

## Section III Local Waterfront Policies

### Development policies

#### POLICY 1

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

- Policy 1A      Redevelop vacant and underutilized land and structures located at the port site at the mouth of the Genesee River, in a manner which addresses boating demand, leverages private investment and includes a mix of water-dependent and/or water-enhanced commercial, residential and recreational uses.
- Policy 1B      Redevelop vacant and underutilized land and structures in the vicinity of River Street, adjacent to the west bank of the Genesee River, to include water-oriented commercial and recreational uses.
- Policy 1C      Upgrade existing commercial uses located along the west side of Lake Avenue, near the port site.
- Policy 1D      Rehabilitate the bathhouse and adjacent beach areas at Durand-Eastman Park to support appropriate water-oriented recreational uses.
- Policy 1E      Promote the redevelopment of vacant land within subarea e (industrial areas) with recreational uses, facilities and activities that are compatible with existing development in these areas.
- Policy 1F      Redevelop, reconfigure or relocate, in cooperation with Monroe County, the existing public boat launch facility at the port site in a manner which creates the highest and best use of land, maximizes development potential of land-side parcels, continues to meet public boat launch demand and minimizes environmental and traffic impacts.
- Policy 1G      Promote and encourage the continued redevelopment and improvement of various recreational facilities at Durand-Eastman park, Ontario Beach Park, Turning Point Park, Seneca Park, Maplewood Park, and Lower Falls Park.

#### Explanation of Policies

The waterfront areas along Lake Ontario and the Genesee River are among the most important recreational, aesthetic and economic resources in the region. Federal, state and local agencies intend to restore, revitalize and redevelop deteriorated and underutilized waterfront areas by encouraging uses or activities appropriate for the waterfront revitalization area based on their water and recreation-oriented characteristics.

Several significant development opportunity areas have been identified within the city's Local Waterfront Revitalization Program (LWRP) boundary. These sites include the Port Site at the mouth of the river on Lake Ontario, the River Street area along the west bank of the river north of Stutson Street, the Lake Avenue commercial corridor north of Stutson Street, the eastern bank of the river, just south of Stutson Street, and the various public parks located along the river and lake, including Ontario Beach Park, Durand-Eastman Park, Turning Point Park, Seneca Park, Maplewood Park and Lower Falls Park.

In addition, there are several sites within the city's LWRP boundary that are zoned for industrial use. These sites include the Portland Cement Co., located on the west bank of the river just south of the Turning Basin, R.G.&E.'s Station 5 power plant located in the river gorge near the Lower Falls, and Eastman Kodak Company's Waste Treatment Plant located on the west bank of the river, just north of the Veteran's Memorial Bridge. These uses are water-dependent and will continue for the fore-seeable future. If these uses were to be discontinued, however, redevelopment options should be encouraged which would result in a more appropriate water-oriented land use for the area.

When an action is proposed to take place in these opportunity areas, the following guidelines will be used:

- (1) Priority should be given to uses which are dependent on a location adjacent to the water;
- (2) The action should enhance existing and anticipated uses;
- (3) The action should serve as a catalyst to private investment in the area;
- (4) The action should improve the deteriorated condition of a site, and should, at a minimum, not cause further deterioration;
- (5) The action must lead to development which is compatible with the character of the area, with consideration given to scale, architectural style, density and intensity of use;
- (6) The action should have the potential to improve the existing economic base of the community, and, at a minimum, must not jeopardize this base;
- (7) The action should improve adjacent and upland views of the water, and, at a minimum, must not affect these views in an insensitive manner; and
- (8) The action should have the potential to improve the potential for multiple uses of the site.

The standards and guidelines associated with the city's Overlay Harbor Town Design District will be used to ensure that deteriorated and underutilized areas are developed appropriately.

## **Policy 2**

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

Policy 2A Existing water dependent uses, as identified in *Section IV: Uses and Projects*, will be maintained.

#### Explanation of Policies

Because of the location of sensitive environmental features in the shore zone and the general competition for waterfront locations of various types of land uses, there is a limited amount of waterfront land that is actually suitable for development within the LWRP boundary. The development of waterfront areas has not always been based upon whether or not the particular land use actually

requires a specific location on the waterfront. Agencies recognize that water-dependent uses and activities should have priority over non-water-dependent uses in terms of development within the shore zone. In order to ensure that water-dependent uses can be located and developed in waterfront locations, government agencies will avoid undertaking, funding, or approving non-water-dependent actions or activities when such actions or activities conflict with the development of water-dependent uses or would pre-empt the reasonably foreseeable development of water-dependent uses in the same area.

For the purposes of the LWRP, government agencies will consider the following uses and facilities to be water-dependent:

- (a) Uses which involve the transfer of goods (i.e., shipping activities at the port site and at the Portland Cement site just south of the turning basin);
- (b) Recreational activities requiring access to coastal waters (i.e., fishing, boating, and swimming);
- (c) Navigational structures (i.e., lighthouses and piers);
- (d) Boat and ship service and storage facilities (i.e., marinas and boat yards);
- (e) Flood and erosion control structures (i.e., river bulkheads and beach groins);
- (f) Uses which rely upon transportation of raw materials or products on water when such transportation would be difficult on land (i.e., cement plants);
- (g) Uses which require large amounts of cooling or processing water (i.e., power plants and waste treatment plants);
- (h) Scientific and educational activities requiring access to coastal waters (i.e., maritime museum); and
- (i) Facilities that support or enhance water dependent uses.

Existing water dependent uses located within the LWRP boundary include various commercial, industrial and shipping activities, a waste treatment plant, a hydroelectric power plant, marinas and other fishing and boating facilities, as well as certain miscellaneous recreational uses. These uses and activities are scattered throughout the waterfront area and are, in some instances, located adjacent to sensitive environmental areas. Marinas and related fishing and boating facilities are concentrated at the northern end of the Genesee River, near Lake Ontario.

Existing municipal zoning district regulations and procedures, the local site plan review process, as well as the intermunicipal review and coordination of waterfront activities have determined the location, nature and extent of existing water-dependent uses in the shore zone. These procedures and regulations were developed, in part, to control and promote appropriate water-dependent uses along the lake and river.

When an action is proposed, the following guidelines will be used:

- (a) Water-dependent uses should be matched with compatible sites or locations in order to reduce conflicts between competing uses, to protect coastal resources, and to address impacts on the real estate market;
- (b) Water-dependent uses should be sited with consideration to the availability of public infrastructure including sewers, water, access and transportation;
- (c) Water-dependent uses should be compatible with surrounding land uses;
- (d) Underutilized, shoreline sites should be given special consideration for water-dependent uses; and
- (e) Water-dependent uses should be sited with consideration to increasing demand, long-term space needs and the possibility of future expansion.

### **Policy 3**

**Encourage the development of the state's existing 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 waterborne transportation of cargo and people.**

This policy is not applicable to the city's LWRP because Rochester is not one of the major ports listed.

### **Policy 4**

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

This policy is not applicable to the city's LWRP because Rochester does not have a small harbor area as defined by the state.

### **Policy 5**

**Encourage the location of development in areas where public services and facilities essential to such development are adequate, except when such development has special functional requirements or other characteristics which necessitates its location in other coastal areas.**

Policy 5A      Promote and encourage appropriate water- dependent and water-enhanced land uses and development on the port site.

Policy 5B      Promote and encourage appropriate water- dependent development along River Street and upgrade the existing infrastructure in the area.

Policy 5C      Promote and encourage appropriate residential development in the Boxart Street-Burley Road upland area.

### Explanation of policies

New development proposed within the LWRP boundary should be adequately serviced by existing or upgraded public services and facilities. Almost all major development areas within the LWRP boundary

are currently serviced by adequate public services and facilities including vehicular access, storm and sanitary sewers, as well as electric, gas and water lines. If a given area is not currently serviced by adequate public services and facilities, upgrades, extensions or connections to existing systems are usually possible. The specific development proposals outlined in POLICY 1 will involve an analysis of existing public services and facilities in the areas proposed for development, as well as possible rehabilitation or upgrading of those services and facilities as a part of the actual implementation of the development project.

In assessing the adequacy of an area's infrastructure and public services, the following points shall be considered:

- (a) Whether or not streets and highways serving the proposed site can safely accommodate the peak traffic generated by the proposed development;
- (b) Whether or not the development's water needs can be met by the existing water system;
- (c) Whether or not wastes generated by the development can be handled by sewage disposal systems;
- (d) Whether or not energy needs of the proposed development can be accommodated by existing utility systems;
- (e) Whether or not stormwater runoff from the proposed site can be accommodated by on-site and/or off-site facilities; and
- (f) Whether or not schools, police and fire protection, and health and social services are adequate to meet the needs of any expected increase in population resulting from the proposed development.

The Port Site is serviced by separate sanitary and storm sewer systems maintained by Monroe County. The existing 12" sanitary sewer runs across the middle of the site and may need to be realigned in order to develop the site as proposed in the concept plan. The existing sanitary sewer system and the existing sewer pump station have enough capacity to accommodate the redevelopment plan proposed for the site. The existing 60"-72" storm sewer system for the port area runs under Estes Street and Beach Avenue. Monroe County has indicated that this sewer is also adequate to handle redevelopment of the site. The site is adequately serviced by gas, electric, water and telephone lines. Vehicular access to the port site from the city is via Lake Avenue. Lake Avenue is a minor arterial which, in the area of the port site, is in relatively good condition but could use some physical improvements including intersection widening and new streetscape treatments.

The River Street area is also proposed for major redevelopment. This area is serviced by a sanitary sewer system with a pump station located at the northern end of River Street. This system is adequate to accommodate the proposed development plan. Because there is no storm sewer system within the River Street area, any redevelopment would require significant storm sewer improvements. While this site is also serviced by existing gas, electric, water and telephone lines, redevelopment would probably require the installation of underground telephone and electric systems. Because the pavement condition of River Street is fair to poor, significant street reconstruction and/or rehabilitation would be required as a part of any redevelopment plan for the area.

## Policy 6

**Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.**

### Explanation of policy

Government agencies recognize the need for efficient and uncomplicated permit approval procedures for development activities proposed within the LWRP boundary. The local permit review and approval process should not be designed to restrict or impede development applications or proposals. The city has developed a permit review and approval system which includes coordination with other local and state agencies and eliminates unnecessary or duplicative levels of review.

Site plan review is coordinated by the City Bureau of Zoning as are requests for zoning variances, rezoning and subdivision approval. Environmental impacts and other areas of special concern for proposed development are considered early in the review process and are investigated in conjunction with the City Office of Planning as well as the City's Environmental Commission. The entire process is characterized by reasonable timetables and deadlines, relatively simple paper work, and specific but uncomplicated development review standards. A "one-stop-shop" approach has been developed by the city which allows developers to become aware of permit procedures and requirements and obtain all necessary paper work at one location and at one time. Where necessary and appropriate, special considerations for development activities proposed within the LWRP boundary will be included in the city permit review and approval procedures in order to further simplify those requirements.

State agencies and local governments should make every effort to coordinate their permit procedures and regulatory programs for waterfront development, as long as the integrity of the regulations' objectives is not jeopardized. Also, efforts should be made to ensure that each agency's procedures are synchronized with those of other agencies within a given level of government. Legislative and/or programmatic changes should be made, if necessary, to accomplish this.

## Fish and Wildlife Policies

### Policy 7

**Significant coastal fish and wildlife habitats, as identified on the coastal area map, shall be protected, preserved, and, where practical, restored so as to maintain their viability as habitats.**

- Policy 7A      Protect and preserve the Genesee River in order to maintain its viability as a fish and wildlife habitat of statewide significance.
- Policy 7B      Protect and preserve Durand-Eastman Park, Turning Point Park, Seneca Park and Maplewood Park as locally significant fish and wildlife habitat areas.
- Policy 7C      Protect and preserve formerly owned CONRAIL property, along the east bank of the Genesee River, opposite the turning basin, as a locally significant wildlife habitat area.

### Explanation of policy

Habitat protection is recognized as fundamental to assuring the survival of fish and wildlife populations. Certain habitats are critical to the maintenance of a given population and, therefore, merit special protection. Such habitats exhibit one or more of the following characteristics: (1) are essential to the survival of a large portion of a particular fish or wildlife population (e.g. feeding grounds, nursery areas); (2) support populations of rare and endangered species; (3) are found at a very low frequency within a coastal region; (4) support fish and wildlife populations having significant commercial and/or recreational value; and (5) would be difficult or impossible to replace.

A habitat impairment test must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If that proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific habitat impairment test that must be met is as follows:

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

- destroy the habitat; or
- significantly impair the viability of a habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct alteration, disturbance, or pollution of a designated area, or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include, but are not limited to, reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The tolerance range of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species' population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit ( a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters, which should be considered in applying the habitat impairment test, includes:

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

Significant coastal fish and wildlife habitats are evaluated, designated and mapped pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas.

NYSDOS has designated the Genesee River as a significant coastal fish and wildlife habitat area of state-wide significance within the LWRP boundary. (See the Appendix A). The Genesee River habitat is a major tributary of Lake Ontario, located in the city. The habitat includes a six and one-half mile long segment of the river, extending from Lake Ontario to the Lower Falls, which is a natural impassable barrier to fish.

The large size of this river and the fact that much of the river corridor is essentially undisturbed makes it one of the most important potential fish and wildlife habitats in the Great Lakes Plain ecological region. Resident species such as small mouth bass, brown bullhead and northern pike, and lake run species such as white bass and yellow perch are supplemented by seasonal influxes of large numbers of trout and salmon. The river provides throughout New York State and beyond. Although the seasonal salmonid runs attract the greatest number of fishermen to the area, the river also supports an active warm water fishery. Wildlife use of the river appears to be limited to those species that can inhabit a relatively narrow riparian corridor, and are somewhat tolerant of human activities in adjacent areas.

Any activity that substantially degrades water quality, increases temperature or turbidity, reduces flows, or increases water level fluctuations in the Genesee River would affect the biological productivity of this area. Important species of fish and wildlife would be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity, and waste disposal. Continued efforts should be made to improve water quality in the river, which is primarily dependent upon controlling discharges from combined sewer overflows, industrial point sources, ships, and agricultural lands in the watershed.

The existing navigation channel should be dredged between mid-May and mid-August or between mid-November and early April in order to avoid impacts on the habitat use by migrating salmonids. Activities that would affect the habitat above the navigation channel should not be conducted during the period from March through July in order to protect warm water fish habitat values.

New dredging (outside the existing navigation channel) would likely result in the direct removal of warm water fish habitat values and should not be permitted. Contaminated dredge spoils should be deposited



in upland containment areas. Barriers to fish migration, whether physical, or chemical, would have significant effects on fish populations within the river, and in adjacent Lake Ontario waters. Installation and operation of water intakes could have a significant impact on fish concentrations, through impingement of juveniles and adults, or entrainment of eggs and larval stages. Elimination of wetland habitats (including submergent aquatic beds), and further human encroachment into the river channel, would severely reduce its value to fish and wildlife. Existing areas of natural vegetation bordering the river should be maintained for their value as cover, perching sites, and buffer zones.

The water quality of the river and lake has continued to improve over the past several years. Both currently support a significant variety of fish species. Among the fish found within the LWRP boundary are American Eel, Northern Pike, Goldfish, Carp, White Channel Catfish, White Perch, White Bass, Rock Bass, Small Mouth Bass, Blackeye Crappie and Walleye. Additionally, the river is the site of significant spawning runs for a variety of fish including the Chinook and Coho Salmon, as well as the Brown and Steelhead Trout. Preservation of lake and river wetland areas is an important element of the city's program to preserve and protect fish habitats within the LWRP boundary.

Durand-Eastman Park, Turning Point Park, Seneca Park, Maplewood Park, as well as most of the river gorge, function as a natural wildlife habitat area. Durand-Eastman Park contains a significant wild deer population as well as wetland areas that provide habitats for several fish and wildlife species. Bullock's Woods in Turning Point Park is a large, heavily wooded area that also provides habitat for several species of wildlife. Government agencies will continue to promote and encourage various redevelopment activities within these parks which will preserve and protect their significance as wildlife habitats.

The standards and guidelines in the city's environmental review procedures will be used to ensure that locally significant fish and wildlife habitat areas within the LWRP boundary are protected. Development actions within 100 feet of the river and lake, within areas zoned as open space, in heavily wooded areas, and within state-designated freshwater wetlands are Type I actions under the City's Environmental Quality Review Ordinance, since these locations have been designated as critical environmental areas. Type I actions require a complete environmental impact review. As part of this review, a project's impacts on fish and wildlife habitat areas would be determined and addressed, and mitigation measures could be proposed, if required, to protect those areas from adverse impacts.

Activities most likely to affect significant coastal fish and wildlife habitats include the draining of ponds and wetlands, the filling of wetlands or shallow areas of streams, lakes and bays, grading of land, clear cutting, dredging and excavation, dredge spoil disposal, physical alteration of shore areas, and the introduction, storage or disposal of pollutants in upland areas or landfills.

## Policy 8

**Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bioaccumulate in the food chain or which cause significant sublethal or lethal effects 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, hazardous waste is defined in Environmental Conservation Law [§27-0901.3] as "a 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 has been adopted by DEC (6 NYCRR Part 371).

The handling, storage, transport, treatment and disposal of the materials included on the hazardous waste list adopted by NYSDEC and USEPA are 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 minimize possible contamination and bio-accumulation of these wastes in the state's coastal fish and wildlife resources at levels that would cause mortality or create physiological and behavioral disorders. "Other pollutants" are those conventional wastes, generated from point and non-point sources, and not identified as hazardous wastes but controlled through other state laws.

The following state laws enforce this policy:

- (a) Industrial Hazardous Waste Management Act.  
Environmental Conservation Law (Article 27, Title 9)
- (b) State Pollutant Discharge Elimination System.  
Environmental Conservation Law (Article 17, Title 8)
- (c) State Certification.  
Federal Water Pollution Control Act (Section 401)
- (d) Toxic Substances Monitoring Program.  
Environmental Conservation Law (Article 17)
- (e) Substances Hazardous to the Environment.  
Environmental Conservation Law (Article 37)
- (f) Solid Waste Management.  
Environmental Conservation Law (Article 27, Title 7)
- (g) Control of Pollution Injurious to Fish and Shellfish.  
Environmental Conservation Law (Article 13-0345 and Article 17-0503)
- (h) Stream Pollution Prohibited.  
Environmental Conservation Law (Article 11-0503)
- (i) Oil Spill Prevention, Control and Compensation.  
Navigation Law (Article 12)

- (j) Siting of Major Steam/Electric Generating Facilities.  
Public Service Law (Article VIII)
- (k) Sanitary Code.  
Public Health Law (Article 3)

The city and Monroe County are participating in a Combined Sewer Overflow Abatement Program (CSOAP) which will eliminate combined storm and sanitary sewers in many areas of the city. This project involves the construction of several large underground holding tunnels which will discharge sewage and storm water, collected after major rainfalls, to the Frank E. VanLare Treatment Plant located in Durand-Eastman Park. Prior to the construction of these tunnels, large volumes of combined sewage and storm water that occurred after major rainfalls in the area flowed directly into the river and lake without being treated. This sewage contributed to pollution problems in the river and lake and the destruction of fish and wildlife species. The completion of the underground holding tunnels will eliminate a major source of pollution discharge into the river and lake that will help improve aquatic habitat for the area.

Eastman Kodak Company operates a large industrial waste treatment facility on the western bank of the river, opposite Seneca Park. This treatment plant handles industrial sewage and waste from Kodak Park manufacturing facilities located on Lake Avenue and Ridge Road West. This treatment plant also helps to preserve existing fish species in the river and lake by eliminating the dumping of otherwise harmful or toxic substances into the water.

The city is participating, along with other governmental agencies, in the development of a Remedial Action Plan (RAP) for the Rochester Embayment. A RAP is an agreement among federal, state, and local governments, with the support of area citizens, on a plan to restore the water quality and beneficial uses of the waters of the Area of Concern. The goal of the Rochester Embayment RAP is to develop an implementation plan that will improve the water quality of Lake Ontario and all of the waterways that flow into it, including the Genesee River. The implementation of the RAP for the Rochester Embayment will help to protect fish and wildlife resources from the introduction of hazardous wastes and other pollutants.

## 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. 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.**

Policy 9A      Expand recreational fishing opportunities and public access to other wildlife resources within Durand-Eastman Park, Turning Point Park, Seneca Park, Maplewood Park and Lake Ontario, by providing or improving vehicular and pedestrian access to the waterfront.

Policy 9B      Redevelop, reconfigure or relocate, in cooperation with Monroe County, the existing public boat launch facility at the port site in a manner which creates the highest and

best use of land, maximizes development potential of land-side parcels, continues to meet public boat launch demand and minimizes environmental and traffic impacts.

#### Explanation of policies

Increasing public access to existing fish and wildlife resources located within the LWRP boundary is an important objective of the city's LWRP. As the water quality of the river and lake has improved over the past several years, sport fishing has become a significant local recreational activity in the Rochester metropolitan area. The river is a major fall fishery for Chinook salmon and serves as a focus for salmon fishing. Late in the summer, the Eastern-Southern Lake Ontario (ESLO) Sport Fishing Derby is held on Lake Ontario. This event also generates substantial local interest and participation.

There are few well-developed public access points along the river for fishermen. The primary access points for fishing along the river include the base of the Lower Falls, which can be accessed by a RG&E service road on the east bank, the east and west piers located on Lake Ontario at the mouth of the river, as well as waterfront areas within Turning Point Park. In addition, fishermen also access the Lower Falls area from steep and unsafe trails along the west bank of the river. The use of these trails by the public is not condoned or promoted.

Government agencies, including the city and Monroe County, will promote and encourage the development and expansion of recreational fishing opportunities and public access to other wildlife resources at several public parks located within the LWRP boundary. These parks include Durand-Eastman Park and Ontario Beach Park which are located on Lake Ontario, and Turning Point Park, Seneca Park, and Maplewood Park which are located along the river. Expansion of recreational fishing opportunities should involve provision of direct public access to the shoreline for fishermen as well as boaters. Improvements will include the development of parking areas, access trails, fishing piers, wharves and boating facilities in appropriate areas within the parks. Provisions for increased public access to other wildlife resources located within these parks would include the rehabilitation or construction of hiking trails, pedestrian paths, overlooks and shelters.

Government agencies will promote and encourage the development of a public boat launch facility along the eastern bank of the Genesee River, just south of the Stutson Street Bridge, to improve and expand recreational fishing opportunities for boaters on the Genesee River and Lake Ontario. The area proposed for the boat launch is largely vacant with the exception of deteriorated boat slips and miscellaneous marina-related uses and activities. The facility will be developed in conjunction with Monroe County.

Policy 9 suggests that state and local actions within the LWRP boundary should balance the continued maintenance and protection of fish and wildlife resources with increased public access to and recreational use of those resources. The control of fish stocking within the river or lake is coordinated by the NYSDEC. When appropriate, the state is encouraged to continue and expand its fish stocking program and the completion of studies concerning habitat maintenance and improvement. Stocking programs should be directed towards areas where known habitats will support and enhance increased fish populations.

The following additional guidelines should be considered by local, state and federal agencies 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 state's recreational fish and wildlife resources;
- (2) Efforts to increase access to recreational fish and wildlife resources should not lead to overutilization of that resource or cause impairment of the habitat;
- (3) The impacts of increasing access to recreational fish and wildlife resources should be determined on a case-by-case basis, consulting the significant habitat narrative (see POLICY 7 and Appendix A) and/or conferring with a trained fish and wildlife biologist; and
- (4) Any public or private sector initiatives to supplement existing stocks or develop new resources must be done in accordance with existing state law.

### **Policy 10**

**Further develop commercial finfish, shellfish and crustacean resources in the coastal area by: (1) encouraging the construction of new or improvement of existing on shore commercial fishing facilities; (2) increasing marketing of the state's seafood products; and (3) maintaining adequate stocks and expanding aquaculture facilities. Such efforts shall be made in a manner which ensures the protection of such renewable fish resources and considers other activities dependent on them.**

This policy is not applicable to the city's LWRP because there are no commercial finfish, shellfish and crustacean resources located within Rochester's LWRP boundary.

## **Flooding and Erosion Hazards Policies**

### **Policy 11**

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

Policy 11A Discourage development along the top of the riverbank, on the steep slopes within the river gorge, within designated coastal erosion hazard areas, or in any other areas experiencing or susceptible to erosion.

Policy 11B Buildings or structures within designated flood hazard areas will be sited in the coastal area to comply with construction and insurance requirements of the federal emergency management agency (FEMA) and the U.S. department of housing and urban development.

### Explanation of policies

Government agencies recognize the importance of regulating development in critical environmental areas such as erosion hazard areas and floodplains within the local waterfront revitalization boundary.

Erosion hazard areas which have been identified by New York State include the shore zones along Beach Avenue and within Ontario Beach Park and a major portion of Durand-Eastman Park. The beach areas contained within these parks are considered natural protective features (see Policy 12). Floodplain areas are those areas identified as flood hazards on the Flood Insurance Maps filed with the City of Rochester. All of these areas contain physical features or conditions that naturally limit development and that may also enhance aesthetic or wildlife resources within the shore zone. Unregulated development in these areas could cause severe erosion and flooding problems, loss of property and other valuable resources, as well as potential loss of life.

Much of the land within the LWRP boundary that is designated as a floodplain or an erosion hazard area, or that contains steep slopes in excess of 15%, is in public ownership and is zoned as open space. The city's Open Space District regulates development in these critical environmental areas by limiting the types of uses and activities permitted. Lands zoned for open space within the LWRP boundary will remain in their natural state and will contribute to the enhancement and protection of other features in the waterfront area.

City Zoning Code regulations require a special permit for development located within a designated floodplain. This permit is reviewed and approved by the City Planning Commission following a public hearing. The special permit can only be approved if the applicant demonstrates, among other items, that the proposed development will be constructed above the base flood elevation at the particular location and that the development will not cause or increase flooding in the area or within the floodway in general. The standards and guidelines which all government agencies will use to evaluate development in flood hazard areas are included in Section 115.29 of the Rochester Zoning Code. These standards and guidelines deal with such items as anchoring of structures, appropriate construction materials, provision of utility service, etc.

In addition to the zoning regulations cited above, the city's site plan review procedures will be followed to help ensure that proposed development activities do not cause or contribute to erosion and/or flooding problems within the LWRP boundary. Setback, lot size, and construction considerations, as well as the need for erosion control measures on site, can be identified and evaluated during this review process.

Existing environmental review procedures and regulations will also be utilized to ensure that steep slopes and other areas prone to erosion as well as floodplain areas are protected within the LWRP boundary. Development proposed within 100 feet of the river and lake, within areas zoned as open space, in heavily wooded areas, within state-designated freshwater wetlands, and areas with a slope of 15% or greater are Type I actions under the City's Environmental Quality Review Ordinance, because these locations have been designated as critical environmental areas. Actions in these areas will require a complete environmental impact review. As a part of this review, a project's potential impacts on erosion, drainage and flooding problems would be determined and addressed, and mitigating measures, if required, could be proposed in order to protect those areas from adverse development impacts.

## 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. Primary dunes will be protected from all encroachments that could impair their natural protective capacity.**

Policy 12A      Protect, as natural protective features, the beach areas identified on the New York State coastal erosion hazard map and located along Beach Avenue and within Ontario Beach Park and a major portion of Durand-Eastman Park.

### Explanation of policies

The natural beach areas located along the shoreline of Lake Ontario and included within the LWRP boundary are considered to be critical environmental areas that need to be preserved and protected. These beach areas have been identified as natural protective features on the State Coastal Erosion Hazard Map.

This policy will apply to these specific areas. Portions of the city's inland coastal areas, including residential development located along Beach Avenue and recreational facilities located in Ontario Beach Park and Durand-Eastman Park, are protected from flooding and serious erosion by this sensitive beach area. Excavation and certain other development activities conducted on these fragile natural features could lead to their weakening or destruction and, consequently, to a loss of their protection of other coastal areas.

The need to review and regulate development on or near the beach areas, and in nearshore areas and on underwater lands, to the extent they are within the city's municipal boundaries, is recognized, in order to minimize damage to property and other resources from lake flooding and erosion from high wave action.

The standards and guidelines in the city's environmental review procedures will be used to ensure that beach areas prone to erosion and flooding are protected within the LWRP boundary. Development actions proposed within 100 feet of Lake Ontario are Type I actions under the City's Environmental Quality Review Ordinance, since these areas have been designated as critical environmental areas. Such actions will require a complete environmental impact review. As a part of this review, a project's potential impacts on erosion, drainage and flooding problems would be determined and addressed, and mitigating measures, if required, could be proposed in order to protect those areas and surrounding development from adverse environmental impacts.

### Policy 13

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

Policy 13A Promote the maintenance of the east and west piers located on Lake Ontario at the mouth of the Genesee River.

#### Explanation of policies

Government agencies recognize the importance of constructing and maintaining erosion protection structures within the LWRP boundary that are designed to eliminate or reduce erosion problems along the river and lake and are based on accepted design and engineering standards and practices. This policy shall apply to structures designed to reduce or prevent erosion such as a groin, jetty, seawall, revetment, breakwater, artificial beach nourishment project, pier extensions or other similar types of erosion protection or control structures. The possibility of permitting the development of such structures that fail to provide adequate protection due to improper design, construction and/or maintenance, or that are otherwise inadequate to do the job they were intended to do should be avoided. Such a situation would only cause erosion problems to continue or worsen.

The standards and guidelines in the city's environmental and site plan review procedures should be used to ensure that erosion protection structures constructed within the LWRP boundary will have a reasonable probability of controlling erosion for at least thirty years and will be properly designed and maintained. Construction of such structures will require site plan review and approval by the city as well as an environmental impact review because it will be located within 100 feet of the lake. Such activities are Type I actions under the City's Environmental Quality Review Ordinance, since the 100 foot "buffer" area has been identified as a critical environmental area. As a part of the environmental review, a project's potential impacts on erosion would be determined and addressed, and the ability of the structure to control erosion for the thirty year period, based on design and maintenance standards, could be evaluated.

As a part of the review of the development of erosion control structures, all government agencies, including the city, will ensure that:

- (a) Long-term maintenance programs developed for the structure will include specifications for normal maintenance of degradable materials and the periodic replacement of removable materials;
- (b) All material used in the structure will be durable and capable of withstanding inundation, wave impacts, weathering and other effects of storm conditions; and
- (c) The construction, modification or restoration of the structure will not have adverse impacts on natural protective features or other natural resources.

The maintenance of the east and west piers located on the lake and river is promoted and encouraged. The west pier provides some erosion protection from high wind and wave action for beach areas to the



west and has probably contributed to the deposition of additional material and the creation of a larger beach area for Ontario Beach Park.

The construction of groins in the area of Durand-Eastman Park to control erosion of the beach in that area is also a possibility. As noted in earlier LWRP policies, waterfront recreational facilities located within Durand-Eastman Park are proposed for significant redevelopment and/or rehabilitation. The development of such erosion protection features will be evaluated in terms of their overall costs and benefits as well as environmental impacts.

#### **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 along almost all areas of the shoreline. However, there are many types of development activity that can increase the amount or severity of coastal flooding and/or erosion. These activities include:

- (1) the construction of such things as groins and impermeable docks which block off-shore currents and sediment transport to adjacent shore lands, thus increasing their rate of recession;
- (2) improper shoreline development;
- (3) improper construction and/or maintenance of erosion protection structures; and
- (4) the failure to maintain good drainage or to restore land after construction which would increase run-off and contribute to the erosion and weakening of nearby shore lands.

Such activities must be properly reviewed and regulated so that they do not contribute to erosion or flooding problems within the site or at other locations.

The standards and guidelines in the City's environmental and site plan review procedures will be used to ensure that development proposed within the LWRP boundary (including the construction of erosion protection structures) will not cause, or contribute, to erosion or flooding problems. Development actions proposed within 100 feet of the lake are Type I actions under the City's Environmental Quality Review Ordinance, since these areas have been designated as critical environmental areas. Actions in these areas will require a complete environmental impact review. As a part of this review and the site plan review process, a project's potential impacts on erosion, drainage and flooding problems would be identified and addressed, and necessary mitigating measures could be implemented in order to protect those areas and surrounding development from adverse environmental impacts.

### **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 near shore or off shore waters which changes the supply and net flow of such materials, can deprive shore lands 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 shore lands.

The NYSDEC regulates dredging, mining and excavation activities in shoreline and wetland areas. These regulations are comprehensive in design and intent and address actions according to their potential to interfere with the natural coastal processes which supply beach materials, as well as the potential for increasing erosion.

### **Policy 16**

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

#### Explanation of policy

Public funds are used for a variety of purposes along the city's shorelines. This policy recognizes the need for the protection of human life and the need for investment in existing or new development which requires a location near the coastal area or in adjacent waters in order to function. However, it also recognizes the adverse impacts of such activities and development on the rates 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.

Public funds should not be invested in the construction, rehabilitation, modification or maintenance of erosion protection structures for new or proposed development which is strictly "private" in nature. The need for and the construction of an erosion protection structure designed to eliminate river surge problems within the Genesee River will continue to be investigated. The construction of such a structure would reduce erosion problems and protect and enhance existing and proposed marinas, boat launching ramps, and other commercial and recreational facilities which could be public or private, located along the river, near the outlet to Lake Ontario.

## **Policy 17**

**Whenever possible, use nonstructural measures to minimize damage to natural resources and property from flooding and erosion. Such measures shall include:**

- (1) the set back of buildings and structure**
- (2) the planting of vegetation and the installation of sand fencing and draining;**
- (3) the reshaping of bluffs; and**
- (4) the flood-proofing of buildings or their elevation above the base flood level.**

Policy 17A discourage development along the top of the riverbank, on the steep slopes within the gorge adjacent to the Genesee River, within designated coastal erosion hazard areas, or in any other areas experiencing or susceptible to erosion.

### Explanation of policies

This LWRP policy promotes the use of non-structural techniques and/or management measures to prevent damage to natural resources and property from flooding and erosion. The policy suggests that such measures as structure siting, flood proofing and elevation of buildings, the reshaping and vegetation of slopes, the provision of drainage systems to reduce run-off that may weaken slopes, and the retention of existing vegetation should be incorporated into the early planning and review of any project. Such measures over other "structural" and more complicated techniques are to be encouraged, and the existing site plan and environmental review processes are the best means of doing this.

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.

Non-structural measures shall include, but not be limited to, the following measures:

- (1) Within identified coastal erosion hazard areas:
  - (a) use of minimum setbacks;
  - (b) strengthening of coastal landforms by such means as:
    - (1) planting appropriate vegetation on dunes and bluffs;
    - (2) reshaping bluffs to achieve an appropriate angle of repose so as to reduce the potential for slumping and to permit the planting of stabilizing vegetation; and
    - (3) installing drainage systems on bluffs to reduce runoff and internal seepage of waters which erode or weaken the landforms.
- (2) Within identified flood hazard areas:
  - (a) avoidance of risk or damage from flooding by the siting of buildings outside the hazard area; and
  - (b) flood-proofing of buildings or their elevation above the base flood level.

This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with the policy, it must be determined if 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 sufficient protection, then consistency with the policy would require the use of such measures, when 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 and sketches of the activity or development, the site and the alternative protection measures should be prepared to allow an assessment to be made.

Much of the area within the LWRP boundary, that has been identified as being within the Genesee River or Lake Ontario floodplain or that contains steep slopes in excess of 15% and thus subject to serious erosion problems, is in public ownership and is zoned for open space use. Development activities in these critical environmental areas are regulated by limiting the types of uses and activities permitted. The extensive use of this regulation within the LWRP boundary helps assure that damage to natural resources and property resulting from flooding and erosion will be minimized.

The standards and guidelines found in the city's environmental, special permit, and site plan review procedures will be applied in evaluating and promoting non-structural erosion and flood protection measures for development proposed within the LWRP boundary. Development proposed within areas zoned as open space or within 100 feet of the lake or river are Type I actions under the City's Environmental Quality Review Ordinance. Such actions will require a complete environmental impact review in which the need for and use of non-structural means of erosion and flood protection proposed for the project will be evaluated. The special permit review process used to review and approve applications for development within designated floodplain areas should also be used to ensure that structures are flood-proofed, located above the base flood elevation, or setback an appropriate distance from the floodplain boundary. The site plan review process considers erosion, drainage, and flood control/protection measures and should also be used to promote planting of vegetation to control drainage and erosion problems.

### **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

Government agencies recognize that valuable coastal resource areas contained within the city's LWRP boundary should be developed and protected for all the citizens of the state. Proposed major actions undertaken within the LWRP boundary are appropriate only if they do not significantly impair or diminish valuable coastal features and resources and do not conflict with the vital economic, social and environmental interests of the state and its citizens. All government agencies recognize and will

continue to ensure that proposed major actions undertaken by the city, county, state or federal government that would affect natural resources, water levels and flows, hydroelectric power generation, shoreline damage or recreational facilities, take into account the social, economic and environmental interests of the state and all its citizens.

## Public Access Policies

### Policy 19

**Protect, maintain and increase the levels and types of access to public water-related recreation resources and facilities so that these resources and facilities may be fully utilized by all the public in accordance with reasonably anticipated public recreation needs and the protection of historic and natural resources. In providing such access, priority shall be given to public beaches, boating facilities, fishing areas and waterfront parks.**

- Policy 19A      Maintain, facilitate or improve public access to waterfront recreational resources and facilities through existing public parks along the Genesee River and Lake Ontario.
- Policy 19B      Promote and encourage development of an improved public transportation system to and through Durand Eastman Park.
- Policy 19C      Redevelop, reconfigure or relocate, in cooperation with Monroe County, the existing public boat launch facility at the port site in a manner which creates the highest and best use of land, maximizes development potential of land-side parcels, continues to meet public boat launch demand and minimizes environmental and traffic impacts.
- Policy 19D      Promote and encourage increased public access for fishing through the continued maintenance of the east and west piers on Lake Ontario, at the mouth of the Genesee River.

### Explanation of policies

Government agencies recognize the need to increase public access to waterfront resources and facilities while considering the impacts of such access and ensuring the protection of sensitive environmental features, historic areas, and fragile fish and wildlife habitats. Priority will be given to improving physical access to existing coastal recreational sites as well as those under development and to improving the ability of residents to get to those areas via the public transportation system.

Improved public access to the shore zone and to recreational resources and facilities that are part of the six public parks located within the LWRP boundary will be promoted and, possibly, further developed.

The development of a public transportation system to Durand-Eastman Park, in cooperation with the Rochester/Genessee Regional Transportation Authority, will be investigated. Government agencies will encourage the establishment of a special bus route to and through the park, particularly during periods of peak park use.

The redevelopment and/or potential relocation of the public boat launch facility operated by Monroe County and located at the southern end of the Port site will be promoted and encouraged. Any new facility will be developed in cooperation with Monroe County and other adjoining municipalities and will be designed, located and constructed to reduce environmental and traffic impact, take maximum advantage of land side development opportunities, revitalize underutilized areas of riverfront and increase public access to the river for boating, sailing and fishing based on identified market demand.

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

- (1) The existing access from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or proximate public lands or facilities to public water-related recreational 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.
- (2) Proposed projects 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 accordance with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with this policy.
  - (b) The level of access to be provided shall not cause a degree of use which would exceed the physical capacity of the resource or facility. If this were determined to be the case, then the proposed level of access shall be deemed inconsistent with this policy.
- (3) The state will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.

## **Policy 20**

**Access to the publicly owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly owned shall be provided, and it should be provided in a manner compatible with adjoining uses. Such lands shall be retained in public ownership.**

Policy 20A      Public access to the waterfront shall be provided and maintained as part of the development of water-dependent and/or water-enhanced mixed use facilities at the port site.

Policy 20B      Increase public access to the waterfront and to recreational resources and facilities at the river street site through implementation of water-oriented, mixed-use development projects.

- Policy 20C      Develop a comprehensive pedestrian trail system that will provide public access to the river, along property located on the east and west banks of the river, south of the Stutson Street Bridge, in the vicinity of Turning Point Park.
- Policy 20D      Increase access to the Genesee River gorge area through the development of a system of built river overlooks, hiking and biking trails, and pedestrian paths.
- Policy 20E      Negotiate the development of public access to the riverfront through private property where feasible.

Explanation of policies

Government agencies will provide access to publicly owned areas of the shore zone where the provision of such access is feasible and would require only minimal facilities and where it will not endanger sensitive environmental features, historic areas, and fish and wildlife habitats or be incompatible with adjacent land uses. Guidelines 1 through 3 under Policy 19 will be used in determining the consistency of a proposed government action or private development with this policy.

As part of the development of a mixed-use, water-oriented facility at the Port Authority and River Street sites, government agencies will ensure that public access to the waterfront is maintained and enhanced. Agencies will ensure that the provision of this access will be compatible with adjacent land and water uses proposed for the sites. This access will take the form of a major riverfront promenade or pedestrian trail, marinas, boat docks, riverfront restaurants and a riverfront park that are coordinated with other development proposed for the area. Continued maintenance of the east and west piers and facilities within Ontario Beach Park is also included in the plans.

Public access to and through the river gorge is, in most places, dangerous, not well defined and of limited use. Existing trails are difficult to follow and not always walkable. With the exception of the existing county boat launch at the Port Authority site, and the existing canoe launch in Turning Point Park, very little formal, guaranteed public access is available.

Projects which increase public access to the gorge should be encouraged where feasible. A pedestrian trail system could be developed within the gorge that would link major waterfront resources and facilities. While much of the land within the river gorge is publicly owned, most of the areas that offer the best access to the river shoreline are in private ownership. Government agencies will, therefore, continue to investigate and promote the establishment of public access to recreational facilities through private development, where feasible. The development of this access would be completed in a manner which ensures preservation of sensitive environmental features and wildlife habitats and does not exceed the carrying capacity of the area.

It is important to remember that 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. Public use of such publicly-owned underwater lands and lands immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety, military security, or the protection of fragile coastal resources.

## Recreation Policies

### Policy 21

**Water dependent and water enhanced recreation shall be encouraged and facilitated and shall be given priority over non-water-related uses along the coast, provided it is consistent with the preservation and enhancement of other coastal resources and takes into account demand for such facilities. In facilitating such activities, priority shall be given to areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and to those areas where the use of the shore is severely restricted by existing development.**

Policy 21A Facilitate development of marinas, boat docks and boat launching ramps, fishing access and other water-dependent and water-enhanced recreational uses in appropriate locations along the Genesee River, particularly at the port site and along River Street.

Policy 21B Develop new and expanded water-dependent or water-enhanced recreational uses at Turning Point Park.

Policy 21C Promote and encourage the development, reconstruction or rehabilitation of water-dependent and water-enhanced recreational uses at Ontario Beach Park, Durand-Eastman Park, Seneca Park, and Maplewood Park.

### Explanation of policies

The development of water-dependent and water-enhanced recreational uses in appropriate locations along the lake and river is the main focus of the city's LWRP. Because of the limited availability of coastal lands and resources in the region, government agencies recognize the need to give priority to development of recreational uses within the shore zone which are water-dependent, are enhanced by a coastal location and which increase public access to the waterfront.

Water-related recreation includes such things as boating and fishing facilities, pedestrian and bicycle trails, picnic areas, scenic overlooks and passive recreational areas that take advantage of coastal scenery. These water-dependent uses should be promoted and encouraged within both public and private development projects. In each case, government agencies will ensure that such development only occurs where water-related recreational uses are consistent with the preservation and enhancement of important coastal resources and within the carrying capacity of the resource to accommodate the particular activity or use. Boating facilities should, where appropriate, include parking, park-like surroundings, and restroom and pump-out facilities.

Redevelopment plans for the port site and River Street area, which encourage development of water-dependent and water-related recreational facilities, have been prepared and will be promoted. Priority to such uses will be given within the context of any development plan which is finally implemented for these areas.

Government agencies recognize the unique opportunities that exist within the six public parks located along the lake and the river to promote and provide water-oriented recreational uses as well as public access to the shore zone. Development of water-oriented recreational facilities that are part of these



parks will be promoted, encouraged and supported. Public access to the waterfront will be improved, and appropriate water-oriented recreational uses will be located in the waterfront areas in each park. These uses could include pedestrian trails, fishing access, boat docking facilities, boat launching ramps and cartop boat launch facilities, and swimming.

Opportunities for "linkage" of areas along the lake and river through development of linear pedestrian trails will be investigated. Such opportunities exist along the east and west banks of the river gorge, near Turning Point Park. The siting or design of new public or private development which would result in a barrier to the recreational use of the shore zone or which would damage sensitive environmental areas or conflict with anticipated public demand for such development will be discouraged. Public transportation service to water-oriented recreational facilities will be a major priority.

Information regarding estimated demand for water-dependent and water-enhanced recreational uses such as boat slips, launching facilities, etc. is provided in Section II, Inventory and Analysis. This information can provide the basis for determining the need for and potential locations of water-related recreational facilities. Higher priority should be given to locating and developing water-dependent recreational development over those which are only enhanced by or do not require a coastal location.

## **Policy 22**

**Development, when located adjacent to the shore, shall provide for water-related recreation, as a multiple use, whenever such recreational use is appropriate in light of reasonably anticipated demand for such activities and the primary purpose of the development.**

Policy22A      Facilitate development of an appropriate mix of water-related recreational uses with other development on the port site and along River Street.

Policy 22B      Negotiate, where feasible, with various industrial facilities to develop or improve public access to the waterfront and to provide certain types of passive recreational uses within the shore zone.

### Explanation of policies

There are several areas within the city's LWRP boundary that could accommodate water-related recreational uses, in conjunction with mixed-use or multiple-use facilities. Most of these areas are underutilized sites that should be encouraged to develop as mixed-use facilities which include water-oriented recreation. Government agencies recognize the following types of development which can generally provide water-related recreation as a multiple-use:

- (a)      Parks
- (b)      Highways
- (c)      Power plants
- (d)      Sewage treatment facilities
- (e)      Mental health facilities
- (f)      Hospitals
- (g)      Schools and universities
- (h)      Nature preserves

- (i) Large residential subdivisions containing 50 units or more
- (j) Shopping centers
- (k) Office buildings

Whenever development proposals involve shore zone areas or areas adjacent to the shore, government agencies will evaluate whether or not they should be considered for or required to incorporate recreational uses within them. Whenever a proposed development is consistent with other LWRP policies and would, through the provision of water-oriented recreation and other multiple-uses, significantly increase public use and enjoyment of the shore zone, government agencies will encourage such development to locate adjacent to the shore. In general, some form of recreational use should be accommodated, unless there are compelling reasons why such recreation would not be compatible with the development, or a reasonable demand for public use cannot be foreseen.

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 the 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 recreational facilities.

There are several opportunities for development of water-related recreational uses and improvement of public access to the shore zone that are located within existing industrial facilities. An example of such an opportunity would be the improvement of public vehicular and pedestrian access, down Seth Green Drive, to the RG&E Station 5 Power Plant on the west bank of the river, just north of the Driving Park Bridge. Improvement of public access in this location would greatly enhance the area's use by fishermen. Development of a fish-cleaning station could also be considered.

There are several other areas within the LWRP boundary that provide significant vistas of the river gorge. These areas are also within privately-owned industrial facilities. Negotiating public access and development of such facilities as overlooks and rest areas within these areas is considered to be a major priority with the city.

## 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.**

Policy 23A Identify, protect and restore significant historic structures located within the LWRP boundary, to include the Genesee lighthouse and other buildings which may be of national or local significance.

Policy 23B Redevelop the port site and the River Street area in a manner which is compatible with and complements the character and integrity of significant architectural and/or historic structures in the area and which specifically protects and enhances the Genesee lighthouse.

Policy 23C Identify and protect archaeologically and historically significant sites located within the LWRP boundary, through the development of various master plans and designs for the six public parks located along the lake and river.

Explanation of policies

Government agencies recognize the need for and place a high priority on the identification and preservation of structures, sites and districts within the LWRP boundary that are significant in terms of the history, architecture, archaeology or culture of the state or the nation. Extensive historic surveys have been conducted of the LWRP study area by the Landmark Society of Western New York and the Rochester Museum and Science Center. The surveys have identified and located structures which are listed on the National Register of Historic Places, which are potential nominations to the national register, or which may have local historic significance and should be classified as local landmarks. After completion of these surveys, the city will prepare a list of LWRP structures to be nominated to the National Historic Register, will identify structures to be designated as local landmarks, will evaluate the possibility of extending or creating new preservation districts, and will identify sites that should be preserved as a part of redevelopment plans for public parks.

Structures, facilities, sites or other areas within the LWRP boundary that have already been identified as being locally or nationally significant in terms of their architecture or history include:

- (a) The Genesee Lighthouse (National Register Listing)
- (b) The Ontario Beach Park Carousel
- (c) St. Bernard's Seminary
- (d) Eastman Kodak Hawkeye Plant
- (e) RG&E Station 5 Power Plant and Middle Falls Dam
- (f) Railway Station on River Street
- (g) Carthage Landing
- (h) Kelsey's Landing and Glenn House
- (i) Seneca Park
- (j) Rochester School For The Deaf
- (k) An area on the east and west river banks, between the Middle and Lower Falls, which contains archaeologically significant sites and remains of historic mill races.

Redevelopment plans proposed for the Port Authority site and the River Street site will consider architecturally and historically significant structures and facilities in the area and will be designed to protect and enhance these resources. A major element of the River Street concept plan is the enhancement of the area's existing "neighborhood" and "nautical" character and ambience. New development will be compatible with existing architecturally and historically significant buildings in terms of appearance, design and construction.

Government agencies also consider the preservation of several archaeologically significant sites located within public parks and other areas along the river gorge to be a major priority. These sites include Carthage Landing, located on the east bank of the Genesee River, just south of the Veteran's Memorial Bridge, Kelsey's Landing, located on the west bank of the river, below Maplewood Park, and an area

near the proposed Lower Falls Park, just south of the Driving Park Bridge. These areas contain historic remains of buildings and other facilities that date back to the early 1800's. The identification, classification and protection of these areas through park redevelopment plans will be promoted and encouraged.

Developers in areas which have been identified within the river gorge as significant archeological sites shall contact the New York State Office of Parks, Recreation and Historic Preservation to determine appropriate protective construction measures. All practicable means to protect structures, districts, areas or sites that are of significance in the history, architecture, archeology or culture of the state or nation shall include any techniques, measures, or controls required to prevent a significant adverse change to such structures, districts, areas or sites.

This policy should 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 the public health, safety or welfare.

#### **Policy 24**

**Prevent impairment of scenic resources of statewide significance, as identified on the coastal area map. Impairment shall include:**

- (1) the irreversible modification of geological forms, the destruction or removal of vegetation, the destruction or removal of structures, wherever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and**
- (2) the addition of structures which because of siting or scale will reduce identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource.**

Explanation of why policy is not applicable: This policy is not applicable to the City's LWRP because there are no scenic resources of state-wide significance within Rochester's LWRP boundary.

#### **Policy 25**

**Protect, restore and enhance natural and man-made resources which are not identified as being of state-wide significance, but which contribute to the scenic quality of the coastal area.**

- |            |   |
|------------|---|
| Policy 25A | Protect and enhance the aesthetic quality of the Genesee River gorge, as a natural resource of local significance, through general clean-up of the river banks and removal of debris.   |
| Policy 25B | Protect and enhance the lower and middle falls area as well as vistas of the falls from adjacent lands.   |
| Policy 25C | Enhance scenic views and vistas within the Genesee River gorge and along Lake Ontario, through the development of scenic overlooks, viewing areas, and pedestrian trails, and through the preservation of the natural aesthetic qualities of these areas. |

Explanation of policies

Government agencies recognize the importance of restoring and preserving natural and man-made resources within the LWRP boundary that contribute to the scenic quality of the river and lake. Activities which could degrade scenic qualities of these areas include modification of natural features and the removal of vegetation.

The standards and guidelines associated with the city's site plan review, Harbortown Village District and environmental review procedures will be used to ensure that proposed private development does not interfere with, but rather enhances, existing natural or man-made resources that contribute to the scenic quality of the lake and river.

Much of the area within the river gorge contains steep slopes in excess of 15%, is in public ownership and is zoned for open space uses. The city's Open Space Zoning District limits and regulates development activities in this critical environmental area. Lands zoned for open space within the LWRP boundary will remain in their natural state and will contribute to enhancement and preservation of the scenic qualities of the gorge.

Maintenance plans and measures to clean-up the riverfront area and steep slopes within the gorge, in order to enhance their visual qualities, will be promoted and encouraged. The development of trails, overlooks and viewing areas, in and around the public parks located on the river, will be promoted and encouraged in order to provide increased viewing opportunities of the gorge area for park visitors.

The following siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly.

Guidelines include:

- (1) Siting structures and other development such as highways, power lines and signs back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore;
- (2) Clustering or orienting structures to retain views, save open space and provide visual organization within a development;
- (3) Incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
- (4) Removing deteriorated or degraded elements;
- (5) Maintaining or restoring the original land form, except when changes screen unattractive elements or add appropriate interest;
- (6) Maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal areas;
- (7) Using appropriate materials, in addition to vegetation, to screen unattractive elements; and
- (8) Using appropriate scales, forms, and materials to ensure buildings and other structures are compatible with and add interest to the landscape.

## Agricultural Lands Policy

### Policy 26

**To conserve and protect agricultural lands in the state's coastal area, an action shall not result in a loss, nor impair the productivity of important agricultural lands, as identified on the coastal area map, if that loss or impairment would adversely affect the viability of agriculture in an agricultural district or if there is no agricultural district, in the area surrounding such lands.**

This policy is not applicable to the city's LWRP because there are no agriculturally zoned lands within Rochester's LWRP boundary.

## 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.**

Policy 27A evaluate existing energy facility sites for other uses, if and when such sites are abandoned, in consideration of public energy needs, the site's compatibility with adjacent uses, and the need for a shorefront location.

#### Explanation of policies

Demand for energy in New York will increase, although at a rate slower than previously predicted. The state expects to meet these energy demands through a combination of conservation measures, traditional and alternative technologies, and use of various fuels, including coal, in greater proportion.

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 set forth in the New York State Energy Law. With respect to transmission lines, Article VII of the State's Public Service Law requires additional forecasts and establishes the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront location. With respect to electric generating facilities, environmental impacts associated with siting and construction will be considered by one or more State agencies or, if in existence, an energy siting board. The policies derived from these proceedings are entirely consistent with the general coastal policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. The Act is used for the purposes of ensuring consistency with the State Coastal Management Program and this Local Waterfront Revitalization Program.

In consultation with the city, the NYSDOS will comment on State Energy Office policies and planning reports as may exist; present testimony for the record during relevant proceedings under State law; and use the SEQR law and NYSDOS regulations to ensure that decisions on other proposed energy facilities

(other than those certified under the Public Service Law) which would impact the waterfront area are made consistent with the policies and purposes of this LWRP.

The only major energy facility site that currently exists within the LWRP boundary is the RG&E Station 5 Power Plant and the adjacent Middle Falls Dam. Although it is anticipated that this facility and use will continue at its present location for the foreseeable future, if RG&E ever does abandon the site, an evaluation of the best reuse for the site will be made which acknowledges the need for compatibility with the surrounding environment and the need for a shorefront location.

### **Policy 28**

**Ice management practices shall not damage significant fish and wildlife and their habitats, increase shoreline erosion or flooding, or interfere with the production of hydroelectric power.**

This policy is not applicable to the city's LWRP because ice management practices are not currently undertaken within Rochester's LWRP boundary. Should such practices be undertaken in the future in order to maintain navigation, an assessment shall be made of their impacts upon fish and wildlife habitats, flood levels and damage, rates of shoreline erosion damage, and upon natural protective features. Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented.

### **Policy 29**

**Encourage the development of energy resources on the outer continental shelf, in Lake Erie and in other water bodies, and ensure environmental safety of such activities.**

This policy is not applicable to the city's LWRP. Activities existing or contemplated within the city's LWRP boundary or within the metropolitan region will have no known impact on any energy resources which have been or may be identified on the lake or river.

## **Water and Air Resources Policies**

### **Policy 30**

**Municipal, industrial, and commercial discharge of pollutants, including but not limited to toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.**

#### Explanation of policy

Municipal, industrial and commercial discharges include "end-of-pipe" discharges into surface and groundwater as well as plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw materials storage sites. Regulated industrial discharges include those that directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the State's waterways.

The Monroe County Health Department currently monitors the water quality of discharges of less than 1,000 gallons per day into the river and lake. The NYSDEC currently monitors discharges of more than

1,000 gallons per day into the river and lake. These monitoring activities will be supported and encouraged to ensure that discharges into the lake and river comply with State and federal water quality standards.

The entire shoreline of Lake Ontario as well as the Genesee River is considered to be a critical environmental area under the city's existing site plan and environmental review procedures. Because of this, the impacts on water quality of stormwater runoff and/or effluent discharge from development sites is evaluated and mitigating measures can be required if adverse environmental impacts such as serious degradation of water quality should occur.

### **Policy 31**

**State coastal area policies and purposes 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), New York State has classified its coastal and other waters in accordance with the consideration 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, and will be reviewed by the State in light of the adopted LWRP.

The Genesee River has been classified as having "B" water quality. No bodies of water within the city's LWRP boundary are currently classified as "limiting segments".

As noted in POLICY 30, the shorelines of the lake and river are considered to be critical environmental areas under the city's site plan and environmental review procedures. Because of this, the impacts on water quality of stormwater runoff and/or effluent discharge from development sites is evaluated and mitigating measures can be required if adverse environmental impacts such as the serious degradation of water quality should occur. Government agencies consider the achievement and maintenance of a water quality level in the Genesee River and Lake Ontario, which enables the widest possible recreational use while protecting important wildlife habitats, to be a major priority. The intent of the city's LWRP is to maintain the water quality of the lake and river by controlling stormwater runoff and effluent discharge from development sites as well as from vessels.

### **Policy 32**

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

This policy is not applicable to the city's LWRP because innovative sanitary waste systems are not considered to be economically feasible or desirable, from an engineering standpoint, within the LWRP boundary. Proposed development will be required to be placed on existing public sanitary waste



systems or be required to provide for extensions of existing systems in order to service the development site.

### **Policy 33**

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

#### Explanation of policy

The city and Monroe County are participating in a Combined Sewer Overflow Abatement Program (CSOAP) which will eliminate combined storm and sanitary sewers in many areas of the city. This project involves the construction of several large underground holding tunnels which will discharge sewage and storm water, collected after major rainfalls, to the Frank E. VanLare Treatment Plant located in Durand-Eastman Park. Prior to the construction of these tunnels, large volumes of combined sewage and storm water that occurred after major rainfalls in the area flowed directly into the river and lake without being treated. This sewage contributed to pollution problems in the river and lake and the destruction of fish and other wildlife species. The completion of the underground holding tunnels will eliminate a major source of pollution discharge into the river and lake and will help preserve existing stocks of fish in the area. Government agencies will continue to investigate and promote improvements to other portions of the city storm and sanitary sewer systems in order to maintain and enhance the existing water quality in the river and lake. The improvements will be based on accepted best management practices (BMP's) for stormwater runoff and drainage control.

As noted in Policy 30, the shorelines of the lake and river are considered to be critical environmental areas under the city's site plan and environmental review procedures. Because of this, the impacts on water quality of stormwater runoff and effluent discharge from development sites is evaluated and mitigating measures can be required if adverse environmental impacts such as the serious degradation of water quality should occur. Government agencies consider the achievement and maintenance of a water quality level in the Genesee River and Lake Ontario, which enables the widest possible recreational use while protecting important wildlife habitats, to be a major priority.

### **Policy 34**

**Discharge of waste materials from vessels into coastal waters will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.**

#### Explanation of policy

Government agencies will promote and encourage the control or prohibition of discharges of waste materials from vessels into coastal waters, in order to protect significant fish and wildlife habitats, recreational resources and water supply areas. Counties in New York State may regulate such activity under Section 46 of New York State Navigation Law. The possibility of establishing no-discharge zones within the City's river and lake may be explored. In addition, all relevant building, sanitary and health codes that apply to the discharge of sewage, waste and other pollutants in local waters will be enforced.

The discharge of sewage, garbage, rubbish and other solid and liquid materials from watercraft and marinas into the State's waters is regulated. Priority will be given to the enforcement of this law in areas such as shellfish beds and other significant habitats, beaches and public water supply intakes, which need protection from contamination by vessel wastes. Also, specific effluent standards for marine toilets have been promulgated by the U.S. Department of Transportation. To that end, the provision of adequate pump-out facilities for existing and proposed marina facilities will be required in the City of Rochester.

### **Policy 35**

**Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing state dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.**

#### Explanation of policy

Dredging is often essential for waterfront revitalization and development, maintenance of navigation channels at sufficient depths, pollutant removal as well as addressing other coastal management needs. Such dredging projects may, however, adversely affect water quality, fish and wildlife habitats, wetlands and other important coastal resources. Often these adverse effects can be minimized through careful design and timing of the dredging operation and proper siting of the dredge spoil disposal site.

The NYSDEC will issue dredging permits if it has been demonstrated that the anticipated adverse effects of such operations have been reduced to levels which satisfy State dredging permit standards set forth in regulations developed pursuant to the Environmental Conservation Law (Articles 15, 24, 25 and 34), and are consistent with policies pertaining to the protection of coastal resources.

### **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.

The following implement and address this policy:

- (a) Oil Spill Prevention, Control and Compensation.  
Navigation Law (Article 12)
- (b) Penalties and Liabilities for Spills of Bulk Liquids.  
Environmental Conservation Law (Article 71-1941)
- (c) Transportation Law.  
(Article 2, Section 14-F)

These measures are adequate for the city because no activities related to the shipment or substantial storage of petroleum or other hazardous materials occur within the local waterfront revitalization boundary, or will occur within the boundary in the foreseeable future. All activities within the LWRP boundary which are subject to this policy shall also comply with state and federal regulations.

### **Policy 37**

**Best management practices will be utilized to minimize the nonpoint discharge of excess nutrients, organics and eroded soils into coastal waters.**

#### Explanation of policy

Government agencies recognize the need to control the nonpoint discharge of excess nutrients, organics and eroded soils into local coastal waters. However, a major portion of the area contained within the LWRP boundary is serviced by storm and sanitary sewers which do not outfall to the river or lake without adequate sewage treatment. Remaining areas of natural forest and woodland do not contribute significantly to nonpoint discharge of excess nutrients, organics or eroded soils into the river and lake.

As noted in POLICY 30, the shorelines of the lake and river are considered to be critical environmental areas under the city's site plan and environmental review procedures. Because of this, the impacts on water quality of stormwater runoff, erosion, and/or effluent discharge from development sites is evaluated and mitigating measures can be required if adverse environmental impacts such as the serious degradation of water quality should result. Soil erosion control practices and surface drainage control techniques will be evaluated or may be required based on accepted best management practices (BMP's), and as a result of the site plan and environmental review processes. Standards to be used in this evaluation are contained in Section 108 of the Administrative Procedures for the Issuance of Site Preparation Permits (see LWRP Appendix B), and are based on two documents: Guidelines for Erosion and Sediment Control in Urban Areas of New York State, and Best Management Practices for Stormwater Runoff Management.

Government agencies consider, as a major priority, the achievement and maintenance of a water quality level in the river and lake that enables the widest possible recreational use while protecting important wildlife habitats.

### **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

The city consumes between 40 and 49 million gallons of water each day. The city's primary source of water is through the Upland Watershed which includes Hemlock and Canadice Lakes in Ontario, Livingston and Steuben Counties. The city also gets some of its water supply from Lake Ontario through the Monroe County Water Authority (MCWA). The majority of the area within the city's LWRP boundary receives its water from Lake Ontario and the MCWA.

The Upland Watershed encompasses approximately 66 square miles. Twenty-two percent of the watershed or 7,200 acres are directly controlled by the city, including the entire shoreline of both lakes. Water quality problems have occurred within the watershed in recent years. In order to help resolve controversy surrounding the use of the upland lakes as a water supply, an Upland Watershed Advisory Committee was formed by the city in 1985. Six management objectives, developed by the committee, are used to ensure water quality in the Upland Watershed:

- (1) Maintain city-owned property around the lakes as undeveloped;
- (2) Enforce rules and regulations to protect the watershed from environmental hazards;
- (3) Maintain recreational activities around the lakes that are compatible with conservation and water quality;
- (4) Plan forest management to enhance forest quality and to control erosion;
- (5) Manage water levels, wetlands, fish stocking and the use of local roads; and
- (6) Support an investment sufficient to practice good husbandry.

In addition, a water filtration plant for the upland watershed will be constructed.

The city relies on the MCWA to monitor and maintain the quality of water received from Lake Ontario. Standards to achieve this policy goal will be enforced.

### **Policy 39**

**The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land and scenic resources.**

#### Explanation of policy

Solid wastes include sludge from air or water pollution control facilities, demolition and construction debris, and industrial and commercial wastes. Solid waste management facilities include resource recovery facilities, sanitary landfills, and solid waste reduction facilities. These definitions are based on the New York State Solid Waste Management Act (Environmental Conservation Law, Article 27).

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 the New York State 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, transported, disposed or otherwise managed." A list of hazardous wastes has been adopted by the NYSDEC (6 NYCRR Part 371).

There is currently no active transport, storage, treatment or disposal of hazardous wastes within the city's LWRP boundary. In addition, no activity is proposed or will occur within the waterfront revitalization area that will produce such hazardous or solid wastes, as defined in the Environmental

Conservation Law, Article 27. Government standards regarding disposal of such wastes, when required, will be met.

#### **Policy 40**

**Effluent discharge 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

A number of factors must be considered when reviewing a proposed site for facility construction. One of these factors is that the facility does not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the state, the public health and public enjoyment of the receiving waters. The effects of thermal discharges on water quality and aquatic organisms will be considered by State agencies or, if applicable, a siting board when evaluating an applicant's request to construct a new electric generating facility.

The RG&E Station 5 Power Plant located on the east bank of the river near the Driving Park Bridge, and the Eastman Kodak Company Industrial Waste Treatment Plant located on the west bank of the river, just north of the Veteran's Memorial Bridge, are the only facilities within the LWRP boundary that are the types of uses described in this policy. All activities within the city's waterfront which are subject to this policy shall comply with appropriate local, state and federal regulations to ensure that existing water quality standards are met and that appropriate disposal methods are used.

#### **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 city's LWRP incorporates the air quality policies of and programs for the State prepared by the NYSDEC, pursuant to the Clean Air Act and State laws regulating air quality. The requirements of the Clean Air Act are the minimum air quality control standards applicable within the coastal area.

Existing and proposed land uses within the city's LWRP boundary will be restricted to residential, recreational and marine-related and/or supporting commercial facilities. None of these uses are likely to produce significant degradation of air quality in the area. The NYSDEC has jurisdiction over the monitoring of air quality to ensure that the provisions of the Federal Clean Air Act are being met. Monitoring activities will continue.

## **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 State Coastal Management Program and Rochester 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 coastal regions or adjacent areas. In addition, the NYSDOS will provide the NYSDEC with recommendations for proposed prevention of significant deterioration land classification designations, based upon State Coastal Management and Rochester LWRP policies.

## **Policy 43**

**Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.**

### Explanation of policy

The New York State Coastal Management Program incorporates the State's policies on acid rain. Therefore, the Coastal Management Program will assist in the State's efforts to control acid rain. These efforts to control acid rain will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

## **Wetlands Policy**

### **Policy 44**

**Preserve and protect tidal and freshwater wet-lands and preserve the benefits derived from these areas.**

### Explanation of policy

Government agencies recognize the need to preserve and protect freshwater wetlands located within the LWRP boundary and consider this to be a major priority within the context of other LWRP policies. For the purposes of this policy, freshwater wetlands include marshes, swamps, bogs and flats that support aquatic and semi-aquatic vegetation, as well as other wetlands as defined in the New York State Freshwater Wetlands Act and the New York State Protection of Waters Act. Government agencies recognize that the benefits derived from the protection of such wetland areas include maintenance of fish and wildlife habitats, control of erosion and drainage, protection of groundwater supplies, and provision of recreational opportunities.

Over the past several years, many existing wetland areas within the LWRP boundary have been transferred to public ownership through historic donations, as well as through actual acquisition and purchase by the city. Additional purchases of wetland areas along the river are being investigated; these

would, if completed, result in all such areas being in public ownership and controlled by the city or Monroe County, as well as the NYSDEC.

The standards and guidelines contained in the city's environmental review procedures and regulations will be used to ensure that wetlands as well as surrounding areas are preserved and protected within the LWRP boundary. Development actions proposed within 100 feet of the river and lake and within areas zoned as open space, which include all significant wetland areas along the river and lake, are Type I actions under the city's Environmental Quality Review Ordinance, since these locations have been designated as critical environmental areas. Actions in these areas will require a complete environmental impact review. As a part of this review, a project's potential impacts on existing fish and wildlife habitat areas and other wetland features would be determined and addressed and mitigating measures, if required, could be proposed in order to protect these areas from adverse development impacts.