proposed action does conflict with the policies and/or purposes of the approved Lewiston 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 below shall apply. The Village of Lewiston shall forward a copy of the identified conflicts to the Secretary at the time when the state agency is notified. In notifying the state agency, the LWRP Coordinator, based on the written findings of the Waterfront Advisory Committee, 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 Village of Lewiston 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 the Village of Lewiston that a proposed action conflicts with its approved LWRP, the State agency should contact the LWRP Coordinator to discuss the content of the identified conflicts and the means for resolving them. A meeting of State agency and Village of Lewiston 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 Village.
  2. If the discussion between the Village of Lewiston and the State agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the Village of Lewiston LWRP Coordinator 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 Village of Lewiston 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 of State within 15 days following the discussion between the Village of Lewiston 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 of State, or a Department of State official or employee designated by the Secretary of State, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the State agency and Village of Lewiston.
  5. If agreement among all parties cannot be reached during this discussion, the Secretary State 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 NEW YORK STATE DEPARTMENT OF STATE (DOS) AND LWRP CONSISTENCY REVIEW OF FEDERAL 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 Village of Lewiston LWRP 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 DOS's principal reviewer for the proposed federal activity.
- C. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the Village of Lewiston has "no opinion" on the consistency of the proposed federal activity with the approved Village of Lewiston LWRP policies.
- D. If DOS does not fully agree with and/or has any questions on the comments and recommendations submitted by the LWRP Coordinator, DOS will contact the Village of Lewiston to discuss any differences of opinion or questions prior to concurring or objecting to the federal agency's consistency determination on the proposed federal activity. DOS is not bound by the Village opinion as DOS has the sole legal authority to issue a federal consistency review decision, including an activity occurring within the WRA boundary of an LWRP and will issue the decision within the statutory timeframe of 15 CFR Part 930 Subpart C.
- E. A copy of DOS' "concurrence" or "objection" letter to the federal agency will be forwarded to the Village of Lewiston LWRP 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 Village of Lewiston LWRP Coordinator and will identify the DOS's principal reviewer for the proposed federal activity.
- B. Within thirty (30) days of receiving such information, the Lewiston LWRP 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. DOS may request the applicant to provide the information. A copy of this information will be provided to the LWRP Coordinator on 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 LWRP Coordinator will provide DOS with a non-binding opinion on the federal agency permitting activity and a review of the LWRP policies.
- E. After the notification, the LWRP Coordinator will submit the Village'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 Village of Lewiston has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.
- F. If DOS does not fully agree with and/or has any questions on the comments and recommendations submitted by the Village of Lewiston on a proposed federal activity, DOS will contact the Village of Lewiston LWRP Coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" to the applicant. DOS is not bound by the Village opinion as DOS has the sole legal authority to issue a federal consistency review decision, including an activity occurring within the WRA boundary of an LWRP and will issue the decision within the statutory timeframe of 15 CFR Part 930 Subpart D.
- G. A copy of the DOS' "concurrence" or "objection" letter to the applicant will be forwarded to the LWRP Coordinator.

### **III. Federal Financial Assistance to State and Local Governments**

- 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 Village of Lewiston LWRP 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 Village of Lewiston LWRP Coordinator. DOS may request the applicant to submit additional information for review purposes within the timeframes provided for in 15 CFR Part 930 Subpart F.
- C. The review period will conclude fifteen (15) 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 LWRP Coordinator must submit the Village's comments and recommendations on the proposed federal financial assistance to DOS within twenty days, or other time agreed to by DOS and the LWRP Coordinator, from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the Village of Lewiston has "no opinion" on the consistency of the proposed federal financial assistance with the LWRP policies.
- E. If DOS does not fully agree with and/or has any questions on the comments and recommendations submitted by the Village of Lewiston, DOS will contact the Village of Lewiston LWRP Coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision. DOS is not bound by the Village opinion as DOS has the sole legal authority to issue a federal consistency review decision, including an activity occurring within the WRA boundary of an LWRP and will issue the decision within the statutory timeframe of 15 CFR Part 930 Subpart F.
- F. A copy of DOS' consistency decision letter to the applicant will be forwarded to the Village of Lewiston LWRP Coordinator.

### **FINANCIAL RESOURCES NECESSARY TO IMPLEMENT THE LWRP**

Financial resources are required to implement the legal and administrative activities and the proposed projects that will further the policies and purposes of the Village of Lewiston LWRP. Resources necessary for the Village's efforts to manage and enforce the LWRP would come from general revenue sources and will be reflected in the Village's annual budget.

The implementation of those projects proposed in Section IV of the LWRP may include administrative costs, capital costs, maintenance costs and potential property acquisition. The costs for the projects proposed in Section IV are just estimative. The Village will seek State and federal funding for projects that require significant capital expenditures. Where applicable, the Village will work diligently to secure funding through grants that are available under State and Federal programs to support the implementation of LWRP projects. Most of these programs require matching funds and/or in-kind service contributions. The Village may also consider bond issues and other similar revenue enhancements to facilitate LWRP implementation.

## Village of Lewiston Funding Sources

Local government funding sources to implement the LWRP will primarily be the Village's annual budget and capital budget. It is anticipated that the implementation of most public projects will be a partnership and combine multiple funding sources. Additionally, the Village may utilize the work of its staff to assist in implementing some public projects identified in the LWRP as local match for awarded grants.

For the 2020-21 fiscal year, the Village's total budget is \$3,918,756, of which property tax payments were \$1,158,059. Total assessed or full value (properties in Niagara County went on a full value basis for 2020-21) is \$142,599,616. The tax rate was \$7.66 per \$1,000 of full value for 2020-21, or approximately \$1,147 for a \$150,000 home.

## State Funding Programs

### Climate Smart Communities Program

New York State established the Climate Smart Communities (CSC) Program in 2009 to provide local governments with guidance on how to reduce GHG emissions, save taxpayer dollars, and advance community goals for health and safety, economic vitality, energy independence, and quality of life. The program is free and open to all local governments in New York State. The Climate Smart Communities Program is jointly sponsored by six New York State agencies: the Department of Environmental Conservation (DEC), the State Energy Research and Development Authority (NYSERDA), the Department of Transportation (DOT), the Department of Health (DOH), the Department of State (DOS), and the Public Service Commission (PSC).

### Environmental Protection Fund

The Environmental Protection Fund (EPF) is the source of grants for a series of State programs that support the implementation of planning, design, and construction of various projects.

### Local Government Efficiency (LGE) Program

The NYS Department of State provides grants to municipalities, school districts and special districts and public authorities for planning and implementation projects that will provide cost savings through consolidation of services. The goal of the program is to encourage these entities to work cooperatively with one another to deliver public services more efficiently and at a lower cost. Projects must demonstrate that the cost to deliver services through cooperative arrangements is less than the cost for such services to be delivered by individual entities. The grant amount may not exceed the amount of cost savings that would result from cooperation. Capital projects that require the cooperation of two or more entities should be considered for LGE funding under the Regional Delivery of Services or Shared Cooperative Services categories.

### Environmental Facilities Corporation - Green Innovation Grant

The Environmental Facilities Corporation (EFC) offers competitive grants to municipalities, public authorities, not for profit corporations, for-profit corporations and soil and water conservation districts for projects that improve water quality through the reduction of storm sewer infiltration. Successful projects utilize innovative "green infrastructure" such as permeable pavement, green roofs, riparian buffers, and stormwater harvesting and reuse.

### Department of Environmental Conservation Water Quality Improvement Program (WQIP)

The NYS Department of Environmental Conservation (DEC) administers the Water Quality Improvement Program (WQIP), a competitive grant program which allocates funds from the Environmental Protection Fund to projects that reduce polluted runoff, improve water quality and restore habitat in New York's

water bodies. Eligible applicants include Villages, Municipal Corporations, Soil and Water Conservation Districts and Not for Profit Corporations (in some cases). Applicable project types include Nonagricultural Nonpoint Source Abatement and Control (NPS) and Aquatic Habitat Restoration (AHR). Depending on the type of project, reimbursement is available for up to 85% of the total cost of the project.

### **Empire State Development**

The New York State Empire State Development (ESD) provides a variety of assistance aimed at helping businesses. It offers loans, grants and tax credits, as well as other financing and technical assistance, to support businesses and encourage their growth within New York State. The following ESD programs are available:

- Empire State Development Grant Funds
- Excelsior Jobs Tax Credits
- Market New York
- Business Incubator and Innovation Hot Spot
- Economic Development Purposes Fund
- Strategic Planning and Feasibility Studies
- Environmental Investment Program
- Industrial Development Bond Cap

### **Consolidated Funding Application (CFA)**

The CFA process replaced multiple applications for proposed projects with a single application for state resources from numerous state agencies and institutionalized the role of the Regional Economic Development Councils in identifying priorities for state resources.

## **Federal Funding Programs**

### **Highway Safety Improvement Program**

The purpose of the Highway Safety Improvement Program is to identify and correct locations that may constitute a danger to motorists, bicyclists and pedestrians. These funds can be used for trail development, where it is documented that use of the roadways has resulted in a significant number of accidents involving cycling and/or pedestrians.

### **Surface Transportation Program (STP)**

This program typically focuses on road construction, reconstruction and repair. However, a permitted use of STP funds is the development of transportation facilities in conjunction with road projects. STP funds can also be used for maps, brochures and public service announcements.

### **Congestion Mitigation and Air Quality (CMAQ)**

This program provides funds for transportation projects that reduce congestion and emissions that affect air quality. Project may include facilities for pedestrians and bicyclists.

### **National Highway System Funds**

NHS funds can be used to develop multi-use trails and shoulder improvements in highway corridors.

### **Recreational Trails Grants**

The New York State Office of Parks, Recreation and Historic Preservation periodically administers grants through the Recreational Trails Program. Applications are expected to be administered through the Consolidated Funding Application (CFA) process. This program provides matching reimbursement grants



to communities and not-for-profit organizations to provide and maintain recreational trails for both motorized and non-motorized recreational trail use.

#### **Drinking Water State Revolving Fund**

The NYS Environmental Facilities Corporation (EFC) offers subsidized low interest rate financing and limited grants for construction of eligible water system projects to municipalities and public financing authorities in New York State. The program provides a significant financial incentive for public and private water systems to finance needed drinking water infrastructure improvements (e.g. treatment plants, distribution mains, storage facilities). Potential projects must be submitted to EFC for rating and listing on the Intended Use Plan (IUP.)

Projects that protect, maintain, or improve water quality are eligible. Projects that are ready to proceed are generally funded. Limited funds are available. Suitable projects are those which address problems with the quality of a water supply source, including public sources and private “community” sources such as for a restaurant or manufactured home park.

#### **Community Development Block Grant**

NYS Homes and Community Renewal administers the competitive Community Development Block Grant (CDBG) program for non-entitlement communities (villages with population under 50,000 population and counties under 200,000.) Competitive CDBG grants are available for public facilities, community and economic development activities, wastewater and drinking water facilities, housing and public infrastructure projects. In 2013, the grant limit for infrastructure projects is \$750,000. Economic Development grants may be requested for projects involving water, wastewater or other infrastructure to serve projects that create or retain jobs for moderate-income persons (at \$15,000 per job created/retained).

Project beneficiaries must be predominantly persons with low or moderate incomes. Projects must correct or prevent health and safety problems, slums or blight. The most highly rated infrastructure projects will be those that solve serious, documented public health and safety problems, such as private water supplies that are contaminated by bacteria or other substances.

#### **Rural Utilities Service Water and Wastewater Disposal Loan and Grant Program**

U.S. Department of Agriculture Rural Development provides loans and grants to water and wastewater facilities and services to low-income communities whose residents face significant health risks with service area populations below 10,000. Loan terms are typically 38-years. The interest rate is indexed to the Median Household Income of the municipality or service area. Eligible water and wastewater projects are those that serve economically disadvantaged populations and solve serious public health problems. Financial assistance should result in reasonable user costs for rural residents.

## **SECTION VI – STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION**

State and federal actions will affect and be affected 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 also 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/or 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)

**ALBANY PORT DISTRICT COMMISSION (regional agency)**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Commission.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

**CAPITAL DISTRICT REGIONAL PLANNING COMMISSION (CDRPC) regional agency**

- 1.00 facilitate and coordinate a variety of regionally administered programs
  - deploy NYSEDA's Clean Energy Communities program
  - provide technical support to the communities participating in the New York State Climate Smart Communities (CSC) program

- review and analyze surface transportation planning issues in conjunction with the Capital District Transportation Committee
- coordinating the effort to address problems associated with combined sewer overflows into the Hudson River with NYS DEC.

**CAPITAL DISTRICT TRANSPORTATION AUTHORITY COMMITTEE (CDTA) regional agency**

- 1.00 . CDTA plans, finances, implements and delivers transit services in the Capital Region.
- 2.00 . Continually identifying ways to increase transit ridership and revenue.
- 3.00 Identifying appropriate funding sources to meet the region's transportation needs.

**GREATER BUFFALO-NIAGARA REGIONAL TRANSPORTATION COUNCIL**

**MPO for the Buffalo/Niagara Falls area including Erie and Niagara Counties.**

- 1.0 develops a long-range regional transportation plan to guide transportation decision making and activities.
- 2.0 develops a short-range program of projects to be implemented with federal transportation funds.

**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/or 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) – Stream Bed 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/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/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, or 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, or 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.

#### **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.
  - 2.1 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

#### **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/grant programs:
  - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
  - 3.02 Funding programs 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, or 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.
- Exemptions from prohibition orders.

**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.*

## SECTION VII – LOCAL COMMITMENT AND CONSULTATION

### A. LOCAL COMMITMENT

Meaningful public participation is a vital component of the planning process for the development of the LWRP. In order to obtain local commitment, the Village developed a public participation plan. The Village promoted the project through local media advertising, the Village website and social media methods. The primary goal was to engage the community and facilitate a public discussion about the Village and its waterfront. The Village's public participation plan included the elements discussed below.

#### Waterfront Advisory Committee

The Mayor of the Village established a Waterfront Advisory Committee (WAC) at the start of the planning process. The WAC consisted of ten members, made up of local citizens with varying interests, a Village Trustee to head the WAC and serve as liaison to the Village Board, and various department heads in Village government. During the preparation of this second amendment to the Village of Lewiston LWRP, the members of the WAC reviewed and commented on task submittals, furnished background data for various tasks and provided input to each task's development.

#### Public Meetings

The WAC held two public information meetings to convey information about the draft LWRP amendment and solicit feedback from the public. The meetings were advertised in the local newspaper and documents were made available for public review on the Village website prior to each meeting.

### B. CONSULTATION

The Village Board of Trustees and the members of the Waterfront Advisory Committee review draft sections and complete draft LWRP. After the Village Board of Trustees accepts the draft LWRP amendment as complete, and transmits it to NYS DOS, and the NYS DOS attorney assigned to review the document finds it ready, the 60-day review of the draft LWRP by State, federal and local agencies is initiated, pursuant to the Waterfront Revitalization and Coastal Resources Act. After the conclusion of the 60-day review period and before the local adoption of the LWRP amendment and submission for Secretary of State approval and incorporation into the Coastal Management Program, the comments submitted by agencies during the 60-day review are addressed and necessary revisions are made to the LWRP.

To comply with SEQRA requirements and the review process, after the Village completed an Environmental Assessment Form and determined that there will be no negative impacts on the environment, the Village Board of Trustees adopted a resolution determining that the adoption of the LWRP will have no significant environmental impacts. Due to the conceptual nature of the projects proposed in Section IV, a separate environmental quality review process will be conducted for each proposed project, as prescribed in 6 NYCRR Part 617.

## APPENDIX A – CHAPTER 15 OF THE VILLAGE CODE

*(including LWRP Consistency Review Law and WAF)*

### Chapter 15 - PLANNING<sup>48</sup>

#### ARTICLE I. - IN GENERAL

##### **Sec. 15-1. - Preservation of fresh water wetlands.**

- (a) *Definitions.* The definitions contained in Environmental Conservation Law § 24-0107 are hereby adopted and incorporated herein by reference. The term "local government" shall mean the village.
- (b) *Declaration of policy.* It is declared to be the public policy of the village to preserve, protect and conserve the fresh water wetlands and the benefits derived therefrom, to prevent the despoliation of fresh water wetlands and to regulate the use and development of such wetlands to secure the natural benefits of fresh water wetlands, consistent with the general welfare and beneficial economic and social development of the village.
- (c) *Statement of findings.* The statement of findings as set forth in Environmental Conservation Law § 24-0105 are hereby adopted and incorporated herein by reference wherever such findings are or may be applicable to the village.
- (d) *Regulations.* The provisions for activities requiring a permit, the application procedures and the method for granting permits and other considerations required in Environmental Conservation Law §§ 24-0701, 24-0703 and 24-0705 are hereby adopted and incorporated herein by reference.
- (e) *Implementation.* Wherever a provision is contained in Environmental Conservation Law art. 24 which has not been adopted through the enactment of the provisions hereinbefore provided, which are required to be adopted to comply with the provisions contained in Environmental Conservation Law § 24-0501, such provisions are hereby adopted and incorporated herein by reference.

(Code 1978, § 15-1; L.L. No. 5-1976, §§ 1—5)

##### **Sec. 15-2. - Planning fees.**

The following planning fees are hereby established:

- (1) Major subdivision application     \$100.00
- (2) Minor subdivision application     \$50.00
- (3) (Request for special planning meeting     \$30.00
- (4) Application for development plan approval     \$50.00
- (5) Subdivision application package     \$2.00

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<sup>48</sup> [https://library.municode.com/ny/lewiston/codes/code\\_of\\_ordinances?nodeId=CO\\_CH15PL](https://library.municode.com/ny/lewiston/codes/code_of_ordinances?nodeId=CO_CH15PL)



- (6) State environmental quality review environmental assessment form \$25.00  
(SEQREAF)

- (7) LWRP Consistency Review Law \$25.00

(Code 1978, § 15-2; Res. of 5-3-1976; L.L. No. 9-1992, § 1)

**Secs. 15-3—15-15. - Reserved.**

## ARTICLE II. - PLANNING COMMISSION

*Footnotes:*

- (1)-

*State Law reference - Village planning commission, General Municipal Law § 234 et seq.*

**Sec. 15-16. - Authorized.**

The village is hereby authorized to create a planning commission pursuant to General Municipal Law §234, which commission shall be known as the village planning commission.

(Code 1978, § 15-16; Ord. No. 8.2, § 1, 10-3-1966)

**Sec. 15-17. - Membership; terms.**

- (a) The village planning commission shall consist of five members, who shall be residents of the village, to be appointed by the mayor, subject to the approval of the board of trustees. Successors to the members of the commission first appointed shall be appointed to hold office for terms of two years and shall be filled in the same manner as the original appointment.
- (b) The term of office of a member appointed to such commission shall commence on June 1 in the year of appointment and expire in the year of expiration of such term.
- (c) Vacancies in such commission occurring other than by expiration of term shall be filled only for the unexpired term and shall be filled in the same manner as the original appointment.
- (d) Requirements of General Municipal Law § 234 , as the same provides for members and terms of office of the planning commission, are hereby superseded within the village for all matters and things which may properly be the subject of control by a local law herein and hereafter adopted by the board of trustees.

(Code 1978, § 15-17; Ord. No. 8.2, § 2, 10-3-1966; L.L. No. 8-1975, §§ 1, 2)

**Sec. 15-18. - Organization.**

The village planning commission shall annually elect a chairman from its own members. It shall have the power and authority to employ experts, clerks and a secretary and to pay for their services and such other expenses as may be necessary and proper, not exceeding in all, the annual appropriation made by the board of trustees. The commission shall also adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction in accordance with the provisions of General Municipal Law art. 12-A (General Municipal Law § 234 et seq.).

(Code 1978, § 15-18; Ord. No. 8.2, § 3, 10-3-1966)

**Sec. 15-19. - Powers and duties.**

- (a) The board of trustees may, at any time by resolution, provide that the following matters, or any one or more of them, shall be referred for report thereon, to the village planning commission by the board of trustees, zoning board of appeals, building inspector or other public officer of the village which is the final authority thereon before final action thereon by such authority:
  - (1) The adoption of any map or plan of the village or part thereof including drainage and sewer or water system plans or maps for any such public waterfront, or marginal street, or public structure upon, in or in connection with such front or street, or for any dredging, filling or fixing of lines with relation to said front.
  - (2) Any change in any such maps or plans.
  - (3) The location of any public structure upon, in or in connection with, or fixing lines with relation to said front.
  - (4) The location of any public building, bridge, statue or monument, highway, park, parkway, square, playground or recreation ground, or public open place of the village.
- (b) Such report upon any matter or class of matters referred to the commission shall be returned to the board of trustees within 30 days from the time such report was requested or the planning commission shall be in default and shall forfeit the right further to suspend action unless the time limitation for the return of the report is otherwise stated by the board of trustees when the report is initially requested.
- (c) The planning commission shall have full powers and authority to make such investigations, maps, reports and recommendations in connection therewith relating to the planning and development of the village as to it seems desirable or which have been requested by any public body or officer.
- (d) Such planning commission may cause to be made a map of the village or any portion thereof, or of any land outside the limits of the village so near or so related thereto, that in the opinion of the planning commission it should be so mapped. Such plans may show not only such matters as by law have been or may be referred to the planning commission, but also any and all matters and things with relation to the plan of the village which to the planning commission seem necessary and proper, including recommendations and changes suggested by it; and any report at any time made may include any of the above. Such planning commission may obtain expert assistance in the making of any such maps or reports, or in the investigations necessary and proper with relation thereto, not exceeding in all, the annual appropriation made by the board of trustees.
- (e) The planning commission shall have power to approve plans showing lots, blocks or sites, with or without streets or highways, and to approve the development of plats, entirely or partially undeveloped and which have been filed in the office of the clerk of the county prior to the appointment of such planning commission and the grant to such board of the power to approve plats.
- (f) In addition, the planning commission shall have all other powers and duties given and prescribed by General Municipal Law art. 12-A (General Municipal Law § 234 et seq.).
- (g) The planning commission shall be responsible for the review and evaluation of proposed actions in the coastal area of the village in accordance with article ~~V~~ IV of this chapter. The planning

commission shall evaluate the consistency of the proposed action with the policies and purposes of the adopted local waterfront revitalization program (LWRP) for the village and shall provide its considerations and recommendations to the village board of trustees for final determination and certification of consistency with the LWRP.

(Code 1978, § 15-19; Ord. No. 8.2, §§ 4—6, 10-3-1966; L.L. No. 7-1989, § 1)

**State Law reference** - General powers of planning commission, General Municipal Law § 234 et seq.

**Secs. 15-20—15-42. - Reserved.**

### ARTICLE III. - ENVIRONMENTAL QUALITY REVIEW OF CERTAIN ACTIONS

#### **Sec. 15-43. - Definitions.**

Unless the context shall otherwise require, the terms, phrases, words and their derivatives used in this article shall have the same meanings as those defined in Environmental Conservation Law §8-0105 and Part 617 of Title 6 NYCRR.

*County, city, town, or village* means the Village of Lewiston.

*Waterfront revitalization area (WRA)* means that portion of the state coastal area described and mapped in the Village of Lewiston Local Waterfront Revitalization Program.

*Local waterfront revitalization program (LWRP)* means the local program to implement the state coastal management program within the village, as adopted by the village board of trustees and as approved by the secretary of state pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981.

*Waterfront assessment form or WAF* means the form including a checklist, used by Village agencies or other entity to assist in determining the consistency of an action with the Village of Lewiston LWRP, as provided in Sec. 15-120.

(Code 1978, § 15-73; L.L. No. 2-1977, § 1; L.L. No. 7-1989, § 2)

#### **Sec. 15-44. - Compliance with article required; exceptions.**

No decision to carry out or approve an action other than an action listed in section 15-75(b) or Section 617.12 of Title 6 NYCRR as a Type II action, shall be made by the board of trustees or by any department, board, commission, officer or employee of the village until there has been full compliance with all requirements of this article and Part 617 of Title 6 NYCRR, provided, however, that nothing herein shall be construed as prohibiting:

- (1) The conducting of contemporaneous environmental, engineering, economic feasibility or other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action which do not commit the village to approve, commence or engage in such action; or
- (2) The granting of any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle or permit the applicant to commence the action until all requirements of this article and Part 617 of Title 6 NYCRR have been fulfilled.

(Code 1978, § 15-74; L.L. No. 2-1977, § 2)

**Sec. 15-45. - Classification of actions.**

- (a) Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the actions listed in Section 617.12 of Title 6 NYCRR as Type I actions are likely to have a significant effect on the environment.
- (b) Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the actions listed in Section 617.12 of Title 6 NYCRR as Type II actions are deemed not to have a significant effect on the environment.
- (c) Consistent with Part 617 of Title 6 NYCRR and the criteria therein, those actions similar to the actions listed in Section 617.4 of Title 6 NYCRR as Type I actions, but not specifically identified are classified as unlisted actions and may have a significant effect on the environment as determined in accordance with Section 617.11 of the Title 6 NYCRR.

(Code 1978, § 15-75; L.L. No. 2-1977, § 3; L.L. No. 7-1989, § 3)

**Sec. 15-46. - Application and statement.**

- (a) For the purpose of assisting in the determination of whether an action may or will not have a significant effect on the environment, applicants for permits or other approvals shall file a written statement with the board of trustees setting forth the name of the applicant; the location of the real property affected, if any; a description of the nature of the proposed action; and the effect it may have on the environment. In addition, applicants may include a detailed statement of the reasons why, in their view, a proposed action may or will not have a significant effect on the environment. Where the action involves an application, the statement shall be filed simultaneously with the application for the action. The statement provided herein shall be upon a form prescribed by resolution by the board of trustees and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches and maps, if any, together with any other relevant explanatory material required by the board of trustees.
- (b) In the event that an action will occur within or will impact the WRA a WAF shall also be completed for the LWRP Coordinator, pursuant to the LWRP Consistency Review Law.

(Code 1978, § 15-76; L.L. No. 2-1977, § 4; L.L. No. 7-1989, § 4)

**Sec. 15-47. - Application fee.**

Every application for determination under this article shall be accompanied by a reasonable fee as set forth in this section to defray the expenses incurred in rendering such determination. The fee shall be the sum of \$25.00 for each application.

(Code 1978, § 15-77; L.L. No. 2-1977, § 7)

**Sec. 15-48. - Notice of proposed action to be posted.**

Upon receipt of a complete application and a statement, the board of trustees shall cause a notice thereof to be posted on the signboard, if any, of the village maintained by the village and may also cause such notice to be published in the official newspaper of the village, if any, or in a newspaper having general circulation within the village, describing the nature of the proposed action and stating

that written views thereon of any person shall be received by the board of trustees no later than a date specified in such notice.

(Code 1978, § 15-78; L.L. No. 2-1977, § 5)

**Sec. 15-49. - Determination on application.**

- (a) The board of trustees shall render a written determination on the application filed under section 15-46 within 15 days following receipt of a complete application and statement; provided, however, that, such period may be extended by mutual agreement of the applicant and the board of trustees. The determination shall state whether such proposed action may or will not have a significant effect on the environment or the coastal resources of the village. The board of trustees may hold informal meetings with the applicant and may meet with and consult any other person for the purpose of aiding it in making a determination on the application.
- (b) If the board of trustees determines that the proposed action is not an exempt action, or an action listed in section 15-45(b) or Section 617.5 of Title 6 NYCRR as a Type II action and that it will not have a significant effect on the environment, the board of trustees shall prepare, file and circulate such determination as provided in Section 617.7 of Title 6 NYCRR and thereafter the proposed action may be processed without further regard to this article.
- (c) The determination shall include certification as to consistency with the policies and purposes of the LWRP for those actions subject to a WAF. Certification shall include a review and evaluation of the action in accordance with article V of this chapter and a determination that the proposed action is consistent with the policies and purposes of the LWRP based on the following criteria:
  - (1) The action will not substantially hinder the achievement of any of the policies and purposes of the LWRP and whenever practicable will advance one or more such policies; or
  - (2) If the action will substantially hinder the achievement of any policy or purpose of the LWRP, then the action may be determined to be consistent to the maximum extent practicable with the LWRP provided that:
    - a. No reasonable alternatives exist which would permit the action to be undertaken in a manner which would not substantially hinder the achievement of such policy or purpose;
    - b. The action will minimize all adverse effects on such policy or purpose to the maximum extent practicable;
    - c. The action will advance one or more of the LWRP policies and purposes; and
    - d. The action will result in an overriding local, regional or statewide public benefit.

The action shall not be directly undertaken, funded, or approved by the village board or any department, office, other body or officer of the village, unless the action has been determined to be consistent with the policies and purposes of the LWRP.

- (d) If the board of trustees determines that the proposed action may have a significant effect on the environment, the board of trustees shall prepare, file and circulate such determination as provided in Section 617.7(c) of Title 6 NYCRR; and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this article and Part 617 of Title 6 NYCRR.

(Code 1978, § 15-79; L.L. No. 2-1977, §§ 6(a), 8; L.L. No. 7-1989, §§ 6, 7)



**Sec. 15-50. - Draft environmental impact statement—Preparation.**

- (a) Following a determination pursuant to section 15-49 that a proposed action may have a significant effect on the environment, the board of trustees shall, in accordance with the provisions of Part 617 of Title 6 NYCRR:
  - (1) In the case of an action involving an applicant, immediately notify the applicant of the determination and shall request that the applicant prepare an environmental impact report in the form of a draft environmental impact statement.
  - (2) In the case of an action not involving an applicant, shall prepare a draft environmental impact statement.
- (b) If the applicant decides not to submit an environmental impact report, the board of trustees shall prepare or cause to be prepared the draft environmental impact statement or, in its discretion, notify the applicant that the processing of the application will cease and that no approval will be issued. The board of trustees may require an applicant to submit a fee to defray the expense to it of preparing a draft environmental impact statement or reviewing same if it is prepared by the applicant. Such fees shall be determined as follows: An amount equal to one-half of one percent of the action's total cost unless otherwise reduced by resolution of the board of trustees.
- (c) When an action will occur within or will impact the LWRA, the draft environmental impact statement shall include an identification of the applicable policies and purposes of the LWRP and a discussion of the effects of the action on such policies and purposes.

(Code 1978, § 15-80; L.L. No. 2-1977, § 9; L.L. No. 7-1989, § 8)

**Sec. 15-51. - Same—Notice of completion.**

Upon completion of a draft environmental impact statement prepared by or at the request of the village, a notice of completion containing the information specified in Section 617.7(d) of Title 6 NYCRR shall be prepared, filed and circulated as provided in Section 617.7(e) and (f) of Title 6 NYCRR. In addition, it will be published in the official newspaper, if any, of the village or if none, a newspaper having general circulation within the village, and a copy thereof shall also be posted on a signboard of the village. Copies of the draft environmental impact statement and the notice of completion shall be filed, sent and made available as provided in Section 617.9 of Title 6 NYCRR.

(Code 1978, § 15-81; L.L. No. 2-1977, § 10)

**Sec. 15-52. - Same—Hearing; notice.**

If the board of trustees determines to hold a public hearing on a draft environmental impact statement, notice thereof shall be filed, circulated and sent in the same manner as the notice of completion and shall be published in the official newspaper of the village, if any, or if none, in a newspaper having general circulation within the village at least ten days prior to such public hearing. Such notice shall also state the place where substantive written comments on the draft environmental impact statement may be sent and the date before which such comments shall be received. The hearing shall commence no less than 15 calendar days nor more than 60 calendar days of the filing of the draft environmental impact statement, except as otherwise provided where the board of trustees determines that additional time is necessary for the public or other agency review of the draft environmental impact statement or where a different hearing date is required as appropriate under other applicable law.

(Code 1978, § 15-82; L.L. No. 2-1977, § 10)

**Sec. 15-53. - Effect of determination that proposed action will not have significant effect on environment.**

If, on the basis of a draft environmental impact statement or a public hearing thereon, the board of trustees determines that an action will not have a significant effect on the environment, the proposed action may be processed without further regard to this article, except that for actions subject to a WAF, a certification of the consistency of the action with the policies and purposes of the LWRP shall be made in the manner and according to the criteria provided in article V of this chapter.

(Code 1978, § 15-83; L.L. No. 2-1977, § 11; L.L. No. 7-1989, § 9)

**Sec. 15-54. - Final environmental impact statement—Preparation.**

Except as otherwise provided herein, the board of trustees shall prepare or cause to be prepared a final environmental impact statement in accordance with the provisions of Part 617 of Title 6 NYCRR; provided, further, that, if the action involves an application, the board of trustees may direct the applicant to prepare the final environmental impact statement. Such final environmental impact statement shall be prepared within 45 days after the close of any hearing or within 60 days after the filing of the draft environmental impact statement, whichever last occurs; provided, however, the board of trustees may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material reconsideration or modification. Where the action involves an application, such final environmental impact statement shall be accompanied by the fee specified in this section to defray the expenses of the village in preparing and/or evaluating same. The fee shall be determined as follows: An amount equal to one-half of one percent of the action's total cost unless otherwise reduced by resolution of the board of trustees.

(Code 1978, § 15-84; L.L. No. 2-1977, § 12)

**Sec. 15-55. - Same—Notice of completion.**

A notice of completion of a final environmental impact statement shall be prepared, filed and sent to all persons to whom the notice of completion of the draft environmental impact statement was sent. Copies of the final environmental impact statement shall be filed and made available for review in the same manner as the draft environmental impact statement.

(Code 1978, § 15-85; L.L. No. 2-1977, § 13)

**Sec. 15-56. - Same—Filing and consideration prerequisite to decision to carry out or approve actions subject to article.**

No decision to carry out or approve an action which has been the subject of a final environmental impact statement by the board of trustees or by any other agency shall be made until after the filing and consideration of the final environmental impact statement. Where the board of trustees has been the lead agency for an action, it shall make a decision whether or not to approve the action, within 30 days of the filing of the final environmental impact statement.

(Code 1978, § 15-86; L.L. No. 2-1977, § 14)

**Sec. 15-57. - Findings to be made upon decision to carry out or approve actions; filing of copy.**

- (a) When the board of trustees decides to carry out or approve an action which may have a significant effect on the environment it shall make the following findings in a written determination:

- (1) Consistent with social, economic and other essential considerations of state policy, to the maximum extent practicable, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements; and
  - (2) All practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.
- (b) For actions subject to a WAF, the written determination shall include a determination that the action is consistent with the policies and purposes of the LWRP in a manner and according to the criteria provided in section 15.49(c).
- (c) For public information purposes, a copy of the determination shall be filed and made available as provided in Part 617 of Title 6 NYCRR.

(Code 1978, § 15-87; L.L. No. 2-1977, §§ 15, 16; L.L. No. 7-1989, §§ 10, 11)

**Sec. 15-58. - Maintenance of files of notices, statements, certificates and written determinations required.**

The village shall maintain files open for public inspection of all notices of completion, draft and final environmental impact statements, certifications of consistency with local waterfront revitalization program policies and written determinations prepared or caused to be prepared by the board of trustees.

(Code 1978, § 15-88; L.L. No. 2-1977, § 17; L.L. No. 7-1989, § 12)

**Sec. 15-59. - Procedure when more than one agency is involved in an action.**

Where more than one agency is involved in an action, the procedures of Sections 617.4 and 617.8 of Part 617 of Title 6 NYCRR shall be followed.

(Code 1978, § 15-89; L.L. No. 2-1977, § 18)

**Sec. 15-60. - Coordination of time limitations.**

The time limitations provided in this article shall be coordinated with, to the extent practicable, other time limitations provided by statute or local law, ordinance or regulation of the village.

(Code 1978, § 15-90; L.L. No. 2-1977, § 6(b))

**Sec. 15-61. - Exemption of actions undertaken or approved prior to certain dates.**

Actions undertaken or approved prior to the dates specified in Environmental Conservation Law Art. 8 for local agencies shall be exempt from this article and the provisions of Article 8 of the environmental conservation law and Part 617 of Title 6 NYCRR; provided, however, that, if, after such dates the board of trustees or a department, board, commission, officer or employee having jurisdiction modifies an action undertaken or approved prior to that date and the board of trustees determines that the modification may have a significant adverse effect on the environment, such modification shall be an action subject to this article and Part 617 of Title 6 NYCRR.

(Code 1978, § 15-91; L.L. No. 2-1977, § 19)

**Secs. 15-62—15-99. - Reserved.**

## ARTICLE IV. - HISTORIC PRESERVATION

### ***Footnotes:***

***-(2) -***

***State Law reference - Historic preservation, General Municipal Law § 119-aa et seq.***

### **Sec. 15-100. - Title.**

This article shall be known as and may be cited as the Village of Lewiston Historic Preservation Law.

(Code 1978, § 15-100; L.L. No. 1-1978, § 1)

### **Sec. 15-101. - Legislative intent.**

The village finds that many buildings, structures and sites, or districts of such buildings, structures and sites within its borders, have a unique character and special aesthetic interest and represent fine architectural products of distinct periods in the area's history. The village also finds that such buildings, structures, sites, or districts of such may be damaged without adequate consideration of the irreplaceable loss to the citizens of the village. Therefore, it is hereby declared to be a matter of public policy and a valid exercise of the inherent police powers of the village to protect, enhance and perpetuate such buildings, structures, sites or districts as is necessary to:

- (1) Promote the health, prosperity and safety of village citizens;
- (2) Safeguard the area's heritage by preserving elements of its cultural, political, economic and aesthetic history;
- (3) Foster civic pride in the beauty and noble accomplishments of the past; and
- (4) Promote the use of such buildings, structures, sites, or districts for the education, pleasure and welfare of the people of the area.

(Code 1978, § 15-101; L.L. No. 1-1978, § 2; L.L. No. 6-1990, § 1)

### **Sec. 15-102. - Definitions.**

The definitions contained in appendix B, the zoning code of the village, shall be applicable to this article. In addition thereto, the following definitions are deemed controlling regarding terms utilized in this article:

*Alteration* means any act or process which changes one or more of the exterior architectural features of a building, structure or site designated as historically significant or any such building, structure or site in an historic district. The term "alteration" includes relocation of property and new construction.

*Certificate of approval* means that document issued by the historic preservation commission which entitles the applicant for such to alter or demolish a designated property.

*Demolish* means to raise, remove, destroy, obliterate or contribute to substantial deterioration of any portion of a designated property or exterior architectural feature thereof.

*Designated property* means a building, structure or site determined to be historically significant and all buildings, structures and sites within an historical district.

*Exterior architectural feature* means the architectural style, design, general arrangement, and components of a designated property, including, but not limited to, color of paint, type of all windows, doors, lights, signs and other fixtures appurtenant to such portion and all buildings, structures,

outbuildings, walls, fences, steps, topographical features, earthworks, paving and signs located on the designated property.

*Historic district* means any area which:

- (1) Has a special character or special historic, architectural, archeological or cultural value;  
or
- (2) Represents one or more periods or styles of architecture typical of one or more areas;  
and
- (3) Causes such area, by reason of such factors, to constitute a distinct section.

*Relocation* means moving a building to another site within the historic district or moving designated historic properties from or to other areas in the village.

*Styles of architecture* means styles recognized by one of the following organizations:

- (1) The National Register of Historic Places.
- (2) The Historic American Buildings Survey.
- (3) The Historic American Engineering Record, U.S. Department of the Interior, National Park Service.
- (4) The Division for Historic Preservation, New York State Office of Parks and Recreation.
- (5) The National Trust for Historic Preservation.
- (6) The Society of Architectural Historians.

(Code 1978, § 15-102; L.L. No. 1-1978, § 3; L.L. No. 7-1980, § 1; L.L. No. 6-1990, §§ 2—4)

State Law reference— Similar provisions, General Municipal Law § 119-bb.

**Sec. 15-103. - Historic preservation commission—Established; composition; term of office; officers; meetings.**

- (a) There shall be created by the village board an historic preservation commission which shall consist of five members to be appointed by the village board. The village historian shall be a nonvoting and ex officio member of the commission.
- (b) Said members shall be residents of the village and shall include, if available, two architects, one of whom shall be a landscape architect, and one a municipal planner. Other appointees shall be qualified by reason of training, experience, or demonstrated interest in law, local law, business or the history or historical preservation of the village. A vacancy occurring in the membership for any cause shall be filled for the unexpired portion of the term by the village board of trustees.
- (c) The term of office shall be five years, provided that of those five members initially appointed by the village board, one shall be for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year.
- (d) The commission shall elect one member as chairman and one member as vice-chairman, and shall submit an annual report in the last week of May to the village board of trustees encapsulating its activities of the past year and listing goals and objectives for the ensuing year. Such report shall also include recommendations that the commission deems necessary to carry out the principles of this local law and to enhance the historic and aesthetic qualities of the village.
- (e) Meetings of the commission shall be held at such times as the commission may determine or at the call of the chairman or at the call of at least two commission members, and must be held



within 30 days of receipt of complete application for a certificate of appropriateness by the village building inspector. All commission meetings shall be open to the public and notice of such shall be posted on the municipal bulletin board at the municipal building at least five days prior to the meeting.

- (f) The commission shall keep regular minutes of its proceedings and show the vote of each member upon any question. It shall also keep records of its examinations and official actions.
- (g) The commission shall also constitute the architectural review board and act as such board when reviewing and submitting recommendations pursuant to section 15-104(f).
- (h) During such time as there are less than four members constituting the historic preservation commission, the duties of the historic preservation commission shall be performed by the village planning commission.

(Code 1978, § 15-103; L.L. No. 1-1978, § 4; L.L. No. 8-1979, § 5; L.L. No. 7-1980, § 2; L.L. No. 5-1989, § 1; L.L. No. 6-1990, §§ 5, 6; L.L. No. 5-1993; L.L. No. 6-1993, §§ 1, 2; L.L. No. 2-1996, § 1)

**Sec. 15-104. - Same—Duties and powers.**

- (a) The commission shall inventory and designate all historically significant buildings, structures, sites or districts of such within the village enlisting the voluntary assistance of interested civic and social organizations. The initial inventory shall be completed within one year of the effective date of this local law or the date of first appointment of members to the commission created hereunder, whichever is later, or such other extended times as adopted by resolution of the board of trustees and such inventory shall be reviewed, updated or revised where necessary each year thereafter before the submission of the annual report. Such initial inventory and annual alterations shall be distributed to the village building inspector, clerk, historian and assessor.
- (b) The commission shall determine the acceptability of applications for certificates of appropriateness.
- (c) In addition to the aforementioned powers, the commission shall have the power to:
  - (1) Retain or employ professional consultants, secretaries, clerks or other such personnel as may be necessary to assist the commission in carrying out its duties and with budgetary limitations;
  - (2) Formulate recommendations concerning the preparation of maps, brochures and historical markers for selected historic sites and buildings or districts;
  - (3) Advise owners of historic buildings on problems of preservation and restoration.
- (d) Nothing in this article shall be construed as authorizing the commission, in acting with respect to any designated property, to amend the existing zoning requirements or grant any variance from those requirements.
- (e) In reviewing the construction, alteration or demolition of designated properties, the commission may impose conditions or determinations that are more restrictive than those prescribed in the zoning law, building code and other provisions of law applicable to such activities.
- (f) The commission shall review and submit its recommendations to the planning commission upon matters referred to them for their review by said commission. Such review shall concern the appropriateness of exterior architectural features, as defined in section 15-102, of buildings and structures, plans for the preservation, drives, parking and circulation, and other appropriate

features. In reviewing a matter so referred, the commission shall apply the standards as set forth in section 10R of the zoning law (appendix B to this Code).

(Code 1978, § 15-104; L.L. No. 1-1978, § 5; L.L. No. 4-1979, § 1; L.L. No. 8-18-1989, § 1; L.L. No. 5-1989, § 2; L.L. No. 6-1990, § 7)

**Sec. 15-105. - Criteria and procedure for designation of buildings, structures, sites, or districts.**

- (a) Buildings, structures, sites and historic districts may be designated as historically significant if, by virtue of association with historic personages or events or as representative examples of historic styles or methods of construction, they are important in the chronological record of the village, its neighborhoods, the state or the nation and/or such entity's cultural, political, economic, or aesthetic heritage.
- (b) When evaluating historic significance, the commission shall consider date of erection and period of historic significance, architectural style, scarcity of the type or period in the village, quality of design, integrity of the original design, present condition and appearance and, in the case of historic districts, the collective merits and interrelationship of neighboring properties.
- (c) Procedure for designation.
  - (1) Notice of the fact that the commission is considering designation of a building, structure, site or district as historically significant shall be served upon the owner of such building, structure, site or district.
  - (2) Said notice shall contain the date, time and place of the meeting at which the proposed designation will be considered, and shall invite owners to comment upon the proposal in person or by providing written comments.
  - (3) The notice shall be given at least ten days, but not more than 20 days prior to the date of the scheduled meeting.
  - (4) Such notice shall be served personally upon said owner if the owner is a resident of the village; or if the owner is not a resident of the village, said notice shall be sent by certified mail to the last known address as set forth on the latest tax rolls of the village.
  - (5) The commission may at its discretion call a public hearing to receive comments concerning a proposed designation. Notice of such hearing shall be served on owners as provided in subsection (c)(4) of this section and shall be announced by public notice at least five days prior to the scheduled hearing.
  - (6) Designation shall be made by resolution of the historic preservation commission and notification of such designation shall be sent to the owner by certified mail.

(Code 1978, § 15-105; L.L. No. 1-1978, § 6; L.L. No. 7-1980, §§ 3, 4; L.L. No. 6-1990, §§ 8—10)

**Sec. 15-106. - Criteria and procedure for certificate of approval.**

- (a) Notwithstanding any inconsistent ordinance, local law, code, rule or regulation concerning the issuance of building permits, no alteration to a designated property shall be commenced without first obtaining a certificate of approval from the commission, nor shall any building permit to demolish, alter, initiate new construction on a designated property be issued without such a certificate of approval having first been issued. The certificate of approval required by

this section shall be in addition to and not in lieu of any building permit that may be required by any ordinance, local law, code, rule or regulation of the village.

- (b) Application for a certificate of approval shall be made to the commission, in writing, in duplicate and upon forms prescribed by the commission. The application shall be sufficiently detailed for the commission to evaluate whether the proposed changes will be in harmony with the historic building, structure or site and shall be accompanied, unless their necessities are waived by the commission, by plans illustrating the designated property, the proposed changes and the relationship of such to adjacent property and in addition, unless waived, shall include:
  - (1) Name, address and telephone number of the applicant;
  - (2) Location of the building, structure or land the exterior architectural features of which are proposed to be changed;
  - (3) Elevations of the proposed change;
  - (4) Perspective drawing;
  - (5) Samples of the color or materials to be used in the proposed change;
  - (6) Where the proposed change includes signs or lettering, a scale drawing showing the type of lettering, all dimensions and colors; a description of the materials to be used and the method of illumination, if any; and a plan showing the location on the building or property.
- (c) Within a reasonable time after the application is filed, but in all events within 30 days (Saturdays, Sundays and legal holidays excluded), unless otherwise mutually agreed upon by the applicant and the commission, the commission shall invite the owner or the owner's representative to attend a meeting when the commission reviews the application. If it approves the application, the commission shall attach a certificate of approval to the building permit, if applicable, or give the certificate of approval to the applicant if no building permit is required. If the commission approves the application, it shall issue a certificate of approval which shall be attached to the building permit, if applicable, and immediately transmitted to the building inspector, or applicant if no building permit is required. The commission shall also stamp all submitted plans. If the commission disapproves an application, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefor to the applicant and building inspector. The commission may advise what it considers proper if the application is denied, and the applicant, if he so desires, may modify his plans and resubmit his application after doing so.
- (d) In approving or denying an application, the commission shall be guided by the secretary of the interior's standards for historic preservation projects. The commission shall consider the historical and architectural importance of the property, the site in relation to its surroundings, the value to the community, the condition of the property at the time of application, the severity of the change in exterior design and the degree of harmony and integration of the proposed changes with the original property. Also to be considered is whether denial of a certificate will cause economic hardship to the applicant, and if so, to what extent.
- (e) An applicant whose certificate of appropriateness has been denied may within ten days of such denial apply for relief from the strict application of the historic preservation local law on the grounds of economic hardship. The commission shall meet within 30 days of the application for relief. At the meeting, proponents and opponents of the application will be provided the opportunity to present their views.

- (f) The commission may solicit expert testimony or require that the applicant make submissions concerning any or all of the following information before it makes a determination on the application:
  - (1) Estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the commission for changes necessary for the issuance of a certificate of appropriateness;
  - (2) All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property;
  - (3) Any listing of the property for sale or the rent price asked and offers received, if any, within the previous two years;
  - (4) Assessed value of the property according to the two most recent assessments;
  - (5) Real estate taxes for the previous two years;
  - (6) Form of ownership or operation of the property, whether a sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture or other;
  - (7) In the case of a proposed demolition, an estimate from an architect, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility or rehabilitation or reuse of the existing structure on the property;
  - (8) If the property is income-producing, the annual gross income from the property for the previous two years, itemized operating and maintenance expenses for the previous two years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period; and
  - (9) Any other information considered necessary by the commission for a determination as to whether the property does yield or may yield a reasonable return to the owners.
- (g) For all applications, except those involving demolition or removals, the applicant shall, in order to prove the existence of economic hardship, establish that:
  - (1) a. He will suffer significant and unreasonable economic or financial injury if required to comply with the commission's decision as applied to his property; and  
b. The character of the landmark and/or historic district will be preserved and not substantially changed by the proposed alteration; or
  - (2) The property is incapable of earning a reasonable return.
- (h) For applications involving demolition or removal of a landmark or structure within a historic district, the applicant shall, in order to prove the existence of economic hardship, establish that:
  - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
  - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return;
  - (3) Reasonable efforts to find a purchaser interested in acquiring the property for rehabilitation and preservation have been made and have failed; and
  - (4) The owner has not created his own hardship through waste and neglect, thereby permitting the structure to fall into a serious state of disrepair.
- (i) Throughout the hardship procedures, the applicant shall consult in good faith with the commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.

- (j) Failure of the commission to approve or disapprove an application within 30 days after its filing or within the time period mutually agreed upon by the applicant and the commission shall be deemed to constitute approval by the commission.

(Code 1978, § 15-106; L.L. No. 1-1978, § 7; L.L. No. 7-1980, § 5; L.L. No. 6-1990, §§ 11—14)

**Sec. 15-107. - Appeals.**

- (a) *Appeal from designation.* Any owner whose building, structure, site or district has been designated pursuant to section 15-105 shall have ten days after the adoption of the resolution designating the building, structure, site or district to file an appeal with the village board.
- (b) *Appeal from disapproval of application.* Upon a disapproval of an application for a certificate of approval, if the applicant refuses to modify the application to meet the commission's recommendations, he shall have ten days after the issuance of the commission's decision pursuant to section 15-106, to file an appeal with the village board.
- (c) *Review.* The village board shall use the same criteria as the commission in reviewing an appeal under subsections (a) and (b) of this section, and shall consider no other facts beyond those contained in the application, the proceedings before the commission and the commission decision, and shall render a decision within 30 days after the filing of said appeal.
- (d) *Deadline for appeal.* All properties heretofore designated by the historic preservation commission shall be entitled to file an appeal from such designation pursuant to subsection (a) of this section to the board of trustees provided such appeal is filed within 20 days from the adoption of the local law from which this section is derived.

(Code 1978, § 15-107; L.L. No. 1-1978, § 8; L.L. No. 3-1982, § 1; L.L. No. 6-1990, § 15)

**Sec. 15-108. - Exceptions and exemptions.**

- (a) *Ordinary maintenance and repair.* Nothing in this law shall be construed to prevent ordinary maintenance and repair using material that duplicates the original in design, color, texture and other visual qualities.
- (b) *Interior changes.* The commission shall have no control over interior changes in any building or structure unless evidence of such change is apparent on the exterior of such building or structure.
- (c) *Materials and methods.* Upon approval of an application and subsequent issuance of a certificate of approval, applicant will use materials and methods specified in the approval.
- (d) *Exterior design or appearance.* Nothing contained herein shall be construed as to require the owner of any presently existing building or structure if designated historically significant pursuant to this law to make any change in the exterior design or appearance of such building.

(Code 1978, § 15-108; L.L. No. 1-1978, § 9; L.L. No. 6-1990, § 16)

**Sec. 15-109. - Violations and penalties.**

- (a) Violation of any provision of this local law is hereby declared to be an offense, as defined in the New York State Criminal Procedure Law, punishable by a fine not to exceed \$250.00.
- (b) Each and every week that a violation of this local law is allowed to continue shall be considered a separate offense.

- (c) Nothing contained herein shall prevent further prosecution under other local laws of the village or under the laws of the state.

(Code 1978, § 15-110; L.L. No. 1-1978, § 11)

**State Law reference**— Penalties for violation of village legislation, Penal Law §§ 55.10, 70.15, 80.05, 80.10, Village Law § 20-2006, Municipal Home Rule Law § 10(4.)(b.).

**Sec. 15-110. - Maintenance and repair required.**

Nothing in this section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district, which does not involve a change in design, material, color or outward appearance.

No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the historic preservation commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.

Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports.
- (2) Deterioration of roofs or other horizontal members.
- (3) Deterioration, of exterior chimneys.
- (4) Deterioration or crumbling of exterior stucco or mortar.
- (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

Violations.

- (1) Failure to comply with any of the provisions of this section shall be deemed a violation and the violator shall be liable to a fine up to \$250.00/day for each day the violation continues.
- (2) Any person who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this section shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the village/town/city attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

(L.L. No. 2-2010, § 15-101)

## **ARTICLE V. – LWRP CONSISTENCY REVIEW**

**Sec. 15-111. - Title.**

This article will be known as the Village of Lewiston Local Waterfront Revitalization Program (LWRP) Consistency Review Law.

(L.L. No. 1-2021, § 15-111)



**Sec. 15-112. - 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 agencies of the Village of Lewiston to incorporate the policies and purposes contained in the Village of Lewiston Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions located within the waterfront revitalization area (WRA); and to assure that such actions and direct actions by Village agencies are consistent with the LWRP policies and purposes.
- (c) It is the intention of the Village of Lewiston that the preservation, enhancement and utilization of the unique WRA 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 economic growth. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: degradation and loss of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; adverse impacts to public recreation facilities and amenities; 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 law shall only apply when there is in existence a Village of Lewiston Local Waterfront Revitalization Program that has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

**Sec. 15-113. - Definitions.**

- (a) "Actions" include all the following, except minor actions:
  - (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 WRA 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 Lewiston.
- (c) Code Enforcement Officer means the person who issues building permits and stop work orders in the Village of Lewiston.

- (d) Consistent means that the action will not contradict any of the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.
- (e) 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.
- (f) Environment means all conditions, circumstances, and influences surrounding and affecting the development of living organisms or other resources within the waterfront revitalization area.
- (g) Environmental Assessment Form or EAF means the form used by local agencies to assist it in determining the environmental significance or non-significance of an action, pursuant to Article 8 of the Environmental Conservation Law (SEQR).
- (h) Environmental Impact Statement or EIS means a written draft of final document prepared to provide a means for agencies, project sponsors and the public to systematically consider significant adverse environmental impacts, alternatives and mitigation to an action, pursuant to Article 8 of the Environmental Conservation Law (SEQR).
- (i) Local Waterfront Revitalization Program or LWRP means the locally adopted Village of Lewiston 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 Lewiston.
- (j) LWRP Coordinator means the Mayor of the Village of Lewiston.
- (k) Minor actions include the following actions, 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;
  - (6) granting of individual setback and lot line variances, except in relation to a regulated natural feature (such as steep slopes, bluffs, a State-regulated wetland);
  - (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 and Unlisted actions;
  - (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 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.
- (I) Waterfront Advisory Committee or WAC means the existing five-member Village Planning Commission, created by the village pursuant to General Municipal Law §234, that will also be responsible for the review of actions proposed within the WRA for consistency with the Village of Lewiston LWRP and for making recommendations to the Village Board of Trustees and other agencies regarding the consistency of a proposed action or direct action with the LWRP. The

WAC may also perform other functions regarding the waterfront revitalization area as the Village Board of Trustees may assign to it from time to time.

- (m) Waterfront Assessment Form or WAF means the form including a checklist, used by Village agencies or other entity to assist in determining the consistency of an action with the Village of Lewiston LWRP, as provided in Sec. 15-120.
- (n) Waterfront revitalization area or WRA means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law, as described and mapped in the Village of Lewiston Local Waterfront Revitalization Program (LWRP), and as shown on the coastal area map on file in the office of the Secretary of State.

**Sec. 15-114. - Management and Coordination of the LWRP.**

- (a) The LWRP Coordinator shall be responsible for overall management and coordination of the LWRP. In performing this task, the LWRP Coordinator shall:
  - (1) Inform and discuss with the Village Board of Trustees and agencies the implementation, priorities, work assignments, timetables, and budgetary requirements of the LWRP.
  - (2) Instruct agencies to make applications for funding from State, federal, or other sources to finance projects under the LWRP.
  - (3) Coordinate and oversee liaison between Village agencies and regional, State and federal agencies, to further implementation of the LWRP.
  - (4) Provide NYS Department of State (DOS) with an informal opinion on the consistency with the LWRP of a State or federal action proposed within the WRA, regardless of any requirement for a local consistency decision and within 15 days of DOS request for such informal opinion.
  - (5) Coordinate the preparation of an annual report on LWRP consistency reviews and determinations, and the progress of LWRP implementation.
  - (6) Discuss with the Village Board of Trustees and the Waterfront Advisory Committee the need for the development of an LWRP amendment.
- (b) In order to foster a strong relationship and maintain an active liaison among the agencies responsible for the implementation of the LWRP, the LWRP Coordinator shall schedule an annual LWRP coordinating meeting, including but not limited to the Waterfront Advisory Committee, representatives of the Village Board of Trustees, Zoning Board of Appeals, and such other agencies or individuals involved with LWRP implementation.

**Sec. 15-115. - Review of Actions**

- (a) Whenever a proposed action is located within the WRA, prior to approving, funding or undertaking the action, each agency shall make a determination that the proposed action is consistent with the LWRP policy standards summarized in section (i), below. No action within the WRA shall be approved, funded or undertaken by an agency without such a determination.
- (b) The Waterfront Advisory Committee will assist each agency with preliminary evaluation of actions in the WRA and with preparation of a Waterfront Assessment Form (WAF). 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 WRA, the agency shall refer such application or direct action to the Waterfront Advisory Committee, within ten (10) days of its receipt, for preparation of a WAF, a sample of which is appended to this local law.

- (c) The Waterfront Advisory Committee 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 Waterfront Advisory Committee, 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 Waterfront Advisory Committee 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.
- (d) If an action requires the approval of more than one agency, decision making will be coordinated between the agencies to designate the agency that will make the final determination of consistency. Only one WAF per action will be prepared. If the agencies cannot agree on which one should take the lead, the LWRP Coordinator shall designate the agency that will make the final determination of consistency.
- (e) Upon the recommendations of the Waterfront Advisory Committee, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in section (i), below. Prior to making its determination of consistency, the agency shall consider the consistency recommendation of the Waterfront Advisory Committee. The agency shall render a written determination of consistency based on the WAF, the Waterfront Advisory Committee's recommendation, and such other information as is deemed necessary to its determination. No approval or decision shall be rendered for an action in the WRA without a determination of consistency. The designated agency will make the final determination of consistency.
- (f) 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 consult with and consider written consistency recommendations of the Waterfront Advisory Committee prior to making a decision to grant any variance for any action proposed in the WRA and shall impose appropriate conditions on the variance to make the proposed activity consistent with the LWRP policy standards and objectives.
- (g) Where an Environmental Impact Statement (EIS) is being prepared pursuant to SEQRA, the draft EIS must identify applicable LWRP policies standards summarized in section(i), below and must include a discussion of the effects of the proposed action on such policy standards. No agency shall make a final decision on an action that has been the subject of a final EIS and is located in the WRA until the agency has made a written finding regarding the consistency of the action with the LWRP policy standards referred to in section(i), below.
- (h) In the event the Waterfront Advisory Committee's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, said 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.
- (i) Actions to be undertaken within the WRA shall be evaluated for consistency in accordance with the following summary of LWRP policy standards, which are derived from and further explained and described in the Village of Lewiston LWRP, a copy of which is posted on the Village's website and is on file in the Village 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 policies to:

- (1) Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational and other compatible uses (Policy 1).
- (2) Retain, develop and promote water-dependent uses and facilities on or adjacent to coastal waters (Policy 2).
- (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 (Policy 3).
- (4) Strengthen the economic base of small harbor areas by encouraging traditional uses and activities (Policy 4).
- (5) Ensure that development occurs where adequate public infrastructure is available (Policy 5).
- (6) Streamline development permit procedures (Policy 6).
- (7) Protect, preserve and, where practical, restore significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 8).
- (8) Expand recreational use of fish and wildlife resources by increasing access to existing resources, supplementing existing stocks, and developing new resources. (Policy 9).
- (9) Maintain, promote and expand commercial fishing opportunities (Policies 10).
- (10) Minimize flooding and erosion hazards through non-structural means, protecting natural protective features, construction of carefully selected, long-term structural measures and appropriate siting of structures (Policies 11, 12, 13, 14, 16, and 17).
- (11) Public funds shall be used for erosion protection structures only where necessary and in an appropriate manner (Policy 16).
- (12) Safeguard economic, social and environmental interests in the waterfront area when major actions are undertaken (Policy 18).
- (13) Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment and being compatible with adjoining uses (Policies 19 and 20).
- (14) Encourage, facilitate and give priority to water-dependent and water-enhanced recreation (Policy 21).
- (15) Encourage development, when located near the shore, to provide for water related recreation where compatible (Policy 22).
- (16) Protect and restore historic and archeological resources (Policy 23).
- (17) Prevent impairment to, protect, restore or enhance scenic resources (Policy 24, 25).
- (18) Conserve and protect agricultural lands (Policy 26).
- (19) Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location and in such a manner as to avoid adverse impacts when in operation (Policies 27, 29 and 40).
- (20) Undertake ice management practices in a manner that avoids adverse coastal impacts (Policy 28).



- (21) Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 33, 34, 35, 36, 37 and 38).
- (22) Ensure that dredging and dredge spoil disposal in a manner protective of natural resources (Policies 15 and 35).
- (23) Ensure that any transportation, handling or disposal of hazardous wastes and effluent is undertaken in a manner which will not adversely affect the environment (Policies 8, 30, 36 and 39).
- (24) Protect air quality (Policies 41, 42 and 43).
- (25) Preserve and protect tidal and freshwater wetlands (Policy 44).

**Sec. 15-116. – Enforcement.**

In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Code Enforcement Officer 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 in effect.

**Sec. 15-117. – Violations.**

- (a). A person who violates any of the provisions of, or who fails to comply with any condition imposed by this local 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 (\$1,000.00) 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.

**Sec. 15-118. – Severability**

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

**Sec. 15-119. -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.

**Sec. 15-120. – Waterfront Assessment Form**

**INSTRUCTIONS**

- 1. Applicants, or, in the case of direct actions, an agency shall complete this Waterfront Assessment Form (WAF) for proposed actions which are subject to the LWRP Consistency Review Law. This assessment is intended to supplement other information used by an 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 Village of Lewiston Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the office of the Village Clerk. A proposed action should be evaluated as to its beneficial and adverse

effects upon the WRA and its consistency with the LWRP 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 LWRP 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.

#### DESCRIPTION OF SITE AND PROPOSED ACTION

- 1 Describe the nature and extent of action:

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2. Type of 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 an agency, the following information shall be provided:

- a. Name of applicant

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- b. Mailing address:

c. Telephone number:

(\_\_\_\_)\_\_\_\_\_

d. Property tax number:

\_\_\_\_\_

e. Application number, if any:

\_\_\_\_\_

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? \_\_\_\_\_

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 \_\_\_\_\_

**B. 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.

- |   | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 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 revitalization area as identified in the LWRP? | _____      | _____     |
| (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?   | _____      | _____     |
| 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) Land or water uses within a small harbor area?  | _____      | _____     |
| (d) Designated State or federal freshwater wetlands?  | _____      | _____     |
| (e) Commercial or recreational use of fish and wildlife resources?  | _____      | _____     |
| (f) Existing or potential public recreation opportunities?  | _____      | _____     |
| (g) Structures, sites or districts of historic, archaeological or cultural significance to the Village, State, or nation?   | _____      | _____     |
| (h) Stability of the shoreline?   | _____      | _____     |
| (i) Surface or groundwater quality?   | _____      | _____     |
| 3. Will the proposed action involve or result in any of the following?  |            |           |
| (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 WRA?   | _____      | _____     |
| (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) | 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?  | ___ | ___ |
| (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?  | ___ | ___ |
| (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?  | ___ | ___ |
| (n) | Will the project alter drainage flow, patterns or surface water runoff on or from the site?  | ___ | ___ |
| (p) | Will best management practices be utilized to control storm water runoff into waterfront waters?   | ___ | ___ |
| (q) | Will the project cause emissions that would exceed federal or State air quality standards or generate significant amounts of nitrates or sulfates? | ___ | ___ |
| (r) | Will the project affect any area designated as a tidal or freshwater wetland?  | ___ | ___ |
| (s) | Will the project utilize or affect the quality or quantity of sole source or surface water supplies?   | ___ | ___ |

**C. REMARKS OR ADDITIONAL INFORMATION TO SUPPORT OR DESCRIBE ANY ITEM(S) CHECKED "YES" (Add any additional sheets necessary)**

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If you require assistance or further information in order to complete this form, please contact the Office of the Village of Lewiston Clerk

Please submit completed form, along with one copy of a site/sketch plan to Village of Lewiston



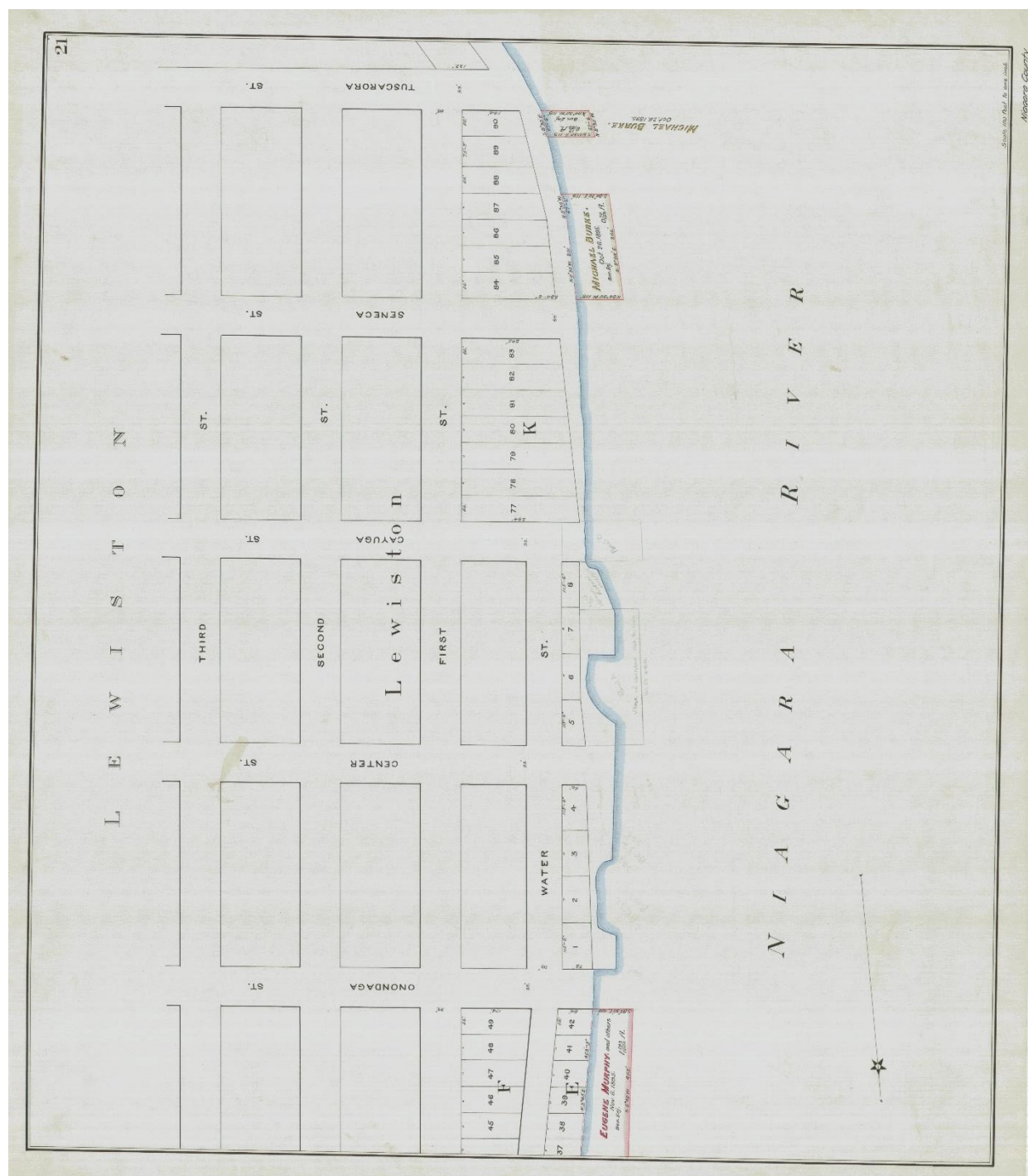
Preparer's Name (Please print) : \_\_\_\_\_

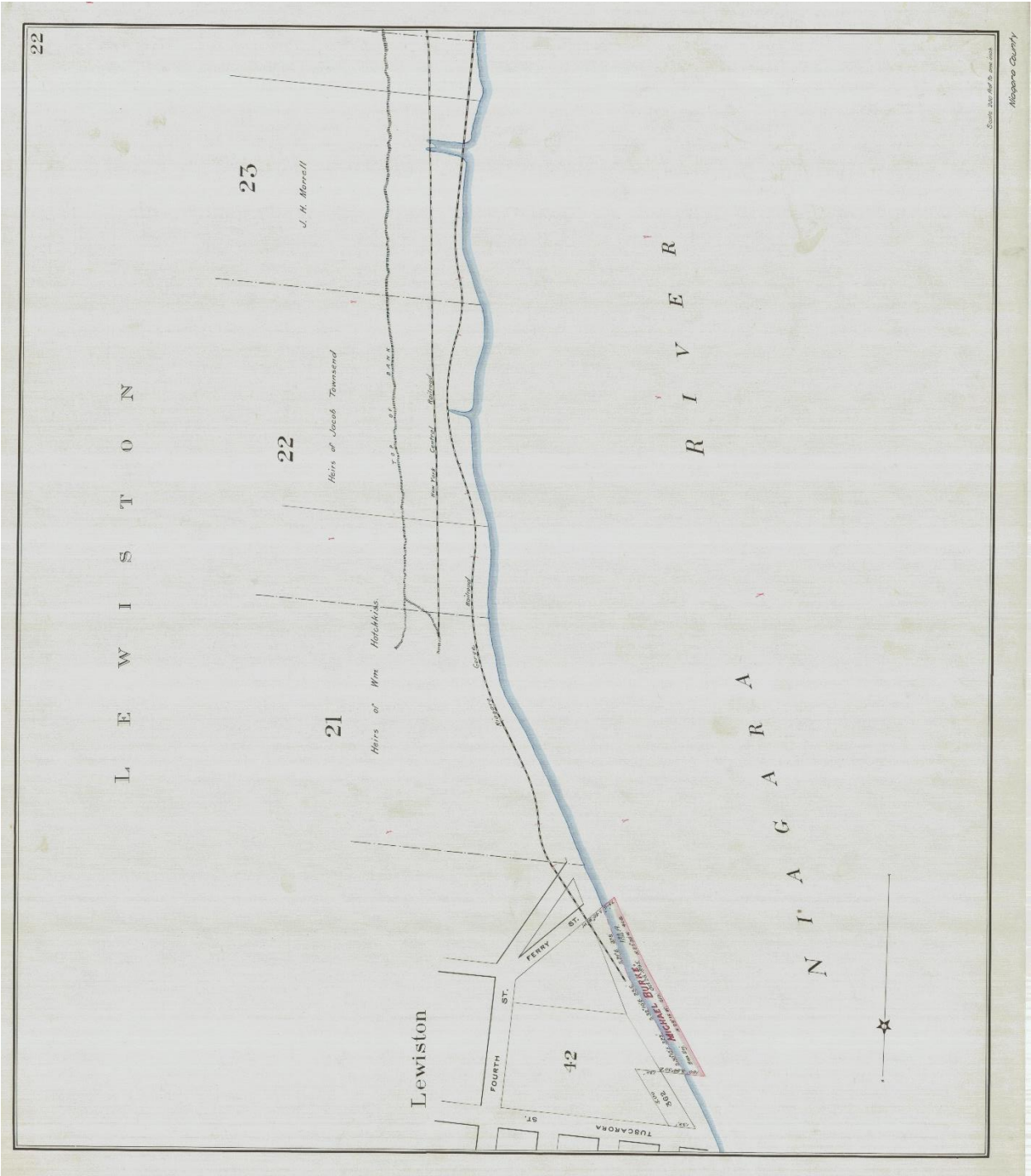
Affiliation: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

Date: \_\_\_\_\_









## LEWISTON LANDING EASEMENT

The executed Easement to the Village of Lewiston for land now or formerly under the waters of the Niagara River located in the Village of Lewiston.



DAVID A. PATERSON  
GOVERNOR

STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
OFFICE OF GENERAL SERVICES  
MAYOR ERASTUS CORNING 2ND TOWER  
THE GOVERNOR NELSON A. ROCKEFELLER EMPIRE STATE PLAZA  
ALBANY, NEW YORK 12242

CARLA CHIARO  
ACTING COMMISSIONER  
HOWARD L. ZWICKEL  
DEPUTY COMMISSIONER AND COUNSEL

November 23, 2010

Anne Welch  
Clerk Treasurer  
Village of Lewiston  
145 North Fourth Street  
PO Box 325  
Lewiston, NY 14092-0325

RE: Renewal of Easement – LUW01492  
Village of Lewiston, County of Niagara

Dear Ms. Welch:

Enclosed is the executed Easement to the Village of Lewiston for land now or formerly under the waters of the Niagara River located in the Village of Lewiston, County of Niagara.

The Easement was recorded in the Department of State on November 9, 2010 in Volume 52 of Miscellaneous Deeds and Title Papers at page 88. Enclosed is form TP-584 for use in local recording. Please check the form and add any missing information.

Please contact me at (518) 474-8831, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas A. Pohl'.

Thomas A. Pohl  
Associate Attorney

Enclosure

## APPENDIX C – ADDITIONAL MAPS

Figure 12. Landward Coastal Area Boundary Proposed in January 1981

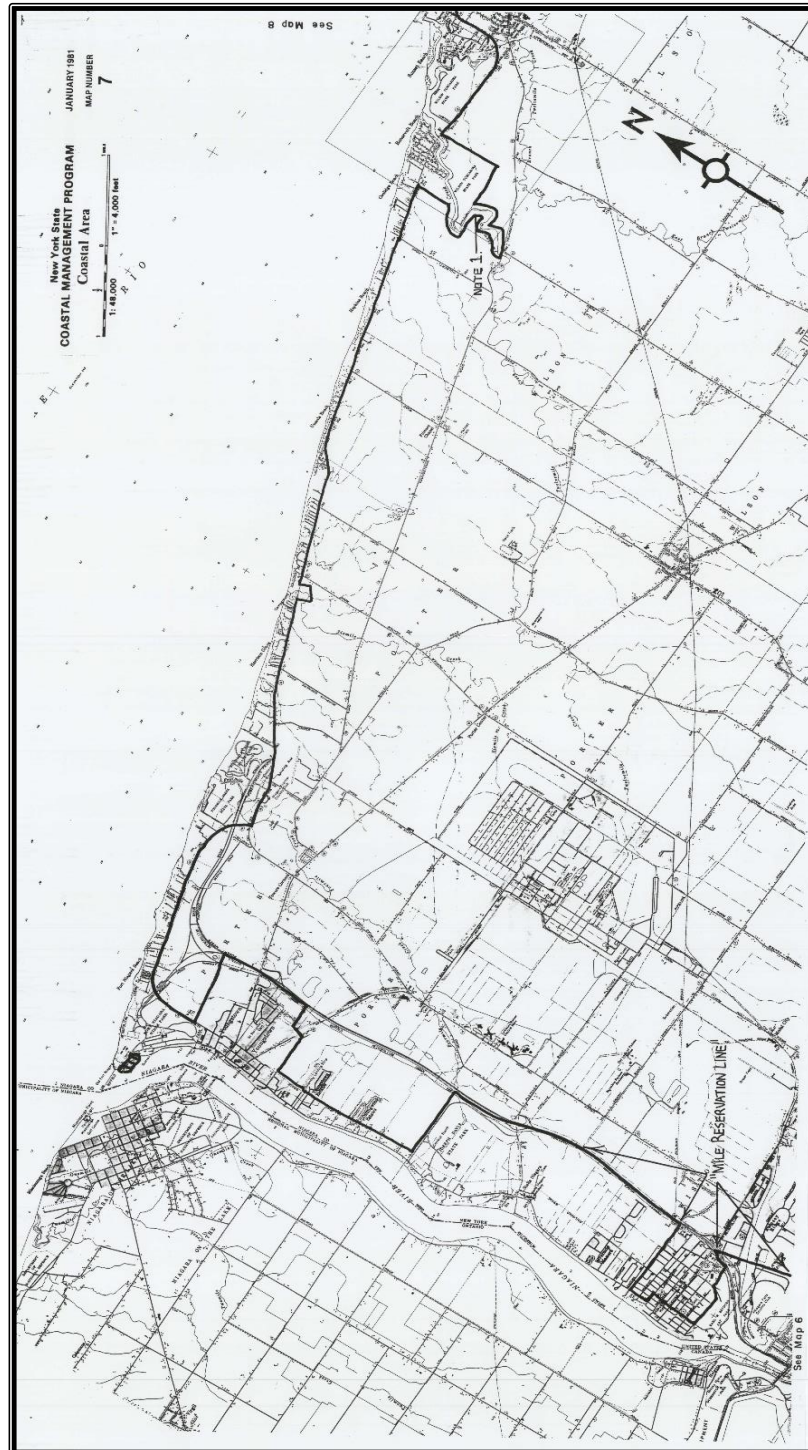




Figure 13. Village of Lewiston WRA boundary approved by the New York State in 1991

