

Town of Hamburg Local Waterfront Revitalization Program

Adopted:

Town of Hamburg Board, March 23, 1987

Approved:

NYS Secretary of State, Gail S. Shaffer, June 3, 1989

Concurred:

U.S. Office of Ocean and Coastal Resource Management, February 13, 1990

Amended LWRP:

Adopted:

Town of Hamburg, Town Board, May 23, 2011

Approved:

NYS Secretary of State, Cesar A. Perales, March 9, 2012

Concurred:

U.S. Office of Ocean and Coastal Resource Management, July 12, 2012

TOWN OF HAMBURG RESOLUTION

State of New York
County of Erie
Town of Hamburg



I, Catherine A. Rybczynski, Town Clerk of the Town of Hamburg, Erie County, New York, do hereby certify that at a regular meeting of the Town Board of the aforesaid Town on the 23rd day of May 2011, the following action was subject to Town Board approval:

11.
On a motion of Councilman Collins, seconded by Councilman Gorman, the following resolution was
ADOPTED Ayes 4 Walters, Collins, Gorman, Ziegler
 Noes 0

WHEREAS, the Hamburg Town Board originally adopted the Town of Hamburg Local Waterfront Revitalization Program (LWRP) in March 1987, and has undertaken the preparation of an amendment to update this program in cooperation and coordination with the New York State Department of State, and in accordance with the provisions of Article 42 of the New York State Executive Law; and

WHEREAS, the Draft LWRP Amendment was prepared under the review and guidance of the Town of Hamburg Shoreline Revitalization Committee, with consultant planning services provided by Wendel Duchscherer Architects and Engineers; and

WHEREAS, the Draft LWRP Amendment was accepted by resolution of the Town Board on September 27, 2010, and submitted to and circulated by the Department of State to potentially affected State, Federal, and local agencies for review in accordance with the requirements of Executive Law, Article 42, and comments resulting from this review were appropriately considered and addressed; and

WHEREAS, the Town Board held a Public Hearing for the LWRP Amendment on September 13, 2010, during which questions and comments from the public were received and addressed; and

WHEREAS, the Town Board, as lead agency, issued a Negative Declaration - Notice of Determination of Non-Significance on September 27, 2010 for the adoption of the Town of Hamburg LWRP Amendment, pursuant to Article 8 of the Environmental Conservation Law [State Environmental Quality Review Act (SEQRA)].

THEREFORE BE IT RESOLVED, that the Town of Hamburg Local Waterfront Revitalization Program Amendment is hereby adopted by the Town Board, and that the Supervisor is authorized to submit a certified copy of this resolution to the New York State Department of State for approval by the Secretary of State, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

I do further certify that the members of the Town Board are as follows: Steven J. Walters, Supervisor, Joseph A. Collins, Jonathan G. Gorman and, Amy J. Ziegler, Councilmen.

IN WITNESS WHEREOF, I hereunto set my hand and the seal of the Town of Hamburg, Erie County, New York, this 24th day of May, 2011.

A handwritten signature in cursive script, reading "Catherine A. Rybczynski", written over a horizontal line.

Catherine A. Rybczynski, Town Clerk



STATE OF NEW YORK
DEPARTMENT OF STATE

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

March 9, 2012

Honorable Steven J. Walters
Supervisor
Town of Hamburg
6100 South Park Avenue
Hamburg, NY 14075

Dear Supervisor Walters:

I am pleased to inform you that I have approved the amendment to the Town of Hamburg Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive management program that promotes the balanced preservation, enhancement, and utilization of the valuable local waterfront resources along Lake Erie.

I am notifying State agencies that I have approved your Local Waterfront Revitalization Program amendment and advising them that their activities must be undertaken in a manner consistent, to the maximum extent practicable, with the program.

The approved amendment to the Local Waterfront Revitalization Program will be available on the website of the Department of State, at http://www.dos.ny.gov/communitieswaterfronts/WFRevitalization/LWRP_status.html. If you have any questions, please contact Kevin Millington of the Office of Communities and Waterfronts at 518-473-2479.

Sincerely,

A handwritten signature in cursive script that reads "Cesar A. Perales".

Cesar A. Perales
Secretary of State



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

George R. Stafford
Program Manager
State of New York
Department of State
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231-0001

JUL 12 2012

Dear Mr. Stafford:

Thank you for the New York Department of State's March 28, 2012 request to incorporate amendments to the City of Rochester Local Waterfront Revitalization Program (LWRP), the Village of Sodus Point LWRP, and the Town of Hamburg LWRP into the New York Coastal Management Program (CMP). You requested that changes to the LWRPs described below be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and Office of Ocean and Coastal Resource Management (OCRM) Program Change Guidance (July 1996). OCRM received the request on April 3, 2012 and OCRM's decision deadline was extended until July 13, 2012.

Based on our review of your submission, we concur, with the exceptions noted below, that the changes to the City of Rochester, Village of Sodus Point, and Town of Hamburg LWRPs are RPCs. We approve the incorporation of the changes to Section III of the LWRPs as enforceable policies of the New York CMP and all other changes as non-enforceable policies. Federal Consistency will apply to the approved enforceable policy changes only after the state publishes notice of this approval pursuant to 15 C.F.R. § 923.84(b)(4). Please include in the public notice the list of changes to enforceable policies provided in this letter, and please send a copy of the notice to OCRM.

CHANGES APPROVED

See enclosed list of the changes incorporated into the New York CMP.

QUALIFICATIONS

States may not incorporate enforceable policies by reference. If an approved enforceable policy refers to another regulation, policy, standard, guidance, or other such requirement or document (hereinafter "referenced policy"), the referenced policy itself must be submitted to and approved by OCRM as an enforceable policy in order to be applied under the federal consistency review provisions of the CZMA. Therefore, no requirement or document referenced in the approved enforceable policies may be applied for federal consistency unless that requirement or document has separately been approved by OCRM.



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The City of Rochester LWRP's enforceable policies are only contained in Section III. Although Section IV, "Recommended Projects within the LWRP," section C. indicates that its objectives are to be used during consistency reviews, these objectives have not been submitted or approved as enforceable policies. Therefore, the Section IV objectives cannot be used for federal consistency purposes.

CHANGES NOT APPROVED

OCRM is not approving the following policies in Section III of the Town of Hamburg LWRP because they are preempted by federal law or raise national interest concerns: 1) Policy 6.2, 3, Eighteen Mile Creek (f); 2) Policy 13 introductory paragraph; 3) Policy 13.3(b); and 4) Policy 13.6. These policies cannot be used for CZMA federal consistency review purposes.

OCRM is not approving the incorporation of Policies 6.2, 3 Eighteen Mile Creek and parts of Policy 13.

Policy "6.2, 3 Eighteen Mile Creek" provides that the "(f) Development of hydroelectric facilities on the creek should only be permitted with run-of-river operations." The preamble to Policy 13 provides that there are no sites along Lake Erie where the benefits of developing hydroelectric facilities are not outweighed by the economic costs and potential impacts on natural resources and to the public. Policy 13.3 (b) also provides that liquefied natural gas (LNG) facilities are to be considered inappropriate and should not be sited along the Hamburg waterfront.

Under the Federal Power Act, the authority to regulate the siting of hydroelectric facilities is expressly reserved to the federal government. As such, state and local regulation of hydroelectric facilities is preempted and cannot be "enforceable policies" under the CZMA (16 U.S.C. § 1453 (6a)). State and local policies that are preempted are not applicable for the purposes of reviewing activities for federal consistency under the CZMA.

Likewise, the regulation of the siting of liquefied natural gas facilities is preempted under the Energy Policy Act of 2005 amendments to the Natural Gas Act. State and local coastal program policies pertaining to the siting of LNG facilities cannot be applied through the federal consistency review authority granted to states under the CZMA.

Under the program approvability and program change requirements of 15 C.F.R. Part 923, state programs are to consider the national interest in the siting of energy facilities which are of greater than local significance. Apart from those provisions of Policy 13 which are preempted under federal law, OCRM finds the State has not shown that Policy 13 meets the requirement for the consideration of the national interest.

Policy 13.2 provides that "Major energy generating and transmission facilities, which utilize non-renewable resources, are considered inappropriate uses that would not provide a significant benefit along the waterfront and should not be sited in this area." The siting of major energy facility generating and transmission facilities is of greater significance than local waterfront considerations. The State has not shown how these local considerations are balanced with

regional and national interests in meeting energy needs. Furthermore, as written, the policy is arbitrarily discriminatory and not approvable as such. The policy would allow for the placement of a transmission facility along the waterfront if the source of electricity was generated by renewable energy sources. Distribution facilities for electricity such as transmission lines and power substations, are essentially identical regardless of whether the source of the electricity is renewable or non-renewable. The State has provided no rationale to support this discriminatory policy.

Policy 13.6 states:

The Town recognizes the need to develop new indigenous energy sources but also recognizes that such development may endanger the environment. Thus, the Town discourages the development of energy resources on the outer continental shelf in Lake Erie.

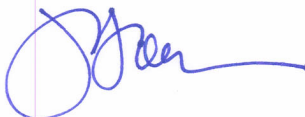
There are several deficiencies with Policy 13.6 as proposed for approval as an enforceable policy for CZMA federal consistency review purposes. First, the policy does not contain a definable standard in that the use of the term “discourages” does not establish whether the development of energy resources is permissible, and if so, under what circumstances. Second, the broad scope of the policy would be preempted as applied to hydropower and liquefied natural gas facilities for the aforementioned reasons. Third, a prohibition of energy facilities in Lake Erie by the State or a local coastal program without a showing that such a policy is balanced with national and regional interests in the siting of energy facilities is not approvable as an enforceable policy for CZMA federal consistency review purposes.

PUBLIC AND FEDERAL AGENCY COMMENTS

OCRM received no comments on this RPC submission.

Thank you for your cooperation in this review. Please contact Kerry Kehoe at (301) 563-1151, if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Joelle', with a long horizontal flourish extending to the right.

Joelle Gore, Acting Chief
Coastal Programs Division

Enclosure: Changes Approved and Incorporated into the New York CMP

CC:

Steve Ridler, New York State Department of State

Kevin Millington, New York State Department of State

Enclosure to OCRM's July 12, 2012, Approval of the Incorporation of Changes to
the NEW YORK COASTAL MANAGEMENT PROGRAM

Changes marked with an asterisk (*) are incorporated into the NEW YORK COASTAL MANAGEMENT
PROGRAM, but do not contain enforceable policies that can be used for Federal Consistency.

Name/Description of State or Local Law/Regulation/Policy/Program Authority	State/Local Legal Citation	Date Adopted by State	Date Effective in State
ADDED:			
*Town of Hamburg LWRP	*Sections I, II, IV, V, VI, VII, and Appendices A-E	3/9/2012	3/9/2012
Town of Hamburg LWRP Policies	Section III, Policies 1–13 with the exceptions of Policy “6.2, 3 Eighteen Mile Creek,” and Policy 13.2, 13.3 (b) and 13.6 which are not approved for application as enforceable policies for CZMA federal consistency review purposes.	3/9/2012	3/9/2012
MODIFIED:			
City of Rochester LWRP			
*General information about the history of the LWRP and the changes	*Executive Summary, pp. i-ii	12/15/2011	12/15/2011
*Uses and redevelopment activities and constraints for the 22-acre port site and surrounding area	*Section II – Historical Analysis, C; Water- Dependent and Water- Enhanced Uses, C; Recreational Opportunities and Public Access, A; Flood Hazard Areas, B; Erosion Hazard Areas, B; Transportation Network; Table II-5; and, Development Opportunities and Constraints, B and C.	12/15/2011	12/15/2011
Revisions to several policies to support the redevelopment of the port site and the redevelopment or relocation of the public boat	Section III – Policies 1A, 1F, and Explanation of Policies; Policies 5A and 5B, and	12/15/2011	12/15/2011

Enclosure to OCRM's July 12, 2012, Approval of the Incorporation of Changes to
the NEW YORK COASTAL MANAGEMENT PROGRAM

Changes marked with an asterisk (*) are incorporated into the NEW YORK COASTAL MANAGEMENT PROGRAM, but do not contain enforceable policies that can be used for Federal Consistency.

Name/Description of State or Local Law/Regulation/Policy/Program Authority	State/Local Legal Citation	Date Adopted by State	Date Effective in State
launch facility; deletion of the reference to the construction of an erosion protection structure	Explanation of Policies; Policy 9B; Policy 13A and Explanation of Policies; Policy 19C and Explanation of Policies; Policy 20A; Policy 21A; Policy 22A; Policy 23B; and, Policy 25 Explanation of Policies		
*Description of area and existing uses of the area that contains the port site and recommended land uses, projects, and design objectives within that area	*Section IV – Description of LWRP Subareas, Subarea D; Recommended Land Uses for each LWRP Subarea, Introduction, LWRP Subarea D table; and, Recommended Projects within the LWRP, A, B, and C.	12/15/2011	12/15/2011
*Revisions to reflect changes to local laws, including the establishment of the Harbortown Village zone	*Section V – Policies 1, 13, 16, and 22 information	12/15/2011	12/15/2011
Village of Sodus Point LWRP			
*LWRP boundary extended 1,500 feet from the shoreline into Lake Ontario and Sodus Bay	*Section I – Waterfront Revitalization Boundary	3/9/2012	3/9/2012
*Numerous changes, mainly including harbor management information on water uses	*Section II – 1.A, D, and E; 2.A, B, D, E, and G; 3.B, C, E, F, and G; 4.B and C; 5; 6; and 7	3/9/2012	3/9/2012
Focus on protecting and restoring ecological quality; explanations for how the harbor management elements and projects implement the policies	Section III – Policy 6.1; and, Explanation of Policy for Policies 1, 1.1, 1.2, 1.3, 2.1, 2.2, 3, 4, 6, 6.1, 6.2, 8.1, 9.1, 9.2, and 10.5	3/9/2012	3/9/2012
*Revised and additional proposed projects	*Section IV – A; B; C, C.2-15 and 19-31; and, D, D.1, D.2, D.4	3/9/2012	3/9/2012
*Revisions to reflect minor zoning changes, included the deletion of the planned residential zone, and recommended changes to laws	*Section V – A.1 and 2; B; C; and E	3/9/2012	3/9/2012
*Minor edits	*Section VII	3/9/2012	3/9/2012
DELETED:			
Town of Hamburg LWRP (1989)	Town of Hamburg LWRP (1989)	6/3/1989	6/3/1989

Prepared by:



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Introduction



The Town of Hamburg is located along the southern shoreline of Lake Erie, in the southwestern portion of Erie County, in New York State. The Town enjoys approximately 9 miles of shoreline along the lake. The Town is suburban in character, with much of the land in the waterfront area in residential use. Commercial development is limited and found primarily in small business districts along NYS Route 5 (Lake Shore Road). The waterfront contains Woodland Beach State Park, a 106- acre area that offers a 24-acre area of sand beach, wetlands and vegetated dunes. Two other water recreational uses in the Town include the Town Park and the Seaway Trail Visitor's Center.

The shoreline along the lake includes vast areas of coastal bluffs and narrow rocky beaches. The waterfront does not contain any marinas or permanent docks.

The Town first prepared an LWRP in 1987. Since that time, the waterfront has experienced change and the Town felt the need to prepare an update that more effectively addressed current issues and opportunities.

Harbor Management - Article 42 of the New York State Executive Law, Section 922 – Waterfront Revitalization of Coastal Areas and Inland Waterways – authorizes local governments to prepare Harbor Management Plans (HMPs) as part of their Local Waterfront Revitalization Program (LWRP). In the course of preparing an LWRP, the Town of Hamburg considered the need for adopting a Harbor

Management Plan and investigated the required elements of such a Plan, as found in 19 NYCRR 603.3 – Harbor Management. Based on the findings of the Inventory and Analysis developed for Section II of the LWRP, the Town of Hamburg determined that the adoption of a formal HMP was not appropriate for the following reasons.

- (1) The Lake Erie shoreline within the Hamburg LWRA is not heavily developed with water-dependent uses. The only water-dependent use is the Southtown's Wastewater Treatment Plant. There are also three water-related recreational facilities. The waterfront is primarily developed with private residences and a few commercial uses (restaurants) that are enhanced by their waterfront location (Section II 4).
- (2) There is limited navigational use along the Hamburg waterfront. There are no designated navigation channels, no designated harbors and no permanent dockage for vessels (Section II C 2).
- (3) There are no marinas or permanent docks within the LWRA (Section II.C.1). The Town Park includes a single boat launch with a floating dock that is removed each winter; this is the only public location that allows water access for recreational boats and other small craft.
- (4) There are no commercial fishing or boating facilities, or tourism services found within the LWRA (Section II.5).
- (5) The rugged bluff topography along much of the lakefront constrains development and prohibits the future construction of dockage (Section II.H). There are no locations that would allow for the development of harbor or marina infrastructure without the investment of extensive capital, making such development cost prohibitive for the Town.

SECTION I Local Waterfront Revitalization Area Boundary

Local Waterfront Revitalization Area Boundary

The boundary of the Town of Hamburg Local Waterfront Revitalization Area (LWRA) encompasses all of the land area along the Lake Erie shoreline, as shown on [Map 1A](#), [1B](#) and [1C](#), and follows an inland boundary as noted below.

Beginning at the point where the mean high water line of Lake Erie intersects with the corporate boundary between the Town of Hamburg and the City of Lackawanna, the boundary proceeds due east along this line to Lake Shore Road (NYS Route 5). At this point, the boundary turns to the south and then southwest, following Lake Shore Road to its intersection with Old Lake Shore Road, encompassing all of the lands west of this roadway, certain properties situated east of Lake Shore Road to the north of Beach Avenue that have frontage along Lake Shore Road, and all of the properties located southwest of Beach Avenue that are situated south and east of Lake Shore Road.

At the intersection of Lake Shore Road and Old Lake Shore Road, the boundary then follows Old Lake Shore Road in a southwesterly direction, to the northern shoreline of Eighteen Mile Creek, which is also the corporate boundary between the Town of Hamburg and the Town of Evans. The boundary encompasses all those lands located north and west of Old Lake Shore Road and all of the properties, situated to the south and east, that have frontage along Old Lake Shore Road.

At the intersection of Lake Shore Road and the centerline of Eighteen Mile Creek, the boundary turns to the northwest, following the centerline of the creek to the point of the mean high water line of Lake Erie. From this point, the boundary proceeds out over the surface waters of Lake Erie for a distance of 1,500 feet; the boundary then turns sharply to the north – northeast and then northwest, continuing at a measured distance of 1,500 feet from the shoreline, to a point where it intersects with the municipal boundary between the Town of Hamburg and the City of Lackawanna; then proceeding in an easterly direction along the municipal boundary to a point where it intersects with the extension of the Town of Hamburg corporate boundary from the mean high water line of Lake Erie, which is the point of origin for the local waterfront revitalization boundary.

The above description reflects minor modifications to the Local Waterfront Revitalization Area boundary described in the original LWRP approved in 1989.

Sub-Areas Boundaries

To more effectively manage and plan for the diverse conditions of the Town of Hamburg's coastal area, which is geographically long and narrow, the LWRA has been broken down into three Sub-Areas. These Sub Areas are identified on [Maps 1A](#), [1B](#), and [1C](#), and are described as follows (specific land uses found in these sub areas are described in Section II of the LWRP).

Sub-Area 1 – Northern Shoreline Area

Sub-Area 1 is the northern-most portion of waterfront in the Town, which has a character that differs from the other two sub areas. This area extends south from the boundary between the Town of Hamburg and the City of Lackawanna to Beach Avenue (see [Map 1A](#)). Sub-Area 1 includes a mix of land uses and a number of larger properties that border NYS Route 5, with shoreline area that is close to sea level. This area encompasses Woodlawn Beach State Park. Also included are two distinct residential areas, those being the Bayview (Hoover Beach) and Woodlawn neighborhoods, and a portion of the Athol Springs community.

Sub-Area 2 – Central Shoreline Area

Sub-Area 2 extends southwest along Lake Shore Road from Beach Avenue to the split with Old Lake Shore Road (see [Map 1B](#)). This area consists primarily of a mix of residential and commercial uses on small lots, and some estate properties. Sub-Area 2 includes the Town Beach property and the Wanakah Country Club. Characteristics along the shoreline are different than what is found in Sub-Area 1, with an increase in shoreline elevations, the prominence of bluffs, and generally a limited extent of beachfront. This area includes portions or all of a number of neighborhood enclaves, including Locksley Park, Mt. Vernon, Clover Bank, Wanakah and Clifton Heights.

Sub-Area 3 – Southern Shoreline Area

Sub-Area 3 extends southwest along Old Lake Shore Road to Eighteen Mile Creek (see [Map 1C](#)). This sub area is almost entirely residential in nature, with a larger number of estate sized properties, which differentiates it from Sub-Areas 1 and 2. This area includes the Pinehurst and Walden Cliffs communities. The shoreline terrain in Sub-Area 3 is increasing more rugged, with steep bluffs in many places. The southern extent of this sub area includes the mouth of Eighteen Mile Creek.

SECTION II Inventory and Analysis

2.1 Regional Setting and Community Characteristics

The Town of Hamburg (Town) is located in the eastern central portion of Erie County ([Map 2](#)), and is situated between the City of Lackawanna to the north, Town of Orchard Park to the east, and Towns of Boston, Eden and Evans to the south. The Town shares its western boundary with approximately nine miles of Lake Erie shoreline. Hamburg is considered one of the "Southtowns" of the Buffalo metropolitan area. The Town encompasses over 41 square miles in land area. The Villages of Blasdell and Hamburg are located entirely within the Town municipal boundaries, but outside of the Local Waterfront Revitalization Area (LWRA).

The Town of Hamburg continues to experience overall change from a rural community to a suburban community. The development trends that have occurred in the Town over the last few decades have produced the classic product of "suburban sprawl" that has been consistent with regional and national trends. The growth has included a mixture of residential, commercial, recreational and light industrial uses. This continual growth and development of the Town as a whole has impacted the waterfront and has necessitated the need to update the policies and implementation strategy of the Hamburg LWRP, which was originally adopted by the Town in March of 1987.

The Town of Hamburg is one of the second ring suburbs in the Buffalo metropolitan area, and has experienced changes to the overall land use patterns over the past few decades. Suburban residential and commercial development has increased while active farming and rural land use has continued to decrease. General commercial development has impacted the Town to a large extent, with industrial development experiencing a shift from manufacturing to a service mode.

The different types of land uses in the Town of Hamburg have been influenced by the natural topography, the two villages that exist within the Town limits, and it's location within the Buffalo metropolitan area. While Hamburg has experienced substantial suburban growth over the past few decades, there has been no significant increase in population. The Town reflects both the rural and urban nature of a transitional community. Including the two villages, the Town contains various smaller hamlet communities that contribute to the character of the community. Woodlawn, Athol Springs, Wanakah, and Lakeview are some of the smaller communities within the LWRA that characterize this area overall.

2.2 Upland Uses

A. Existing Land Use

The Town of Hamburg LWRA includes several types of land use, including residential, commercial, industrial, public/governmental, recreational and vacant land. Private residential development is the primary land use along the waterfront (see [Maps 3A, 3B, 3C](#)).

Sub-Area 1 contains the largest mix of land uses. Starting at the southern boundary, north of Camp Road, land use includes small pockets of industrial, commercial and public land uses. Sub-Area 1 is the only part of the waterfront that supports industrial land use, which is limited to three locations with minimal access to Lake Erie. These uses include the Buffalo Crushed Stone operations along the northern Town boundary, the Snyder Tank company and associated uses along Hoover Road, and a trucking terminal at Big Tree and NYS Route 5. Recreational uses include Woodlawn Beach State Park, a ball field associated with the Local UAW office, the Hoover Beach Trail Head Park and a park/picnic area associated with the Hoover Beach residential community. The Southtowns Wastewater Treatment Plant is situated along Hoover Road, just south of Woodlawn Beach Park.

Commercial uses in Sub-Area 1 include the large Gateway office complex (adjacent to Woodlawn Beach State Park) and numerous small neighborhood businesses and restaurants along NYS Route 5 in the Woodlawn hamlet area (which also includes the Woodlawn Fire Company), north of Hoover Beach, and in the Athol Springs hamlet (near Camp and Big Tree Roads). Athol Springs hosts a cluster of restaurants that are located in close proximity to the shoreline, providing views of the lake, Canada and the City of Buffalo. This area also includes the former Foit's restaurant site, which has been cleared of dilapidated structures.

Residential uses in this Sub-Area are situated primarily to the north, where the well-established Woodlawn residential neighborhood is located. This area contains a mix of single and multi-family residential uses that date back to the 1930's and 1940's. The Hoover Beach community is an enclave of about 100 smaller, cottage-style single-family homes (former seasonal cottages that have transitioned to year-round use) situated in close proximity to the Lake. Additional residential uses are found at the southern end of this Sub-Area in the Athol Springs hamlet.

Sub-Area 2 is comprised primarily of residential development. Apartment complexes and multi-family residences are scattered throughout the single-family lakefront neighborhoods of Locksley Park, Mt. Vernon, Clover Bank, Wanakah and Clifton Heights. Recreational uses include the Town Beach and Park, the Seaway Trail Visitor's Center, the Wanakah Country Club (a private use), a small passive park located at the top of the bluff near Mt. Vernon Blvd., and a number of public easements, homeowners' association properties and paper streets that provide informal access to the shoreline.

Commercial uses in Sub-Area 2 are primarily located in the Clover Bank/Wanakah area, along NYS Route 5, including restaurants, a bank, a gas station, a convenience market, medical offices and personal service uses. This area also hosts a local branch of the Erie County public library, Frontier School, some churches and the Lakeshore Volunteer Fire Company.

Sub-Area 3 is almost entirely developed with residential uses. With the exception of a small number of neighborhood business uses at the intersection of Route 5 and Old Lake Shore Road, this subarea is comprised entirely of residential development and open space. Estate properties can be found in the Walden Cliffs, Clifton Heights, and Pinehurst neighborhoods, while Hamburg's lakefront bluffs is the location of more recent residential development. This is the only area of the waterfront where additional residential development could occur. There are a few larger properties in this area where such development could be located.

B. Zoning and Other Land Use Regulations

Zoning along the waterfront is regulated by Chapter 280 of the Hamburg Town Code. As shown on [Maps 4A, 4B and 4C](#), twelve of the seventeen zoning classifications provided for in the Code are represented within Hamburg's waterfront area. In addition, portions of the LWRA are located within the Route 5 and the Lakeview zoning overlay districts. Principal land uses are identified below for the zoning districts within the waterfront study area.

RESIDENCE DISTRICTS

- Single-family Residence-Estate District (R-E) – primarily allows for low-density single-family detached dwellings, places of worship, fire stations, private clubs (golf course), and hospitals. Wind energy conversion systems and bed-and-breakfast establishments are allowed by Special Use Permit. Accessory uses include garages, storage of trailers, a caretaker or guest residence, horse stables, greenhouses, and tennis courts.
- Single-Family Residence District (R-1) – primarily allows single-family detached dwellings, cluster housing (with site plan approve), elementary and secondary schools, public libraries and museums. Barns are allowed by Special Use Permit. Professional residence-offices and Home Occupations are allowed with Zoning Board of Appeals approval.
- Single-Family Residence, Attached District (R-2) – allows all principle uses, accessory uses, and structures permitted in the R-1 district. In addition, two-family dwellings and attached single family dwellings are permitted. Accessory uses are the same as allowed in the R-1 District.
- Multifamily District (R-3) – allows principle uses and structures permitted in the R-2 district. In addition, multi-family housing or condominiums, hospitals, nursing homes and dormitories are permitted in this district. Nursery schools and day-care centers are allowed by Special Use Permit. Accessory uses include those allowed in the R-2 district as well as accommodations for roomers or lodgers within a dwelling.

BUSINESS DISTRICTS

- Neighborhood Commercial General Residence District (NC) – This commercial zoning district allows for commercial uses that serve the needs of the residential neighborhood, without negatively affecting the character of the neighborhood. Permitted uses include principal and accessory uses allowed in the R-3 district, except cluster housing. In addition, minor retail sales (convenience shopping <2,000 square feet), business offices, studios, funeral homes, bed and breakfast establishments, fire stations, meeting rooms for clubs and fraternal organizations, professional offices, and personal services are permitted.
- Local Retail Business District (C-1) – allows less intensive commercial uses in structures less than 15,000 square feet. Principal and accessory uses include those permitted in the NC district (except residential housing), as well as retail sales (except uses permitted in C-2 and M districts), dry cleaning establishments, eating and drinking establishments, hotels, motels,

banks, sports and fitness facilities. Nursery schools and day-care centers are allowed by Special Use Permit.

- General Commercial District (C-2) – allows larger scale regional-type commercial operations (up to 100,000 sq. feet). In addition to the uses allowed in the C-1 district, boat or marine sales/service, Laundry or dry-cleaning plants (>2,000 square feet), custom shops, warehouses, indoor entertainment, dairies, wholesale sales and distribution, commercial swimming pools, drive-in restaurants, theaters and drive-ins, golf driving ranges and miniature golf, and rental/storage facilities are allowed. By Special Use Permit, the following use are allowed: the permitted uses listed above that are >100,000 square feet, nursery schools and day-care centers, new or used motor vehicle sales, trucking terminals, commercial car washes, gasoline stations, and automotive repair garages.
- Office District (C-3) – primarily allows office buildings, sports and fitness facilities and hospitals. Nursery schools and day care centers are allowed by Special Use Permit. Accessory uses and structures include retail, service, restaurants and commercial recreation facilities occupying 15 percent or less of the gross floor area.
- Waterfront Commercial (WC) – this district restricts some areas of the waterfront to mostly water-dependent and water-related or -enhanced uses. The district provides areas for uses that can take advantage of the waterfront assets and complement the nature of these areas. Only certain non-water dependent uses are allowed by special use permit. The WC District creates a transition zone between lakeshore residential areas and the more intensive commercial and industrial districts. It also provides connections to, and complements the tourism and recreational features of the waterfront and takes advantage of the designation of Route 5 as a National Scenic Byway and part of the NY State Seaway Trail System. See Appendix B.

INDUSTRIAL DISTRICTS

- Light Industrial District (M-2) – allows all the uses permitted in the M-1 district as well as laboratories, manufacturing and truck terminals. Wind energy conversion systems and nursery schools and day-care centers are allowed by Special Use Permit.
- General Industrial District (M-3) – allows the principal and accessory uses in the M-2 district. Additional permitted uses include lumber and coal yards, railroad freight yards, concrete production, storage of petroleum and petroleum products, manufacturing of abrasives, automobile assembly and fabrication, manufacture of heavy machinery, processing of bituminous products, metal casting and foundry products, open storage yards, and adult uses.

OTHER DISTRICTS

- Park/Recreation Lands District (PR) – provides special zoning classification for passive and active recreation facilities in order to ensure the proper location and protection of recreational lands and activities. Permitted uses include: public recreation uses (passive and

active), private recreation uses (passive), wildlife sanctuaries, and fishing areas/ponds. Golf Courses, country clubs and sportsman clubs, facilities for racquet sports, skating facilities, facilities and fields for court and field sports, picnic grounds and beaches are allowed with a Special Use Permit. See Appendix B.

- Route 5 Overlay District – this district establishes measures to improve the quality of development and aesthetics along the NYS Route 5 / Lake Shore Road corridor. These measures are designed to improve business conditions and enhance economic development opportunities, as well as to restore and continue the traditional community character of the area. The regulations are aimed at enriching the visual quality of the area and improving the pedestrian environment. This district reaches from the Town boundary with the City of Lackawanna (to the north) to the intersection of Lake Shore (NYS Rte. 5) and Old Lake Shore Roads, and affects all properties that front along Lake Shore Road. It extends through all three sub-areas of the LWRA. See Appendix B.
- Lakeview Overlay District - the purpose of this overlay district is to preserve the rural nature and important natural resources of the Lakeview area of the Town. This district contains significant tracts of freshwater wetlands and woodlands, as well as wildlife habitats and management areas and designated conservation areas. This overlay district is also intended to encourage the renewal of existing commercial development areas in an effort to revitalize the Lakeview hamlet and provide for diversification of the land uses in this area. See Appendix B.

The zoning for Sub-Area 1 allows for a mixture of land uses (see [Map 4A](#)). It has two large areas zoned M-3 for general industrial use, another large M-2 Light Industrial use district, some smaller areas of general commercial activity and office use, along with R-1 and R-2 residential developments. Parts of the Athol Springs hamlet and the Woodlawn Beach neighborhood include Neighborhood Commercial General Residence Districts (NC). There are also areas of Waterfront Commercial zoning, primarily in the Athol Springs and Hoover Beach areas.

The areas zoned for general commercial and general industrial within Sub-Area 1 contain a large amount of vacant land. The former Bethlehem Steel Plant site, which is situated on the waterfront, is the largest vacant property. Sub-Area 1 also includes a number of properties that are zoned Waterfront Commercial; these districts are found in the Athol Springs hamlet and Hoover Beach area.

Sub-Area 2 includes a few small NC districts that support the residential neighborhoods of Locksley Park and Mt. Vernon, which are zoned R-2 ([Map 4B](#)). The neighborhoods of Athol Springs and Wanakah are located entirely within R-1 districts, with the exception of PR districts that cover the Wanakah Country Club and the Seaway Trail Visitor's Center. The Lakeview Overlay District includes the section of Sub-Area 2 situated south of Amsdell Road. This overlay is intended to minimize growth, protect natural resources, protect open space, restrict commercial development and improve community character. The Route 5 Overlay District also extends over much of Sub-Area 2.

Sub-Area 3 primarily contains residential development, with a small section of C-1 located on the northern border at the intersection of Lake Shore and Old Lake Shore Roads (see [Map 4C](#)). R-1 and

Residence – Estate (RE) zoning districts border the waterfront, with R-2 zoning found along the inland side of Old Lake Shore Road. The majority of undeveloped land is located in the R-1 and R-2 zoning districts. The Lakeview Overlay District encompasses all of Sub-Area 3.

C. Land Ownership Patterns

Much of the land in the Town of Hamburg LWRA is held in private ownership. There are, however, a small number of properties that are under the jurisdiction of the Town of Hamburg, Erie County and the State of New York. These properties include the following (see [Maps 5A](#) and [5B](#)).

In Sub-Area 1, the State of New York State owns the 106-acre Woodlawn Beach State Park facility. In addition to the beach amenities, this multi-use park includes a number of significant environmental features and provides open views of Lake Erie and the surrounding area. Adjacent to the State Park site is the County-owned and operated Southtowns Wastewater Treatment Plant. This facility services the majority of the areas in the Town that have public sewer service. Further south, proximate to Hoover Road and Bayview Road, the Town of Hamburg owns land that contains a former sewage treatment plant. A portion of this site has been redeveloped as the Hamburg Trailhead Park and open space. Additionally, Sub-Area 1 includes the Woodlawn Fire Company facility, the United Auto Workers office and recreation field and St. Francis High School.

Sub-Area 2 includes the Hamburg Town Beach and Park, which offers beach area, recreational amenities, a service building, and a boat launch area. The Town also owns a small property atop the bluff along Lake Shore Road, at Mt. Vernon Blvd. The Seaway Trail Visitor's Center on NYS Route 5, in Wanakah, is also owned by the Town. Other public uses in Sub-Area 2 include the Lake Shore Fire Company site, the Erie County Library, and Frontier School.

Aside from a National Fuel Gas pipeline easement, which is located near the convergence of Lake Shore and Old Lake Shore Roads, there are no public lands in Sub-Area 3. This area is dominated by private residences and some parcels of undeveloped land.

D. Water-Dependent and Water-Enhanced Uses

The Town of Hamburg LWRA primarily contains water enhanced and non-water dependent uses. The only water-dependent uses in the area include Woodlawn Beach State Park and the Southtowns Wastewater Treatment Plant in Sub-Area 1, and the Town Beach and Seaway Trail Visitor's Center facility in Sub-Area 2. Sub-Areas 1 and 2 contain a number of restaurants, which are enhanced by their waterfront location, and private residences. Sub-Area 3 is comprised of private residences and undeveloped land.

Sub-Area 1 contains certain lands, some of which are located directly along the shoreline, that support, and are zoned for, non-water dependent industrial use. Future land use planning efforts should be focused on replacing these uses with those that are more appropriate for a waterfront location, and that provide public access to the shore.

2.3 Surface Waters and Surface Water Uses

Surface waters in the Town of Hamburg LWRA include eleven creeks and tributaries, minor ponds and Lake Erie. From north to south the creeks include:

- Sub-Area 1: Blasdell Creek (north of First Street)
 Rush Creek
 Foster Brook
 Waterfalls Village Creek
- Sub-Area 2: Berricks Creek
 unnamed creek (south of Glendale Drive)
 Wanakah Creek
 unnamed creek (at Wanakah Country Club)
- Sub-Area 3: Pinehurst Creek
 Unnamed tributary to Eighteen Mile Creek (west of Lakeview Road)
 Eighteen Mile Creek

The NYSDEC assigns a stream classification to surface waters in New York State, which identifies the best usage for that stream, based generally upon water quality. Blasdell Creek and Eighteen Mile Creek are identified as Class B fresh surface waters, whose best usage are recreation and fishing. All other streams in the LWRA, which outlet to Lake Erie, are now Class C fresh waters, whose best usage is fishing (these streams were formerly Class D waters).

According to 6 NYCRR Part 701 Classifications - Waters and Groundwaters, Class B streams typically have conditions suitable for primary and secondary contact recreation and water conditions suitable for fish propagation and survival. Class C streams have conditions suitable for primary and secondary contact recreation (although other factors may limit their use for these purposes). These waters are suitable for game fish survival.

A. Marinas, Docks and Bulkheads

The Town has not formal harbors, facilities or areas for mooring or docking boats. There are also no commercial marinas or docks within the Hamburg LWRA. There is only one public boat launch and dock facility, which is located at the Town Park (Sub-Area 2 - See [Map 3B](#)). The dock has permanent piers in place to support two sixty-foot lengths of floating dock that are installed seasonally.

While in the past there were numerous private residential docks, in recent years fewer are being installed, maintained or replaced. In conversation with representatives from the Hamburg Buildings and Grounds department, it was noted that lakefront residents are no longer utilizing private docks due to the popularity of personal watercraft. In addition, frequently changing lake levels and the need for temporary docks to be removed seasonally are also contributing factors.

B. Vessel Use and Navigation

There is limited navigational use along the Hamburg waterfront. There are no formal, designated navigation channels. Small pleasure craft are used on the lake for recreation and fishing. There are no commercial vessels stationed in the Town, no commercial fishing industry and no commercial dockage. The creeks that are tributary to the lake are not navigable. Some residents along the shoreline have boats and, as previously noted, a small number to utilize private docks but they are not widespread. Furthermore, private docks are used primarily to launch small craft that would not otherwise be docked at a marina.

Off-shore water depths in Lake Erie range between 16 feet at ¼-mile to ½-mile out and 33 feet at approximately one-mile out (at the north and south end of the LWRA). In the larger mid-section of the LWRA, lake water depths are more shallow, ranging from 16 feet at ½ mile out to 26 feet at 3 ½ miles out, in the vicinity of Seneca Shoals. While in most places the shoreline and near-shore bottom is sandy, the lake bottom is flat and predominately mud and silt. According to National Oceanic and Atmospheric Administration navigation charts, there are underwater obstructions in the form of submerged pilings and cribs. There are pilings for abandoned floating docks located near the shoreline in areas up to 6 feet deep. The cribbing is deeper and includes the wastewater treatment plant outfall.

2.4 Public Access and Recreation

Public parkland and waterfront access is somewhat limited within the Town of Hamburg LWRA. Much of the waterfront is only accessible through privately-owned land. Public views of Lake Erie are available from waterfront restaurants in the Wanakah and Athol Springs areas, the Town Park, the Seaway Trail Visitor's Center and Woodlawn Beach. Another option for scenic viewing is the parking lot adjacent to Hoak's Restaurant on NYS Route 5 (in Sub-Area 1). This lot is situated in the roadway right-of-way and the restaurant owner has an agreement with NYSDOT to use the area for parking in exchange for additional use of the area for public access. In recent years the Town has taken the initiative to improve waterfront access and protect and enhance scenic vistas, and supports a network of bike paths and multiuse trails along the waterfront.

SUB-AREA 1

Woodlawn Beach State Park is located at the easterly boundary of Sub-Area 1. It is bordered on the north by the former Bethlehem Steel Plant site; on the east by the Woodlawn residential neighborhood, Route 5, and the Gateway Office Building; and on the south by the Erie County Southtowns Wastewater Treatment Plant. The 106-acre park provides a public swimming beach, playground, picnic area, administrative facilities and parking. The park also includes a 24-acre natural sand beach, vegetated sand dunes, and wetlands. Woodlawn Beach State Park is owned and operated by the New York State Office of Parks Recreation and Historic Preservation and represents the largest public open space within the LWRA. This state-operated facility provides regional recreation, waterfront access and scenic viewing opportunities.

The Town of Hamburg owns and maintains the Hoover Beach Trail Head Park, which is located on the west side of Lake Shore Road, at Bayview Road, at the site of the former sewage

treatment facility. The majority of the park is paved to accommodate parking for bicyclists and others who desire to utilize nearby (and connecting) multi-use trails. The area behind the trail head park is primarily passive green space that is part of the Hoover Beach residential community. It is adjoined by another park, which includes a small recreation area, on the west side of Hoover Road. The 1994 Town of Hamburg Open Space/Recreation Plan calls for the park on the eastside of Hoover Beach Road to be further developed.

In Sub-Area 1 there are several private properties that provide physical and/or visual public access to the Lake shore. They include, but are not limited to, the Dock on the Bay Restaurant, the Bedrock Eatery Restaurant, Hoak's Restaurant, and the former Foit's restaurant property on Lake Shore Road in the Athol Springs hamlet.

SUB-AREA 2

The Hamburg Town Park and Beach is located within Sub-Area 2 in the Locksley Park residential area. The 14-acre facility includes a 1,400-foot +/- beach area, recreational amenities, an administration building, a waterfront jetty, parking area and boat launch facilities for Town residents. The boat launch includes a seasonal floating dock. The Town's long range plans for the Town Park include development of a break wall, fishing docks and a marina for up to 200 boats. However, this marina project is a costly endeavor that requires significant planning effort, engineering and funding.

The Town owns a small parcel, south of the Town Beach, along Lake Shore Road at Mt. Vernon Blvd. The land is situated at the top of the bluff and offers views of the lake. It presently includes a few picnic tables, trees and lawn area. This site could be improved for public use but parking is not readily available.

The Town has redeveloped the former Wanakah Water Works property into the Seaway Trail Visitor's Center. This 1.3-acre site contains the refurbished water works building, which provides office space, public meeting and exhibit space and marketing materials for local and regional features and tourist attractions. The area outside the building offers a scenic overlook, picnic facilities, and a stretch of beach that can be accessed through a tunnel that runs beneath Route 5. The next phase of improvements for the site includes an additional viewing platform and terraces and an accessible seawall off the back of the structure. Future plans include a fishing platform.

A large open space and recreation facility at the westerly end of Sub-Area 2 is the privately-owned Wanakah Country Club, which occupies approximately 135 acres on the south side of Lake Shore Road. Other locations for public access in Sub-Area 2 include a number of public rights-of way and easements where local residents can reach the shoreline. These areas are not supervised and no amenities are provided.

SUB-AREA 3

Within Sub-Area 3 there are few points of public access. There are no public parks or beaches. There are two primary reasons for the lack of public access in Sub-Area 3. First, relatively high

bluffs make beach access more difficult for public access. Secondly, all of the parcels in this Sub-Area are, with few exceptions, privately owned single-family residential properties, including the area at the mouth of Eighteen Mile Creek, where a large estate in single ownership represents the largest undeveloped private property along the shoreline.

Multi-purpose Trails

At this time an existing bike trail extends from Seventh Street and Route 5 in Woodlawn, extending through Woodlawn Beach State Park and continuing along Route 5, in front of the Southtowns Wastewater Treatment Plant property, to the terminus of Hoover Road.

The New York State Route 5 Traffic Calming Study will recommend continued waterfront access and recreational trail improvements along the stretch of Route 5 (Lake Shore Road) that extends from the southerly terminus of Hoover Road to Old Lake Shore Road. Route 5 is a segment of the New York State Seaway Trail, which is a designated National Scenic By-way. Whatever alternative is chosen under this project is proposed to have a multi-use trail element, allowing for the continuation of the trail that will extend through the Hoover Beach area.

Boat Access Improvements

Several recent studies and plans that focus on the Hamburg waterfront have identified the need for additional or improved recreational boat facilities, boat launch and marina in particular. The LWRP adopted in 1987 documented the growing demand for both waterfront access and additional boat slips in the region. The Town's original LWRP recommended that a protected site for recreational boaters be developed on Lake Erie in the Town of Hamburg.

The 1991 Horizons Waterfront Action Plan recommended both swimming and boating facilities at what is currently the Woodlawn Beach State Park site. The Horizons plan called for additional public access improvements, which included a "Lakefront Promenade" in Athol Springs; a "Nature Center" at the mouth of Eighteen Mile Creek; a new recreational boat marina; and pedestrian and bicycle access facilities and additional scenic overlooks along Route 5.

The 1994 Town of Hamburg Open Space/Recreation Plan identified conflicts between the boating and swimming uses at the Town Beach Park due to its limited size. It recommended the development of additional boating facilities in the northern end of Town. The Town of Hamburg 2010 Comprehensive Plan identified improvement project(s) for the Town Beach Park that included development of a break wall, fishing access and 200-slip marina. However, such a project is cost prohibitive

Since the development of the Horizons Plan, the State acquired and opened Woodlawn Beach State Park in 1997. In July 1999, the State also adopted a Master Plan/Environmental Impact Statement for the development of the State Park. That plan ultimately did not include a marina or other recreational boating facilities. The previously identified need within the Town of Hamburg for increased recreational boating facilities and launch facilities continues to grow and remains unmet.

2.5 Historic and Cultural Resources

The area was first known as Barkerville after the first postmaster here in 1805, Zenos Barker. The Town of Hamburg was officially formed on March 20, 1812. While the northwest sector of the LWRP study area developed with steel mill and industrial uses, the southwest sector (farther from the City of Buffalo) developed as a lake shore residential community. At the time the LWRP was adopted in 1987, no structures within the LWRA were listed on the National or State Registers of Historic Places. However, the Amsdell House (a former stage coach stop) on Route 5 in Wanakah and the Bayview Hotel are historic structures of local significance ([Maps 5A](#) and [5B](#)). There are also a number of older mansions and estate properties along Lake Shore and Old Lake Shore Roads, in Sub-Areas 2 and 3 that should be recognized for their local historic significance.

The Town of Hamburg is characterized by numerous archaeological resources. During the preparation of the Town of Hamburg 2010 Comprehensive Plan, the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) identified three zones of potential archaeological significance within the LWRA. They are located in Athol Springs, Woodlawn and at the mouth of Eighteen Mile Creek.

The Eighteen Mile Creek gorge is a geologically unique area. It is known for fossil deposits which date back 400 million years. These include brachiopods, bryozoans, gastropods, pelecypods, trilobites, echinoderm, ostracodes, corals, and sponges. High quality fossil deposits are found in this area because there was very little metamorphosis of the rock.

Scenic Resources

Areas of visual significance are depicted in the Town of Hamburg Open Space/Recreation Plan, 1994. The scenic resources along the waterfront in the Town of Hamburg consist primarily of the spectacular vistas of Lake Erie, the Canadian shoreline and the City of Buffalo. There are a number of locations where unobstructed views are available, including Woodlawn Beach State Park and the southern terminus of Hoover Road (in the vicinity of Hoak's Restaurant) in Sub-Area 1; the Town Park and Beach and the Seaway Trail Visitor's Center in Sub-Area 2; and portions of Old Lake Shore Road in Sub-Area 3. Pleasurable views are also available from a number of restaurants and private commercial facilities located along the shore. Scenic views of the lake should be protected and improved wherever possible.

2.6 Public Infrastructure

A. Water Supply

The Erie County Water Authority (ECWA) provides the water supply in the Town of Hamburg from its Sturgeon Point Filtration Plant in the Town of Evans. The privately owned Wanakah Water Company no longer provides water and distribution to the Wanakah area, as it did in 1987 when the Town adopted the LWRP. The LWRP study area, as well as the entire Town, is now serviced by the ECWA through a Lease Management Agreement. The ECWA operates two transmission mains that transport water into the Town; a 42-inch main situated near the CSX and Norfolk Southern railroad corridor and a 48-inch main near Lake Shore Road. These mains traverse the Town through easterly and northeasterly routes. While a limited portion of Hoover Road does not have water service, the water distribution system

supplies water to all residents and businesses within in the LWRP study area. It is also important to note that the Hamburg 2010 Comprehensive Plan indicates that the water distribution system in the Town, with proper maintenance and improvements, is expected to be adequate for 2010 development needs.

B. Wastewater Disposal

The areas of Town with public sanitary sewer service are in either Town of Hamburg Sewer Districts or Erie County Sewer District #2 or #3, or smaller districts such as Woodlawn, Wanakah, or Mount Vernon. The wastewater treatment plants serving those districts are the same ones that existed in 1987 when Town first adopted the LWRP, and include the Erie County Southtown's Wastewater Treatment Plant, the Village of Blasdell Wastewater Treatment Plant, and the Big Sister Wastewater Treatment Plant located in the Town of Evans. The location of the Southtown's Wastewater Treatment Plant is shown on [Map 5A](#).

Sub-Area 1 is located within portions of the following sewer districts: SS-1 Woodlawn, and SS-21 Hamburg Master. Portions of Sub-Area 1 around the former Bethlehem Steel property and Woodlawn Beach area are not within a sewer district. However, these areas are served as out-of district customers to the SS-1 Woodlawn Sewer District, Village of Blasdell or City of Lackawanna wastewater treatment facility, where excess capacity exists as the steel plant has decreased operations.

With the exception of the Bethlehem Steel Property, wastewater in Sub-Area 1 is treated at the Erie County Southtowns Wastewater Treatment Plant. There are no residential properties within Sub- Area 1 that are not served by public sanitary sewer.

Sub-Area 2 is located within portions of the following sewer districts: SS-21 Hamburg Master, SS-5 Locksley Park, SS-2 Mount Vernon, SS-4 Cloverbank and SS-3 Wanakah. With the exception of the southern portion of the SS-3 Wanakah district, wastewater within Sub-Area 2 is treated at the Erie County Southtowns Wastewater Treatment Plant. Wastewater from the southern portion of the SS-3 Wanakah district is treated at the Big Sister Wastewater Treatment Plant located in the Town of Evans. There are no areas within Sub-Area 2 that are not served by public sanitary sewer.

Sub-Area 3 is located within portions of the following sewer districts: SS-3 Wanakah and SS-14 Erie County Sewer District 2. Wastewater from Sub-Area 3 is treated at the Big Sister Wastewater Treatment Plant. There are no areas within Sub-Area 3 that are not served by public sanitary sewer.

C. Stormwater Runoff and Storm Drainage

The Town of Hamburg is traversed by a series of three watersheds (Eighteen Mile Creek, Eighteen Mile Creek to Smokes Creek, and Smokes Creek) which convey normal stormwater runoff and flood waters from the southern and eastern portions of the Town towards the west and Lake Erie. Each of these watersheds possesses its own drainage systems and stream channels, which carry storm water during heavy runoff periods.

All three LWRP sub areas fall within the Eighteen Mile Creek to Smokes Creek watershed. As development increases, runoff increases, which places further burden on the ability of the systems to handle storm water mitigated by stormwater detention facilities.

Stormwater runoff in the Town of Hamburg is managed through a variety of stormwater systems similar to the system that existed in 1987 when the LWRP was adopted. However, some minor changes include more stormwater detention ponds and other requirements mandated by the Clean Water Act. The system still works by draining surface runoff into drainage structures or ditches, which convey the storm water to stream channels that discharge to Lake Erie. There are currently no major drainage problem areas within the Town. While there have been only minor upgrades to the storm water drainage system since 1987, extensive drainage improvements were performed in the Mount Vernon area in Sub-Area 2.

As development occurs in the Town, it is the requirement that the drainage systems be designed to Town standards and typically not increase the peak flows to downstream structures. The Town currently regulates stormwater discharges pursuant to Chapter 226A of the Town Code, which was adopted in July of 2007. This law establishes minimum stormwater management requirements and controls to minimize erosion and protect water quality.

D. Solid Waste Disposal

In the LWRP study area, as well as town-wide, the Town of Hamburg does not provide collection or disposal services for municipal solid waste, recyclables and yard wastes. The Town does pick up large household items once a month. Residents and business owners contract for solid waste services on an individual basis. Disposal is handled by private contractors. Typical contractors include BFI Waste Systems and CID Refuse Service. Typical disposal sites for solid waste collected in Erie County include the Modern landfill in Lewiston, NY and the CID landfill in Chaffee, NY. There are no solid waste disposal sites located with the LWRP study area.

E. Transportation Systems

The highway network in the Town evolved from the numerous State and County routes that linked the urban and rural areas of the region. As a result, Hamburg has a well-established system of arterials that traverse the community. Principal arterials that service the LWRA include Lake Shore Road (NYS Route 5), Milestrip Road (NYS Route 179), and Big Tree Road (U.S. Route 20A). Minor arterials include Lake Avenue, Bayview Avenue, Camp Road, Rogers Road, Amsdell Road, Pleasant Avenue, and Lakeview Road. The major arterials provide circulation into and through the LWRA, while the minor roadways provide access NYS Route 5 and Old Lake Shore Road, and to residential areas.

Lake Shore Road (NYS Route 5) is the key transportation element within the LWRA. Throughout the area Lake Shore Road operates at a Level of Service D under the jurisdiction of the New York State Department of Transportation. Currently the New York State Department of Transportation is undertaking a traffic calming study for the area of Route 5 that extends between Big Tree Road to the north and the Old Lake Shore Road merge to the south. Alternatives are being assessed to determine the best solution for managing the volume and speed of traffic that flows through this area. The chosen alternative will include a multi-use pathway and appropriate design and landscaping measures to address identified issues and concerns.

SUB-AREA 1

Lake Shore Road (NYS Route 5) is the principal arterial that provides north-south access through the LWRP Sub-Area 1, linking it to the City of Buffalo and the City of Lackawanna to the north and into the Town of Evans to the south. Milestrip Road (NYS Route 179) and Big Tree Road (US Route 20A) provide primary access from the east into Sub-Area 1. Camp Road (NYS Route 75) also ties into Lake Shore Road from the southeast. Lake Shore Road is a seven-lane arterial from the northern boundary to Milestrip Road. From Milestrip Road to Camp Road, Lake Shore Road has six lanes. The interchange area for Lake Shore Road and Camp Road falls within the LWRP boundary.

SUB-AREA 2

Lake Shore Road (NYS Route 5) continues south into Sub-Area 2 as the principal four-lane arterial, providing north-south access and a link to the City of Buffalo through Sub-Area 1. Within Sub-Area 2 primary access from the east is provided from Camp Road, Rogers Road and Amsdell Road.

SUB-AREA 3

In Sub-Area 3, Lake Shore Road breaks into a fork, with Old Lake Shore Road following the shoreline of Lake Erie more closely, and Lake Shore Road (NYS Route 5) continuing south in an alignment that takes it outside of the study area. Within Sub-Area 3 primary access from the east is provided Pleasant Avenue and Lake View Road.

Public Transport

The Niagara Frontier Transportation Authority's (NFTA) Metro Bus/Rail system currently operates public transportation routes for Erie and Niagara counties. This system is made up of various routes, which link urban, suburban, and rural areas of the two counties together. Currently, the Town of Hamburg receives Metro Bus service along four routes that travel through or serve as a destination point within the Town's limits. Two of the transit routes are express buses that travel through the Town to points south (Town of Boston) and west (Town of Brant) with access to Woodlawn, Lake Shore Road (NYS Route 5) south to Lakeview, Camp Road (NYS Route 75), and the Village of Hamburg. Three of the four routes service the Athol Springs Park and Ride facility in Sub-Area 1. This facility serves as an automobile/transit transfer point for commuters in the Hamburg area. The NFTA has expanded and upgraded the facility at Athol Springs to accommodate more passengers and provide more efficient service. This facility is located just off NYS Route 5, on the access road that connects Big Tree Road to the St. Francis traffic circle.

The CSX and Norfolk Southern Railroads operate rail lines for the commercial transport of freight, which traverse the western portion of the Town in a north-south orientation. There is no passenger rail service within the LWRP. While the commercial rail lines are outside the LWRA boundaries, in very limited portions of Sub-Areas 1 and 2 the rail corridor represents the LWRP boundary line. These rail lines represent a separation between the lakeshore neighborhoods and upland neighborhoods. The rail corridor also limits access from the east.

2.7 Water Quality

In general, Lake Erie waters, south of the Bethlehem Steel complex, are of high quality. Among the factors contributing to this quality are the presence of modern wastewater treatment systems, the absence of industrial discharges, and the Erie County prohibition on the discharge of phosphates into water bodies. Water quality along the Hamburg lakeshore is monitored during summer months by the Erie County Health Department. Periodically, E. coli bacteria levels at Hamburg Town Beach and Woodlawn Beach exceed acceptable levels for swimming causing beach closures.

2.8 Natural Resources

There are a number of significant natural resources in the waterfront area that are regulated to protect their integrity and minimize adverse impacts. Wetland and habitats are important resources and play an important role in maintaining a healthy environment along the waterfront. The Town has taken certain steps to help manage environmental disturbances. The town adopted a Tree Management Law in 2003 that recognizes the value of trees and regulates their preservation and their proper removal and replacement. The Town also allows landowners the ability to preserve open space by granting conservation easements to the Town to restrict environmental impacts (Chapter 87 – Conservation Easements).

A. Wetlands

Within the LWRA freshwater wetlands, as mapped by the NYSDEC under Article 24 of New York State’s Freshwater Wetlands Act and on the National Wetlands Inventory maps, are primarily located along the shoreline and along Rush Creek and Eighteen Mile Creek. Wetlands occur also upland, outside the LWRA, along the major creek corridors that drain into the study area. There are no New York State-designated wetlands in the local waterfront revitalization area.

The Town of Hamburg regulates wetland disturbances under Chapter 272 of the Town Code (Wetlands Protection). This law was enacted to help avoid, restrict and minimize damage or loss of wetlands in the Town and ensure that wetland areas are properly identified, that State and Federal requirements are met and, where required, proper mitigation is employed.

B. Significant Coastal Fish and Wildlife Habitats

Within or adjacent to the Hamburg LWRA, three significant coastal fish and wildlife habitats have been designated by the New York Coastal Management Program. They are Eighteen Mile Creek, Smoke Creek Shoals and Seneca Shoals (see maps in Appendix C).

The Smoke Creek shoals habitat is located offshore, within Lake Erie, immediately north of the Woodlawn Beach area. The habitat is approximately 500 acres of open water, generally located within one-half mile radius of the mouth of Smoke Creek. This area encompasses a broad, productive littoral zone, where depths are generally less than 20 feet below mean low water. The bottom substrate is a mixture of sand, gravel and rubble.

Smokes Creek shoals are one of only a few sizable areas of relatively shallow, gravelly shoals in the Erie County portion of Lake Erie. Apparently, wave action and inflows from Smokes Creek provide adequate water circulation in the area to prevent siltation of the bottom substrate. This extensive littoral zone probably serves as an important spawning area for a variety of warm water fish species, especially walleye, along with yellow perch and small mouth bass. Observations of walleye in and around the mouth of Smoke Creek during the spawning period (mid-March, early May, generally) suggest that the adjacent shoals attract a major lake spawning concentration. Concentration areas such as this are unusual in Erie County.

As a result of the abundant walleye populations at Smokes Creek Shoals, this area attracts significant recreational fishing pressure during late spring and early summer, primarily by residents of the Buffalo metropolitan area. Boat access to the fishery is available from the Small Boat Harbor in Buffalo.

Reproduction of walleye at Smokes Creek Shoals may also contribute to the Lake Erie commercial fishery for this species, located farther offshore in waters greater than 55 feet deep.

Seneca Shoals is located approximately three miles west of Sub-Area 1, offshore of Woodlawn Beach. This habitat comprises an approximately 400-acre rocky underwater ridge. Water depths range from 12 to 30 feet in an area where surrounding depths are approximately 50 feet. Seneca Shoals is owned by New York State.

Seneca Shoals is one of the few relatively large and shallow areas in the New York portion of Lake Erie. It is believed to be a major spawning habitat for a variety of warm water fish species; small mouth bass, walleye, yellow perch, rock bass, and other panfish. Seneca Shoals is one of the most popular recreational fishing sites in Lake Erie for anglers in Western New York. In addition, reproduction of walleye and yellow perch probably contributes to local commercial fisheries for these species located farther offshore in depths greater than 50 feet.

The Eighteen Mile Creek Habitat-Lake Erie Habitat is located in the extreme southern end of the LWRA in Sub-Area 3. The fish and wildlife habitat extends approximately five miles from Lake Erie to the confluence of the main and south branches of the creek (outside the LWRA). The creek and a large meandering warm water stream, with rock and gravel substrates, drains approximately 120 square miles of mixed agricultural, wooded and rural residential lands. While Eighteen Miles Creek is situated in a steep-sided, wooded gorge, the lower one-half mile is low gradient and occupies a broader undisturbed floodplain.

Eighteen Mile Creek represents a rare ecosystem type in the region. It is the second largest tributary to Lake Erie in New York State. It has a relatively undisturbed border of mature vegetation. The creek is important as a relatively undisturbed tributary stream that provides spawning habitat for salmonids and other lake-based fish species. Eighteen Mile Creek is significant because concentrations of coho salmon, Chinook salmon and brown trout migrate from Lake Erie through this area to spawn (although unsuccessfully in most instances). The Eighteen Mile Creek gorge also supports small mouth bass, and runs of other lake fish. Although access is limited, the stream attracts a large number of anglers, mostly residents of the Erie-Niagara Region. The area is also ideal as a natural area for scientific and educational use.

The shoreline and near shore portions of Lake Erie also attract numerous migrating waterfowl and migratory raptors. The summer resident waterfowl population is not significant and is basically restricted to a few nesting mallards, shorebirds and seagulls.

The pristine nature of the Eighteen Mile Creek gorge provides an ideal small animal habitat. Additional undeveloped areas in the southern portions of the waterfront area (south of the junction of Route 5 and Old Lake Shore Road) provide similar habitats. The Eighteen Mile Creek gorge also contains many varieties of trees and vegetation, including some species that are on the New York State list of protected plants.

C. Fish and Wildlife

Abundant varieties of fish are found along the entire Hamburg shoreline; in particular concentrations occur at Woodlawn, Hoover Beach, Locksley Park, Pinehurst and Seneca Shoals. According to the Buffalo and Erie County Fishing Guide – Hot Spot Fishing Map, published by Erie County Department of Environment and Planning, the game fish species commonly found in Lake Erie in the LWRA include small mouth bass, walleye, rainbow trout and brown trout. Panfish species include perch. According to the adopted LWRP salmonid spawning activities resulted in large numbers of trout and salmon in the tributaries and near-shore waters in the fall. During the spring and early summer, the walleyes and small mouth bass migrate to the near-shore waters to spawn.

2.9 Topography, Geology and Soils

Town-wide, Hamburg's topography is relatively flat having a slope gradient less than eight percent. Within the LWRA there are some areas of steep slopes along the creeks and streams, drainage channels and near the shoreline, particularly in the vicinity of Eighteen Mile, in Sub-Area 3 ([Maps 7A](#), [7B](#), and [7C](#)). The northwestern part of town (Sub-Area 1) is located on a lake plain or "lowlands" (Earth Dimensions Inc., June 1981). Sub-Area 1 southwest to approximately Hoover Beach (approximate mid-point of Sub-Area 1) the shoreline is relatively flat. Woodlawn beach is located in this area and upland, the Woodlawn residential area is located within a flat shallow basin between Route 5 and Woodlawn beach. From Hoover Beach southwest, through the southern portion of Sub-Area 1 and all of Sub-Areas 2 and 3, steep bluffs and cliffs up to 40 feet high characterize the shoreline. The base of these bluffs often terminates in narrow sandy or gravel beaches, and is cut by steep stream banks. With the exceptions of the bluffs and stream banks, there are no areas with steep slopes or slopes that would warrant development concerns.

The soils within the LWRA fall into nine series, as characterized by the United States Department of Agricultural Soil Conservation Service. These include Churchville, Cazenovia and Niagara (silty loam); Remsen, Darien, Angola and Lakemont (silty clay loam); Aurora (shaly silt loam); and Manlius rock outcroppings.

Drainage of these soils is poor due to a high clay content resulting in low permeability. This, coupled with a high water table, causes seasonal wetness in many areas. An exception is the Cazenovia series which is well drained but lacks stability in sloping areas. This condition occurs in the Pinehurst vicinity only. Soil nutrient throughout the Hamburg waterfront is capable of supporting most northeastern

vegetation; however, seasonal wetness, and lake exposure, limits the variety of indigenous species. Bedrock throughout the Hamburg waterfront is generally five feet below grade or deeper with the exception of the Angola series where a two-foot depth is common. This occurs along the immediate Lake shore for a distance two miles north of Eighteen Mile Creek.

2.10 Flooding and Erosion

The Town of Hamburg contains flood zones that have been designated by the Federal Emergency Management Agency (FEMA) as areas subject to flood hazards ([Maps 6A, 6B and 6C](#)). These areas or flood zones are depicted on the FEMA Flood Insurance Rate Maps developed for the Town. The flood zones are established based upon the degree to which an area is susceptible to flood damage. The three general flood zones that exist within the Town include:

"A" Zone – (also called the area of special flood hazard) is that area of land that would primarily experience still water flooding, without significant wave activity, during the 100 year storm;

"B" Zone – those areas that fall between the limits of the 100-year flood and the 500 year flood, or certain areas that are subject to 100-year flooding with average water depths of less than one foot or where the contributing drainage area is less than one square mile (B Zones also include areas protected by levees from the base flood);

"C" Zone – areas of minimal flooding.

The 100-year flood plain extends inland over portions of Woodlawn and Athol Springs in Sub-Area 1 ([Map 6A](#)), where there is an absence of steep bluffs and elevated shoreline. It also extends along the corridors of Blasdell and Rush Creeks and Foster Brook. In Sub-Areas 2 and 3, the 100-year flood plain is situated near the toe of the bluffs, closer to the mean low water mark, and along the corridors of Eighteen Mile Creek and Wanakah Creek.

Major lake flooding occurs from severe wave action during peak periods of intense storms due to the directions of the prevailing winds and lack of offshore structures to deflect wave action. This is especially problematic in the Hoover Beach and Athol Springs areas of Sub-Area 1. During storm events with strong wind action, lake levels rise and the water is pushed up and over the existing seawall and onto NYS Route 5. This situation has resulted in roadway accidents, especially during freezing conditions, and on occasion forces the Town to close this section of Route 5. Lake storms send large quantities of debris onto the road creating driving hazards and requiring extensive roadway maintenance. Local residences and shoreline restaurants in the area have sustained damage due to these conditions.

Natural Protective Features and Erosion

The entire Town of Hamburg shoreline is designated as a "Natural Protective Feature Area" by the New York State Department of Environmental Conservation, under provisions of the State's Coastal Erosion Hazard Areas Act. Coastal Erosion Hazard Area maps were prepared in June of 1988, subsequent to adoption of the LWRP in 1987. Furthermore, following the adoption of the LWRP in 1987, the Town adopted a local Coastal Erosion Hazard Area Law (Chapter 85 of the Town Code).

The entire stretch of the waterfront contains beach that varies in width. Wider areas of beach are located in Sub-Areas 1 and 2. The width of the beaches is regulated by the lake. During the winter season, the beaches are subject to wave action, wherein sand is moved to bars off shore. During the summer season, the sand is moved back on shore.

The beach area at Woodlawn Beach State Park, in Sub-Area 1, includes areas of sand dunes. This is the only area along the waterfront where dunes exist. Portions of Sub-Areas 2 and 3 include bluff areas of varying height, with the steepest areas found in Sub-Area 3.

As previously noted, wave action from lake storms can be quite damaging to shoreline properties. For this reason, many properties have abandoned any type of permanent dockage. Large portions of the shoreline have been “armored” with rock rip rap and concrete seawalls to prevent shoreline erosion. Seawalls can be found along the base of the bluffs and the seaward extent of many shoreline properties throughout the area, particularly in Sub-Area 1 and 2. Shoreline protection for each sub-area is discussed, as follows, and documented on aerial photographs found in Appendix D.

SUB-AREA 1

The northern end of town is relative flat, with wider expanses of beach and no bluffs. This is evident in the vicinity of Woodlawn Beach State Park, stretching south toward Hoover Beach. Seawalls have been put in place in Hoover Beach to protect residential development along the shoreline in this area. This area also shows evidence of the prior use of small rock jetties to capture and hold sand carried in the littoral drift. Further south along the Hoover Beach shoreline, concrete seawalls armor the shore to provide stability and protection from the destructive wave action of winter storms. There is limited to no beach remaining in the area between the Dock on the Bay restaurant and the mouth of Foster Brook. South of Foster Brook, the beach is re-established seaward of the seawalls.

At the southern end of Hoover Road, at its intersection with NYS Route 5 (Lake Shore Road), large stone riprap is used to stabilize the shoreline. This gives way to an 860-foot stretch of concrete seawall that was originally constructed in 1928 to support Route 5 in the Athol Springs area, between Hoak’s restaurant and the Foit’s property, and mitigate storm impacts. In this area, the road is situated parallel to the lake and exposed to the full impact of storm waves.

During periods of high lake levels, water rests at the base of this wall. During low lake levels, the wall gives way to a sand beach that covers underlying shale substrate. This wall regularly experiences heavy wave run-up and overtopping during severe storm events.

SUB-AREA 2

Beyond the Foit’s property, a natural rock ledge that averages about 20 feet in height replaces the concrete seawall. The rock ledge is followed by a long expanse of stone riprap that protects Route 5 from wave impacts. This riprap extends between Beach Avenue and Stratford Terrace, almost all the way to the Town Park. The area between Stratford Terrace and Waveland Court is natural rock bluff, with some beach, that gives way to the Town of Hamburg Park and Beach. This area of the shoreline has been established with lawn and landscape and a wide, sandy

beach. Stone riprap has been used in certain locations to stabilize the shoreline and add protection to the Town's boat launch ramp area.

South of the Town Park, between Mt. Vernon Blvd. and Rogers Road, the beach diminishes and the bluff rises. With the exception of an occasional stairway, this area remains natural and unprotected by seawall structures. The mouth of Berricks Creek flows through the cavernous walls of the bluff, which continues south along the shoreline through the Clifton Parkway and Mt. Vernon area. South of Rogers Road, some shoreline protection can be found seaward of the homes along Clifton Parkway. In a few places more elaborate structures, containing what appear to be boathouses and stairways, have been constructed on or into the bluff. Further south, beyond Norton Avenue, the height of the bluff decreases somewhat; here the shoreline has been reinforced in some areas with stone rip rap and concrete seawalls. Again, there is evidence of boathouses and other similar structures. In the vicinity of Cloverbank Road and south to the Seaway Trail Visitor's Center property, the shoreline is protected with an almost continuous collection of concrete seawalls and stone rip rap that is situated seaward of shoreline residences and businesses. There is little to no beach available throughout this area.

The bluff at the Seaway Trail Visitor's Center has been reinforced with large stone riprap as part of a former NYS Department of Transportation roadway protection project. South of this area the bluff disappears and the shoreline is protected with a series of low concrete seawalls. The remnants of former rock jetties are found here, along with wider areas of beachfront. In the area just north of the Wanakah Country Club (in the vicinity of Beach Drive), the natural rock bluff reemerges and then subsides near the southern extent of Sub-Area 2 (Pleasant Avenue). Here, the shoreline is protected with low level concrete seawalls that are fronted by narrow beach. Some small boathouses and private launch ramps are found along this stretch of the shoreline.

SUB-AREA 3

Sub-Area 3 begins with a long, narrow stretch of beach that is backed up by numerous low-lying concrete seawalls or stone riprap. There are also a number of small boat ramps along the shore. These structures support the residential uses located along the shoreline in the Clifton Heights area of the Town. This area gives way to a steadily increasing rock bluff.

Beyond the Clifton Heights area in Sub-Area 3, Old Lake Shore Road follows the shoreline along the top of the bluff. The bluff extends over 80 feet in height, with a narrow stretch of sand or gravel beach at the toe. As a result of its height and layered structure, it represents the most significant geologic feature along the shoreline. At one location, in the vicinity of Lakeview Terrace, there is a small jetty that has caused a small build up of sand. As noted above, the bluffs are slowly eroding, endangering the structural integrity of Old Lake Shore Road.

Moving south of Lakeview Terrace, the bluff gradually decreases in height, with an increase in vegetative cover. This is also where Old Lake Shore Road is oriented further inland, away from the shore, with the area between the lake and the roadway developed with large residential properties. As the bluff descends, the beach widens and the slope of the bluff becomes more

acute. In this area there are a few properties that have fortified the shoreline with large stone rip-rap or concrete seawalls.

Continuing south, in the area generally north of Lakeview Road, the bluff tends to get steeper and its surface becomes more modulating. There is a limited extent of beachfront throughout this area and no shoreline protection structures. The bluff along this stretch averages about 80 to 100 feet in height. Moving further south, more vegetation is found along the top of the bluff and in a few areas on the face of the bluff.

Beyond Lakeview Road, the bluff face eventually becomes more steep and smooth before moderating in slope, with a widening beach, as the shoreline rounds toward the mouth of Eighteen Mile Creek. There is one large wooden stairway that reaches down to the beach in this area, but no evidence of shoreline hardening structures. The width of the beach diminishes at the mouth of the creek, giving way to a heavily vegetated slope. A long sand spit that extends from the south shoreline of the lake protects the mouth of Eighteen Mile Creek.

The seriousness of the erosion problem in Sub-Areas 1 and 3 has prompted action by the Army Corps of Engineers (ACOE) to remedy the problems. The Corps completed a feasibility study to determine effective mitigation measures for the Athol Springs area, where NYS Route 5 parallels the shoreline. Although the existing concrete retaining wall has worked well to control erosion and the rate of shoreline recession, the ACOE study has revealed evidence of lakebed scour in several locations along the base of the wall, by as much as one foot. If the wall fails, random fill would be easily washed away and a section of Route 5, situated 10 to 15 feet inland of the wall, would be seriously threatened. To remedy this problem, the ACOE has recommended the construction of a revetment to provide stability to the existing retaining wall and significantly reduce run-up. This project is currently in design.

A second feasibility study was conducted by the US Army Corps of Engineers, in conjunction with Erie County, for a stabilization and erosion protection project along Old Lake Shore Road in Sub-Area 3. This is an area with steep bluffs that have been slowly eroding away, threatening the integrity of Old Lake Shore Road. Because erosion will continually be a problem for this road, possible alternatives that should be evaluated for this area might include making Old Lake Shore Road one-way, relocating the road or even abandonment and re-utilizing the road for a recreational trail. The result of the study indicated that over \$1 million would be needed to remedy the problems in this area. Without the availability of funding, the County is monitoring the area until further action can be taken.

SECTION III Local Waterfront Revitalization Program Policies

Section III presents the waterfront revitalization policies and their associated standards that are to be used in guiding appropriate development and actions for the Town of Hamburg. These policies consider the physical, economic, environmental and cultural characteristics of the Town. They are comprehensive and reflect existing laws and authority regarding development and environmental protection. Together, these policies and their standards are to be used to determine an appropriate balance between economic growth and development and preservation that will permit the beneficial use of waterfront resources in the Town without undo impacts to Lake Erie or adjacent upland areas. The following is a list of the Town of Hamburg LWRP Policies:

Developed Waterfront Policies

- Policy 1 - Foster a pattern of development in the Town of Hamburg that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development
- Policy 2 – Preserve historic resources in the Town of Hamburg
- Policy 3 – Enhance visual quality and protect outstanding scenic resources

Natural Waterfront Policies

- Policy 4 – Minimize loss of life, structures and natural resources from flooding and erosion
- Policy 5 – Protect and improve water resources
- Policy 6 – Protect and restore the quality of ecological resources throughout the Town of Hamburg
- Policy 7 – Protect and improve air quality
- Policy 8 – Minimize environmental degradation from solid waste and hazardous substances and wastes

Public Waterfront Policies

- Policy 9 – Improve public access to the waterfront and the use of public lands

Working Waterfront Policies

- Policy 10 – Protect existing water-dependent uses in the Town of Hamburg and promote the siting of new water-dependent uses in suitable locations
- Policy 11 – Protect sustainable use of living marine resources
- Policy 12 – Protect existing agricultural lands
- Policy 13 – Promote appropriate use and development of energy and mineral resources

DEVELOPED WATERFRONT POLICIES

POLICY 1

Foster a pattern of development in the Town of Hamburg that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development.

The community character of the Town of Hamburg is defined by the pattern of land use and development that is clustered along New York State Route 5 and the shoreline of Lake Erie. With the exception of the southern portion of Sub-Area 3, much of the lakefront in the Town of Hamburg is well developed (primarily with residential uses), offering few opportunities for new development. The long standing planning goals of the Town are aimed at preserving and enhancing the character of the waterfront and its relationship to the Lake, and providing better opportunities for the recreation, tourism and public access that are compatible with the existing scale of development and the availability of services in the community. In addition, Sub-Area 1 is considered the focal point for the community. In this area, emphasis should be focused on enhancing view of the lake, opportunities for public access and strengthening the business community.

This policy is intended to foster a pattern of development that provides for economic prosperity and the beneficial use of waterfront resources in the Town of Hamburg. In recognizing the characteristics of the unique sub-areas along the waterfront, the primary components of this policy are to: strengthen economic activity in the Woodlawn, Athol Springs and Wanakah/Clover Bank business districts in Sub-areas 1 and 2; encourage water-dependent uses along the Lake that support tourist related activities; protect and improve stable residential areas; improve recreation and public access opportunities; and preserve and protect remaining open space and significant natural resources. Development that does not reinforce the traditional land use pattern and improve the quality of life along the waterfront would adversely impact the community character of the area.

1.1 Concentrate development and redevelopment in order to revitalize deteriorated and underutilized uses and strengthen the traditional waterfront focus of the area, particularly in Sub-area 1.

New development or redevelopment should be located where infrastructure is adequate or can be upgraded to accommodate such development. The scale of development or redevelopment along the waterfront should be appropriate to the setting and character of the area and highlight existing resources, such as the local history and important natural or man-made features to reinforce community identity. Development and redevelopment efforts should be primarily focused in Sub-area 1. This area should be designed and developed as a focus for activity, drawing people to the area and linking the Lake to the Athol Springs and Woodlawn business districts. Development and redevelopment decisions should be compatible with community and regional needs, as well as market demands. In addition, the environmental quality of degraded areas should be restored and environmental constraints, in particular shoreline erosion, should be recognized as a limiting factor to the development or

redevelopment of certain areas. Finally, the efforts of the NYS Department of Transportation for calming traffic flow along NYS Route 5 should not result in adverse impacts to important waterfront resources and should ensure adequate facilities for pedestrians and bicyclists throughout the study area. Furthermore, any improvements to NYS Route 5 must not cut the community off from the waterfront.

Revitalization efforts in the Town should focus on phasing out existing and former industrial uses in Sub-Area 1. In particular, the Buffalo Crushed Stone (on the former Bethlehem Steel property) and Snyder Tank properties could be redeveloped with uses that are more compatible with the surrounding area. These sites could be revitalized with marine-commercial uses to improve and promote public access and recreational tourism, and to help foster additional revitalization efforts in the area. The former Foit's restaurant is another location in Sub-Area 1 that should be revitalized for public use and enjoyment. This site is proposed for redevelopment as a scenic overlook, and the efforts to secure funding and technical assistance for this action should be continued in order to achieve this goal for the area. In addition, a master plan should be developed for the area between the Bedrock Eatery and the Foit's property to guide redevelopment and public use in this area.

Sub-Area one is, in many ways, a gateway to the Hamburg waterfront, and redevelopment efforts should reflect this, including the development of an actual gateway feature that welcomes residents, workers and visitors to the area and provides a linkage to the waterfront.

1. New development should be located where infrastructure is adequate or can be upgraded to accommodate new development or redevelopment.
2. The following planning principles should be used to guide investment and the preparation of development strategies and plans for the waterfront:
 - a) scale development to be appropriate to the setting;
 - b) design development to highlight existing resources, such as local history and important natural and man-made features to reinforce community identity;
 - c) design the waterfront as a focus for activity that draws people to the area;
 - d) provide and improve integrated linkages between the waterfront and upland portions of the community, including the use of appropriate directional signage, particularly for the residential neighborhoods that have been isolated from this area;
 - e) meet community and regional needs and market demands when making development choices so that the end product provides a useful service and benefits and connects with the surrounding area;
 - f) recognize environmental constraints as a limiting factor for development and devise ways to blend environmental preservation into site design, wherever possible, to achieve development without adversely impacting important environmental resources;

- g) restore environmental quality to degraded areas for both resource preservation and urban revitalization; and
 - h) recognize the physical constraints of certain man-made features that possess important cultural and historic value, and devise ways to blend and preserve these features into site design, wherever possible, to achieve development that eliminates or minimizes adverse impacts.
- 3. All development or uses should recognize the unique qualities of the waterfront by:
 - a) using building and site design to make beneficial use of the Lake location and associated waterfront resources;
 - b) minimizing consumption of waterfront lands that does not meet the intent of this policy or that would result in potential adverse impacts on natural resources;
 - c) incorporating recreational activities, public access, open space and other such amenities into waterfront designs, as appropriate, to enhance the subject site and the surrounding community, and to increase visual and physical access to the Lake;
 - d) attracting people to the waterfront, as appropriate to the use;
 - e) reinforcing community identity by highlighting local history and important natural and man-made features;
 - f) ensuring that design and siting of uses and structures complements the surrounding community and landscape, particularly the central business district;
 - g) using indigenous plants as components of landscape design to improve habitat and water quality, and to lessen water demands; and
 - h) using appropriate signage and other amenities to promote tourist activities and ensure better wayfinding along the waterfront.

1.2 Ensure that development or uses make beneficial use of their waterfront location.

All uses proposed for the waterfront should relate to the unique character of the waterfront area and should be appropriate for the location. Water-dependent uses should be promoted where appropriate and given precedence over other types of development at suitable waterfront sites. Existing water-dependent uses should be protected. Development that is not dependent on a waterfront location or that cannot make beneficial use of such a location should be discouraged. Water-enhanced uses may be encouraged where they are compatible with surrounding development and are designed to make beneficial use of their location along the Lake.

- 1. Water-dependent uses and water-enhanced uses should be sited and designed to:
 - a) attract people to or near the waterfront and provide opportunities for access;

- b) provide public views to or from the water;
 - c) link the waterfront to adjoining business districts;
 - d) minimize consumption of waterfront land; and
 - e) not cause significant adverse impacts to community character and surrounding land and water resources.
2. Uses should be avoided that would:
- a) result in unnecessary and avoidable loss of significant waterfront resources;
 - b) ignore the waterfront setting as indicated by design or orientation; and
 - c) not, by nature, derive economic benefit from a waterfront location.

1.3 Maintain and enhance natural areas, recreation and open space lands.

Natural areas, open space and recreational land produce public benefits that may not be immediately tangible. In addition to scenic and recreational benefits, these lands may also support habitat for important fish and wildlife, provide watershed management for flood control benefits, and serve to recharge ground water. Special consideration should be given to protecting stands of large trees and significant habitats. The expansion of infrastructure into undeveloped areas should be avoided where such expansion would promote development that is detrimental to waterfront resources, important natural resources, or the character of the waterfront community, particularly in Sub-Area 3.

To enhance community character and maintain the quality of the natural and man-made environment, potential adverse impacts that may result from site development, including impact to existing development, the physical environment, and economic factors should be identified and avoided or properly mitigated. Development and redevelopment should be designed to take advantage of significant site characteristics, limit the disturbance of important natural resources, foster visual compatibility with the surrounding area, and maintain the continuity of public access along the water's edge.

1. Adverse impacts on natural resources should be avoided, including, but not limited to:
 - a) deterioration of water quality;
 - b) loss, fragmentation, and impairment of habitats and wetlands; and
 - c) changes to the natural processes that would increase shoreline flooding and erosion.
2. Special consideration should be given to protecting mature trees, unique forest cover types and significant wildlife habitats.
3. Establish a continuous trail system that is sufficiently wide enough to allow for pedestrian and bicycle travel along the waterfront.

4. The expansion of infrastructure into undeveloped areas should be avoided where such expansion would promote growth and development that would be detrimental to important natural resources or in any way impact or reduce opportunities for public recreation.

1.4 Minimize the adverse impacts of new development or redevelopment on the waterfront.

To enhance community character and maintain the quality of life along the waterfront in the Town of Hamburg, the potential adverse impacts of new development and redevelopment on existing land uses, the natural environment and the local economy should be properly assessed and mitigated, as required. Development should reflect the recognition of existing site characteristics, limit disturbance of land and water, and foster visual compatibility with surrounding areas. The size and scale of development or redevelopment should be compatible with the character of the surrounding area, the adjacent Lakefront and the Town as a whole.

Cumulative and secondary adverse impacts from development and redevelopment should be properly assessed and minimized. Cumulative impacts are the result of the incremental or increased impact of repetitive actions or activities when added to other past, present, or future actions or activities. Secondary impacts are those that are foreseeable, but occur at a later time or at a greater distance from the action, and are caused by an action or activity, whether directly or indirectly.

1. Potential economic impacts should be minimized as follows:
 - a) prevent deterioration of the waterfront and the surrounding area by eliminating derelict and dilapidated conditions;
 - b) avoid uses that detract from community character of the waterfront;
 - c) prevent the isolation of community uses and people from the waterfront; and
 - d) protect and enhance the economic base of the community and promote diverse economic activity.

1.5 Protect and improve stable residential areas.

The existing residential neighborhoods along the waterfront are important to the overall character community and economic functioning of the area. New uses in stable residential neighborhoods should be avoided when their size or scale would significantly impact the character of the area. New construction, redevelopment and associated screening, such as fences and landscaping, should not reduce or eliminate vistas that connect local residents or visitors to the waterfront or views that are otherwise important to the surrounding area.

Public access improvements should also be emphasized to better establish the connection between residential areas and the waterfront. Linkages are also important and should be created through the development of the waterfront trail system.

POLICY 2

Preserve historic resources in the Town of Hamburg

The historic resources in the Town of Hamburg are a reminder of the community's early development and its rich waterfront tradition. The northern portion of the waterfront also has a notable industrial heritage. Although there are no structures or landmarks that have received historic designation or that are listed on the State or National Register of Historic Place, there are historic structures of local significance. In addition, the New York State Archaeological Sensitivity Map (NYSOPRHP, 1992) identifies the entire Town of Hamburg as a zone of archaeological sensitivity, with three identified zones of potential archaeological significance. Lake Erie, in the Hamburg vicinity, also has a maritime history that should be recognized.

Historic resources that would be covered under this policy include those structures, districts, areas and sites that are listed or designated as follows:

1. any historic resource in a federal or state park established solely or in part to protect and preserve the resource;
2. any resource on, nominated to be on, or determined to eligible for listing on the National or State Register of Historic Places;
3. any cultural resource managed by the New York State Natural and Historic Preserve Trust or the New York State Natural Heritage Trust;
4. any archaeological resource that is on the inventories of archaeological sites maintained by the New York State Department of Education or the Office of Parks, Recreation and Historic Preservation; and
5. any locally designated historic or archaeological resources protected by a local law or ordinance.

Historic resources and archaeological sites are tangible links to the past development of the Town. They are important components in defining the community's distinctive identity and heritage. Therefore, the effective preservation of historic resources must also include efforts to restore and revitalize important resources, where appropriate. The intent of this policy is to preserve these resources in the Town of Hamburg.

In identifying those elements that are important in defining the character and value of an historic resource, designation information, available documentation and original research should be used. Important character-defining elements of the resource should be identified in terms of:

- a) time, place and use;
- b) materials, features, spaces and spatial relationships;
- c) setting within the physical surroundings and community; and
- d) association with historic events, people or groups.

The value of the historic resource should be determined as indicated by:

- a) its membership within a group of related resources, that would be adversely impacted by the loss of any one of the group;
- b) the rarity of the resource in terms of the quality of its historic elements or in the significance of it as an example; or
- c) the significance of events, people or groups associated with the resource.

2.1 Maximize the preservation and retention of historic resources in the Town.

1. Potential impacts to historic resources in the LWRA should be thoroughly evaluated through the environmental review process. All practical means should be utilized to preserve identified resources and mitigate or avoid potential adverse impacts.
2. The historic character of significant resources identified in the Town shall be preserved by protecting historic materials and features as follows:
 - a) evaluate the physical condition of important materials and features;
 - b) stabilize materials and features to prevent further deterioration;
 - c) protect important materials and features from inadvertent or deliberate removal or damage; and
 - d) ensure the protection of historic elements through a program of non-intrusive maintenance of important materials and features.
3. Repair historic materials and features using recognized preservation methods when physical condition warrants such repair.
4. Foster uses that maximize retention of the historic character of a resource and minimize alterations so as to preserve and retain the character of the structure.
 - a) Alterations should not obscure, destroy or radically change character defining spaces, materials, features or finishes in order to reduce adverse impacts to the resource.
 - b) Alterations may include selective removal of features that are not historic elements of the resource and its setting and that detract from the overall historic character of the resource.
 - c) Minimize potential negative impacts on the historic character of the resource due to necessary updates to systems in order to meet health and safety code requirements or to conserve energy.
 - d) In constructing new additions, use appropriate design and construction to minimize adverse impacts to historic character and allow for the visual compatibility of the new and old sections of structure.
5. The loss of historic resources or the historic character of the area shall be minimized when it is not possible to completely preserve the resource.

- a) Historic structures should be relocated only when the resources cannot be preserved in place.
 - b) Demolition of a resource should only be allowed where alternatives for retention are not feasible.
- 6. Avoid potential adverse impacts of development and redevelopment on adjacent or nearby historic resources.
 - a) Historic resources should be protected by ensuring that development is compatible with the historic character of the affected resource.
 - b) Potential development should be designed to a size, scale, proportion, mass and with a spatial relationship compatible with the historic resource.
 - c) Potential development should be designed using materials, features, forms, details, textures and colors compatible with similar features of the historic resource.
- 7. Limit adverse cumulative impacts on historic resources.
 - a) Minimize the potential adverse cumulative impact on an historic resource, which is a member of a group of related resources, that may be adversely impacted by the loss or diminution of any one of the members of the group.
 - b) Minimize the potential cumulative impacts of a series of otherwise minor interventions on an historic resource.
 - c) Minimize potential cumulative impacts from development adjacent to the historic resource.

2.2 Protect and preserve archaeological resources.

- 1. Potential impacts to archaeological resources in the LWRA should be thoroughly evaluated through the environmental review process.
- 2. When a development action is proposed in the Town of Hamburg a cultural resource investigation will be conducted.
 - a) A site survey will be undertaken to determine the presence or absence of cultural resources in the project area.
 - b) If cultural resources are discovered as a result of the initial survey, a detailed evaluation will be conducted to provide adequate data to allow for a determination of the significance of the archaeological resources.
- 3. If the potential for impacts to an archaeological resource exists, adverse impacts shall be minimized by:
 - a) redesigning the project,
 - b) mitigating direct impacts on the resources, or

- c) recovering significant data/resources prior to construction.
- 4. Disturbance or adverse impacts to any archaeological resources situated on or under lands owned by the State of New York shall be avoided. These resources may not be appropriated for private use.
- 5. With respect to activities that involve excavation in the Town of Hamburg, public agencies and utilities should contact the New York State Office of Parks, Recreation and Historic Preservation to determine appropriate protective measures for archaeological resources.

POLICY 3

Enhance visual quality and protect outstanding scenic resources

Waterfront landscapes possess inherent scenic qualities. The presence of water and the ever-changing views and visually interesting working landscape draw people to the water's edge. Due to their importance, scenic resources should be considered in balancing the wise use and conservation of the waterfront.

In the Town of Hamburg, the waterfront provides a diverse visual experience. Panoramic views of the Canadian shoreline and the City of Buffalo skyline are ever present. The Town is also known for its exceptional sunsets, which are viewed over the lake. For this reason, NYS Route 5 and Old Lake Shore Road are designated segments of the New York State Seaway Trail, which is a National Scenic By-way. In addition, views of the lake are enhanced by seasonal changes, and wetlands, shorelines in natural condition, and open space along the upland all contribute to scenic quality of the waterfront. The visual character and quality of Lake Erie and the Hamburg shoreline, including sufficient visual access, are important resources that should be enhanced and protected.

3.1 Protect and improve the visual quality of the Town of Hamburg waterfront.

The visual quality of the Town landscape is a major contributor to the community character of the Town of Hamburg. The Town includes the historic central business district, which is the strongest visual element, along with characteristic residential areas, the well-defined lake corridor, and open space. In addition, the Town contains a variety of cultural elements in the landscape. These resources should be protected and enhanced. Structures or activities that introduce visual interruptions to the natural landscape along the shoreline, such as intrusive artificial light sources or massive structural intrusions into open areas, should be avoided.

3.2 Protect and enhance the visual quality of the Town business districts.

The Town's business districts offer a special visual ambience that should be preserved and enhanced. Some of the structures in these districts are of local historic significance or are linked to the heritage of the area. Efforts should be made to improve and enhance the visual quality of the business districts through appropriate streetscape design, characteristic signage (unique to the area) and other aesthetic improvements. Such efforts would aid in boosting the

attractiveness of these areas, thereby making them more inviting locations for tourism and economic activity, and improving their overall connection to the waterfront.

3.3 Identify and protect aesthetic values associated with recognized areas of high scenic quality.

Recognized areas of high scenic quality include: designated Scenic Areas of Statewide Significance, designated scenic rivers, scenic roads, scenic by-ways and other governmentally-recognized scenic resource areas; and areas designated under the Protection of Natural and Man-made Beauty regulations (ECL Article 49). A scenic by-way is a transportation route and adjacent area of particular scenic, recreational, cultural or archaeological characteristics that is managed to protect such characteristics and to encourage economic development through tourism and recreation.

NYS Route 5 and Old Lake Shore Road are designated sections of the New York State Seaway Trail, which is designated as a National Scenic By-way. A number of locally significant cultural and recreational resources are located along this corridor including, Woodlawn Beach State Park, the Town Beach, and the Seaway Trail Visitor's Center. In addition, there are many sections of these roadways that offer excellent views of Lake Erie, as well as Buffalo and Canada. In recognition of this designation and these resources, the following should be considered:

1. Efforts should be taken to improve views of the Lake Erie, where practicable, from these roadways.
2. Redevelopment along the shoreline that is situated adjacent to these roadways should not block views or cause additional visual obstruction of the waterfront.
3. Redevelopment along the shoreline that is situated adjacent to these roadways should be designed and oriented to enhance scenic vistas and the scenic quality of the surrounding area.
4. All signage installed along these roadways must be in conformance with 23 U.S. C. 131(c), which regulates billboards along designated scenic by-ways under the State's Scenic By-way program. (This prohibition also applies to scenic by-ways designated under the National program.)

NATURAL WATERFRONT RESOURCES

POLICY 4

Minimize the loss of life, structures and natural resources from flooding and erosion

This policy seeks to protect life, structures and natural resources from the hazards of flooding and erosion. The policy reflects State flooding and erosion regulations and provides measures for the reduction of hazards and protection of resources. The Town of Hamburg contains flood zones that have been designated by the Federal Emergency Management Agency and are depicted on [Maps 6A, 6B and 6C](#).

The Town participates in the National Flood Insurance Program and development in the floodplain is regulated under Chapter 115 of the Town Code – Flood Damage Prevention. This law is designed to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Pursuant to Chapter 115, all construction and other development that is proposed within the regulated areas of special flood hazard requires a floodplain development permit from the Building Inspector – Code Enforcement Officer and must be in compliance with the standards outlined in the law (see Appendix A).

In the Town of Hamburg waterfront area, the provisions of this policy are applicable to the floodplain areas adjacent to the Lake Erie shoreline, Blasdell Creek, Rush Creek, Foster Brook, Berricks Creek, Wanakah Creek, Pinehurst Creek and 18-Mile Creek.

The entire shoreline of the Town is also designated as a Natural Protective Feature area by the NYSDEC and is subject to the requirements of Coastal Erosion Hazard Areas Act (Article 34 of the Environmental Conservation Law). The shoreline of the Town is impacted by the continuing erosive action of Lake Erie, in particular significant winter storm forces, and certain areas of the shoreline have been impacted to the degree that intervention has been required. The Town should continue to seek the technical assistance of the Army Corps. of Engineers to effectively remediate the bluffs along Old Lake Shore Road and to protect the Athol Springs area, as required, to promote public welfare and safety.

4.1 Minimize potential loss and damage by locating development and structures away from flooding and erosion hazards.

1. Use hard structural erosion protection measures for control of erosion only where:
 - a) vegetative approaches to control erosion are not effective;
 - b) construction of a hard structure is the only practical design consideration and is essential to protecting upland uses;
 - c) the proposed hard structural erosion protection measures are limited to the minimum scale necessary and are based on sound engineering practices; and
 - d) practical vegetative methods have been included in the project design and implementation.
 - e) Adequate mitigation is provided and maintained to ensure that there is no adverse impact to adjacent property or to natural coastal processes and natural resources and, if undertaken by a private property owner, does not incur significant direct or indirect public costs.
2. Develop sediment and erosion control guidelines for the stream corridors that discharge to Lake Erie to improve water quality and minimize the need for dredging and associated disposal costs. Coordinate this effort with adjoining communities that lie within the watershed areas, in an effort to manage impacts resulting from actions undertaken in these areas.
3. Consider the development of a Town-wide erosion management strategy.

4. Avoid developing new structures and uses, or reconstructing structures damaged by 50 percent or more of their value, in areas that are likely to be exposed to hazards unless:
 - a) the structure or use functionally requires a location along the shoreline or in coastal waters,
 - b) the new development would be located in an area of substantial public investment, or
 - c) the new structure or use is necessary for shoreline development that:
 - Reinforces or revitalizes areas along the waterfront that support important water-dependent uses or a concentration of mixed uses and other development (such as the inner harbor area), and
 - would not result in impairment of natural resources
5. Locate new structures that are not functionally dependent on a location on or in coastal waters, are not in areas of substantial public investment, or do not reinforce the role of a developed working waterfront, as far away from flooding and erosion hazards as possible.
 - a) No development is permitted in natural protective feature areas (nearshore, beaches, and wetlands as defined under 6 NYCRR Part 505), except as specifically allowed under the relevant portions of 6 NYCRR 505.8.
6. Where practical, the relocation of existing structures and development that are exposed to flooding hazards away from the hazard is preferred over maintaining structures and development in place. Maintaining existing development and structures in hazard areas may be warranted for:
 - a) structures that functionally require a location on the coast or in coastal waters,
 - b) water-dependent uses which, by the nature of the use, cannot avoid exposure to hazards; or
 - c) sites in areas with extensive public investment, public infrastructure, or major public facilities.
7. Provide public infrastructure in or near identified natural protective features only if the infrastructure:
 - a. is designed in a manner that will not impair the protective capacities of natural protective features; and
 - b. is designed to avoid or withstand damage from flooding and erosion.
8. In all areas of special flood hazards the following standards are required:

Anchoring

- a) All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

Construction materials and methods

- a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- c) Enclosed areas with subgrade on all sides are considered basements and not permitted. For enclosed areas below the lowest floor of a structure within Zones A1 through A30, AE or AH, and also Zone A if the base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
- A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding,
 - the bottom of all such openings no higher than one foot above the lowest adjacent finished grade,
 - openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

Utilities

- a) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot-water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood level, a professional engineer's or architect's certification of the design is required.
- b) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration floodwaters into the system.

- c) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.
- d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Subdivision proposals

- a) Proposals shall be consistent with the need to minimize flood damage.
- b) Public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize flood damage.
- c) Adequate drainage shall be provided to reduce exposure to flood waters.

Encroachments

- a) Within Zones A1 through A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - the Town of Hamburg agrees to apply to the Federal Emergency Management (FEMA) for a conditional Flood Insurance Rate Map (FIRM) revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Hamburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Hamburg for all costs related to the final map revision.
- b) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the FIRM adopted in Section 115-6 of the Flood Damage Prevention Law, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or

- the Town of Hamburg agrees to apply to FEMA for a conditional FIRM revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Hamburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Hamburg for all costs related to the final map revision.

Elevation for Residential structures

- a) Within Zones A1 through A30, AE and AH, and also Zone A if the base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above one foot above the base flood level.
- b) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest flood (including basement) elevated at least three feet above the highest adjacent grade.
- c) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number specified in feet on the FIRM (at least two feet if not depth number is specified).
- d) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

Nonresidential structures

- a) Within Zones A1 through A30, AE and AH, and also Zone A if the base flood data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
 - have the lowest floor, including basement or cellar, elevated to or above one foot above the base flood elevation; or
 - be flood-proofed so that the structure is watertight below one foot above the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- b) Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
 - have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number

specified in feet on the FIRM (at least two feet if no depth number is specified); or

- together with attendant utility and sanitary facilities, be completely flood-proofed to that level to meet the flood-proofing standard specified under a) above.
- c) If the structure is to be flood-proofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A flood-proofing certificate or other certification shall be provided to the local administrator who certifies that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of a) above, including the specified elevation (in relation to mean sea level) to which the structure is to be flood-proofed.
- d) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- e) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

Manufactured homes and recreational vehicles

- a) Recreational vehicles placed on sites within Zones A1 through A30, AE and AH shall either be on site fewer than 180 consecutive days, be fully licensed and ready for highway use or meet the requirements for manufactured homes, as outlined below. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- b) A manufactured home that is placed or substantially improved in Zones A1 through A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision, on which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor is elevated to or above one foot above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors.
- c) A manufactured home to be placed or substantially improved in Zone A1 through A30, AE and AH in an existing manufactured home park or subdivision

that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be elevated in a manner such as required in b) or elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation piers consisting of dry stacked blocks is prohibited.

- d) Within the A Zone, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and rare securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- e) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as one foot more than the depth number specified on the FIRM enumerated in Section 115-6 of the Flood Damage Prevention Law (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

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

- 1. Retain ownership of public trust lands that have become upland areas due to fill or accretion resulting from erosion control projects.
- 2. Avoid losses or likely losses of public trust lands or use of these lands, including public access along the shore, which can be reasonably attributed to or anticipated to result from erosion protection structures.
- 3. Provide and maintain compensatory mitigation of unavoidable impacts to ensure that there is no adverse impact to adjacent property, to natural resources, or to public trust lands and their use.

4.3 Expend public funds for the management or control of flooding only in areas that will result in proportionate public benefit.

Give priority in the expenditure of public funds to actions that will protect public health and safety, mitigate past flooding and erosion impacts, protect areas of intensive development, and protect substantial public investment (land, infrastructure, facilities).

- 1. The expenditure of public funds for flooding and erosion control projects:
 - a) should be limited to those circumstances where public benefits exceed public costs;

- b) is prohibited for the exclusive purpose of flooding and erosion protection for private development; and
- c) may be apportioned among each level of participating governmental authority according to the relative public benefit accrued.
- d) Factors to be used in determining public benefits attributable to the proposed flood or erosion control measure include the:
 - Economic benefits derived from protection of public infrastructure and investment and protection of water-dependent commerce.
 - Extent of public infrastructure investment.
 - Extent of existing or potential public use.

The application of these factors indicate that public expenditure for erosion and flood control projects may be warranted in developed centers.

4.4 Manage navigation infrastructure to limit adverse impacts on coastal processes

Design channel construction and maintenance to prevent destabilization of adjacent areas by:

1. Using dredging setbacks from established channel edges and designing finished slopes to ensure their stability.
2. Locating channels away from erodible features, where feasible.
3. Preventing adverse alteration of basin hydrology.

Manage harbor operations and vessel speeds to prevent shoreline erosion from increased wave activity.

POLICY 5

Protect and improve water resources

The purpose of this policy is to protect the quality and quantity of surface water in the Town of Hamburg, including Lake Erie, Blasdell Creek, Rush Creek, Foster Brook, Berricks Creek, Wanakah Creek, Pinehurst Creek, Eighteen Mile Creek and their tributary streams. Water quality considerations include the management of both point and non-point source pollution. Water quality protection and improvement must be accomplished by managing new, and remediating existing, sources of water pollution.

5.1 Prohibit direct or indirect discharges that would cause or contribute to the contravention of water quality standards and targets in local surface waters.

1. Prevent point source discharges to the surface waters of Lake Erie and local creeks and streams, and manage or avoid land uses that would:
 - a) exceed discharge limits specified by State Pollution Discharge Elimination System (SPDES) permits for industrial and municipal discharges.

- b) exceed established and applicable effluent requirements or cause or contribute to the contravention of water quality classifications and use standards; or
 - c) materially and adversely affect the quality of receiving waters.
2. Ensure effective treatment of sanitary waste and industrial discharges by:
- a) maintaining efficient operation of sanitary wastewater and industrial waste treatment facilities;
 - b) providing, at a minimum, effective secondary treatment for sanitary sewage;
 - c) modifying existing sewage treatment facilities to provide improved nitrogen removal capacity;
 - d) incorporating treatment beyond secondary, when funding is available to the extent economically feasible, with particular focus placed on nitrogen removal, as part of new or upgraded wastewater treatment plant design;
 - e) reducing demand on treatment facilities by:
 - reducing infiltration of excess water in collection and transport systems,
 - eliminating unauthorized collection system hookups,
 - pre-treating industrial waste,
 - limiting discharge volumes and pollutant loadings to or below authorized levels,
 - requiring the installation of low-flow water conservation fixtures in all new development and when replacing fixtures in existing development; and
 - f) controlling and reducing the loadings of toxic materials into the surface waters of the Lake, creeks and streams by including limits on toxic metals as part of wastewater treatment plant effluent permits and by enforcing existing pre-treatment requirements.
 - g) Reducing or eliminating combined sewer overflows.
 - h) Providing and managing on-site wastewater disposal (septic) systems by:
 - using on-site systems only when impractical to connect with a public sewer system;
 - protecting surface and groundwater against contamination from pathogens and excessive nutrient loading by keeping septic effluent separated from these resources and by providing adequate treatment of septic effluent; and
 - encouraging evaluation and implementation of alternative or innovative on-site sanitary waste systems and technologies to remediate systems that currently do not adequately treat or separate effluent.

5.2 Minimize non-point source pollution of local surface waters and manage activities that cause non-point source pollution.

1. Minimize sources of non-point source pollution to local surface waters by using the following approaches, which are presented in order of priority.
 - a) Limit or eliminate non-point sources of pollution by:
 - reducing or eliminating the introduction of materials that may contribute to non-point source pollution;
 - prohibiting the outdoor or uncontained storage of materials that may contribute to the pollution of surface or groundwater in the waterfront area;
 - minimizing activities that would increase off-site stormwater runoff and the transport of pollutants;
 - controlling and managing stormwater runoff to minimize the transport of pollutants, restore (to the greatest extent possible) degraded natural stormwater runoff conditions, and achieve a no-net increase of runoff where unimpaired stormwater runoff conditions exist;
 - retaining or establishing vegetation to maintain or provide soil stabilization and filtering capacity;
 - preserving natural hydrological conditions to maintain natural surface water flow characteristics and retain natural watercourses and drainage systems (where present); and
 - where natural drainage systems are absent or incapable of handling the anticipated runoff demands, developing open vegetated drainage systems as a preferred approach, with long and indirect flow paths to decrease peak runoff flows, and using closed drainage systems only where site constraints and stormwater flow demands make open systems infeasible.
2. Reduce pollutant loads to surface waters by managing unavoidable non-point sources and using appropriate best management practices as determined by site characteristics, design standards, operational conditions, and maintenance programs.

5.3 Reduce non-point source pollution using management measures appropriate to specific land use or pollution source categories.

1. Urban land uses
 - a) For new development, manage total suspended solids in runoff to remain at predevelopment loading levels.
 - b) For site development, limit activities that increase erosion or the amount or velocity of stormwater runoff.

- c) For construction sites, reduce erosion and retain sedimentation on site, and limit and control the use of chemicals and nutrients.
 - d) For developed sites, limit the application of pesticides, herbicides and fertilizer products to reduce the potential for the pollution of stormwater runoff.
 - e) Plan, site and design roads and highways to manage erosion and sediment loss and limit the disturbance of land and vegetation.
 - f) Plan and design bridges to protect ecosystems.
 - g) For roads, highways and bridges, minimize to the greatest extent practical, the runoff of contaminants to surface waters.
2. Marinas
- a) Site and design marinas such that currents will aid in flushing of the marina basin or the renewal of basin water regularly.
 - b) Assess potential impacts to water quality as a part of marina siting and design activities. Any new marina project shall utilize appropriate and adequate vessel pump-out technologies.
 - c) Properly manage stormwater runoff, discharges of hazardous substances, and solid waste disposal.
3. Hydro-modifications
- a) Maintain the physical and chemical characteristics of surface waters, reduce adverse impacts and, where possible, improve the physical and chemical characteristics of surface waters in channels.
 - b) Minimize the impacts of channelization and channel modification on in-stream and riparian habitat, and identify opportunities to restore habitat.
 - c) Use vegetative means, to the greatest extent possible, to protect stream banks and shoreline from erosion.
4. Floatables and litter
- a) Prohibit all direct and indirect discharges of refuse or litter into surface waters, or upon public lands contiguous to and within 100 feet of Lake or creek waters.
 - b) Limit the entry of floatable materials to surface waters through the proper containment and prevention of litter.
 - c) Remove and dispose of floatables and litter from surface waters and the shoreline of the Lake.
 - d) Implement pollution prevention and education programs to reduce the discharge of floatables and litter in the Lake and Town storm drains.

- e) Undertake regular maintenance and cleaning of storm drains that discharge to the Lake and tributary creeks.

5.4 Protect and enhance surface water quality in Lake Erie and its tributary creeks and streams.

1. To the greatest extent possible, improve the water quality of the Lake and the creeks that flow based on an evaluation of physical factors (pH, dissolved oxygen, dissolved solids, nutrients, odor, color and turbidity), health factors (pathogens, chemical contaminants, and toxicity), and aesthetic and nuisance factors (oils, floatables, refuse and suspended solids).
2. Minimize the disturbance of creeks and streams, including their beds and banks, in order to prevent erosion of soil, increased turbidity, and irregular variation in velocity, temperature, and level of water.
3. Protect the surface water quality of the Lake and creeks from the adverse impacts associated with excavation, fill, dredging and the improper disposal of dredged materials.
4. Utilize, as feasible and economically practicable, street sweeping resources to reduce the amount of pollutants, sediments and litter that enters surface waters through storm drains.
5. Encourage the use of best management practices to prevent non-point source pollution, including:
 - a) limiting the application of fertilizers, herbicides and pesticides and avoiding the use of synthetic fertilizers that contribute nitrates and phosphorus to runoff;
 - b) avoiding secondary discharges of pollutants, such as petroleum products to storm drains that discharge directly to surface waters; and
 - c) properly cleaning up pet wastes and controlling litter.

POLICY 6

Protect and restore the quality of ecological resources throughout the Town of Hamburg

There are certain natural resources in the Town of Hamburg that warrant protection and restoration. These resources, which include the Lake Erie and its tributary creeks and streams, wetland areas, and discrete plant and animal populations, contribute to the quality of life in the Town and the diversity of the local ecosystem. The quality and biological diversity of the local ecosystem also depends on more common, broadly distributed natural resources, such as the extent of forest cover and the population of resident and overwintering birds, which collectively affect the system.

6.1 Protect and restore ecological quality throughout the Town of Hamburg, including freshwater wetland resources.

There are three State-designated significant coastal fish and wildlife habitats in or adjacent to the Town of Hamburg waterfront, including Eighteen Mile Creek, Smoke Creek Shoals and Seneca Shoals. There are also certain areas that should be restored and protected as habitat for fish and wildlife. Stream corridors and wetlands provide numerous benefits including, but not limited to, habitat for wildlife, erosion and flood control, natural pollution treatment and filtration, groundwater protection, and aesthetic open space. Wetlands in the waterfront area are primarily located along Rush Creek and Eighteen Mile Creek. The shoreline, from the vicinity of Wanakah to Eighteen Mile Creek also contains designated federal wetlands. To further the protection and restoration of these resources, the excavation of existing wetlands or the placement of fill in these areas should be avoided. Adequate buffers should be provided and maintained between wetlands and adjacent uses to ensure protection of their character, quality, value and function. Buffers areas should also be considered along creek corridors.

6.2 Protect Significant Coastal Fish and Wildlife Habitats

Significant Coastal Fish and Wildlife Habitats are areas that have been as identified by the NYSDEC as being critical to the maintenance or re-establishment of species of fish and wildlife in the coastal area. These habitats have been designated by the Secretary of State to be protected for the habitat value they provide and to avoid permanent adverse changes to the coastal ecosystem. State-designated Significant Coastal Fish and Wildlife Habitats are described in individual Significant Coastal Fish and Wildlife Habitat narratives and outlined on boundary maps prepared by the Department of State (see the Section II Inventory and Analysis for more detail on the habitats). Significant fish and wildlife habitats are those habitat areas which:

1. Exhibit to a substantial degree one or more of the following characteristics:
 - a) is essential to the survival of a large portion of a particular fish or wildlife population
 - b) supports a species which is either endangered, threatened, or of special concern as those terms are defined at 6 NYCRR Part 182
 - c) supports fish or wildlife populations having significant commercial, recreational or educational value, or is of a type which is not commonly found in the state or a coastal region of the state, and are difficult, or even impossible, to replace in kind
2. Uses or activities should be avoided which would:
 - a) Destroy habitat values through direct physical alteration, disturbance, or pollution, or the indirect effects of actions that would result in a loss of habitat.
 - b) Significantly impair the viability of a habitat beyond the tolerance range of fish and wildlife species through:
 - degradation of existing habitat elements,
 - change in environmental conditions,

- functional loss of habitat values, or
 - adverse alteration of physical, biological, or chemical characteristics.
- c) Where destruction or significant impairment of habitat values cannot be avoided, potential impacts of land use or development should be minimized through appropriate mitigation. Use mitigation measures that are likely to result in the least environmentally damaging feasible alternative. Mitigation includes:
- avoidance of potential adverse impacts, including avoiding ecologically sensitive areas, scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions, and preventing fragmentation of intact habitat areas.
 - minimization of unavoidable potential adverse impacts, including reducing scale or intensity of use or development; designing projects to result in the least amount of potential adverse impact; choosing alternative actions or methods that would lessen potential impact; specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment; and specific protective measures included in the narratives for each designated Significant Coastal Fish and Wildlife Habitat area.
3. For the Significant Coastal Fish and Wildlife Habitats in the Hamburg waterfront area, the following shall apply:
- Seneca Shoals
- a) Any activity that substantially degrades water quality, increased temperature or turbidity, or reduces physical diversity of bottom substrates around Seneca Shoals would affect the fisheries resources in this area.
 - b) Activities such as dredging, oil or gas drilling and waste disposal are all potential causes of habitat degradation.
 - c) Temporary habitat disturbances would be most detrimental during fish spawning and nursery periods (mid-March through July for most warm-water species). Any unavoidable human disturbance of the littoral zone should be scheduled during late summer or fall to minimize potential impacts on fisheries in the area.
 - d) Thermal discharges, depending on time of year, may also have adverse effects on fish populations, especially walleye.
 - e) Installation and operation of water intakes near Seneca Shoals could have a significant impact on fish concentrations, through impingement of juveniles and adults, or entrainment of eggs and larval stages.

Smoke Creek Shoal

- a) Any activity that substantially degrades water quality, increases temperature or turbidity, alters water depths or reduces physical diversity of bottom substrates at Smoke Creek Shoals would affect the fisheries resources of this area.
- b) Discharges of sewage, stormwater runoff or industrial wastewater that contains heavy sediment loads or chemical pollutants would result in adverse impacts on fish populations.
- c) Activities such as dredging, oil or gas drilling and solid waste disposal are all potential causes of permanent habitat degradation.
- d) Construction of breakwalls or jetties in the area would increase sedimentation, resulting in loss of suitable spawning habitat of walleye.
- e) Temporary habitat disturbances would be most detrimental during fish spawning and nursery periods (mid-March through July for most warmwater species). Any unavoidable human disturbance of the littoral zone should be scheduled during fall or winter to minimize potential impacts on fisheries use of the area.
- f) Thermal discharges, depending on the time of year, would also have adverse effects on fish populations in the area, since spawning activities and survival are directly affected by water temperature.
- g) 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.

Eighteen Mile Creek

- a) Any activity that substantially degrades water quality, increases temperature or turbidity, reduces flows or alters water depths in Eighteen Mile Creek would adversely impact on the fisheries resources of this area.
- b) These impacts would be most detrimental during spawning period, and in the spring after salmonids are stocked in the creek.
- c) Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides or insecticides) would adversely impact on fish populations.
- d) Of particular concern are the potential effects of upstream disturbances, including water withdrawals, impoundments, stream bed disturbances and effluent discharges.
- e) Barriers to fish migration, whether physical or chemical, would have a significant impact on fish populations in the creek.
- f) Development of hydroelectric facilities on the creek should only be permitted with run-of-river operations.

- g) Existing woodlands bordering Eighteen Mile Creek and its tributaries should be maintained to provide bank cover, soil stabilization and buffer areas.
- h) Development of additional public access to the creek may be desirable to ensure that adequate opportunities for compatible human uses of the fisheries resources are available. However, installation of breakwalls or jetties to create a “harbor of refuge” could induce substantial development of this unusual natural area, directly resulting in the loss of habitat values.

6.3 Support the restoration of the Significant Coastal Fish and Wildlife Habitats wherever possible so as to foster their continued existence as natural, self-regulating system.

Measures that can be taken to restore significant habitats include:

- a) reconstructing lost physical conditions to maximize habitat values;
- b) adjusting adversely altered chemical characteristics to emulate natural conditions; and
- c) manipulating biological characteristics to emulate natural conditions through reintroduction of indigenous flora and fauna.

6.4 Protect and restore freshwater wetlands

Wetlands provide numerous benefits, including, but not limited to, habitat for fish and wildlife, erosion and flood control, natural pollution treatment, groundwater protection, and aesthetic open space.

1. The following measures can further the protection or restoration of wetlands:
 - a) compliance with the statutory and regulatory requirements of the Freshwater Wetlands Act and Stream Protection Act; and
 - b) prevention of the net loss of wetlands by:
 - avoiding placement of fill or excavation of wetlands;
 - minimizing adverse impacts resulting from unavoidable fill, excavation or other activities;
 - providing compensatory mitigation for adverse impacts that may result from unavoidable fill, excavation or other activities remaining after all appropriate and practicable minimization has been accomplished; and
 - providing and maintaining adequate buffers between wetlands and adjacent or nearby uses and activities in order to ensure protection of the character, quality, value and function of the wetlands area.
2. Where destruction or significant impairment of habitat values cannot be avoided, potential impacts of land use or development should be minimized through appropriate mitigation. Use mitigation measures that are likely to result in the least environmentally damaging alternative.

Mitigation includes:

- a) avoidance of potential adverse impacts, such as:
 - avoiding ecologically sensitive areas,
 - scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions, and
 - preventing fragmentation of intact habitat areas;
- b) minimization of unavoidable potential adverse impacts, including:
 - reducing the scale or intensity of the use or development,
 - designing projects to result in the least amount of potential adverse impacts, and
 - choosing alternative actions or methods that would lessen potential impacts; and
- c) specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment.

6.5 Dredging shall be undertaken in a manner that meets existing State permit requirements and protects Significant Coastal Fish and Wildlife Habitats and other important resources.

Maintenance dredging in the vicinity of the boat launch ramp at the Town Beach is required on occasion for the efficient operation of this facility. This activity should be carefully managed to avoid impacts to surrounding resources and dredge spoils should be properly disposed of, in accordance with all State requirements.

6.6 Encourage community awareness and stewardship of natural resources along the waterfront through the support of community activities, including the cleanup of the lake shore, beach sweeping activities, and non-point pollution prevention education campaigns.

POLICY 7

Protect and improve air quality

This policy provides for the protection of the air quality in the Town of Hamburg.

7.1 Comply with State standards that control and prevent the degradation of air quality in the Town of Hamburg.

New land uses and development in the Town of Hamburg should comply with the following:

1. Limit pollution resulting from new or existing stationary air contamination sources consistent with:

- a) attainment or maintenance of any applicable air quality standards,
 - b) applicable New Source Performance Standards,
 - c) applicable control strategy of the State Implementation Plan, and
 - d) applicable Prevention of Significant Deterioration requirements.
2. Recycle or salvage air contaminants using best available air cleaning technologies.
3. Limit pollution resulting from vehicle or vessel movement or operation, including actions that directly or indirectly change transportation uses or operation, consistent with attainment or maintenance of applicable ambient air quality standards, and applicable portions of any control strategy of the State Implementation Plan.
4. Restrict emissions of air contaminants to the outdoor atmosphere that are potentially injurious to human, plant and animal life, or that would unreasonably interfere with the comfortable enjoyment of life or property.

7.2 Limit sources of atmospheric deposition of pollutants, particularly from nitrogen sources.

State air quality standards regulate sources of nitrogen pollution. For actions with a potential impact on air quality, the Town shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to the atmospheric deposition of pollutants in the region, particularly nitrogen sources.

7.3 Limit discharges of atmospheric radioactive material to a level that is as low as practicable.

State air quality standards regulate radioactive materials and pollutants. For actions with a potential impact on air quality, the Town shall provide necessary information, as appropriate, to the State to enable the effective administration of air quality statutes pertaining to atmospheric radioactive material.

7.4 Capture and recycle chlorofluorocarbon compounds during service and repair of air conditioning and refrigeration units to the greatest extent practicable.

State air quality standards regulate chlorofluorocarbon pollutants. For actions with a potential impact on air quality, the Town shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to chlorofluorocarbon compounds.

POLICY 8

Minimize environmental degradation from solid waste and hazardous substances and wastes

The intent of this policy is to protect the public from sources of contamination and to protect the waterfront resources of the Town of Hamburg from degradation through proper control and management of wastes and hazardous materials. Attention is also required to identify and address sources of soil and water contamination resulting from landfill and hazardous waste sites and in-place sediment contamination in the Town of Hamburg.

8.1 Manage solid waste to protect public health and control pollution.

1. Solid wastes are those materials defined under ECL §27-0701 and 6 NYCRR part 360-1.2.
2. Plan for proper and effective solid waste disposal prior to undertaking major development or redevelopment activities that generate solid waste.
3. Prevent the discharge of solid wastes into the Town environment and lake water by using proper handling, management and disposal practices.

8.2 Manage hazardous wastes to protect public health and control pollution.

1. Hazardous wastes are those materials defined under ECL §27-0901 and 6 NYCRR Part 371.
2. Manage hazardous wastes in accordance with the following priorities:
 - a) eliminate or reduce the generation of hazardous wastes to the maximum extent practicable;
 - b) recover, reuse or recycle remaining hazardous wastes to the maximum extent practicable;
 - c) use detoxification, treatment or destruction technologies to dispose of hazardous wastes that cannot be reduced, reused or recycled; and
 - d) prohibit the siting of any new facility that would generate significant quantities of hazardous wastes, or the disposal of any hazardous wastes within the waterfront area.
3. Remediate inactive hazardous waste disposal sites.
 - a) Expedite the remediation of substances hazardous to developed areas in the Town to permit redevelopment of these sites.
 - b) Select a remediation remedy at a particular site to ensure that the public health and the environment will be protected. The future use of a site may determine the selected cleanup levels.

8.3 Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.

1. Substances hazardous to the environment are defined under ECL §37-0101. Toxic pollutants are defined under ECL §17-0105.
2. Prevent the release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources in the Town.
3. Report, respond to, and take action to correct all unregulated releases of substances hazardous to the environment.
4. Prevent environmental degradation due to persistent toxic pollutants and limit discharges of bioaccumulative substances.
5. Avoid the resuspension of toxic pollutants and hazardous substances and the re-entry of bioaccumulative substances into the food chain from existing environmental sources.
6. Prevent and control environmental pollution due to release of radioactive materials as defined under 6 NYCRR Part 380.
7. Protect public health, public and private property, and fish and wildlife from the inappropriate use of pesticides.
 - a) Pesticides are those substances defined under ECL §33-0101 and 6 NYCRR Part 325.
 - b) Limit use of pesticides to effectively target actual pest populations as indicated through integrated pest management.
 - c) Prevent direct and indirect entry of pesticides into waterways.
 - d) Minimize exposure of people, fish and wildlife to pesticides.

8.4 Prevent and remediate the discharge of petroleum products.

1. Prevent discharges of petroleum products by following methods approved for the handling and storage of such products, and by using approved design and maintenance principles for storage facilities.
2. Clean up and remove any petroleum discharge that occurs in the waterfront area or Town waters.

8.5 Site solid and hazardous waste facilities to avoid potential degradation of coastal resources.

1. Solid and hazardous waste facilities, including automobile scrap facilities, are not considered as appropriate uses for the waterfront and the siting of such uses in this area should be prohibited.

8.6 Transport solid waste and hazardous substances and waste using routes that protect the safety, well-being and general welfare of the public and the environmental resources of the

state; and methods that provide for the continued use of all transportation corridors, highways and facilities.

PUBLIC WATERFRONT POLICIES

POLICY 9

Improve public access to the waterfront and the use of public lands

Along many stretches of the Lake Erie, physical and visual access to waterfront lands and waters is limited for the general public. Limitations on reaching or, in certain locations, viewing the waterfront are further heightened by a general lack of opportunities for recreation at those sites that do provide public access. Existing residential development has made much of the Hamburg waterfront inaccessible and new development can potentially reduce or eliminate remaining opportunities to provide meaningful public access along the Lake. In addition to the loss of opportunities for physical access, visual access has also been affected due to the reduction of vantage points or outright obstruction of views. Given the lack of adequate public access and recreation, this policy incorporates measures necessary to provide enhanced access along the Lake Erie waterfront. The need to maintain and improve existing public access and facilities is necessary to ensure that the use of these sites and facilities is optimized in order to accommodate existing and future demand.

The Town of Hamburg has a number of access points along the Lake, some of which are provided along public rights-of-way or by easements for access to the shoreline. The objective of the Town is to improve and increase public access to the waterfront and enhance recreational opportunities for residents and visitors alike. Areas of particular importance include the easements and rights-of-way, where informal access to the beach is achieved but requires better oversight. A public education program and/or signage requiring proper disposal of litter should be instituted. Better markings and identification of the easement areas is also needed. In addition, the former Foit's restaurant property offers a good opportunity to provide both physical and visual access to the lake, and should be revitalized as a scenic overlook.

The Seaway Trail Visitor's Center presently provides access to the lake through a tunnel that runs beneath NYS Route 5. This tunnel should be maintained and painted at regular intervals, as needed by either the Town or the NYSDOT. There are also locations along the waterfront where improved access and parking is needed, including the foot of Amsdell Road and in Mt. Vernon. Parking is another amenity that is needed to enhance public access along the waterfront.

The Town of Hamburg should continue to pursue and promote the development of a multi-use trail along the full length of the waterfront, which is a designated segment of the New York State Seaway Trail. The Town has achieved funding for small portions of this amenity and should aggressively seek to secure funding and technical assistance from the County and State to achieve the remaining portions of the Trail. As the State examines alternative designs for the calming of traffic along NYS Route 5, the

selected alternative must include provisions for the safe passage of pedestrians and bicyclists through the entire study area.

9.1 Promote appropriate physical access and recreation along the Lake and throughout the waterfront area.

Public access and recreation facilities can attract tourists, improve the quality of life for residents and help to enhance the economic vitality of the Town. The following standards should be utilized to guide future decision making with regard to public access and the expansion of recreational opportunities along the Lake waterfront.

1. Provide a level of public access and recreational use that takes into account the following factors:
 - proximity to the business districts and adjacent residential areas,
 - public demand for access and recreational resources,
 - the type and sensitivity of natural resources that may be affected,
 - accessibility to the recreation site or facility,
 - the needs of special groups, such as the elderly or persons with disabilities, and
 - the potential for adverse impacts to adjacent land uses.
2. Where feasible, provide convenient, well-defined physical public access to and along the Lake for water-related recreation and throughout the Town for general recreational needs.
3. Protect and maintain existing public access and recreational facilities.
 - a) Prevent any on-site or adjacent development project or activity from directly or indirectly impairing physical access and recreation or adversely affecting the quality of such access.
 - b) Prevent physical deterioration of existing access and recreation facilities due to lack of maintenance or overuse.
 - c) Protect and maintain the supporting infrastructure for public access and recreational facilities.
 - d) Improve existing pedestrian access to the waterfront.
4. Provide additional physical public access and recreational facilities, where appropriate, throughout along the waterfront.
 - a) Promote the acquisition of additional public lands to meet existing public access and recreational needs.
 - b) Provide for public access and recreational facilities on non-public waterfront lands as a secondary use.

- c) Provide for public access from streets that terminate at the Lake.
 - d) Provide access and recreational opportunities to all members of the public whenever access or recreation is directly or indirectly supported through federal or state projects or funding.
 - e) Any transfer of public land holdings immediately adjacent to the Lake should retain a public interest that will be adequate to preserve public access and recreational opportunities.
5. Provide and improve physical access linkages between public access sites, open space and Lake Erie waters.
- a) Support and encourage the continued development of a waterfront trail system that extends along the full length of the waterfront.
6. Provide physical public access to water-related recreation facilities on the waterfront whenever development or activities are likely to affect the public's use and enjoyment of public waterfront lands and waters. Provide incentives for private development and redevelopment projects that provide public access and/or water-related recreational facilities.
7. Restrict public access and recreation only where it may be incompatible with public safety and the protection of natural resources.

9.2 Provide public visual access to the Lake and adjacent shoreline open space at all sites where physically practical.

To the greatest extent possible, views of the Lake Erie should be expanded to allow full appreciation of this resource and to increase the attractiveness of the waterfront for residents and tourists. The following standards should be applied with respect to increasing visual access to the Lake.

- 1. To avoid loss of existing visual access:
 - a) limit physical blockage of existing visual access to the Lake by development or activities due to the scale, design, location or type of structures;
 - b) protect view corridors provided by streets and other public areas leading to the Lake; and
 - c) protect visual access to open space areas associated with natural resources.
- 2. To minimize adverse impacts on visual access:
 - a) provide for view corridors to the shoreline in those locations where new structures would block views of the Lake from upland public vantage points;
 - b) use structural design and building siting techniques to preserve or retain visual access and minimize obstruction of views; and

- c) visual access requirements may be reduced where natural vegetative cover blocks potential views.
- 3. Provide compensatory mitigation for loss of visual access.
 - a) provide public visual access from vantage points on the site where development blocks visual access from inland public vantage points.
 - b) provide for additional and comparable visual access at nearby locations if physical access cannot be provided on-site.
- 4. To increase visual access to the Lake:
 - a) provide interpretative exhibits at appropriate locations for visual access to enhance public understanding and enjoyment of the Lake, its scenic features, its history and associated water-dependent uses;
 - b) allow vegetative or other screening of uses that detract from the visual quality of the waterfront; and
 - c) clear excess or overgrown vegetation along the waterfront in areas where practical and environmentally acceptable. Under no circumstances should vegetation be cleared to the degree or in a manner that would threaten the stability of the bluff or result in erosion of the bluff face.

9.3 Preserve public interest in the use of lands and waters held in public trust by the State and other governmental entities.

- 1. Access and reasonable recreational use of navigable waters and public trust lands under water should be provided.
- 2. Provide for free and substantially unobstructed passage along the shoreline of the Lake.
- 3. Provide for free and unobstructed use of all navigable waters for navigation, recreation and other public trust purposes, including the incidental rights of public anchoring.
- 4. Allow obstruction of public use in navigable waters, including navigation:
 - a) for water-dependent uses involving navigation and commerce that require in-water structures or activities as part of the use; and
 - b) for commercial recreational boating facilities, provided that the loss of navigable waters and use of underwater lands is offset by sufficient public benefit.
- 5. Piers and docking facilities must not interfere with the use of public trust lands.

9.4 Provide access and recreation that is compatible with natural resource values.

- 1. Limit public access and recreational activities where uncontrolled public use would lead to impairment or erosion of the shoreline.

2. Provide public access for fish and wildlife resource related activities, including fishing, provided that the level of access would not result in a loss of resources necessary to continue supporting these uses.

9.5 Where feasible, establish and maintain ownership of the waterfront to ensure public use and access.

9.6 Where feasible, utilize conservation easements to provide public access and greenway trail development along the waterfront.

WORKING WATERFRONT POLICIES

POLICY 10

Protect existing water-dependent uses in the Town of Hamburg and promote the siting of new water-dependent uses at suitable locations

Maritime activity in the Town of Hamburg has traditionally concentrated along the Lake Erie. Policy 1 promotes a continuation of this traditional pattern of development and supports the development of an economic base to promote and maintain the maritime character of the area. Improvements and enhancements in Hamburg could include the re-establishment of the Hamburg Regatta, providing better services for divers, and providing fishing pier access to the lake. The intent of this policy is to protect existing water-dependent uses along the Lake waterfront by ensuring adequate provision of infrastructure for their efficient and orderly operation. This policy is also intended to address the management of conflicts, congestion and competition for space in the use of the waterfront and its adjoining surface waters.

10.1 Protect existing water-dependent uses.

Actions should be avoided that would interfere with or adversely impact existing water-dependent uses (e.g., marinas and docks, fishing facilities, beaches, public and quasi-public utility uses, and marine education facilities) that require a waterfront location to effectively operate. Such uses should be protected and promoted. Water-dependent uses in the Town of Hamburg include Woodlawn Beach State Park, the Southtowns Wastewater Treatment facility, the Town Beach and the Seaway Trail Visitor's Center.

10.2 Minimize adverse impacts of new and expanding water dependent uses and provide for their safe operation.

The adverse impacts of new and expanding water-dependent uses should be minimized.

1. Water-dependent uses should be sited in locations where:
 - a) waterside and upland access, as well as upland space for parking and other support facilities, is adequate;

- b) necessary infrastructure exists or is easily accessible, including adequate shoreline stabilization structures, roads, water supply and sewage disposal facilities, vessel pump-out services, and waste disposal services;
 - c) water quality classifications are compatible with the use;
 - d) impacts to important natural resources, such as wetlands and wildlife habitats, can be avoided or minimized to the greatest extent possible; and
 - e) the need for dredging is minimized.
2. New or expanding marinas should:
- a) incorporate marine services and boat repair, as feasible, to meet a range of boating needs;
 - b) not encroach upon navigation channels or channel buffer areas;
 - c) incorporate public access to the Lake through the provision of access from the upland, boat ramps, and transient docking facilities;
 - d) limit discharges of vessel wastes by providing pump out facilities;
 - e) avoid or minimize adverse impacts on natural resources and the character of the surrounding area; and
 - f) are not sited at locations that possess important natural resource values, such as Significant Coastal Fish and Wildlife Habitats.

10.3 Protect and improve the economic viability of water-dependent uses.

Certain water-dependent uses contain and are supported by non water-dependent uses that are complementary and supportive to the water-dependent use and do not impair the ability of such a use to function. These non water-dependent uses often mix easily with water-dependent uses, provide beneficial support, and positively affect the character of the working waterfront.

1. Non water-dependent accessory or mixed use developments may be allowed, provided:
 - a) accessory uses are subordinate and functionally related to the principal water-dependent use and contribute to sustaining the water-dependent use;
 - b) mixed uses subsidize the water-dependent use and are accompanied by a demonstrable commitment to continue operation of the water-dependent use;
 - c) uses are sited and operated so as not to interfere with the principal operation of the site for a water-dependent use; and
 - d) uses do not preclude future expansion of a water-dependent use.
2. Locations that exhibit important natural resource values, such as wetlands and fish and wildlife habitats, should be avoided, or potential impacts must be effectively mitigated.

3. Other uses may be incorporated in the waterfront, particularly water-enhanced and marine support services provided these uses:
 - a) improve the working waterfront and its character;
 - b) do not interfere with the efficient operation of another water-dependent use;
 - c) make beneficial use of a Lakeside location through siting and design to increase public enjoyment of the waterfront.

10.4 Allow water-enhanced uses that complement and improve the viability of water-dependent uses.

In addition to water-dependent uses, certain uses that are enhanced by a waterfront location may be appropriate to locate along the shoreline in the Town of Hamburg. Water-enhanced uses are activities that do not require a location on the waterfront to function, but such a location could add to the public enjoyment and use of the area. Water-enhanced uses are generally of a recreational, cultural, commercial or retail nature.

1. When determining if a water-enhanced use is appropriate for siting along a waterfront, the following factors should be considered:
 - a) the use would provide an economic incentive to prevent the loss of a water-dependent use;
 - b) the use would be sited and operated so as not to interfere with water-dependent uses;
 - c) the use would complement a water-dependent use;
 - d) the use would be sited in a manner that does not preclude future expansion of a water-dependent use;
 - e) the activity makes beneficial use of a shoreline location through siting and design to increase public enjoyment of the waterfront, improve the economic viability of the area, and enhance community character; and
 - f) the use would be sited and operated so as to not interfere with public access along the water's edge.

10.5 Promote the efficient management of surface waters and underwater lands.

Lack of effective water use management contributes to congestion and competition for space within harbors, lakes, surface waters and underwater lands. As a result, natural resources can be degraded and communities are not able to take advantage of tourism and economic growth opportunities.

1. To promote effective water use management, traditional land use planning techniques can be applied to the water surface in the following manner:

- a) if warranted, water use zones should be established for uses such as docks, moorings, navigation channels and any special recreational areas (bathing, water skiing, personal watercraft, etc.);
- b) to insure safety, vessel speed zones can be established and zones for bathing, water skiing and other recreational uses should be located away from marinas and commercial boating facilities;
- c) marinas, in-water structures and surface water uses should not encroach upon navigation channels;
- d) for uses that are not water-dependent (i.e., decks and platforms) should not be allowed on or over surface waters; and
- e) the establishment of future use zones and the siting of in-water structures should be done in a manner that minimizes potential impacts on sensitive resources such as wetlands and fish and wildlife habitats.

10.6 Enhance the Town's waterfront, particularly in Sub-Area 1, as a quality of life amenity to attract potential businesses, laborers and visitors to the Town and region.

- 1. The waterfront is one of the Town's greatest assets. It should be properly developed, consistent with the objectives of Policy 1, to make this area an important part of the Town's economy and a safe, healthy and enjoyable place to live, work and visit.
- 2. Efforts to improve the waterfront should be properly planned and should be consistent with the Town's overall vision for the area.
- 3. Significant waterfront development should be located in Sub-Area 1, and supported with essential public services. Adequate public access, sufficient parking facilities and other support services should be available.
- 4. Public access should be provided as an important component of waterfront development and redevelopment projects and be linked to the existing and proposed network of bicycle and pedestrian pathways.

POLICY 11

Protect the sustainable use of living marine resources in the Town of Hamburg

Living marine resources play an important role in the social and economic well being of waterfront communities. Commercial and recreational use of living marine resources in Lake Erie constitutes an important contribution to the economy of the region and State. The continued recreational use of these resources depends on maintaining long-term health and abundance of fisheries resources and their habitats, and on ensuring that the resources are sustained in usable abundance and diversity for future generations. This requires the State's active management of fisheries, protection and conservation of habitat, restoration of habitats in areas where they have been degraded, and maintenance of water

quality at a level that will foster the occurrence and abundance of these resources. Allocation and use of the available resources must: 1) be consistent with the restoration and maintenance of healthy stocks and habitats, and 2) maximize the benefits of resource use so as to provide valuable recreational experiences and viable business opportunities for commercial and recreational fisheries.

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

11.1 Ensure the long-term maintenance and health of living marine resources in Lake Erie.

Ensure that commercial and recreational use of living marine resources is effectively managed in a manner that:

- Eliminates contaminant threats to local marine communities.
 - Places primary importance on maintaining the long-term health and abundance of fisheries.
 - Results in sustained useable abundance and diversity of the resource.
 - Does not interfere with population and habitat maintenance and restoration efforts.
 - Uses best available scientific information in managing the resources.
 - Minimizes waste and reduces discard mortality of fishery resources.
1. Ensure that the management of the state's transboundary and migratory species is consistent with interstate, state, federal, and inter-jurisdictional management plans.
 2. Protect and manage native stocks and restore sustainable populations of indigenous fish and wildlife species and other living marine resources.
 3. Foster the occurrence and abundance of marine resources in Lake Erie through the protection and enhancement of water quality; and the protection, enhancement and restoration of spawning grounds and other breeding habitat.

11.2 Provide for and promote the recreational use of marine fisheries in Lake Erie.

1. Maximize the benefits of resources to provide valuable recreational resource experience and viable business opportunities for commercial and recreational fisheries.
2. Where fishery conservation and management require actions that would result in resource allocation impacts, ensure equitable distribution of impact among user groups, giving priority to existing fisheries in the state.
3. Protect public health and ensure the marketable fisheries resources are not contaminated.
 - a) Advise the public regarding health risks of consuming fish contaminated with toxics.

- b) Restrict the harvest of fish when they are contaminated with toxics exceeding established public health thresholds.
 - c) Maintain water quality and wholesomeness of the fishery and marketable marine resources to protect public health.
- 4. Provide adequate infrastructure to meet recreational needs including appropriate fishing piers, dockage, parking, and livery services.
 - a) Foster direct public recreational use of marine resources from the shoreline.
 - b) Promote commercial party and charter businesses in on Lake Erie.
 - c) Encourage the provision of areas suitable for shoreline fishing, where feasible, when considering public access as a part of development and redevelopment plans for waterfront properties.

POLICY 12

Protect existing agricultural lands

The intent of this policy is to conserve and protect important agricultural uses in the Town of Hamburg by preventing the conversion of prime farmland to other uses and protecting existing and potential agricultural production.

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

POLICY 13

Promote appropriate use and development of energy and mineral resources

Portions of the Town of Hamburg waterfront have a history of industrial use. Overtime there has been a shift in this emphasis, and the legacy of industrial use has provided a desire to develop the waterfront with cleaner, more acceptable uses that provide broader service to the public, shifting industrial use to more suitable inland locations. There are no existing hydroelectric power generation facilities along the Hamburg waterfront. There are also no sites along Lake Erie where the benefits of developing hydroelectric generating facilities are not outweighed by the economic costs and the potential adverse impacts on natural resources and to the public. In addition, land uses associated with mineral extraction are not considered desirable for the waterfront.

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

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

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

13.2 Major energy generating and transmission facilities, which utilize non-renewable resources, are considered inappropriate uses that would not provide a significant benefit along the waterfront and should not be sited in this area.

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

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

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

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

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

13.6 Discourage the development of offshore energy resources in Lake Erie.

The Town recognizes the need to develop new indigenous energy sources but also recognizes that such development may endanger the environment. Thus, the Town discourages the development of offshore energy resources in Lake Erie. In addition, State law currently prohibits the development of wells nearer than one-half mile from the shoreline, two miles from public water supply intakes and one thousand feet from any other structure or installation on or in Lake Erie. State law also prohibits production of liquid hydrocarbons in Lake Erie, either alone or in association with natural gas.

SECTION IV Proposed Land and Water Uses and Proposed Projects

This section of the LWRP describes the proposed land and water uses for the Town of Hamburg waterfront area. Proposed projects are briefly described. The Proposed Land Use and Projects map, illustrates the proposed land use patterns and identifies the location of proposed projects within the LWRP area.

4.1 Proposed Land Uses

Land uses in the Hamburg LWRA are proposed in a manner that will continue the general patterns of existing development in the study area. Land use changes are proposed to protect waterfront resources, maintain the existing character of the community, and properly accommodate future development. In addition, the proposed land uses take into account the vision set forth in the Town's Open Space and Recreation Plan and the Town of Hamburg 2010 Comprehensive Plan.

Recommendations have been included to provide a continuous connection of multi-use trails to improve public access along the shoreline and to link the Town with existing and proposed trails in adjoining communities. The objective is to allow the Hamburg waterfront to be a viable segment in a regional trail system. The generalized land use recommendations and the proposed projects shown on [Maps 8A, 8B](#) and [8C](#) are intended to support the Coastal Management Policies contained in Section III.

Sub-Area 1

Where not already in residential or commercial use today, land uses along the waterfront in Sub-Area 1 should serve the recreation and open space needs of the community. Proposed land use changes in Sub-Area 1 include accommodating reuse and redevelopment of former commercial and industrial properties.

The Buffalo Crushed Stone parcel (on the former Bethlehem Steel property) at the northern boundary of the LWRP area is abandoned but there are issues of environmental contamination and site access that have stymied the potential redevelopment of this property. Buffalo Crushed Stone and the Bethlehem Steel complex were identified in the original 1987 LWRP as a proposed water-oriented mixed use area, which could include a marina, restaurants, offices and lakeside housing. The Town also sees this site as a potential location for wind energy development or light industry. The primary objective is to get the property back in use; therefore, a suitable plan for either commercial or light industrial development would be acceptable for the future use of this area. Subsequent to the 1987 LWRP, Bethlehem Steel Corporation prepared a Land Redevelopment Plan for approximately 1,150 acres of their holdings in the Lackawanna area. Within the Hamburg LWRA, the plan called for a marina that would be the southern anchor for a larger 485-acre greenway and recreation area. The development of Woodlawn Beach State Park has met some of those earlier recommendations. The Town will continue to work with the owners of the property to devise a plan for the effective reuse of this site.

The Woodlawn area should remain primarily residential with supportive commercial along Lakeshore Road (NYS Route 5). It is recommended that, where zoning requirements can be met, parcels on the interior streets in Woodlawn be developed with in-fill residential uses. Vacant and under-utilized parcels along Lakeshore Road, in between First Street and Seventh Street, should be developed with neighborhood commercial uses. Within the same general area, no major land use changes are anticipated related to the Woodlawn Beach State Park, the Gateway office complex or the Erie County Southtowns Wastewater Treatment Plant. The Snyder Tank facility should be redeveloped with use(s) that are more compatible with the surrounding area. This waterfront site should be revitalized with water-dependent or water-enhanced marine-commercial or entertainment uses to improve and promote public access and recreational tourism, and to help foster additional revitalization efforts in the area.

Other former Bethlehem Steel Corporation properties, which consist of vacant green space on the east side of Lakeshore Road at Bayview Road, comprise the Lake Erie Industrial Park. At this time, only one facility (credit union) has been developed here. The proposed land use for this area should remain business commercial - light Industrial.

A small grouping of homes along Hoover Road, east of Bayview Road should remain residential. While immediately (and currently) surrounded by non-residential uses, including the Snyder Tank facility, they are only separated from the Hoover Beach residential neighborhood by the Dock of the Bay restaurant. In recent years these residential properties were re-zoned from industrial to neighborhood commercial (NC). Under the NC classification, residential uses are permitted. In the NC District commercial uses preferably are established utilizing existing residential structures. This allows for more appropriate commercial activity serving neighborhood residential needs without significantly altering the character of the neighborhood.

From Hoover Beach south, moving into Sub-Area 2, the remainder the waterfront will remain primarily in residential use. There will be some exceptions in the area around Athol Springs, the Town Park and Wanakah, where water-related commercial and parks/recreation uses are mixed in. The Town is planning on developing a gateway in the Athol Springs area, just south of where Hoover Road intersects with NYS Route 5. This amenity would include appropriate signage, landscaping, passive park improvements (benches and picnic tables), a small overlook as part of the parking lot for Hoak's Restaurant (which is part of the NYS roadway right-of-way), and a clock tower.

The mix of uses in the Athol Springs area should continue as water-enhanced commercial, receiving priority over non- water enhanced uses along the waterfront, west of Lakeshore Road. Several elements of the Town's 1992 Athol Springs Waterfront Revitalization Plan still remain appropriate to include in this LWRP update. Relevant land use changes called for in that plan included commercial uses in the areas surrounding Big Tree Road and Lakeshore Road (NYS Route 5). Per that plan, the Town has established a Town park (Hoover Beach Trail Head Park) on the site of the former Town Sewage Treatment Plant.

The Town's Open Space and Recreation Plan also identified a number of sites as "Areas of Visual Significance". As noted in other section of the LWRP, the Town benefits from spectacular sunsets over Lake Erie, that can only be enjoyed from a few public sites or private residences along the Lake. The

development of a scenic viewing area in Athol Springs will provide opportunities for public enjoyment of view of the lake.

In general, the industrial uses in Sub-Area 1 west of Lake Shore Road should be phased out and guided towards neighborhood commercial or waterfront related commercial uses in support of subpolicy 1.1. This policy calls for the redevelopment of underutilized areas in order to strengthen the traditional waterfront focus. The underutilized industrial sites in Sub-area 1 could be revitalized with marine-commercial or marine-related recreational uses to improve and promote public access and recreational tourism, and to help foster additional revitalization efforts in the area. Industrial uses are more appropriately located east of Lakeshore Road, in areas already designated for such use.

Sub-Area 2

There are few land use changes proposed for Sub-Area 2. The area is, and should remain, primarily residential in nature. Local business districts should remain and be strengthened to provide continued service to surrounding neighborhoods. Along the Lakeshore, new non-residential uses should be water-enhanced commercial uses focused on tourist, recreation and entertainment businesses. Two key non-residential features that will remain in the Sub-Area are the Town Park, along the lakeshore and the Seaway Trail Visitor's Center. The 135-acre Wanakah Country Club represents a significantly large commercial recreation use within Sub-Area 2 that is not anticipated to change.

Sub-Area 3

Sub-Area 3 is geographically located within the larger land use area identified in the Town's Comprehensive Plan as "Lakeview". Sub-Area 3 contains a number of larger residential properties and estate lots. Similar to Sub-Area 2, the predominantly residential waterfront area in Lakeview is anticipated to remain that way. Although there are no major land use changes proposed, there are at least two large undeveloped parcels in the western section of Sub-Area 3, south of Old Lake Shore Road, that are in the preliminary stages of residential development. The Tree Haven residential project is currently under development with townhouses and single-family homes on approximately 60 acres. Although only in the initial sketch plan phase, a 20-acre property on the north side of Schoellkopf Road at Eckhardt Road is also proposed for residential subdivision. The potential subdivision development of remaining undeveloped residential properties, including the large undeveloped site situated at the southerly boundary of Sub-Area 3, should continue to be regulated through the Town's Lakeview Overlay District, which encourages clustering to protect significant natural features (wetlands, woodcuts), avoids road frontage lots, and restricts sewer district extensions. This style of development would allow for the connection of valuable habitat and open space, and provide the rural character of this area. It is anticipated that other existing vacant residential lots that meet existing zoning may eventually be proposed for denser residential development.

4.2 Proposed Water Uses/Harbor Management

Recreational boating is the primary water use along the Hamburg shoreline. However, as previously described in the Inventory and Analysis (Section II), due to shoreline conditions, there are no marinas or permanent docking facilities in the LWRA. Nor are there any designated channels or other navigational

infrastructure in the area. This severely limits access for recreational boating activities in the area, especially for Town residents that do not own waterfront properties. The boat ramp in the Town Park is the only facility along the entire waterfront that provides access opportunities for recreational boating on a seasonal basis.

4.3 Proposed Projects

There are a number of projects proposed along the Town of Hamburg waterfront to improve opportunities for public access and recreation. As noted in the previous discussion, much of the shoreline is developed with private residential uses, limiting the potential for the public to enjoy the waterfront.

While there are water-enhanced uses along the waterfront in the form of parks and restaurants, there are few existing water-dependent recreational uses along the lakeshore. A key focus of the Town's waterfront revitalization strategy is to take advantage of the recreational tourism potential of the Hamburg waterfront. To this end, projects proposed for the area should be oriented around improving and increasing the public's ability to access and utilize local surface waters and providing additional recreational amenities along the waterfront. Projects proposed along the Town of Hamburg waterfront include the following.

WOODLAWN GATEWAY

The NYS Route 5/Lake Shore Road corridor through Woodlawn is a significant gateway into the Town of Hamburg from Lackawanna and City of Buffalo to the north. Aesthetic and directional improvements should be made to create more welcoming impression to the Town. An entrance feature should not only announce arrival in Hamburg but also into Woodlawn and the Hamburg waterfront communities. This can be accomplished by signage, landscaping, architectural improvements and establishment of key businesses that relate more to the nearby waterfront neighborhood than to the heavy industry in the immediate vicinity. This project is supported by the New York State Department of Transportation, as well as the Town.

ATHOL SPRINGS GATEWAY

The project involves the construction a gateway feature in the Athol Springs area, just south of where Hoover Road intersects with NYS Route 5, adjacent to the Hoak's Restaurant site. This amenity would include signage to identify the area and welcome visitors, landscaping, passive park improvements (benches and picnic tables), a small overlook as part of the parking lot for Hoak's Restaurant (which is part of the NYS roadway right-of-way), and a clock tower.

NYS ROUTE 5 RECONSTRUCTION AND MULTI-USE TRAIL

The New York State Department of Transportation is in the design phase for a reconstruction project for Lake Shore Road (NYS Route 5), between Big Tree Road to the east and Old Lake Shore Road to the west. The project will includes a traffic calming study to determine appropriate measures for managing the volume of traffic that utilizes this roadway and protecting the character of surrounding development.

Currently, the NYS DOT does not anticipate constructing any improvements before 2009. A project objective supports the recreational goal of providing increased public access to the shoreline and linking waterfront attractions. It also enhances the use of the New York State Seaway Trail (Route 5 is a designated segment) and would provide a public access connection to the Seaway Trail Visitor's Center. It is not known at this time what alternative plan will be chosen as a mean of achieving the State's goal for Route 5. However, the alternative that is ultimately chosen should include provisions for a multi-use pathway along the entire stretch of the study area.

TOWN PARK IMPROVEMENTS

There has been a stated need for a marina facility in the Town of Hamburg. One potential location is at the Town Park. The 2010 Comprehensive Plan notes that future phases of the jetty project included: "future development of a break wall (creating a protected harbor), fishing docks and a marina for 200 boat slips". Recent improvements to the Town Park have included parking and a fishing pier. However, marina improvements for recreational boating would require significant funding and such a project is not anticipated to be in any immediate plans. Nonetheless, a project of this nature should be evaluated for long-term potential.

MT. VERNON PARK IMPROVEMENTS

There is a small parcel of Town-owned property along Lake Shore Road, at Mt. Vernon Blvd., that should be improved for public use. This site currently provides lawn and trees and a few picnic tables for public use. Situated at the top of the bluff, overlooking the lake, this property offers views of Lake Erie and would be a logical stop along the proposed multi-use trail through this area. Parking is a constraint along this busy section of Route 5, but improved access and parking, including a crosswalk, should be investigated to enable greater public use of this site.

SEAWAY TRAIL VISITORS CENTER

PHASE II and III Improvements

The development of the Seaway Trail Visitors Center at the former Wanakah Water Works facility was completed. This renovation project was commenced in 2003, and included three phases. These involved renovation of the building as the visitor's center, road level site improvements for public benefit, and improving the beach and rear sections for the building for public access. The Phase III improvements, which have not received funding, include the continued outside renovation of the site for public access, including the development of public docking and/or fishing facilities along Lake Erie, development of the viewing terraces behind the building and the provision of increased public exhibit space inside the building. The Town should continue to pursue funding to complete all phases of this project.

LAKE SHORE ROAD MULTI-USE TRAIL

The Town should develop a multi-use trail along Old Lake Shore Road, from its convergence with NYS Route 5 to the Town boundary with the Town of Evans. This pathway would provide a link with the Evans trail system and provide the last segment in the Town of Hamburg's proposed trail system. Lake Shore Road and Route 5 are designated segments of the New York State Seaway Trail, which is a

designated National Scenic By Way. A present, the public has no means of enjoying this stretch of roadway and deriving pleasure from the scenic views of the Lake, as well as the sunsets.

EIGHTEEN-MILE CREEK ACCESS

The Town should investigate the possibility of acquiring land along the Town boundary, at Eighteen-Mile Creek, to provide public access to the creek. The area in the vicinity of the existing 1812 cemetery would be a logical location for a small parking area and the development of more formalized access to the creek. The potential for land acquisition to develop such access should be examined further.

SECTION V - Techniques for Local Implementation

This section of the LWRP sets out implementation strategies for the Town of Hamburg LWRP. This section considers existing laws and sections of Hamburg Town Code that relate to the Policies, as well as identifying proposed laws, amendments and other Town actions necessary to support the Policies. A management structure for implementation and consistency review is presented, along with an outline of the financial resources that may be necessary to implement the LWRP.

5.1 Existing Laws

A. Chapter 18, Department of Planning

Chapter 18 establishes the department of Planning charging it with the responsibility for (reviewing) planning and development projects that come before the Town Planning Board. The technical review conducted by the Planning Board is one mechanism to confirm that the policies of the LWRP are being complied with during the review and approval process. The Planning Department also drafts special studies, updates to the Comprehensive Plan, and amendments to the Town Code, all of which must take the LWRP into consideration.

B. Chapter 70, Beach Control

Chapter 70 prohibits the use or disposal of glass containers on any public or private beach within the Town of Hamburg.

C. Chapter 85, Coastal Erosion Hazard Area

Chapter 85 sets out standards and procedures for the Town of Hamburg's administration of a coastal erosion management program pursuant to Article 34 of the NYS Environmental Conservation Law. Chapter 85 was enacted in 1993, subsequent to the completion for the original LWRP. The general intent of this chapter is to regulate land use and development activities in the coastal erosion hazard area and to establish standards to minimize and prevent damage to structures, natural protective features, and other natural resources and to protect human life.

Chapter 85 establishes the coastal erosion hazard area and permit requirements for certain activities. The coastal hazard area is divided into zones, each having specific use and dimensional standards for construction and location of new or modified structures, including erosion control structures.

D. Chapter 87, Conservation Easements

The intent of this chapter is to allow landowners in the Town of Hamburg the ability to preserve open space by granting a conservation easement to the Town that restricts disturbance of this land in return for a reduction in the assessment on the property.

E. Chapter 107, Excavation and Soil Removal

Article III (Clearing, Stripping and Erosion Control) of Chapter 107 regulates the site preparation activities related to excavation, filling, grading and stripping so as to prevent problems related to erosion, sediment or drainage. This chapter establishes a permit requirement for site work within residential subdivisions, non-residential construction sites, wetlands, and floodplains. Permits are also required for removal of vegetation, stripping, of grading in areas greater than 20,000 square feet.

F. Chapter 115, Flood Damage Prevention

The purpose of Chapter 115 of the Town Code is to protect public health, safety, and welfare and minimize losses due to flood conditions in specific areas. In conformance with the requirements of the National Flood Insurance Program, and to qualify for participation in this program, this law outlines the standards for construction in areas of special flood hazard and restrictions on encroachments and other activities in designated floodways. The law also sets forth a process for obtaining a permit for this development in the floodplain.

The entire LWRA shoreline is located within the regulated 100-year floodplain. The Flood Damage Prevention law also regulates portions of Blasdell Creek, Rush Creek Waterfalls Village Creek, Berricks Creek, Wanakah Creek, and Eighteen-Mile Creek within the LWRA.

G. Chapter 188, Parks and Recreation, Article II, Use and Boat Permits

Article II of Chapter 188, establishes a permit requirement for the use of motor vehicles and within the Town Park in order to regulate parking and traffic in the park. Permits are required for boats using the boat launch in the Town Park.

H. Chapter 226A, Stormwater Management and Erosion and Sediment Control

Chapter 226A is the local application of the SPDES Phase 2 requirements. This law regulates stormwater discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion and nonpoint source pollution associated with stormwater runoff.

I. Chapter 230, Subdivision of Land

Chapter 230 authorizes the Planning Board to review and approve plats for the subdivision of land in conformance with the Town of Hamburg Zoning Code and Comprehensive Plan. The subdivision regulations set forth application/review procedures, plan specifications, design standards and required land improvements (road, drainage and utilities).

J. Chapter 243, Tree Management

The Town of Hamburg recognizes the value of trees and adopted this law to ensure the preservation of these resources. This chapter regulates the removal of trees, the planting of new trees (particularly as a part of new development), the preservation of existing trees and the controlled harvesting of these resources.

K. Chapter 272, Wetlands Protection

The intent of this law is to help avoid, restrict and minimize damage or loss of wetlands in the Town, to ensure that wetlands are properly identified and that State and Federal requirements are met, and that additional design requirement for wetland impacts and mitigation are employed, as required.

L. Chapter 280 – Zoning

Chapter 280 of the Town of Hamburg Code is the Zoning Code. Zoning regulates and restricts, by district, the location, construction, and use of buildings and structures, and the use of land in the Town of Hamburg. The Zoning Code establishes districts, as well as uses and dimensional requirements for each district. The Code includes a Waterfront Commercial District and a Route 5 Overlay District for aesthetic improvements along the waterfront. This chapter of the Town Code also presents the rules and procedures for obtaining special use permits and site plan review. The code outlines the duties and procedures of the Enforcement Officer and Zoning Board of Appeals. Overlay districts and Supplemental Regulations are also provided in the Zoning Code. The zoning districts and their corresponding land uses are listed in more detail in Section II.

M. Shoreline Revitalization Committee

The Shoreline Revitalization Committee is a permanent committee dedicated to review and advise the Town Board on waterfront issues. This committee will be responsible for coordinating review of actions in the Town's coastal area for consistency with the LWRP, and will advise, assist and make consistency recommendations to other Town agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.

5.2 Additional Local Laws Adopted to Implement the LWRP

A. Consistency Review Law

Actions to be directly undertaken, funded or permitted within the local waterfront revitalization area must be consistent with the policies set forth in the Town of Hamburg LWRP. Through the adoption of a consistency review law, the Town can establish the legal framework required for the review of direct and indirect actions with the LWRP.

B. Zoning

The Town of Hamburg frequently reviews and updates Chapter 280, Zoning, in an effort to continue the efforts to implement the Town of Hamburg 2010 Comprehensive Plan. To support the policies set forth in Section III and to implement the proposed actions presented in Section IV, certain zoning actions were recommended, including amendments to the existing zoning map ([Maps 9A, 9B, 9C](#)).

Zoning Map Amendments

The Proposed Zoning map identifies a recommended zoning scheme to better guide development in a manner to encourage water-related uses in the study area. Several of the key map changes recommended are described next.

Sub-Area 1

The Woodlawn Beach State Park was rezoned from Office District (C-3) and Multifamily District (R-3) to the Park-Recreation Lands District (PR). The Park- Recreation Lands District is a relatively new district in the Town’s zoning Ordinance. It provides a special classification for certain public and private recreation facilities (both passive and active). The benefit to establishing utilizing the PR district regulations is the ability to establish enhances buffers to surrounding non-public uses and to address unique traffic and circulation needs and to encourage public access to the waterfront.

Sub-Area 2

The lands uses in Sub-Area 2 are stable residential and commercial uses and there are no areas that require rezoning to satisfy the policies and requirements of the LWRP. Therefore, no changes are proposed to the zoning map.

Sub-Area 3

All of Sub-area 3 is located in one of three single-family residential zoning districts RE, R-1 or R-2. This sub area is also within the Lakeview Overlay District and the waterfront area west of Old Lake Shore Drive is further protected by its designation as a Critical Environmental Area. No changes are proposed to the zoning map in Sub-area 3.

5.3 Other Public and Private Actions Necessary to Implement the LWRP

ATHOL SPRINGS/ROUTE 5 EROSION CONTROL PROJECT

As early as the 1991, the Horizons waterfront Action Plan proposed a public promenade along NYS Route 5, Lakeshore Road between Big Tree Road and Camp Road. Although the need for public access along this stretch is desired, the erosive forces of Lake Erie that are subjected to this area, drastically limit the extent of development that could occur. In September 2003, the U.S. Army Corps of Engineers released a feasibility study of 860-foot retaining wall that extends between Hoak’s Restaurant and the former Foit’s restaurant in this area. The Detailed Project Report and Environmental Assessment entitled Lake Erie along Route 5 at Athol Springs – Hurricane and Storm Damage Reduction Study recommends construction of a rubble mound revetment structure to provide stability to the existing retaining wall. The development of this project would extend the full distance of the existing seawall. A splash apron would be included along the top of the revetment, extending between the revetment and the Route 5 right-of-way. Amenities along the splash apron would include railings, benches, lights and landscaping. These added features provide improved public access and enable a pedestrian connection between the terminus of Hoover Road and the Foit’s property. The Army Corps should make every effort to keep this a priority project and keep it moving forward. This project will not only address the long-standing flooding and erosion situation in this area, but it will complement the proposed scenic overlook and the multi-use trail projects.

OLD LAKE SHORE ROAD EROSION PROTECTION AND STABILIZATION

The US Army Corps of Engineers, in conjunction with Erie County, for a stabilization and erosion protection project along Old Lake Shore Road in Sub-Area 3. This is an area with steep bluffs that have been slowly eroding away, threatening the integrity of Old Lake Shore Road. Because erosion will continually be a problem for this road, possible alternatives that should be evaluated for this area might include making Old Lake Shore Road one-way, relocating the road or even abandonment and re-utilizing the road for a recreational trail. Funding needs to be secured to undertake this project. The County continues to monitor the area until such time that monies are available for improvements.

5.4 Management Structure for Implementing the LWRP

All State and Federal actions proposed within the Town shall be reviewed in accordance with the guidelines established by the New York State Department of State. The Town of Hamburg Shoreline Revitalization Committee is responsible for reviewing all actions affecting the Town's LWRP and making recommendations to the Lead Agency through the Town's environmental review process. The review of proposed actions for consistency with the policies and provisions of the Town of Hamburg LWRP is initiated by the Town department or official that receives the application for funding or approval. Subdivisions and site plans submitted to the Planning Board are forwarded to the Town Engineer, who reviews them with the Shoreline Revitalization Committee. Any action proposed within the LWRA requires completion of a Waterfront Assessment Form.

The guidelines for notification and review of state agency actions where local waterfront revitalization programs are in effect are presented in Appendix E.

5.5 Financial Resources Necessary to Implement the LWRP

The implementation of the proposed projects identified under Section IV will require funding from a combination of public and private sources. These costs will include capital outlays, maintenance costs and in some cases property acquisition. For many of the projects, costs are undermined at this time. It is recognized that if the majority of the projects identified are implemented, they will be funded privately or supplemented by State and Federal funding. Where applicable, the Town shall work diligently to secure funding through grants available through State and Federal programs funds to support implementation of the identified LWRP projects.

A. Private Projects

Private residential and commercial revitalization efforts are expected to continue in the Woodlawn, Hoover Beach and Athol Springs communities. The largest redevelopment activity continues to be redevelopment of the Bethlehem Steel (Buffalo Crushed Stone) site.

The Redevelopment Plan issued in 1998 by Bethlehem Steel for the entire 1,150 acre Lackawanna site was anticipated to take 20 years to build out and cost estimates were not available.

B. Public Projects

1. Athol Springs/Route 5 Erosion Control Project

The US Army Corps of Engineers recommended erosion control project for Athol Springs has an estimated cost of \$1.9 million for the selected alternative. This cost is proposed to be shared with the NYSDOT as a “non-Federal project sponsor”, which will have a 35 percent responsibility for construction costs.

2. Old Lake Shore Road Erosion Protection and Stabilization

The Town should continue to work with the County to pursue funding for the erosion protection and stabilization of Old Lake Shore Road. The study conducted by the US Army Corps of Engineers estimated that improvements in this area would cost over \$1 million.

3. Gateway Improvements at Woodlawn and Athol Springs

The Town should continue their efforts to develop gateway features in the Woodlawn and Athol Springs communities. These features will help improve community identity and improve the character of areas that represent entryways into the Town.

5.6 Local Regulatory Changes

Zoning and local law changes are the responsibility of the Town of Hamburg, the majority of which are included in the annual budget for the Planning Department.

SECTION VI State and Federal Actions and Programs Likely to Affect Implementation

State and federal actions will affect and be affected by implementation of the LWRP. Under State Law and the U.S. Coastal Zone Management Act, certain State and federal actions within or affecting the local waterfront area must be “consistent” or “consistent to the maximum extent practicable” with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State notifies affected State agencies of those agency actions and programs that are to be undertaken in a manner consistent with approved LWRPs. The following list of State actions and programs is that list. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that a LWRP identify those elements of the program that can be implemented by the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification or approval programs; grant, loan subsidy or other funding assistance programs; facilities construction, and planning programs that may affect the achievement of the LWRP. Federal agency actions and programs subject to consistency requirements are identified in the New York State Coastal Management Program and by implementing the regulations of the U.S. Coastal Zone Management Act.

The second part of this section is a more focused and descriptive list of State and federal agency actions that are necessary for further implementation of the LWRP. It is recognized that a State and federal agency’s ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above, may not apply; and that the consistency requirements cannot be used to require a State or federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section IV and Section V, which also discusses State and federal assistance needed to implement the LWRP.

6.1 STATE AND FEDERAL PROGRAMS THAT SHOULD BE UNDERTAKEN IN A MANNER CONSISTENT WITH THE LOCAL WATERFRONT REVITALIZATION PROGRAM

A. STATE AGENCIES

OFFICE FOR THE AGING

- 1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

DEPARTMENT OF AGRICULTURE AND MARKETS

1.00 Agricultural Districts Program

2.00 Rural Development Program

3.00 Farm Worker Services Program

4.00 Permit and approval programs:

4.01 Custom Slaughters/Processor Permit

4.02 Processing Plant License

4.03 Refrigerated Warehouse and/or Locker Plant License

DIVISION OF ALCOHOLIC BEVERAGE CONTROL/ STATE LIQUOR AUTHORITY

1.00 Permit and Approval Programs:

1.01 Ball Park - Stadium License

1.02 Bottle Club License

1.03 Bottling Permits

1.04 Brewer's Licenses and Permits

1.05 Brewer's Retail Beer License

1.06 Catering Establishment Liquor License

1.07 Cider Producer's and Wholesaler's Licenses

1.08 Club Beer, Liquor, and Wine Licenses

1.09 Distiller's Licenses

1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses

1.11 Farm Winery and Winery Licenses

1.12 Hotel Beer, Wine, and Liquor Licenses

1.13 Industrial Alcohol Manufacturer's Permits

1.14 Liquor Store License

1.15 On-Premises Liquor Licenses

1.16 Plenary Permit (Miscellaneous-Annual)

1.17 Summer Beer and Liquor Licenses

1.18 Tavern/Restaurant and Restaurant Wine Licenses

1.19 Vessel Beer and Liquor Licenses

1.20 Warehouse Permit

1.21 Wine Store License

1.22 Winter Beer and Liquor Licenses

1.23 Wholesale Beer, Wine, and Liquor Licenses

OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES

1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.

2.00 Permit and approval programs:

2.01 Certificate of approval (Substance Abuse Services Program)

3.00 Permit and approval:

3.01 Letter Approval for Certificate of Need

3.02 Operating Certificate (Alcoholism Facility)

3.03 Operating Certificate (Community Residence)

3.04 Operating Certificate (Outpatient Facility)

3.05 Operating Certificate (Sobering-Up Station)

COUNCIL ON THE ARTS

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

2.00 Architecture and environmental arts program.

DEPARTMENT OF BANKING

1.00 Permit and approval programs:

1.01 Authorization Certificate (Bank Branch)

1.02 Authorization Certificate (Bank Change of Location)

1.03 Authorization Certificate (Bank Charter)

1.04 Authorization Certificate (Credit Union Change of Location)

1.05 Authorization Certificate (Credit Union Charter)

1.06 Authorization Certificate (Credit Union Station)

1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)

1.08 Authorization Certificate (Foreign Banking Corp. Public Accommodations Office)

1.09 Authorization Certificate (Investment Company Branch)

1.10 Authorization Certificate (Investment Company Change of Location)

1.11 Authorization Certificate (Investment Company Charter)

1.12 Authorization Certificate (Licensed Lender Change of Location)

- 1.13 Authorization Certificate (Mutual Trust Company Charter)
- 1.14 Authorization Certificate (Private Banker Charter)
- 1.15 Authorization Certificate (Public Accommodation Office – Banks)
- 1.16 Authorization Certificate (Safe Deposit Company Branch)
- 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
- 1.18 Authorization Certificate (Safe Deposit Company Charter)
- 1.19 Authorization Certificate (Savings Bank Charter)
- 1.20 Authorization Certificate (Savings Bank DeNovo Branch Office)
- 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
- 1.22 Authorization Certificate (Savings and Loan Association Branch)
- 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
- 1.24 Authorization Certificate (Savings and Loan Association Charter)
- 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
- 1.26 Authorization Certificate (Trust Company Branch)
- 1.27 Authorization Certificate (Trust Company – Change of Location)
- 1.28 Authorization Certificate (Trust Company Charter)
- 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
- 1.30 Authorization to Establish a Life Insurance Agency
- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

OFFICE OF CHILDREN AND FAMILY SERVICES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
 - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
 - 3.02 Operating Certificate (Children's Services)
 - 3.03 Operating Certificate (Enriched Housing Program)
 - 3.04 Operating Certificate (Home for Adults)
 - 3.05 Operating Certificate (Proprietary Home)
 - 3.06 Operating Certificate (Public Home)

3.07 Operating Certificate (Special Care Home)

3.08 Permit to Operate a Day Care Center

DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

1.00 Financing of higher education and health care facilities.

2.00 Planning and design services assistance program.

EMPIRE STATE DEVELOPMENT/ EMPIRE STATE DEVELOPMENT CORPORATION

1.00 Preparation or revision of statewide or specific plans to address State economic development needs.

2.00 Allocation of the state tax-free bonding reserve.

EDUCATION DEPARTMENT

1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.

2.00 Permit and approval programs:

2.01 Certification of Incorporation (Regents Charter)

2.02 Private Business School Registration

2.03 Private School License

2.04 Registered Manufacturer of Drugs and/or Devices

2.05 Registered Pharmacy Certificate

2.06 Registered Wholesale of Drugs and/or Devices

2.07 Registered Wholesaler-Repacker of Drugs and/or Devices

2.08 Storekeeper's Certificate

3.00 Administration of Article 5, Section 233 of the Educational Law regarding the removal of archaeological and paleontological objects under the waters of the State.

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

1.00 Issuance of revenue bonds to finance pollution abatement modifications in power generation facilities and various energy projects.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

1.00 Acquisition, disposition, lease, grant of easement, and other activities related to the management of lands under the jurisdiction of the Department.

2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.

3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

4.00 Financial assistance/grant programs:

4.01 Capital projects for limiting air pollution

4.02 Cleanup of toxic waste dumps

4.03 Flood control, beach erosion, and other water resource projects

4.04 Operating aid to municipal wastewater treatment facilities

4.05 Resource recovery and solid waste management capital projects

4.06 Wastewater treatment facilities

6.00 Implementation of the Environmental Quality Bond Act of 1972, including:

(a) Water Quality Improvement Projects

(b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects, and Waterways Projects.

7.00 Marine Finfish and Shellfish Programs

9.00 Permit and approval programs

Air Resources

9.01 Certificate of Approval for Air Pollution Episode Action Plan

9.02 Certificate of Compliance for Tax Relief – Air Pollution Control Facility

9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; process, exhaust or Ventilation System

9.04 Permit for Burial of Radioactive Material

9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer

9.06 Permit for Restricted Burning

9.07 Permit to Construct; a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

Construction Management

9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

9.09 Certificate to Possess and Sell Hatchery Trout in New York State

9.10 Commercial Inland Fisheries Licenses

9.11 Fishing Preserve License

9.12 Fur Breeder's License

9.13 Game Dealer's License

9.14 Licenses to breed Domestic Game Animals

9.15 License to Possess and Sell Live Game

9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)

9.17 Permit to Raise and Sell trout

9.18 Private Bass Hatchery Permit

9.19 Shooting Preserve Licenses

9.20 Taxidermy License

9.21 Permit – Article 15, (Protection of Water) – Dredge and Deposit Material in a Waterway

9.22 Permit – Article 15, (Protection of Water) – Stream Bed or Bank Disturbances

9.23 Permit – Article 24, (Freshwater Wetlands)

Hazardous Substances

9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects

9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation

9.26 Permit to Use Chemicals for the Control or Elimination of Undesirable Fish

Lands and Forest

9.27 Certificate of Environmental Safety (Liquid Natural Gas/Liquid Petroleum Gas)

9.28 Floating Object Permit

9.29 Marine Regatta Permit

9.30 Navigation Aid Permit

Marine Resources

9.31 Digger's Permit (Shellfish)

9.32 License of Menhaden Fishing Vessel

9.33 License for Non-Resident Food Fishing Vessel

9.34 Non-Resident Lobster Permit

9.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits

9.36 Permits to Take Blue-Claw Crabs

9.37 Permit to Use Pond or Trap Net

9.38 Resident Commercial Lobster Permit

9.39 Shellfish Bed Permit

9.40 Shellfish Shipper's Permits

9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean

9.42 Permit – Article 25, (Tidal Wetlands)

Mineral Resources

9.43 Mining Permit

9.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)

9.45 Underground Storage Permit (Gas)

9.46 Well Drilling Permit (Oil, Gas and Solution Salt Mining)

Solid Wastes

9.47 Permit to Construct and/or operate a Solid Waste Management Facility

9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

9.49 Approval of Plans for Wastewater Disposal Systems

9.50 Certificate of Approval of Realty Subdivision Plans

9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)

9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan

9.53 Permit - Article 36, (Construction in Flood Hazard Areas)

9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas

9.55 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas

9.56 State Pollutant Discharge Elimination System (SPDES) Permit

9.57 Approval – Drainage Improvement District

9.58 Approval – Water (Diversion for Power)

9.59 Approval of Well System and Permit to Operate

9.60 Permit – Article 15, (Protection of Water) – Dam

9.61 Permit – Article 15, Title 15 (Water Supply)

9.62 River Improvement District Permits

9.63 River Regulatory District approvals

9.64 Well Drilling Certificate of Registration

9.65 401 Water Quality Certification

10.00 Preparation and revision of Air Pollution State Implementation Plan.

11.00 Preparation and revision of Continuous Executive Program Plan.

12.00 Preparation and revision of Statewide Environmental Plan.

13.00 Protection of Natural and Man-made Beauty Program.

14.00 Urban Fisheries Program.

15.00 Urban Forestry Program.

16.00 Urban Wildlife Program.

ENVIRONMENTAL FACILITIES CORPORATION

1.00 Financing program for pollution control facilities for industrial firms and small businesses.

FACILITIES DEVELOPMENT CORPORATION

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

OFFICE OF GENERAL SERVICES

1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land and grants of easement of land under water, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.

2.00 Administration of Article 4-B, Public Buildings law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.

3.00 Facilities construction, rehabilitation, expansion, or demolition.

4.00 Administration of Article 5, Section 233, Subsection 5 of the Education Law on removal of archaeological and paleontological objects under the waters of the State.

5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.

6.00 Section 334 of the State Real Estate Law regarding subdivision of waterfront properties on navigable waters to include the location of riparian lines.

DEPARTMENT OF HEALTH

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

2.00 Permit and approval programs:

2.01 Approval of Completed Works for Public Water Supply Improvements

2.02 Approval of Plans for Public Water Supply Improvements.

2.03 Certificate of Need (Health Related Facility - except Hospitals)

- 2.04 Certificate of Need (Hospitals)
- 2.05 Operating Certificate (Diagnostic and Treatment Center)
- 2.06 Operating Certificate (Health Related Facility)
- 2.07 Operating Certificate (Hospice)
- 2.08 Operating Certificate (Hospital)
- 2.09 Operating Certificate (Nursing Home)
- 2.10 Permit to Operate a Children's Overnight or Day Camp
- 2.11 Permit to Operate a Migrant Labor Camp,
- 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
- 2.13 Permit to Operate a Service Food Establishment
- 2.14 Permit to Operate a Temporary Residence/Mass Gathering
- 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
- 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
- 2.17 Shared Health Facility Registration Certificate

DIVISION OF HOMES AND COMMUNITY RENEWAL AND ITS SUBSIDIARIES AND AFFILIATES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Financial assistance/grant programs:
 - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
 - 2.02 Housing Development Fund Programs
 - 2.03 Neighborhood Preservation Companies Program
 - 2.04 Public Housing Programs
 - 2.05 Rural Initiatives Grant Program
 - 2.06 Rural Preservation Companies Program
 - 2.07 Rural Rental Assistance Program
 - 2.08 Special Needs Demonstration Projects
 - 2.09 Urban Initiatives Grant Program
 - 2.10 Urban Renewal Programs
- 3. 00 Preparation and implementation of plans to address housing and community renewal needs.

HOUSING FINANCE AGENCY

- 1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.

2.00 Affordable Housing Corporation

JOB DEVELOPMENT AUTHORITY

1.00 Financing assistance programs for commercial and industrial facilities.

MEDICAL CARE FACILITIES FINANCING AGENCY

1.00 Financing of medical care facilities.

OFFICE OF MENTAL HEALTH

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

2.00 Permit and approval programs:

2.01 Operating Certificate (Community Residence)

2.02 Operating Certificate (Family Care Homes)

2.03 Operating Certificate (Inpatient Facility)

2.04 Operating Certificate (Outpatient Facility)

OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES

1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

2.00 Permit and approval programs:

2.01 Establishment and Construction Prior Approval

2.02 Operating Certificate Community Residence

2.03 Outpatient Facility Operating Certificate

DIVISION OF MILITARY AND NAVAL AFFAIRS

1.00 Preparation and implementation of the State Disaster Preparedness Plan.

NATURAL HERITAGE TRUST

1.0 Funding program for natural heritage institutions.

NIAGARA FRONTIER TRANSPORTATION AUTHORITY (regional agency)

1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.

2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

3.00 Increases in special fares for transportation services to public water-related recreation resources.

OFFICE OF PARKS, RECREATION, AND HISTORIC PRESERVATION (including Regional State Park Commission)

1.00 Acquisition, disposition, lease, grant of easement, or other activities related to the management of land under the jurisdiction of the Office.

2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

3.00 Funding program for recreational boating, safety, and enforcement.

4.00 Funding program for State and local historic preservation projects.

5.00 Land and Water Conservation Fund programs.

6.00 Nomination of properties to the Federal and/or State Register of Historic Places.

7.00 Permit and approval programs:

7.01 Floating Objects Permit

7.02 Marine Regatta Permit

7.03 Navigation Aide Permit

7.04 Posting of Signs Outside State Parks

8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.

9.00 Recreation services program.

10.00 Urban Cultural Parks Program.

11.00 Planning, construction, rehabilitation, expansion, demolition or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.

POWER AUTHORITY OF THE STATE OF NEW YORK

1.00 Acquisition, disposition, lease, grant of easement, and other activities related to the management of land under the jurisdiction of the Authority.

2.00 Facilities construction, rehabilitation, expansion, or demolition.

NEW YORK STATE FOUNDATION FOR SCIENCE, TECHNOLOGY AND INNOVATION

1.00 Corporation for Innovation Development Program.

2.00 Center for Advanced Technology Program.

DEPARTMENT OF STATE

1.00 Appalachian Regional Development Program.

2.00 Coastal Management Program.

2.10 Planning, construction, rehabilitation, expansion, demolition or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.

3.00 Community Services Block Grant Program.

4.00 Permit and approval programs:

4.01 Billiard Room License

4.02 Cemetery Operator

4.03 Uniform Fire Prevention and Building Code

STATE UNIVERSITY CONSTRUCTION FUND

1.0 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

STATE UNIVERSITY OF NEW YORK

1.00 Acquisition, disposition, lease, grant of easement, and other activities related to the management of land under the jurisdiction of the University.

2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

DEPARTMENT OF TRANSPORTATION

1.00 Acquisition, disposition, lease, grant of easement, and other activities related to the management of land under the jurisdiction of the Department.

2.00 Construction, rehabilitation, expansion, or demolition of facilities, including but not limited to:

(a) Highways and parkways

(b) Bridges on the State highways system

(c) Highway and parkway maintenance facilities

(d) Rail facilities

3.00 Financial assistance/grant programs:

3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)

3.03 Funding programs for rehabilitation and replacement of municipal bridges

3.04 Subsidies program for marginal branch lines abandoned by Conrail

3.05 Subsidies program for passenger rail service

4.00 Permits and approval programs:

4.01 Approval of applications for airport improvements (construction projects)

4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)

4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities

4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities

4.05 Certificate of Convenience and Necessity to Operate a Railroad

4.06 Highway Work Permits

4.07 License to Operate Major Petroleum Facilities

4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)

4.09 Real Property Division Permit for Use of State-Owned Property

5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.

6.00 Water Operation and Maintenance Program-Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates

1.00 Acquisition, disposition, lease, grant of easement, or other activities related to the management of land under the jurisdiction of the Corporation.

2.00 Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:

(a) Tax-Exempt Financing Program

(b) Lease Collateral Program

(c) Lease Financial Program

(d) Targeted Investment Program

(e) Industrial Buildings Recycling Program

3.00 Administration of special projects.

4.00 Administration of State-funded capital grant programs.

DIVISION OF YOUTH

1.0 Facilities construction, rehabilitation, expansion, or demolition or the funding for approval of such activities.

B. FEDERAL AGENCIES

I. ACTIVITIES UNDERTAKEN DIRECTLY BY OR IN BEHALF OF FEDERAL AGENCIES

DEPARTMENT OF COMMERCE

National Marine Fisheries Services

1.00 Fisheries Management Plans

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Proposed authorizations for dredging, channel improvements, breakwaters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters.
- 2.00 Land acquisition for spoil disposal or other purposes.
- 3.00 Selection of open water disposal sites.

Army, Navy and Air Force

- 4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities).
- 5.00 Plans, procedures and facilities for landing or storage use zones.
- 6.00 Establishment of impact, compatibility or restricted use zones.

DEPARTMENT OF ENERGY

- 1.00 Prohibition orders.

GENERAL SERVICES ADMINISTRATION

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government.

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

- 1.00 Management of National Wildlife refuges and proposed acquisitions.

National Park Service

- 2.00 National Park and Seashore management and proposed acquisitions.

Minerals Management Service

- 3.00 OCS lease sale activities including tract selection, lease sale stipulations, etc.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

- 1.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.
- 2.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).

- 3.00 Expansion, abandonment, designation of anchorages, lightering areas or shipping lanes and ice management practices and activities.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

- 4.00 Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

Federal Highway Administration

- 5.00 Highway construction.

II. FEDERAL LICENSES, PERMITS AND OTHER FORMS OF APPROVAL OR AUTHORIZATION

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).
- 2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- 3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- 4.00 Approval of plans for improvements made at private expense under Corps supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- 5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344).
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.).

DEPARTMENT OF ENERGY

Energy Regulatory Commission

- 1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.
- 2.00 Exemptions from prohibition orders.

Federal Energy Regulatory Commission

- 3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808).
- 4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b)).
- 5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f (b)).

ENVIRONMENTAL PROTECTION AGENCY

- 1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976.
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c).
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

DEPARTMENT OF INTERIOR

Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a)).

Minerals Management Service

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.
- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

NUCLEAR REGULATORY COMMISSION

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power plans pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.

2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

3.00 Permits and licenses for construction, operation or alteration of airports.

III. FEDERAL FINANCIAL ASSISTANCE*TO STATE AND LOCAL GOVERNMENTS

DEPARTMENT OF AGRICULTURE

10.068 Rural Clean Water Program

10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans

10.410 Low to Moderate Income Housing Loans

10.411 Rural Housing Site Loans

10.413 Recreation Facility Loans

10.414 Resource Conservation and Development Loans

10.415 Rural Renting Housing Loans

10.416 Soil and Water Loans

10.418 Water and Waste Disposal Systems for Rural Communities

10.419 Watershed Protection and Flood Prevention Loans

10.422 Business and Industrial Loans

10.423 Community Facilities Loans

10.424 Industrial Development Grants

10.426 Area Development Assistance Planning Grants

10.429 Above Moderate Income Housing Loans

10.430 Energy Impacted Area Development Assistance Program

10.901 Resource Conservation and Development

10.902 Soil and Water Conservation

10.904 Watershed Protection and Flood Prevention

10.906 River Basin Surveys and Investigations

DEPARTMENT OF COMMERCE

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term
Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization - Research and Demonstration Grants and
Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Inter-modal Transportation
- 11.509 Development and Promotion of Domestic Waterborne Transport Systems

COMMUNITY SERVICES ADMINISTRATION

- 49.002 Community Action
- 49.011 Community Economic Development
- 49.013 State Economic Opportunity Offices
- 49.017 Rural Development Loan Fund
- 49.018 Housing and Community Development (Rural Housing)

ENVIRONMENTAL PROTECTION AGENCY

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control - State and Areawide Water Quality Management Planning
Agency
- 66.451 Solid and Hazardous Waste Management Program Support Grants
- 66.452 Solid Waste Management Demonstration Grants
- 66.600 Environmental Protection Consolidated Grants Program Support Comprehensive
Environmental Response, Compensation and Liability (Super Fund)

GENERAL SERVICES ADMINISTRATION

39.002 Disposal of Federal Surplus Real Property

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects

14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects

14.117 Mortgage Insurance - Homes

14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing

14.125 Mortgage Insurance - Land Development and New Communities

14.126 Mortgage Insurance - Management Type Cooperative Projects

14.127 Mortgage Insurance - Mobile Home Parks

14.218 Community Development Block Grants/Entitlement Grants

14.219 Community Development Block Grants/Small Cities Program

14.221 Urban Development Action Grants

14.223 Indian Community Development Block Grant Program

DEPARTMENT OF INTERIOR

15.400 Outdoor Recreation - Acquisition, Development and Planning

15.402 Outdoor Recreation - Technical Assistance

15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments

15.411 Historic Preservation Grants-in-Aid

15.417 Urban Park and Recreation Recovery Program

15.600 Anadromous Fish Conservation

15.605 Fish Restoration

15.611 Wildlife Restoration

15.613 Marine Mammal Grant Program

15.802 Minerals Discovery Loan Program

15.950 National Water Research and Development Program

15.951 Water Resources Research and Technology - Assistance to State Institutes

15.952 Water Research and Technology - Matching Funds to State Institutes

SMALL BUSINESS ADMINISTRATION

59.012 Small Business Loans

59.013 State and Local Development Company Loans

59.024 Water Pollution Control Loans

59.025 Air Pollution Control Loans

59.031 Small Business Pollution Control Financing Guarantee

DEPARTMENT OF TRANSPORTATION

20.102 Airport Development Aid Program

20.103 Airport Planning Grant Program

20.205 Highway Research, Planning, and Construction

20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligations

20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares

20.506 Urban Mass Transportation Demonstration Grants

20.509 Public Transportation for Rural and Small Urban Areas

* Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

6.3 STATE AND FEDERAL PROGRAMS NECESSARY TO FURTHER THE LWRP

A. STATE PROGRAMS

A. Department of Environmental Conservation

Funding assistance with planning studies and/or design and construction of projects targeted to mitigate localized flooding problems in the Town's waterfront area, particularly along Route 5 in Sub-Area 1.

Funding assistance with planning studies and/or design and construction of projects targeted to control and mitigate localized flooding problems in the Town's waterfront area.

Funding assistance through the Environmental Quality Bond Act of 1972 for improvement projects at Hamburg Town Park.

Technical assistance with updates and revisions to the Coastal Erosion Hazard Area mapping.

B. Environmental Facilities Corp.

Funding assistance for the planning, design and construction of sewer extensions or other improvement projects within the Erie County Sewer Districts.

C. Department of State

Funding approval and technical assistance for LWRP implementation of various planning, design and construction projects, as outlined in Section IV of this Program.

Funding assistance through the Environmental Quality Bond Act of 1972 for the land preservation and protection of the unique resources at Bennett Beach and for improvement projects at local parks in Hamburg.

D. Department of Economic Development / Empire State Development Corporation

Assistance is needed for the preparation of economic feasibility studies for the reuse of various deteriorated and unutilized structures, as well as for the siting or improvement of public facilities.

E. Office of General Services

Prior to any development occurring in the water or on the immediate waterfront, OGS will be contacted for a determination of the State's interest in underwater or formerly underwater lands and for authorization to use and occupy such lands.

F. Office of Parks, Recreation, and Historic Preservation

Funding assistance for the planning, design and construction of expansion or improvement projects at Woodlawn Beach State Park.

Funding approval under programs such as the Land and Water Conservation Fund and the Clean Water / Environmental Protection Fund for development of or improvements to waterfront parkland.

Funding assistance to continue the multi-use trail development along the waterfront on Route and for the development of the Lake Erie Scenic Overlook on the former Foit's property.

G. Division of Housing and Community Renewal

Funding and technical assistance with revitalization efforts in the Woodlawn community.

H. New York State Department of Transportation

Funding assistance with the development of the Old Lake Shore Road Multi-Use Pathway.

B. FEDERAL PROGRAMS

A. Department of Defense

Technical assistance and funding for flooding and erosion control projects on Route 5 in Athol Springs and Old Lake Shore Road erosion control and stabilization.

B. Federal Highway Administration

Funding and technical assistance for the design and construction of the Hamburg Multi-Use Pathway.

C. Department of Commerce

Funding and technical assistance for economic development projects in the Woodlawn Beach hamlet area.

D. Department of Housing and Urban Development

Funding assistance for community projects through the Community Develop Block Grants program.

E. Small Business Administration

Funding and technical assistance for local businesses along the waterfront to stimulate economic development.

SECTION VII Local Commitment and Consultation

7.1 Local Commitment

The Town of Hamburg initiated its efforts to prepare a Local Waterfront Revitalization Program in May 2002, at which time its Shoreline Revitalization Committee met to discuss updating the existing LWRP, adopted in 1987. A sub-committee was established to oversee and guide the review and revision of the program. The Sub-Committee was comprised of representatives from the overall Hamburg Shoreline Revitalization Committee, Town Board, Town Engineer and local community, including local residents. This committee met six times during the planning process (January 16, 2003, March 24, 2003, May 29, 2003, June 26, 2003 and October 30, 2003) to assist with the update of the LWRP.

To strengthen local commitment for the Town's planning efforts, the Sub-Committee held two public information meetings to provide local citizens an opportunity to comment on significant issues and opportunities in the Town waterfront areas. The meetings were held on January 27, 2003 and February 4, 2003. The first meeting was attended by thirteen people while thirty-six people attended the second public information meeting. The purpose of these meetings was to introduce the LWRP and solicit initial comments from the public about their concerns for the waterfront. The information gathered at these meetings was utilized to shape the LWRP policies, as well as the proposed projects and implementation measures outlined in the program.

7.2 Consultation

Pursuant to the Article 42 of the Executive Law, Waterfront Revitalization of Coastal Areas and Inland Waterways Act, the 60-day review period for the draft LWRP Amendment was initiated after the Town Board accepted the draft as ready for review and submitted it to the New York State Department of State. Potentially affected State, Federal, regional and local agencies, including Erie County, the Town of Evans, the Village of Blasdell and City of Lackawanna were informed of the review period of the draft LWRP amendment. Comments received on the draft LWRP amendment were reviewed by the Town and the Department of State, and minor changes were made, as required, to reflect the comments. After the Town Board of the Town of Hamburg adopts the LWRP amendment, the Secretary of State approves the document, pursuant to the Article 42 of the Executive Law, Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Then, pursuant to 15 CFR 923.84(b), the Department of State requests incorporation of the amended LWRP into the State's Coastal Management Program.

HELP US PLAN FOR YOUR FUTURE

Economic Development

Community Character

Flooding and Erosion Protection

Water Quality

Visitorship/Tourism



Industrial Development

Public Access and Trails

Water and Sewer Services

Scenic Resources

Parks and Recreation

PLEASE ATTEND A PUBLIC INFORMATION MEETING ON

FEBRUARY 4, 2003 at 7:00 PM

AT THE LAKESHORE FIRE HALL

TO DISCUSS THE ISSUES AND CONCERNS THAT WILL GUIDE THE

FUTURE OF YOUR WATERFRONT

Town of Hamburg Local Waterfront Revitalization Program

Sponsored by the Town of Hamburg Shoreline Revitalization Committee

on behalf of the Town Board

Meeting Notes

Town of Hamburg Local Waterfront Revitalization Program

Public Information Meeting

January 27, 2003

Hamburg Town Hall

Attendees:

Gerard Kapsiak, Town Engineer, Shoreline Revitalization Sub-Committee
Paul DeWald, Shoreline Revitalization Sub-Committee
Tom Bender, Shoreline Revitalization Sub-Committee (end of meeting)
Tom Quatroche, Jr., Councilman
Joe Kilian
Richard Miller
Dave Woelfling
Martin Denecke, Director of Recreation
Laura Hahn
Jane McAnaney
T.J. Pignataro, Buffalo News
Wendy Salvati, Wendel Duchscherer
Gary Palumbo, Wendel Duchscherer

Wendy Salvati opened the public information meeting with an introduction to the LWRP. She explained that the Town's Shoreline Revitalization Committee began the process of updating the (1987) LWRP. The purpose of the LWRP is to create a plan for the Town's waterfront and to establish policies to protect the natural waterfront and improve public access by refining the State's more general policies.

The purpose of the meeting is to gather public input on local conditions and issues before revising the LWRP policies.

Councilman Tom Quatroche asked Ms. Salvati to point out the differences in scope between the 1987 LWRP and the current effort.

Ms. Salvati replied that the current project would be more specific where the original LWRP was generic. It will also take into consideration all the changes and projects that have occurred since then.

To date, an inventory of existing conditions has been compiled and mapped. Ms. Salvati noted some of the changes and projects since the 1987 LWRP: Athol Springs Shoreline Protection project, Old

Lakeshore Road Erosion protection project, the proposed scenic overlook at Foit's, Woodlawn Beach and Town Park improvement projects, and the visitor's center at the Wanakah water plant. In addition

the current LWRP will look at possible zoning changes. Also the LWRP boundary is proposed to be changed to better reflect only the areas relevant to the waterfront.

Joe Kilian made several suggestions:

- The LWRP address a possible connection to the GBNRTC recreation trail.
- In order to maintain designation as part of the New York Seaway Trail, there cannot be any billboards on Route 5.
- Improve markings and identification of easements and right-of-ways for public access to the beach and waterfront.

Richard Miller suggested that any future improvements to Route 5 should not include road widening that would cut the community off from the waterfront and beach. Route 5 should not become like the Robert Moses Expressway. He added the importance of maintaining the tunnel under Route 5 near the Wanakah water plant.

Ms. Salvati added that the proposed Seaway Trail Visitors Center project would include improving the path from the tunnel to the beach.

Councilman Quatroche stated that it would be helpful to understand what easements and rights-of-way are on record with the Town. It is understood that some are now privately held and some public easements have been encroached upon. Mr. Kilian stated that he has old maps showing access locations.

Mr. Miller raised the concern regarding making the beach accessible to non-Hamburg residents.

Paul DeWald added that there needs to be access and parking for Hamburg residents that don't live in the immediate waterfront neighborhoods.

Mr. Kilian added that litter is an issue. He would like to see a "tread lightly" or "leave it cleaner than you found it" educational program. Also regarding maintenance, the tunnel needs to be painted.

Mr. Kilian noted that by not having any transient docks for a boater to tie-up to, there is no way for visitors to stop and eat or shop in the community.

Mr. DeWald added that the lack of a protected harbor and facilities for visitors is a detriment.

The concept was discussed of constructing a breakwall and creating a harbor from Foit's to Hoaks and then adding facilities for transient boaters.

Mr. Miller asked why large stone from road projects couldn't be used to protect Route 5 in Athol Springs.

Councilman Quatroche reminded the audience that the Town has been working with Assemblyman Dick Smith, DOT and the Army Corps of Engineers to complete the project. DOT is committed to the project and the ACE should be done with their feasibility study soon.

It was concluded that due to the costs involved, the only way for a marina project to go forward would be for it to be a federal project. Then it could not remain only a local facility for Hamburg residents.

Mr. DeWald added that such a large project in the water would be subject to permit and regulatory issues. It's not just the cost, so even if the Town wanted to move forward, it would have to be a State/Federal project and then be required to be accessible and opened to the general public.

Mr. Kilian noted that Route 5 is on an intercontinental bicycle route, but Hamburg is not very inviting for people to stay over. There are opportunities to create business opportunities.

Dave Woelfling stated that while large projects like a marina are good, the vision (for the LWRP) should be more pragmatic. We know there is not going to be money for a marina, so the focus should be on small achievable projects. He noted several:

- Address the known blight areas; Hoaks dumpsters and Foit's
- Address removing things that block the view of the lake
- The rip rap protection around the Bed Rock Café is atrocious (broken concrete rubble)
- Complete the splash-over projects
- DOT should include gateway treatments at both ends of Route 5 (in Hamburg)

Mr. Woelfling stated that if there were a marina he would get a new boat, but like many other people, jet skis and personal watercraft have replaced boats. Maybe what is needed is a safe and secure staging place (and parking) for the smaller personal watercraft.

Mr. Miller suggested that the road where it curves at Foit's should be widened and straightened.

Mr. Kilian noted that there are shipwrecks in the lake. Mr. DeWald added that the dive shop in Hamburg might provide some insight to the opportunities.

Mr. Kilian noted another commercial opportunity that Hamburg has not taken advantage of is fishing.

Ms. Salvati concluded the meeting by thanking everyone for their input and reminding them that the next public information meeting will be held February 4, at 7:00 in the Lake Shore Fire Hall.

The meeting ended at approximately 7:00.

cc: Shoreline Revitalization Committee

Meeting Notes

Town of Hamburg Local Waterfront Revitalization Program

Public Information Meeting

February 4, 2003 – 7:00 PM

Lake Shore Fire Hall

Attendees:

Gerard Kapsiak, Town Engineer, Shoreline/LWRP Sub-Committee

Tom Bender, Shoreline/LWRP Sub-Committee

Larry Cobado, Shoreline/LWRP Sub-Committee

Katie Schneider, Shoreline/LWRP Sub-Committee

Tom Quatroche, Jr., Councilman

Fred Harrington

Joe Kilian

Tina Kilian

Joe Kleinfelder

Joe Rafter

Marie Cobado

Fred Dinkel

Bill Curran

Tom Disare

Jeff Reid

Bruce Thompson, Shoreline Committee

Richard Miller

Melanie Gregg (for Assemblyman Dick Smith)

Caroline Schreggenburger

Jeff Sweetland

Wendy Weber Salvati, Wendel Duchscherer

Paul Schultz

Rosemary Donahue

Jerry Bastedo

Melinda Disare

Mike McNamara

Joseph R(?)

Joseph Kasperek

Steve McCabe

Leslie Winter

David Peters

Tony Verdi

Peter Krzemien

Kathy Sweetland

George Sweetland

Gary Palumbo, Wendel Duchscherer

Councilman Tom Quatroche opened the public information meeting by welcoming the public and introducing Wendy Weber Salvati, the Planning Consultant that is assisting the Town with the update of the LWRP.

Ms. Salvati gave a brief introduction to the LWRP. She explained that the Town's Shoreline Revitalization Sub-Committee began the process of updating the (1987) LWRP. The purpose of the LWRP is to create a plan for the Town's waterfront and to establish the most appropriate local policies to protect the natural

waterfront and improve public access. The process will refine the State's original and more general policies.

We will also be updating the LWRP to be consistent with the 1997 Master Plan, and to reflect many other changes that have occurred along the shoreline since the 1987 adoption of the LWRP.

The purpose of the meeting is to gather public input on local conditions. At this point we are looking for new issues, opportunities and concerns before revising the LWRP policies.

Councilman Quatroche introduced the Hamburg Shoreline Revitalization Committee members in attendance and pointed out the maps and aerial photography displayed in the room.

Joe Kilian noted that he talked to the NYSDOT regarding alternative culvert design for Berricks Creek under Route 5 utilizing aesthetically pleasing guide rails. It could be similar to the Route 5 bridge in Barcelona, New York.

A resident discussed the use of the extension of Rogers Road for beach access. Unfortunately, because this is not a formal public beach there is no policing or maintenance.

Councilman Quatroche stated that we need to identify all the public rights-of-way and easements that provide access. He is having the Town Legal Department look into it.

It was also noted how successful the annual Beach Clean-up has been working thanks to the assistance of the Operating Engineers.

A resident noted that she envisions a more "residential feel" to the waterfront. She believes the waterfront is not used enough. There needs to be more bike paths and more public access.

Mr. Kilian discussed some history of Route 5 and its early use as a bike path, which led to it being paved.

A resident suggested installing historical markers along the roadway.

Ms. Salvati noted that one goal of the Greater Buffalo Niagara Regional Transportation Council (GBNRTC) is to expand multi-use paths throughout Erie County, particularly along the shoreline. The Town of Hamburg has received a grant to design and construct a pathway along Hoover Road, from the terminus of the pathway at Woodlawn Beach State Park to Route 5, near Hoak's.

Ms. Salvati asked if the residents felt there was enough public access to the shoreline?

Bruce Thompson said that in 1959 the idea was to have access at the foot of Amsdell Road, but the adjacent property owner has erected a wall to block access.

The question was raised if we really need more public access, especially if we get Foits (referring to the Town's proposal to purchase this property and develop it into a scenic overlook).

Michael McNamara noted that it's not a question of access but of access to what. The Town needs to do something with the waterfront area it has now. It's not a pleasant situation.

A discussion began regarding the costs and engineering feasibility of various types of structures including groins, jetties and piers along the waterfront, particularly in the area offshore of the Athol Springs area.

Beach replenishment in general and the permitting issues for the past Town jetty project were also discussed at length. Presque Isle, Pennsylvania and the south shore of Long Island, New York were presented as good examples to follow.

Fred Harrington stated that considering the vacant industrial waterfront, the City of Buffalo, City of Lackawanna and Town of Hamburg should do a regional plan.

Joe Rafter suggested that a memorial to the crew of Light Ship 82, which was lost in a 1913 storm, be included at the proposed Seaway Trail Visitors Center at the former Wanakah water works building.

Mr. Kleinfelder stated that at one time there was a groin at Wanakah beach, but the residents took it out.

Mr. McNamara replied that it was put in "illegally" and the Army Corps had it bulldozed out, then they lost the beach.

Mr. Miller said that this is a tough area to keep a boat.

A long discussion ensued regarding littoral drift, accretion and scour as related to groin construction, beach nourishment and the general idea of constructing a safe harbor at the Town Park. It was suggested that the cost for the Army Corps. of Engineers/NYS DOT splash-over project be spent on a breakwall instead. There could be economic benefits for the Town that could offset costs. It was generally concluded that cost and permitting issues are prohibitive for such a project at the Town level.

Mr. Kilian and Joe Kleinfelder discussed parking and access issues in the area of Foits, suggesting a traffic light or tunnel for safely crossing the road at this location.

Dave Peters suggested that the Town-owned land on Lakeshore Road be improved with parking, benches and tables and a traffic signal at Mt. Vernon Blvd.

Fred Dinkel stated that the Snyder Tank property used to be a boat facility and should be re-established for such use.

A resident stated that there should be something more inviting for boaters that come through here to want to stop. We have no safe harbor or true attractions. Mr. Kilian said that Port Dalhousie, Ontario is a good example of spectacular and inviting waterfront development.

A resident noted water quality and poor sewage treatment as an issue that impacts the use of the waterfront.

A resident asked if a long pedestrian dock could be installed, similar to one in Lakeside, Ohio (Marblehead).

Ms. Salvati replied that such docks are difficult due to changing water levels, but noted that the Wanakah water works project is proposed to include a small dock.

Tony Verdi suggested ice skating as an activity at the Town Park or somewhere in the vicinity.

Re-establishment of the Hamburg Regatta was discussed. It was noted that although good cooperation was received from the Town, the local racing fleet is no longer interested in the race.

Mr. Kilian asked if the plan was “putting the cart before the horse” and the Town should wait until the NYSDOT is done with its Route 5 projects.

Ms. Salvati replied that the LWRP’s policies should come first and the NYSDOT will have to consider the LWRP policies as it formulates an acceptable alternative for traffic calming and neighborhood enhancement along Route 5.

Councilman Quatroche concluded the meeting and thanked everyone for coming.

Ms. Salvati reminded everyone that may have additional comments that they can take one of the forms at the door and mail in their comments.

The meeting ended at approximately 8:35. Residents and committee members then viewed and discussed the maps and materials provided.

cc: Shoreline Revitalization Committee

File

Appendix A – Waterfront Consistency Review Law and Waterfront Assessment Form

Chapter 270. WATERFRONT REVITALIZATION

[HISTORY: Adopted by the Town Board of the Town of Hamburg as indicated in article histories. Amendments noted where applicable.]

Attachments: 270a Waterfront Assessment Form

GENERAL REFERENCES

Beach control — See Ch. 70.

Coastal erosion hazard area — See Ch. 85.

Wetlands protection — See Ch. 272.

Zoning — See Ch. 280.

Article I. Local Waterfront Revitalization Program

[Adopted 5-23-2011 by L.L. No. 9-2011]

§ 270-1. Title.

This article will be known as the "Town of Hamburg Local Waterfront Revitalization Program (LWRP) Consistency Review Law."

§ 270-2. Authority and purpose.

A. This article is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).

B. The purpose of this article is to provide a framework for the agencies of the Town of Hamburg (Town) to incorporate the policies and purposes contained in the Town of Hamburg Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions located within the waterfront area; and to ensure that such actions and direct actions undertaken by Town agencies are consistent with the LWRP policies and purposes.

- C. It is the intention of the Town that the preservation, enhancement and utilization of the natural and man-made resources of the waterfront area of the Town occur in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate growth and economic development. Accordingly, this article is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: loss and degradation of living waterfront resources and wildlife; adverse impacts to historic structures; diminution of open space areas or public access to the waterfront; disruption of natural waterfront processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.
- D. The substantive provisions of this article shall only apply while there is in existence a Town of Hamburg Local Waterfront Revitalization Program that has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

§ 270-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACTION

Includes all the following, except minor actions:

A. Projects or physical activities, such as construction or any other activities that may affect natural, man-made or other resources in the waterfront area or the environment by changing the use, appearance or condition of any resource or structure, that:

(1) Are directly undertaken by an agency; or

(2) Involve funding by an agency; or

(3) Require one or more new or modified approvals, permits, or review from an agency or agencies.

B. Agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;

C. Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect waterfront resources or the environment; and

D. Any combination of the above.

AGENCY

Any board, agency, department, office, other body, or officer of the Town of Hamburg.

CODE ENFORCEMENT OFFICER

The Building Inspector and/or Code Enforcement Officer of the Town of Hamburg.

CONSISTENT

The action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.

DIRECT ACTIONS

Actions planned and proposed for implementation by an applicant or agency, such as, but not limited to, a capital project, rule making, procedure making and policy making.

ENVIRONMENT

The physical conditions that will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, resources of agricultural, archeological, historic or aesthetic significance, existing patterns of population concentration, distribution or growth, existing community or neighborhood character, and human health.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)

The Local Waterfront Revitalization Program of the Town of Hamburg, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law Article 42), a copy of which is on file in the Office of the Town Clerk of the Town of Hamburg.

MINOR ACTION

Includes the following actions, which are not subject to review under this chapter:

- A.** Repaving or widening of existing paved highways not involving the addition of new travel lanes;
- B.** Street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- C.** Maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within Significant Coastal Fish and Wildlife Habitat areas;
- D.** Granting of individual setback and lot line variances, except in relation to a regulated natural feature or a bulkhead or other shoreline erosion protection structure;
- E.** Minor temporary uses of land having negligible or no permanent impact on waterfront resources or the environment;
- F.** Installation of traffic control devices on existing streets, roads and highways;
- G.** Mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- H.** Information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
- I.** Official acts of a ministerial nature involving no exercise of discretion, including building permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code;
- J.** Routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- K.** Conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- L.** Collective bargaining activities;
- M.** Investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- N.** Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- O.** Purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
- P.** Adoption of regulations, policies, procedures and local legislative decisions in furtherance of any action on this list;

Q. Engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this article have been fulfilled;

R. Civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;

S. Adoption of a moratorium on land development or construction;

T. Interpreting an existing code, rule or regulation;

U. Designation of local landmarks or their inclusion within historic districts;

V. Emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance practicable, under the circumstances, to waterfront resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this article;

W. Local legislative decisions such as rezoning where the Town of Hamburg determines the action will not be approved.

SHORELINE REVITALIZATION COMMITTEE

The permanent committee within the Town of Hamburg that is dedicated to review waterfront issues and advise the Town Board on the same. The Shoreline Revitalization Committee is authorized to coordinate and make recommendations to Town agencies regarding consistency reviews required under this article.

WATERFRONT AREA

That portion of Coastal Area as defined in Article 42 of the Executive Law that is located within the boundaries of the Town of Hamburg, as shown on the coastal area map on file in the office of the Secretary of State, and as delineated in the Town of Hamburg Local Waterfront Revitalization Program (LWRP).

WATERFRONT ASSESSMENT FORM (WAF)

The form used by an agency to assist in determining the consistency of an action with the Local Waterfront Revitalization Program.

§ 270-4. Management and coordination of LWRP.

- A.** The Town of Hamburg Shoreline Revitalization Committee (the "Committee") shall be responsible for coordinating review of actions in the Town's waterfront area for consistency with the LWRP, and will advise, assist and make consistency recommendations to other Town agencies in the implementation of the LWRP and its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.
- B.** The Committee shall coordinate with the New York State Department of State regarding consistency review of actions by federal agencies and with state agencies regarding consistency review of their actions.
- C.** The Committee shall assist the Town Board in making applications for funding from state, federal, or other sources to finance projects under the LWRP.
- D.** The Committee shall perform other functions regarding the waterfront area and direct such actions or projects as the Town Board may deem appropriate, to implement the LWRP.

270-5. Review of actions.

- A.** Whenever a proposed action is located within the Town's waterfront area, each Town agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in Subsection **I** of this section. No action in the waterfront area shall be approved, funded or undertaken by that agency without such a determination of consistency.
- B.** Whenever a Town agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action to be located in the waterfront area, the agency shall refer a copy of the completed WAF to the Committee within 10 days of its receipt. Prior to making its consistency determination, the agency shall consider the recommendation of the Committee with reference to the consistency of the proposed action.
- C.** After referral from an agency, the Committee shall consider whether the proposed action is consistent with the LWRP policy standards set forth in Subsection **I** of this section. The Committee shall require the applicant to submit all completed applications, WAFs, environmental assessment form (EAFs), and any other information deemed necessary to its consistency recommendation.
 - (1)** The Committee shall render its written recommendation to the agency within 30 days following referral of the WAF from the agency, unless extended by mutual agreement of the Committee, the agency, and the applicant or, in the case of a direct action, the agency. The Committee's recommendation shall indicate whether the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and shall elaborate in writing the basis for its opinion. The Committee shall, along with a consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards or to greater advance them. In the event that the Committee's recommendation is not forthcoming within the specified time, the agency shall make its consistency decision without the benefit of the Committee's recommendation.
 - (2)** The Town shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Committee. Such file shall be kept in the office of the Planning Division and made available for public inspection upon request.
- D.** If an action requires approval of more than one Town agency, decision-making will be coordinated between the agencies to determine which agency will conduct the consistency review, and that agency will thereafter act as designated consistency review agency. Only one WAF per action will be prepared. If the agencies cannot agree, the Town Board shall designate the consistency review agency.
- E.** Upon receipt of the Committee's recommendation, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in Subsection **I** of this section. The agency shall consider the Committee's consistency recommendation, the WAF, and other relevant information in making its written determination of consistency. No approval or decision shall be issued for an action in the waterfront area without a written determination of consistency having first been rendered by a Town agency.
- F.** The Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to this law. The Zoning Board of Appeals shall consider the written consistency recommendation of the Committee in the event and at the time it makes a decision to grant such a variance and shall impose appropriate conditions on the variance to make the activity consistent with the objectives of this law.
- G.** Where an Environmental Impact Statement (EIS) is being prepared or required, the draft EIS must identify applicable LWRP policies standards in Subsection **I** of this section, and include a discussion of the effects of the proposed action on such policy standards.
- H.** In the event the Committee's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and state the manner and extent to which the action is consistent with the LWRP policy standards.

I. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following summary of LWRP policy standards, which are derived from and further explained and described in Section 3 of the Town of Hamburg LWRP, a copy of which is on file in the Town Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions must also consult with Section IV in making their consistency determination. The action must be consistent with the policies to:

- (1) Foster a pattern of development in the Town of Hamburg that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development (LWRP Policy 1).
- (2) Preserve historic resources in the Town of Hamburg (LWRP Policy 2).
- (3) Enhance visual quality and protect outstanding scenic resources (LWRP Policy 3).
- (4) Minimize loss of life, structures, and natural resources from flooding and erosion (LWRP Policy 4).
- (5) Protect and improve water resources (LWRP Policy 5).
- (6) Protect and restore the quality of ecological resources throughout the Town of Hamburg (LWRP Policy 6).
- (7) Protect and improve air quality (LWRP Policy 7).
- (8) Minimize environmental degradation from solid waste and hazardous substances and wastes (LWRP Policy 8).
- (9) Improve public access to the waterfront and the use of public lands (LWRP Policy 9).
- (10) Protect existing water-dependent uses in the Town of Hamburg and promote the siting of new water-dependent uses in suitable locations (LWRP Policy 10).
- (11) Protect sustainable use of living marine resources in the Town of Hamburg (LWRP Policy 11).
- (12) Protect existing agricultural lands (LWRP Policy 12).
- (13) Promote appropriate use and development of energy and mineral resources (LWRP Policy 13).

§ 270-6. Enforcement.

No action within the Town's waterfront area which is subject to review under this article shall proceed until a written determination has been issued from a Town agency that the action is consistent with the Town's LWRP policy standards. In the event that an activity is being performed in violation of this article or any conditions imposed thereby, the Town Code Enforcement Officer shall issue a stop-work order and all work must immediately cease. No further work or activity shall be undertaken on the project so long as a stop-work order is in effect. The Town Attorney, Code Enforcement Officer and Police Department shall be responsible for enforcing this article.

§ 270-7. Penalties for offenses.

- A.** A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this article shall have committed a violation punishable by a fine not exceeding \$350 for a conviction of a first offense and punishable by a fine of \$2,000 for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
- B.** The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this article. Any civil penalty shall be in addition to and not in lieu of any criminal

prosecution and penalty. The Town may also enforce this article by injunction or other civil proceeding.

§ 270-8. Applicability.

This article shall supersede and repeal any previous local regulations regarding consistency with LWRP. This article shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

§ 270-9. Severability.

The provisions of this article are severable. If any provision of this article is found invalid, such finding shall not affect the validity of this article as a whole or any part or provision hereof other than the provision so found to be invalid.

270 Attachment 1

**Town of Hamburg
Waterfront Assessment Form**

A. INSTRUCTIONS (Please print or type all answers)

1. Applicants, or in the case of direct actions, Town of Hamburg agencies, shall complete this WAF for proposed actions which are subject to the consistency review law. This assessment is intended to supplement other information used by the designated Town agency in making a determination of consistency with the Town of Hamburg Local Waterfront Revitalization Program.
2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Town Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the waterfront area.
3. If any questions in Section C on this form are answered "yes", then the proposed action may affect the achievement of the LWRP policy standards contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination regarding its consistency with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards, it shall not be undertaken.
- 4 This form should be filled out by the applicant and submitted to the Town of Hamburg Planning Division

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Type of Town of Hamburg agency action (check appropriate response):

- (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction) _____
 - (b) Financial assistance (e.g. grant, loan, subsidy) _____
 - (c) Permit, approval, license, certification _____
 - (d) Agency undertaking action _____
2. Describe nature and extent of action: _____

3. Location of action (Street or Site Description. Please include the parcel(s) tax map number(s)): _____

4. Size of site: _____
5. Present land use: _____
6. Present zoning classification: _____
7. Describe any unique or unusual landforms on the project site (i.e. bluffs, wetlands, ground depressions, other geological formations): _____

8. Percentage of site which contains slopes of 15% or greater: _____
9. Streams, lakes, ponds or wetlands existing within or continuous to the project area?
- (a) Name _____
 - (b) Size (in acres) _____
10. Is the property serviced by public water? Yes _____ No _____
11. Is the property serviced by public sewer? Yes _____ No _____
12. If an application for the proposed action has been filed with the Town of Hamburg agency, the following information shall be provided:
- (a) Name of applicant: _____
 - (b) Mailing address: _____

- (c) Telephone number: Area Code () _____
- (d) Application number, if any: _____
- (e) Property tax number: _____

(Please attach copy of tax map with parcel highlighted)

13. Will the action be directly undertaken, require funding, or approval by a State or federal agency? Yes _____ No _____

If yes, which State or federal agency? _____

C WATERFRONT ASSESSMENT (Check either "Yes" or "No" for each of the following questions)

1. Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas identified on the waterfront area map? YES NO

- (a) Significant fish or wildlife habitats? _____
- (b) Scenic resources of local or statewide significance? _____
- (c) Important agricultural lands? _____
- (d) Natural protective features in an erosion hazard area _____

If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

2. Will the proposed action have a significant effect upon: YES NO

- (a) Commercial or recreational use of fish and wildlife resources? _____
- (b) Scenic quality of the waterfront environment? _____
- (c) Development of future, or existing water dependent uses? _____
- (d) Stability of the shoreline? _____
- (e) Surface or groundwater quality? _____
- (f) Existing or potential public recreation opportunities? _____
- (g) Structures, sites or districts of historic, archeological or cultural significance to the Town of Hamburg State or nation? _____

3. Will the proposed action involve or result in any of the following: YES NO

- (a) Physical alteration of land along the shoreline, land under water or coastal waters? _____
- (b) Physical alteration of two (2) acres or more of land _____

	located elsewhere in the waterfront area?	___	___
(c)	Expansion of existing public services or infrastructure in undeveloped or low density areas of the coastal area?	___	___
(d)	Energy facility not subject to Article VII or VIII of the Public Service Law?	___	___
(e)	Mining, excavation, filling or dredging in waterfront waters?	___	___
(f)	Reduction of existing or potential public access to or along the shore?	___	___
(g)	Sale or change in use of publicly-owned lands located on the shoreline or underwater?	___	___
(h)	Development within a designated flood or erosion hazard area?	___	___
(i)	Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?	___	___
(j)	Construction or reconstruction of erosion protective structures?	___	___
(k)	Diminished surface or groundwater quality?	___	___
(l)	Removal of ground cover from the site?	___	___
4.	PROJECT		
(a)	If a project is to be located adjacent to shore:	YES	NO
(1)	Will water-related recreation be provided?	___	___
(2)	Will public access to the foreshore be provided?	___	___
(3)	Does the project require a waterfront site?	___	___
(4)	Will it supplant a recreational or maritime use?	___	___
(5)	Do essential public services and facilities presently exist at or near the site?	___	___
(6)	Is it located in a flood prone area?	___	___
(7)	Is it located in an area of high erosion?	___	___
(b)	If the project site is publicly owned:	YES	NO
(1)	Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?	___	___
(2)	If located in the foreshore, will access to those and adjacent lands be provided?	___	___
(3)	Will it involve the siting and construction of major energy		

	facilities?	___	___
(4)	Will it involve the discharge of effluents from major steam electric generating and industrial facilities into waterfront facilities?	___	___
(c)	Is the project site presently used by the community neighborhood as an open space or recreation area?	YES	NO
(d)	Does the present site offer or include scenic views or vistas known to be important to the community?	___	___
(e)	Is the project site presently used for commercial fishing or fish processing?	___	___
(f)	Will the surface area of any waterways or wetland areas be increased or decreased by the proposal?	___	___
(g)	Does any mature forest (over 100 years old) or other locally important vegetation exist on this site which will be removed by the project?	___	___
(h)	Will the project involve any waste discharges into coastal waters?	___	___
(i)	Does the project involve surface or subsurface liquid waste disposal?	___	___
(j)	Does the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?	___	___
(k)	Does the project involve shipment or storage of petroleum products?	___	___
(l)	Does the project involve discharge of toxics, hazardous substances or other pollutants into coastal waters?	___	___
(m)	Does the project involve or change existing ice management practices?	___	___
(n)	Will the project affect any area designated as a tidal or freshwater wetland?	___	___
(o)	Will the project alter drainage flow, patterns or surface water runoff on or from the site?	___	___
(p)	Will best management practices be utilized to control storm water runoff into coastal waters?	___	___
(q)	Will the project utilize or affect the quality or quantity of sole source or surface water supplies?	___	___

- (r) Will the project cause emissions which exceed federal or state air quality standards or generate significant amounts of nitrates or sulfates? _____

D. **REMARKS OR ADDITIONAL INFORMATION** (Add any additional sheets necessary to complete this form)

Preparer's Name (Please print) : _____

Title: _____

Agency: _____

Telephone Number: (_____) _____

Date: _____

If assistance or further information is needed to complete this form, please contact Hamburg Engineering Department at (716) 649-6111.

Appendix B – Zoning

ARTICLE XVII. WC Waterfront Commercial District

[Added 4-18-2005 by L.L. No. 3-2005]

§ 280-109. Intent

In accordance with the recommendations and policies of the Town of Hamburg 2010 Comprehensive Plan and its Local Waterfront Revitalization Program (LWRP), this District is intended to:

A. Restrict some areas of the waterfront region of the Town to mostly water-dependent and water-related or enhanced uses.

(1) Provide areas for uses that can take advantage of the waterfront assets and to complement the nature of these areas.

(2) Only allow certain non water-dependent uses by special use permit.

B. Create a transition zone between lakeshore residential areas and the more intensive commercial and industrial districts.

C. Provide connections to and complement the tourism and recreational features of the waterfront region, and take advantage of the designation of Route 5 as a National Scenic Byway and part of the Seaway Trail System.

§ 280-110. Permitted uses

A. Uses and structures permitted in the WC District are as follows:

(1) Marinas, docks and boatyards.

(2) Visitor and conference centers; maritime museums.

(3) Hotels and motels.

(4) Restaurants.

(5) Fishing support facilities.

(6) Boat launch facilities; boat rental, sales and services; and boating and diving instruction schools.

(7) Other tourism-related uses.

(8) The following uses by special use permit authorized by the Planning Board (see Article XLVI):

(a) Neighborhood commercial establishments as listed in the NC Neighborhood Commercial Zoning District (excluding all residential uses).

(b) Business and professional offices.

(c) Commercial/residential uses (a building consisting of at least 50% of an approved commercial use and the remainder of the building, a residential use).

(d) Water-dependent light industrial uses (for consideration: allowable uses in the M-1 Zoning District and those in the M-2 Zoning District, except truck terminals/dispatch and transfer facilities).

(e) Nursery schools and day-care facilities.

B. Accessory uses and structures: Unless otherwise specified, accessory uses and structures customarily incidental to permitted principal uses.

§ 280-111. Minimum lot size

Unless otherwise provided, the minimum lot size in the WC District shall be as specified in this section:

A. Lot area: Lot area will be based on the size of the building, parking requirements and landscaping.

B. Lot width at the building line: 75 feet.

§ 280-112. Lot coverage

Lot coverage requirements are as follows:

A. Maximum: 75%.

§ 280-113. Maximum height of buildings

A. Unless otherwise provided, the maximum height of principal buildings in the WC District shall be 30 feet.

B. Accessory buildings shall be limited to two stories and 30 feet.

§ 280-114. Required yards

Unless otherwise provided, the minimum required yards and other open spaces in the WC District shall be as specified in this section.

A. Front yard: 30 feet.

B. Side yards; principal buildings: none required, except that:

(1) Where a side yard is provided, it shall be no less than five feet.

2) Where a side yard abuts any R District boundary, it shall be not less than 20 feet or the height of the principal buildings, whichever is greater.

(3) Where a side yard is used for either vehicular ingress or egress, it shall be at least 12 feet.

(4) Where a side yard is used for vehicular ingress or egress, it shall not be less than 25 feet.

C. Rear yard minimum: 30 feet.

§ 280-115. Off-street parking and signs

For applicable off-street parking regulations, see Article XXXII. For applicable sign regulations, see Article XXXVI.

§ 280-116. Supplemental regulations

For applicable supplemental regulations pertaining to height, area or open space, see Articles XXXVI through XXXIX.

§ 280-117. Landscaping requirements

Landscaping treatments shall be undertaken as directed by the Planning Board to retain the aesthetically enhanced look and waterfront character of the area.

§ 280-118. Architectural requirements

Buildings shall not be constructed so as to alter or eliminate significant views of the lake. Building elevation plans must be submitted to the Planning Board which reflect designs that accomplish the aesthetically enhanced look described in the objectives section of this Code, and any applicable zoning overlay requirements.

ARTICLE XXVI - Lakeview Overlay District

[Added 2-22-1999 by L.L. No. 3-1999]

§ 280-172. Purpose and intent

A. In accordance with the recommendations and policies of the Town of Hamburg 2010 Comprehensive Plan (1997 Master Plan update), the purpose of this overlay district is to preserve the rural nature and important natural resources of the Lakeview area of the Town. This district contains significant tracts of freshwater wetlands and woodlands, as well as wildlife habitats and management areas and designated conservation areas. This overlay district is also intended to encourage the renewal of existing commercial development areas in an effort to revitalize the Lakeview hamlet and provide for diversification of the land uses in this area.

B. The Lakeview Overlay District regulations will supplement the underlying zoning restrictions and provide for harmonious, safe and orderly development within the district.

§ 280-173. Boundary description

As indicated on Map 14 in the Town of Hamburg 2010 Comprehensive Plan, the Lakeview Overlay District shall encompass all that land area that is located southeast of Old Lakeshore Road and the shoreline of Lake Erie; southwest of Amsdell Road; northeast of the boundary with the Town of Evans; and northwest of the boundary of the Southwestern Boulevard Overlay District. A portion of this district is also situated northwest of the New York State Thruway, south of Amsdell and Rogers Roads, and southeast of the boundary of the Southwestern Boulevard Overlay District.

§ 280-174. Objectives

To carry out the intent of the Lakeview Overlay District, application of the special restrictions and regulations contained herein shall be founded upon the following objectives:

A. Guidelines and objectives for development.

- (1) Suburban development shall be minimized to control growth.
- (2) Rural development guidelines shall be applied to manage growth and achieve a more desirable environment than what would be possible through the strict application of existing zoning regulations.
- (3) Existing commercial development shall be restored and improved, and any additional commercial uses shall be concentrated only in the hamlet area to revitalize this portion of the overlay district.
- (4) Standard road frontage lots and commercial strip development shall be discouraged to allow for the development and physical site arrangements that would further the goals of the Town of Hamburg 2010 Comprehensive Plan.
- (5) The aesthetics and layout of proposed development shall be reviewed to prevent the area from taking on a suburban appearance.
- (6) Land use controls shall separate density from lot size, allowing for smaller lots, provided that overall density guidelines are maintained, thereby preserving open space. (See Subsection A (7).)
- (7) As recommended in the 1994 Open Space/Recreation Plan, cluster development shall be required for all proposed subdivisions that contain important natural resources and open space.
- (8) Additional sewer extensions (both public and private) shall be restricted in the district, and extensions currently under consideration by the county should be evaluated in relation to the recommendations of the Town of Hamburg 2010 Comprehensive Plan.
- (9) All site plan and subdivision plats should be reviewed for conformance with the recommendations set forth in the Town of Hamburg 2010 Comprehensive Plan.
- (10) In all major and minor subdivisions, and multiple-dwelling structures located in the Lakeview Overlay District, all extensions of private utility and communication distribution facilities shall be installed below grade. Where existing overhead distribution facilities are already in place, service from lot line to the proposed house shall be installed below grade. Installation shall be in the manner prescribed by the Building Code and utility company having jurisdiction. Where facilities are provided, they shall be planned to anticipate future utility needs.

[Added 8-4-2003 by L.L. No. 4-2003]

B. Guidelines and objectives for environmental preservation.

- (1) Important environmental and cultural features shall be preserved and enhanced to further the goals of the Town of Hamburg 2010 Comprehensive Plan.
- (2) Important environmental and cultural features shall be mapped to illustrate existing conditions for all site plan and subdivision applications to depict existing conditions and permit effective site development analysis.

(3) Major subdivisions shall not be permitted on soils that have a poor capacity for percolation (i.e., rates or conditions that would not allow the use of a standard or raised-bed subsurface wastewater disposal system) to protect important natural resources.

(4) In accordance with the Town of Hamburg Tree Preservation Law, the amount of land clearing shall be minimized and development shall be designed around significant resources onsite, i.e., wetlands, steep slopes, scenic vistas, floodplain boundaries, significant woodlands, etc.

(5) Important habitats on the site should be identified, and the relative value of these areas for supporting wildlife should be determined.

(6) Trees of a minimum size of eight-inch diameter at breast height (DBH), all important trees and any significant stands of vegetation shall be preserved to the greatest extent possible.

(7) Conservation easements, land dedications and other methodologies shall be utilized, wherever possible, to preserve areas of significant open space and/or important natural resources.

(8) All site plans and subdivision plats shall be reviewed for conformance with the Town of Hamburg 1994 Open Space/Recreation Plan and the 2010 Comprehensive Plan.

§ 280-175. Permitted and accessory uses

A. The uses permitted in the Lakeview Overlay District shall be the same uses permitted in the underlying zoning district(s).

B. Clustered development shall be encouraged, and in certain cases required, in accordance with the provisions of § 280-282A of the Town of Hamburg Zoning Code.

C. The accessory uses permitted in the Lakeview Overlay District shall be the same assessment uses permitted in the underlying zoning district(s).

§ 280-176. Subdivision regulations

The division of lands, regardless of the zoning classification, shall be subject to Chapter 230, Subdivision of Land, of the Code of the Town of Hamburg. The following special regulations shall apply to all subdivision of lands within the Lakeview Overlay District:

A. Minor subdivisions.

(1) Minor subdivision plans must clearly depict all features identified in the Town of Hamburg Open Space/Recreation Plan and all other important environmental and cultural features in relation to the approximate locations of proposed homes and driveways on the property.

(2) Road frontage lots (lots fronting existing roads with each lot having its own driveway connecting to the existing road) are discouraged in minor subdivision layouts. If standard road frontage lots are proposed, the bulk requirements for frontage (building and front line) and lot size shall be increased by 25%, and these lots must be laid out to encourage the preservation of all important environmental and cultural features. (For example, in an RA District the bulk requirements for road frontage lots are amended to: lot area = 2.5 acres; lot width at building line = 250 feet; lot width at front line = 125 feet.)

(3) Areas with significant trees along the road frontage must be identified and preserved to the greatest extent practicable. Predetermined driveway and home locations, as required under § 280 176A(1), will help to minimize tree loss during construction. Penalties and/or replacement of trees will be imposed and enforced by the Building Inspector if unauthorized tree losses occur during construction.

(4) Creativity and flexibility in site design shall be encouraged, including variation in the configuration of lots (clustering) and building setbacks, as well as the utilization of conservation easements, deed restrictions, flag lots, common driveways, curved driveways, the preservation of stone walls and hedges, and the like.

(5) Where other creative site design techniques are proposed to preserve the rural character of the area, the Planning Board may allow for the reduction of bulk requirements by up to 25% to further accomplish these goals, as long as they met all health code requirements and do not increase the overall allowable density that would be allowed for the parcel under the existing zoning district requirements. All cluster development proposals shall comply with § 280-282 of the Town of Hamburg Zoning Code.

B. Major subdivisions.

(1) Major subdivision plans must clearly depict all features identified in the Town of Hamburg Open Space/Recreation Plan and all other important environmental and cultural features in relation to the locations of the proposed homes on the property.

(2) The subdivision must be laid out to incorporate all important natural and cultural features; these features must be preserved to the greatest extent practicable.

(3) Standard road frontage lots are highly discouraged. Where they are proposed, the following shall apply:

- a) The bulk requirements for frontage and lot size shall be increased by 50%.
- b) A minimum of 50 percent of all trees located in the front and side yard setback areas must be preserved.
- c) Penalties will be imposed and enforced by the Building Inspector for the unauthorized loss of trees during construction.
- d) All lots must be laid out to encourage the preservation of all identified environmental and cultural features.

(4) Clear cutting of trees for subdivision lots shall be prohibited. In accordance with the Town of Hamburg Tree Preservation Law, plans shall be submitted that clearly delineate those vegetated areas of the site that will be preserved and those areas that will be disturbed for the construction of homesites (including driveways, septic systems, lawns, etc.). No more than 1/2 acre of any building site shall be cleared for the construction of a single-family home. In cluster developments this requirement can be reduced by the Planning Board.

(5) All major subdivisions (in areas not having public sewers) must include the submission of percolation test results performed by a licensed engineer. If the results indicate that a standard or raised-bed subsurface wastewater disposal system cannot be used, the subdivision shall not be approved unless a public sewer system is available to the site.

(6) All proposed projects that include lands identified in the Town of Hamburg Open Space/Recreation Plan must submit a clustered site design layout that incorporates the preservation of all identified important natural and cultural features. All cluster developments must comply with the provision of § 280-282 of the Town of Hamburg Zoning Code.

(7) In certain cases, to preserve the rural character of the Lakeview Overlay District, the Town may allow the establishment of open development areas, pursuant to § 280-a, Subdivision (4) of the New York State Town Law.

(8) For properties that do not contain features identified in the Town of Hamburg Open Space/Recreation Plan, creativity and flexibility in site design shall be encouraged, including variation in the configuration of lots (clustering) and building setbacks, as well as the utilization of conservation easements, deed restrictions, flag lots, common driveways, curved driveways, the preservation of stone walls and hedges, and the like.

(9) Entrances to proposed subdivisions must be designed in a manner that will discourage extended views of the subdivision. Corner lots at entrance points shall front on the new entrance road and these homes will be set back a minimum of 100 feet from the intersection.

C. The Planning Board may waive or modify any requirements under this section where an undue hardship on the property owner is clearly demonstrated and, that in doing so, the intent and purpose of the district is not diminished.

[Amended 6-14-1999 by L.L. No. 5-1999]

§ 280-177. Other development requirements

A. Other residential development proposals must comply with the requirements established herein for major subdivisions.

B. Commercial development within the Lakeview Overlay District shall comply with the following restrictions:

(1) All commercial development shall be located in existing commercially zoned districts and limited to the hamlet section of the Lakeview area.

(2) The Town of Hamburg Planning Board shall encourage the creative reuse of existing commercially zoned properties.

(3) Proposed commercial structures shall be designed to preserve and continue the rural character and appearance of the hamlet. All site plan applications shall include perspective drawings to illustrate the proposed design.

ARTICLE XXX. Route 5 Overlay District

§ 280-198. Intent

In accordance with the recommendations and policies of the Town of Hamburg 2010 Comprehensive Plan and Local Waterfront Revitalization Program (LWRP), the purpose of this zoning overlay is to establish measures to improve the quality of development and aesthetics along the Route 5 corridor. Such measures are designed to improve business conditions and enhance economic development opportunities, while at the same time to restore and continue the traditional community character for this area of the Town. These regulations will also help to alleviate traffic congestion and highway safety concerns along this section of the Town's highway system to create a more pedestrian-friendly environment. This overlay will allow the Town to better manage development and the expansion of commercial uses along Route 5 and enrich the overall visual quality and quality of life of the area.

§ 280-199. Boundaries

This zoning overlay district shall encompass the corridor of New York State Route 5, also known as "Lake Shore Road," in the Town of Hamburg, extending southwest from the municipal boundary with the City of Lackawanna to the intersection with Old Lake Shore Road.

§ 280-200. Objectives

The special regulations and requirements contained herein, which govern all potential development and redevelopment with the boundaries of the Route 5 Overlay District, are founded upon the following objectives:

- A. Establish design regulations that encourage compatible building arrangements, size and form, character and landscaping to provide for a more livable, harmonious and diverse community environment.
- B. Development and redevelopment should be designed to create a sense of identity and redefine the character of the commercial areas along Route 5 as "destinations" rather than "drive throughs." Development and redevelopment in this area should reestablish, continue and preserve the character of these hamlet areas to revitalize the community environment.
- C. Ensure that new structures and structural modifications are designed at a scale that is conducive to the area and invites human interaction. Building designs, site improvements and amenities should be pedestrian-friendly to lend a feeling of hospitality and well-being to the area. Public gathering places, such as parks, promenades and plazas, should be an essential component of site design wherever possible.
- D. Development and redevelopment in the commercial hamlets should allow for diversity and include a mix of uses and services that generate activity and interest throughout the day, benefiting persons of all age groups and income levels.
- E. Landscaping and other such amenities should be included in site design to improve community aesthetics, protect views of Lake Erie, screen existing parking areas and other adverse views, provide shelter from the elements, and enhance public atmosphere and, where applicable, patron experience.

F. Whenever possible, natural vegetation and open space should be preserved to the greatest extent possible to provide a natural buffer between residential and business uses situated along Route 5 and to maintain and improve the aesthetic quality of the community.

G. Property maintenance and safety shall be promoted throughout the area to provide a prosperous and inviting area for the public.

H. Development and redevelopment shall be undertaken in a manner that lends protection to structures and properties of historic significance in the area. Demolition of existing structures that possess significant historic value or other elements that contribute to community character shall be discouraged. Building designs should emphasize styles that emulate existing historic character and nautical appeal.

I. The needs of pedestrians and shoppers, and the overall character of the area, should be placed above the needs of motorists through the appropriate placement and design of parking areas, points of ingress and egress, alleys and walkways. Site designs should avoid expansive areas of pavement and excessive curb cuts, unless deemed necessary for the general safety and welfare of the community.

J. Maintain and improve traffic conditions and the walkability and pedestrian circulation of the area as development and redevelopment take place.

K. Establish minimum requirements that recognize the need for safe and efficient traffic operations, which often appear to conflict with the objectives of developers; reduce the number of conflict points along Route 5 to better manage highway access.

§ 280-201. Imposition of underlying zoning restrictions

These overlay district regulations shall be superimposed over, and supplement, the underlying zoning restrictions.

Each use must conform to the development standards required by the underlying zoning district and other provisions of this chapter, as well as this overlay district, and the more stringent standards shall prevail.

§ 280-202. Permitted uses and accessory uses

Within the boundaries of the Route 5 Overlay District, the underlying allowable uses and accessory uses in the underlying zoning districts shall be as specified in this chapter.

§ 280-203. Site design provisions

A. Aesthetic and architectural features. The intent of the following design standards and provisions is to enhance the appearance of the built environment. By adding design detail, you can improve the character and appeal of the community and better define pedestrian linkages and areas for human activity. These improvements, in turn, can result in increased investment in the commercial districts, enhancement of property values, and overall enrichment of the quality of life in the area.

(1) All new buildings shall be set back not less than 15 feet nor more than 50 feet from the property line. This setback area shall be landscaped with grass, trees and shrubs. Parking areas may be allowed within this area at the discretion of the Planning Board.

- (2) A yard area measuring a minimum of five feet wide shall separate proposed parking areas from parking areas located on adjoining parcels.
- (3) Windows shall cover a minimum of 35% of any facade facing a roadway, but not exceed 75% of this area.
- (4) Refuse dumpsters or containers should be located at the rear of the property and must be properly gated and screened from view with wooden or another style of fencing acceptable to the Planning Board. These structures shall not be located less than 20 feet from adjoining residential properties.
- (5) Loading areas shall not face the road.
- (6) Flat-roofed structures are discouraged. Flat roofs shall be prohibited on buildings measuring less than 10,000 square feet.
- (7) Rooftop mechanics shall be screened from public view by the use of architecturally compatible materials and components.
- (8) Ground-level mechanical equipment shall be fully screened from public view through the use of landscaping, fencing or other design treatments compatible with the buildings.
- (9) Site design shall demonstrate architectural compatibility of buildings on the site, with consideration given to the appearance and style of surrounding uses. Building designs should emphasize a nautical theme.
- (10) Buildings identified to be of historic or distinctive character shall be preserved. The removal or disruption of historic, traditional or significant structures or architectural elements shall be discouraged.
- (11) All building facades that would be visible from roadways, parking areas or adjacent sites shall be architecturally designed to enhance aesthetic appearance.
- (12) Buildings shall be designed to eliminate long expanses of blank walls of a single color or texture.
- (13) The front facade of any building shall be constructed of brick, split block, stone, stucco or wood frame with cedar or lap siding or other materials acceptable to the Planning Board. The use of concrete block, cast-in-place concrete or cinder block is discouraged.
- (14) Buildings designed to advertise or promote a uniform corporate image shall be subject to the review and approval of the Planning Board.
- (15) Multi-user structures must be designed in such a way as to avoid the appearance of strip plaza development.
- (16) Elevations (minimum front and sides) and an architectural rendering with detailed drawings of façade treatments and selected building materials, specific to the proposed site, shall be submitted to the Planning Board for review and approval.
- (17) Outdoor storage areas are subject to the approval of the Planning Board.

(18) Sidewalks measuring no less than five feet in width shall be installed within the right-of-way frontage of the property to allow for adequate pedestrian activity.

(19) Sidewalks or paths should be included as a part of site design to assist with walkability. Where sites are adjacent to municipal sidewalks, they shall be connected with them.

(20) Pedestrian walkways shall be provided between buildings on a single site. Walkways shall also be incorporated into cross-access points.

(21) Pedestrian walkways shall be constructed of concrete or decorative brick or similar materials. The use of blacktop is discouraged.

(22) Walkways located within parking areas shall be properly striped or otherwise delineated.

B. Off-street parking. Off-street parking, loading and stacking areas or structures shall be calculated and designed as required by the underlying zoning, as specified by this chapter.

C. Landscaping; general. Landscaping and the preservation of natural vegetation facilitate the creation of an attractive and harmonious community. The intent of these standards and provisions is to preserve and create a healthful and pleasant setting that relieves the stark, blighted appearance of paved surfaces, provides shade, enhances views of Lake Erie, and improves the general appearance of the built environment. Discouraging the unnecessary clearing and disturbance of land, and encouraging the aesthetic improvement of site development through the use of trees and plantings and the preservation of natural areas, can result in the overall improvement of scenic quality and the stabilization and enhancement of property values and the business environment.

(1) A minimum ground area of not less than fifteen percent (15%) of the total lot area shall be preserved as open space and landscaping.

(2) Not less than 5% of the interior of a parking area designed for 20 cars or more shall be devoted to the required landscaping area and shall be distributed so as to prevent unsightliness and monotony of parked cars.

(3) The interior dimensions of any area or median shall be a minimum of seven feet wide to ensure the proper growth of materials planted therein.

(4) All existing trees larger than 8 inches in diameter, as measured three feet above grade, shall not be removed without prior Planning Board approval. All groups of trees and other natural vegetation shall be incorporated onto the landscaping plan, where feasible. Efforts shall be made to preserve these features, particularly along rear lot lines.

(5) A minimum of one tree per 30 feet of frontage shall be planted in the required front yard setback area. Additional trees shall be planted throughout the developed area at a ratio of one tree per 30 feet of side yard and rear yard dimensions. Trees along the side and rear lot lines may be evenly spaced or clustered together to break up the monotony of the design.

(6) On all lots that do not have an existing vegetated buffer along the rear lot line, the applicant shall vegetate this area with new shrubs and trees, and natural berming or screen fencing at the discretion of the Planning Board.

(7) Landscape treatments shall be designed as an integral part of the entire development. Existing natural features and vegetation shall be preserved and incorporated into the landscaped areas wherever possible.

(8) All trees planted shall have a minimum caliper of 2 1/2 inches as measured six inches above the ground.

(9) Plastic or other types of artificial plantings or vegetation shall not be permitted.

(10) The primary emphasis of the landscape treatment shall be on trees, and efforts shall be made to preserve existing trees. Shrubbery, hedges, grass and other vegetation should be used to complement the use of trees, but shall not be the sole contribution to the landscape treatment.

(11) Parking, loading and stacking areas and driveways located adjacent to residential districts shall be landscaped by screening and/or buffering. Such screening or buffering shall be so designed that a person standing on the adjacent residential parcel on the minimum setback line, five feet above the average finished grade, would not be able to perceive by eye any uses, activities or automobile lights originating from these areas or driveways. This may be accomplished through the use of various measures, such as fencing, planted materials, earthen berms or any combination thereof. Such measures shall be applied within the required side and rear yards.

(12) All landscaped areas required or permitted by this section shall be maintained and preserved according to the plan as originally approved or amended by the Planning Board. Flora that dies shall be replaced within the next planting season with plantings of a similar nature.

(13) The Planning Board, as a part of site plan review, may reduce the minimum number of off-street parking spaces required by this chapter by not more than 10%, provided that the land areas so removed are not used to meet the landscaped area herein required and is used exclusively for additional landscaping or open space in accordance with the standards and criteria outlined herein. If at any time thereafter the Planning Board determines that the land area so removed is needed to provide necessary off-street parking, it may order the installation thereof. Any certificate of occupancy issued for any parking area and the building serviced thereby shall be deemed conditional upon the possible requirement for the future installation of additional parking, upon such order by the Planning Board. Failure to comply with such an order within the time fixed thereby shall constitute a violation of this chapter.

D. Signage; general. By lending attention to signage and the visual appearance of signs you can provide for a more enjoyable and scenic community. The intent of the following standards and provisions is to protect and improve property values, create a more attractive economic and business environment and reduce distractions and obstructions that can disrupt the visual appeal of a commercial district. These provisions are aimed at creating a more pleasant and uniform visual setting and eliminating the chaotic and haphazard design, orientation and placement of signage that can result in scenic blight. Signage should be designed at a human scale and in relation to a walkable commercial district.

(1) No sign shall be placed on public property or in the public right-of-way unless specifically authorized.

- (2) No freestanding sign shall be erected on any property with less than 30 feet of frontage.
- (3) No sign shall be erected in such a manner as to obstruct free egress from a window, door or fire escape or so as to become a menace to life, health or property.
- (4) No sign shall be erected in such a manner as to prevent the driver of any vehicle from having a clear and unobstructed view of any official sign(s), any entrance or exit roadway, any intersection, or approaching or merging traffic.
- (5) Proposed signage shall be considered in conjunction with existing signage in the vicinity to ensure compatibility with existing conditions and adherence to the intent of this district.
- (6) No signs, except such directional devices as may be required by the federal aeronautical authorities, shall be placed, inscribed or supported on the roof or above the highest part of the roofline.
- (7) Electronic signboards, when permitted by the Planning Board, shall be used to report the time and temperature only.
- (8) Signs shall be internally lit; no neon lighting or backlit canopies shall be permitted.
- (9) Ground-level/monument signage is recommended. In no case shall such signage exceed four feet above grade level or be greater than 60 square feet in area.
- (10) Pole signs shall not exceed 12 feet in height, with the lowest member (excluding the pole) not less than six feet above finished grade.
- (11) Street address numbers shall be posted on all buildings.
- (12) Awning and unlit canopy signs shall contain only the name, logo and street number of the enterprise.
- (13) Wall signs shall not exceed more than 50 square feet in area or cover more than 20% of the wall.
- (14) The appearance and placement of signage shall be subject to Planning Board discretion as part of the site plan review process.
- (15) In addition to the above noted provisions, all signage shall comply with the standards outlined in Article XXXVI, Sign Regulations, of this chapter.

E. Site lighting; General. It is the intent of these standards and provisions to prevent, reduce or eliminate the problems created by improperly designed and installed outdoor lighting. These provisions are intended to eliminate problems of glare, minimize light trespass and help to reduce energy usage and the financial costs of outdoor lighting by establishing standards that limit the area that certain kinds of outdoor lighting fixtures can illuminate and by limiting the total allowable illumination of properties located in the overlay district. The purpose of these standards is to ensure that outdoor lighting does not interfere with the reasonable use and enjoyment of property and to encourage lighting practices that will prevent light pollution by reducing upright, glare and overlighting. These regulations are also

intended to provide for the safe movement of traffic, for satisfactory vision for pedestrians and for the guidance of both vehicles and pedestrians.

- (1) Lighting design shall not create a nuisance to adjacent residences.
- (2) Pole-mounted lighting shall not exceed a total height of 15 feet from finished grade to the top of the fixture.
- (3) Lighting illumination levels shall not exceed six lux / 0.6 footcandles.
- (4) All external lighting sources shall be designed and shielded to avoid hazardous interference and direct glare onto adjacent streets and properties.
- (5) The lenses in pole- and wall-mounted lighting shall be recessed to control the adverse impacts of light spill out and glare.
- (6) A mixture of lamp types on the same site shall be avoided.
- (7) To provide optimum color rendition, lamps are preferred in the following order: high-pressure sodium, metal halide, low-pressure sodium.
- (8) Parking area lighting fixtures shall not be illuminated after 11:00 p.m., unless otherwise approved by the Planning Board, and shall be designed to illuminate the parking area only.
- (9) Security lighting and other building lighting will be allowed to operate as long as it does not create a nuisance to adjacent residences.
- (10) The appearance and placement of lighting shall be subject to Planning Board discretion as part of the site plan approval process. Lighting plans shall be submitted and must include illumination footprints for review by the Planning Board.

F. Access management.

- (1) General. One of the most important objectives of access management is reducing the potential for conflicts, particularly along the most heavily traveled roads. The best methods for achieving a reduction in conflicts are reducing the number of conflict points and separating through- from local traffic. Land use development and transportation can be brought into balance, and conflicts can be reduced, through appropriate limitations on the number of driveways and the enforcement of driveway and corner clearance standards.
 - (a) The site layout, location and design of driveways and parking areas should be based on full build-out of the parcel. Future subdivision of the parcel or any future action that is contrary to an approved plan cannot occur without prior Planning Board approval.
 - (b) Properties with frontage on two or more roads do not have the right to driveway access to all such roads.
 - (c) Driveways may be required to be located so as to provide shared access and/or cross-access with an abutting parcel or properties.

- [1] Shared driveways and/or cross-access driveways shall be of sufficient width (minimum 20 feet) to accommodate two-way travel for automobiles and for service and loading vehicles.
- [2] Shared driveways, cross-access driveways, interconnected parking, and private roads constructed to provide access to properties internal to a subdivision shall be recorded as an easements and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities shall also be recorded with the deed, where applicable.
- (d) Driveway spacing standards shall apply to driveways located on the same side of the road and shall be measured along the road from the center line of the driveway pavement to the center line of the next driveway.
- (e) Curb cuts and driveway spacing for new development or redevelopment will be evaluated by the Planning Board on a case-by-case basis to reduce conflicts and ensure traffic safety and efficiency. In certain cases, minimum spacing requirements, as deemed appropriate by the Planning Board and that comply with established state standards, shall be applied as follows:
- (2) Corner clearance. Corner properties present special problems because they are extremely attractive to high volume peak-hour traffic businesses whose designs often create conflict areas that overlap with the conflict area of the intersection.
- (a) Corner clearance is to be measured along the road from the center line of the driveway pavement to the closest edge of the road pavement. Where road widening is planned or anticipated in the future, corner clearance should be increased to provide for the width of the additional lane.
- (b) Driveways for corner properties shall meet or exceed the minimum corner clearance requirements as follows:

Minimum Corner Clearance Requirements

<u>Type of Access</u>	<u>Minimum Clearance (feet)</u>
For partial access, right turns in and/or out only	100
For full access, all directional movements	220

- (c) Driveways should be located outside of the functional area of the intersection or, if this is not possible, driveways should be placed as far as possible from the intersection.
- (d) Cross-access to adjoining properties should be encouraged to the greatest extent possible.
- (3) Driveway location.
- (a) Driveway location will be based on a site plan that has been approved by the Town Planning Board in consultation with the Town Engineer and, where appropriate, the Town Highway Superintendent.

(b) Driveways shall be located so as to meet or exceed the minimum driveway spacing standards and the minimum corner clearance standards.

(c) The Town Planning Board may allow the location of driveways at less than the minimum driveway spacing standards and corner clearance standards if:

[1] A dual-driveway system, cross access driveway system or shared driveway is proposed and this improves the safe and efficient movement of traffic between the parcel and the road;

[2] A driveway or driveways could be located so as to meet the minimum driveway spacing standards and corner clearance standards, but the characteristics of the parcel or the physical or operational characteristics of the road are such that a change of location will improve the safe and efficient movement of traffic between the parcel and the road; or

[3] Conformance with the driveway spacing standards or corner clearance standards imposes undue and exceptional hardship on the property owner.

(d) For properties unable to meet the minimum driveway spacing standards or corner clearance standards, a temporary driveway may be granted. The granting of a temporary driveway will be conditioned on obtaining a shared driveway, cross-access driveway or unified parking and circulation with an adjoining parcel, and closure of the temporary driveway in the future.

§ 280-204. Definitions

As used in this article, the following terms shall have the meanings indicated:

ACCESS

A way or means of approach to provide vehicular or pedestrian entrance or exit to a property.

ACCESS CONNECTION

Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public road system.

ACCESS MANAGEMENT

The process of providing and managing access to land development while preserving the flow of traffic in terms of safety, capacity and speed.

AWNING

A roof-like covering of canvas or other flexible material that extends from the wall of a building.

CANOPY

A roof-like covering of metal or other rigid material that extends from the wall of a building.

CORNER CLEARANCE

The distance from an intersection of a public or private road to the nearest access connection.

DRIVEWAY

Any entrance or exit used by vehicular traffic to or from land or buildings abutting a road.

ELECTRONIC SIGN BOARD

An electronically powered sign with continually changing presentations or moving text and characters that scroll across or flash on the sign fascia.

FUNCTIONAL AREA (INTERSECTION)

The area beyond the physical intersection of two roads that comprises decision and maneuver distance plus any required vehicle storage length.

LANDSCAPE SERVICES

Any use or establishment that provides off-site landscaping services requiring the use of machinery, equipment, trucks and other appurtenances that must be stored on the premises.

NONCONFORMING ACCESS

Features of the access system of a parcel that existed prior to the effective date of this chapter and that do not conform to the requirements of this chapter.

PARCEL

A division of land comprised of one or more lots in contiguous ownership.

REASONABLE ACCESS

The minimum number of access connections, direct or indirect, necessary to provide safe access to and from a public road, as consistent with the purpose and intent of this article and any other applicable plans and policies of the Town.

ROAD

A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, avenue or boulevard, lane, cul-de-sac, place, or otherwise designated, and includes the entire area within the right-of-way.

SERVICE ROAD (also ACCESS ROAD)

A public or private road, auxiliary to and normally located parallel to a controlled access facility, that maintains local road continuity and provides access to parcels adjacent to the controlled-access facility.

SHARED DRIVEWAY

A driveway connecting two or more contiguous parcels to the public road system.

STRIP PLAZA

A structure that houses three or more commercial businesses located along a highway or on a large site that may contain other commercial facilities.

TEMPORARY ACCESS

Provision of direct access to a road until that time when adjacent properties develop, in accordance with a joint access agreement or frontage road plan.

§ 280-205. Modification of requirements; referral to other agencies

A. The Planning Board may waive or modify any design requirements under this article of Chapter 280, as long as it does not diminish the intent and purpose of the District and does not infringe upon the authority of the Zoning Board of Appeals.

B. All projects requiring Planning Board approval must be referred to the Shoreline Revitalization Committee and the Traffic Safety Advisory Board.

ARTICLE XXXI. PR Park/Recreation Lands District

[Added 4-22-2002 by L.L. No. 4-2002]

§ 280-206. Intent

The intent of the Park/Recreation Lands District is to provide a special zoning classification for passive and active recreational facilities, including both public and privately owned properties, in order to ensure the proper location and protection of recreational lands.

§ 280-207. Permitted uses

The following uses are permitted in the Park Lands District

A. Principal structures and uses:

- (1) Publicly owned recreation uses (passive and active).
- (2) Privately owned passive recreational uses such as conservation areas and public education facilities relating to the environment.
- (3) Wildlife reservations and sanctuaries, including related structures (fishing areas, ponds, etc.).
- (4) The following recreational uses, both public and private (special use permit required):
 - (a) Golf courses and country clubs.
 - (b) Sportsman and gun clubs.
 - (c) Tennis, racquetball and handball facilities.
 - (d) Ice-skating facilities.
 - (e) Basketball, baseball, football, soccer, volleyball, lacrosse and other field sport facilities.
 - (f) Picnic grounds, and groves, for which a fee or rental is charged.
- (5) Beaches.

B. Accessory structures and/or uses:

- (1) Uses and structures customarily incidental to the above.
- (2) Residence of custodian or staff. this chapter.
- (4) Landscaping, as directed by the Planning Board.
- (5) Signs, as permitted by Article XXXVI of this chapter.
- (6) Other related environmental/passive uses.

§ 280-208. Minimum lot size

Unless otherwise provided, the minimum lot size in the PR District shall be as specified in this section.

A. The area or parcel of land for a permitted public facility use shall be as required to provide a site adequate for the main and accessory buildings, off-street parking, loading and stacking, landscaping and other accessory uses, yards and open spaces.

B. Maximum lot coverage by structures: as use, yard, off-street parking, loading and stacking and landscaping requirements permit.

§ 280-209. Required yards

Unless otherwise provided, the minimum required yards and other open spaces in the PR District shall be specified in this section.

A. Front yard: 50 feet.

B. Side yard:

(1) Along an R District boundary: 25 feet.

(2) Along a nonresidential district boundary: 15 feet.

C. Rear yard:

(1) Along an R District boundary: 50 feet.

(2) Along a non-residential district boundary: 15 feet.

§ 280-210. Maximum height of buildings

Unless otherwise permitted, the maximum height of buildings in a PR District shall be as specified in this section.

A. Maximum: 35 feet.

§ 280-211. Other regulations

A. Boundary treatment. Fences, walls, plantings or other screening materials may be required to provide visual screening between adjacent structures and uses and parking or other areas or uses on the parcel.

B. Outdoor recreation activities shall not be permitted within 150 feet of an abutting residential district, except for Town-owned land.

§ 280-212. Off-street parking

For applicable off-street parking regulations, see Article XXXII.

§ 280-213. Signs

For applicable sign regulations, see Article XXXVI.

§ 280-214. Supplemental regulations

For applicable supplemental regulations pertaining to use, height, area or open space, see Article XXXIX.

Appendix C - State Designated Significant Coastal Fish and Wildlife Habitats

COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area:	Eighteen Mile Creek - Lake Erie
Designated:	October 15, 1987
County:	Erie
Town(s):	Evans, Hamburg
7½' Quadrangle(s):	Eden, NY

Score	Criterion
25	Ecosystem Rarity (ER) One of the two largest New York State tributaries of Lake Erie; relatively undisturbed streams of this size that provide habitat for lake-based fisheries are rare in the Great Lakes Plain ecological region.
0	Species Vulnerability (SV) No endangered, threatened or special concern species reside in the area.
9	Human Use (HU) One of the most popular fishing areas in western New York.
6	Population Level (PL) One of the top 4 salmonid spawning streams among Lake Erie tributaries; geometric mean: $(4 \times 9)^{\frac{1}{2}}$
1.2	Replaceability (R) Irreplaceable.

SIGNIFICANCE VALUE = $[(ER + SV + HU + PL) \times R] = 48$

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM

BACKGROUND

New York State's Coastal Management Program (CMP) includes a total of 44 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local waterfront revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." 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. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative, along with its accompanying map, constitutes a record of the basis for this significant coastal fish and wildlife habitat's designation and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant coastal habitats policy.

DESIGNATED HABITAT: EIGHTEEN MILE CREEK

LOCATION AND DESCRIPTION OF HABITAT:

Eighteen Mile Creek empties into Lake Erie at the hamlet of Highland-on-the-Lake, on the boundary between the Towns of Hamburg and Evans, Erie County. The fish and wildlife habitat extends approximately five miles from Lake Erie to the confluence of the Main and South Branches of the creek, through the Towns of Hamburg, Evans, and Eden (7.5' Quadrangle: Eden, N.Y.). Eighteen Mile Creek is a large, meandering, warmwater stream, with predominantly rock and gravel substrates. The creek drains approximately 120 square miles of agricultural land, rural residential areas, and forested hills. Eighteen Mile Creek is situated in a steep sided, undeveloped, wooded gorge, characterized by shale cliffs (70-100 feet high) and mature deciduous forest. The lower half-mile of Eighteen Mile Creek is low gradient, occupying a broad, undisturbed, floodplain.

FISH AND WILDLIFE VALUES:

Eighteen Mile Creek is the second largest tributary of Lake Erie in New York State, and there are few comparable streams in the Great Lakes Plain ecological region. Undisturbed tributary streams that provide habitat for major spawning runs by salmonids and other lake-based fish populations are especially important in this region. Eighteen Mile Creek is particularly significant because large concentrations of coho salmon, chinook salmon and brown trout migrate from Lake Erie into the creek each fall, from late August through December (September-November, primarily), when salmonids ascend the streams to spawn (although unsuccessfully in most instances). In addition, steelhead (lake-run rainbow trout) migrate into Eighteen Mile Creek during the fall and between late February and April. Runs of trout and salmon occur beyond the junction of the Main and South Branches of the creek, but population levels are not well developed above this point. These fish populations are the result of an ongoing effort by the NYSDEC to establish a major salmonid fishery in the Great Lakes through stocking. In 1984, approximately 40,000 coho salmon, and 18,000 steelhead were released in Eighteen Mile Creek. Among New York's Lake Erie tributaries, Eighteen Mile Creek ranked third for numbers of salmonids stocked in 1984; the creek was one of only four in the region that received steelhead. Eighteen Mile Creek also supports substantial natural reproduction by smallmouth bass, and has runs of various lake-dwelling species, such as white sucker, carp, freshwater drum, and brown bullhead. Black redhorse (SC) were reported at the mouth of the creek in the 1920's, but this species has not since been confirmed in the area.

Eighteen Mile Creek provides a major salmonid fishery to anglers in the Lake Erie coastal region. Although access is somewhat limited by the surrounding topo-graphy, the stream received an estimated 3,800 angler trips during September and October 1982. Smallmouth bass fishing also attracts local anglers to the area in early summer.

IMPACT ASSESSMENT:

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 the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific **habitat impairment test** 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 physical alteration, disturbance, or pollution of a designated area or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

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

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

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

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

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Any activity that substantially degrades water quality, increases temperature or turbidity, reduces flows, or alters water depths in Eighteen Mile Creek would adversely impact on the fisheries resources of this area. These impacts would be most detrimental during spawning period, and in the spring after salmonids are stocked in the creek. Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides) would adversely impact on fish populations. Of particular concern are the potential effects of upstream disturbances, including water withdrawals, impoundments, stream bed disturbances, and effluent discharges. Barriers to fish migration, whether physical or chemical, would have a significant impact on fish populations in the creek. Development of hydroelectric facilities on the creek should only be permitted with run-of-river operations. Existing woodlands bordering Eighteen Mile Creek and its tributaries should be maintained to provide bank cover, soil stabilization, and buffer areas. Development of additional public access to the creek may be desirable to ensure that adequate opportunities for compatible human uses of the fisheries resources are available. However, installation of breakwalls or jetties to create a "harbor of refuge" could induce substantial development of this unusual natural area, directly resulting in the loss of habitat values.

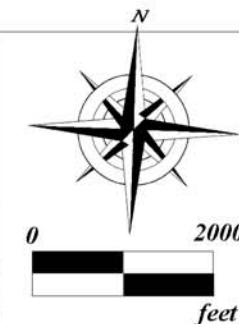
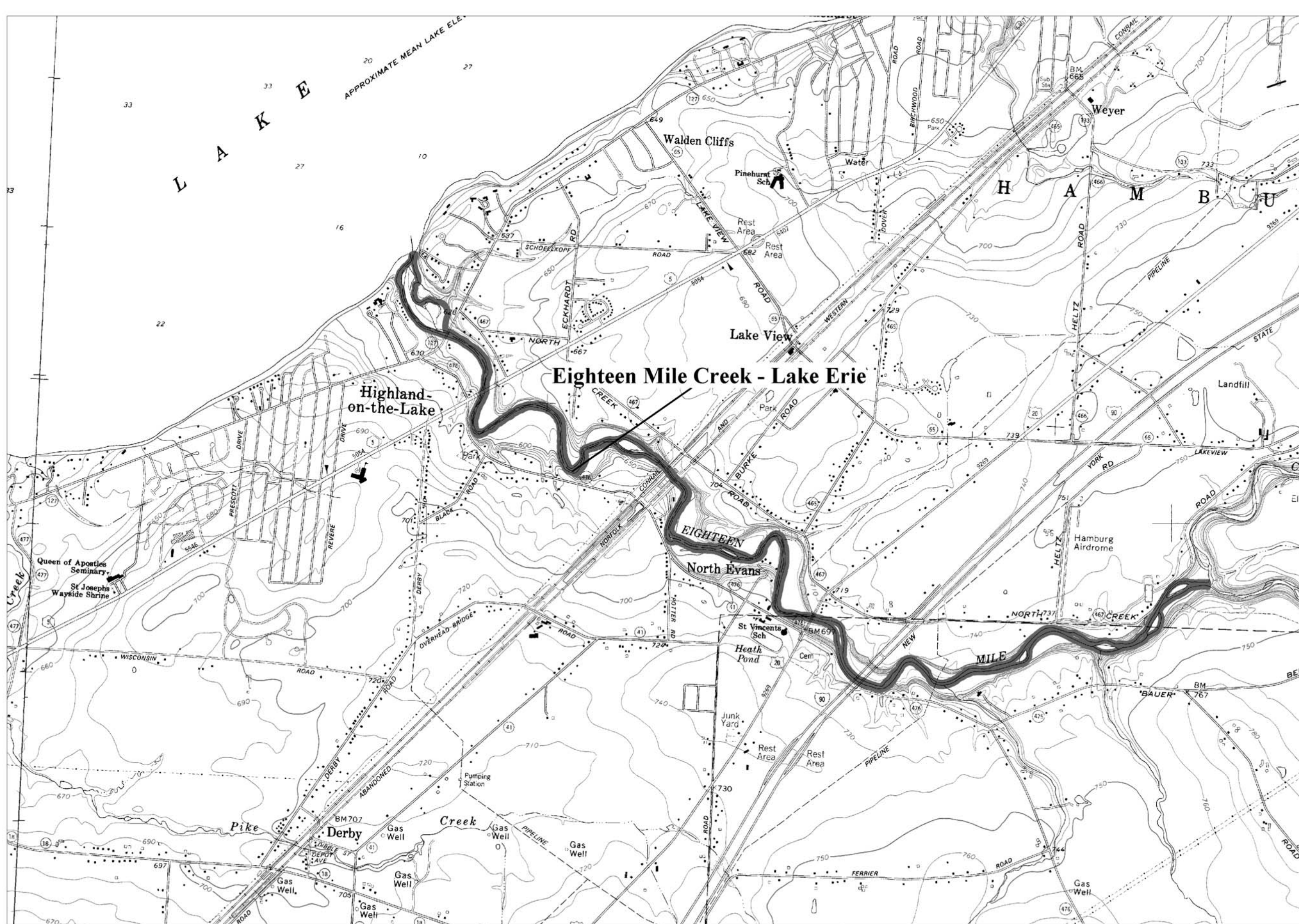
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Significant Coastal Fish and Wildlife Habitats

Eighteen Mile Creek - Lake Erie

New York State
Department of State



Division of
Coastal Resources

COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: **Smoke Creek Shoals**
Designated: **October 15, 1987**
County: **Erie**
Town(s): **Lackawanna, Hamburg**
7½' Quadrangle(s): **Buffalo SE, NY**

<u>Score</u>	<u>Criterion</u>
--------------	------------------

- | | |
|------------|---|
| 9 | Ecosystem Rarity (ER)
Relatively large, shallow, gravel and rubble shoal, uncommon in Erie County. |
| 0 | Species Vulnerability (SV)
No endangered, threatened or special concern species reside in the area. |
| 4 | Human Use (HU)
Recreational fishery for walleye attracts many anglers from throughout Erie County. |
| 4 | Population Level (PL)
Recreational fishery for walleye attract many anglers from throughout Erie County. |
| 1.0 | Replaceability (R)
Uncertain of ability to replace the habitat or population level. |

SIGNIFICANCE VALUE = [(ER + SV + HU + PL) X R] = **17**

**SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM**

BACKGROUND

New York State's Coastal Management Program (CMP) includes a total of 44 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local waterfront revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." 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. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative, along with its accompanying map, constitutes a record of the basis for this significant coastal fish and wildlife habitat's designation and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant coastal habitats policy.

DESIGNATED HABITAT: SMOKE CREEK SHOALS

LOCATION AND DESCRIPTION OF HABITAT:

Smoke Creek shoals is located on the shoreline of Lake Erie, on the boundary between the City of Lackawanna and the Town of Hamburg, Erie County (7.5' Quadrangle: Buffalo SE, N.Y.). The fish and wildlife habitat is an approximate 500 acre area of open water, generally located within a one-half mile radius of the mouth of Smoke Creek. This area encompasses a broad, productive, littoral zone, where water depths are generally less than 20 feet below mean low water, and the bottom substrate is a mixture of sand, gravel, and rubble. The entire shoreline bordering Smoke Creek Shoals has been modified through filling or bulkheading in conjunction with adjacent industrial development (steel mills). Smoke Creek drains approximately 33 square miles of industrial, residential and abandoned agricultural land, and much of the channel has been modified for flood control purposes.

FISH AND WILDLIFE VALUES:

Smoke Creek Shoals is one of only a few sizeable areas of relatively shallow, gravelly shoals in the Erie County portion of Lake Erie. Apparently, wave action and inflows from Smoke Creek provide adequate water circulation in the area to prevent siltation of the bottom substrate. This extensive littoral zone probably serves as an important spawning area for a variety of warmwater fish species, especially walleye, along with yellow perch and smallmouth bass. Observations of walleye in and around the mouth of Smoke Creek during the spawning period (mid-march - early May, generally) suggest that the adjacent shoals attract a major lake-spawning concentration. Concentration areas such as this are unusual in Erie County. Walleye entered Smoke Creek to spawn in 1985 but did not appear to be successful.

As a result of the abundant walleye population at Smoke Creek Shoals, this area attracts significant recreational fishing pressure during late spring and early summer, primarily by residents of the Buffalo metropolitan area. Boat access to the fishery is available from the Small Boat Harbor in Buffalo.

Reproduction of walleye at Smoke Creek Shoals may also contribute to the Lake Erie commercial fishery for this species, located farther offshore in waters greater than 55 feet deep.

IMPACT ASSESSMENT:

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 the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific **habitat impairment test** 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 physical alteration, disturbance, or pollution of a designated area or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

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

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

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

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

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Any activity that substantially degrades water quality, increases temperature or turbidity, alters water depths, or reduces physical diversity of bottom substrates at Smoke Creek Shoals would affect the fisheries resources of this area. Discharges of sewage, stormwater runoff, or industrial wastewater, containing heavy sediment loads or chemical pollutants would result in adverse impacts on fish populations. Activities such as dredging, oil and gas drilling, and solid waste disposal are all potential causes of permanent habitat degradation. Construction of breakwalls or jetties in the area would increase sedimentation, resulting in loss of suitable spawning habitat of walleye. Temporary habitat disturbances would be most detrimental during fish spawning and nursery periods (mid-March - July for most warmwater species); any unavoidable human disturbance of the littoral zone should be scheduled during fall or winter to minimize potential impacts on fisheries use of the area. Thermal discharges, depending on time of year, would also have adverse effects on fish populations in the area, since spawning activities and survival are directly affected by water temperature. 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.

KNOWLEDGEABLE CONTACTS:

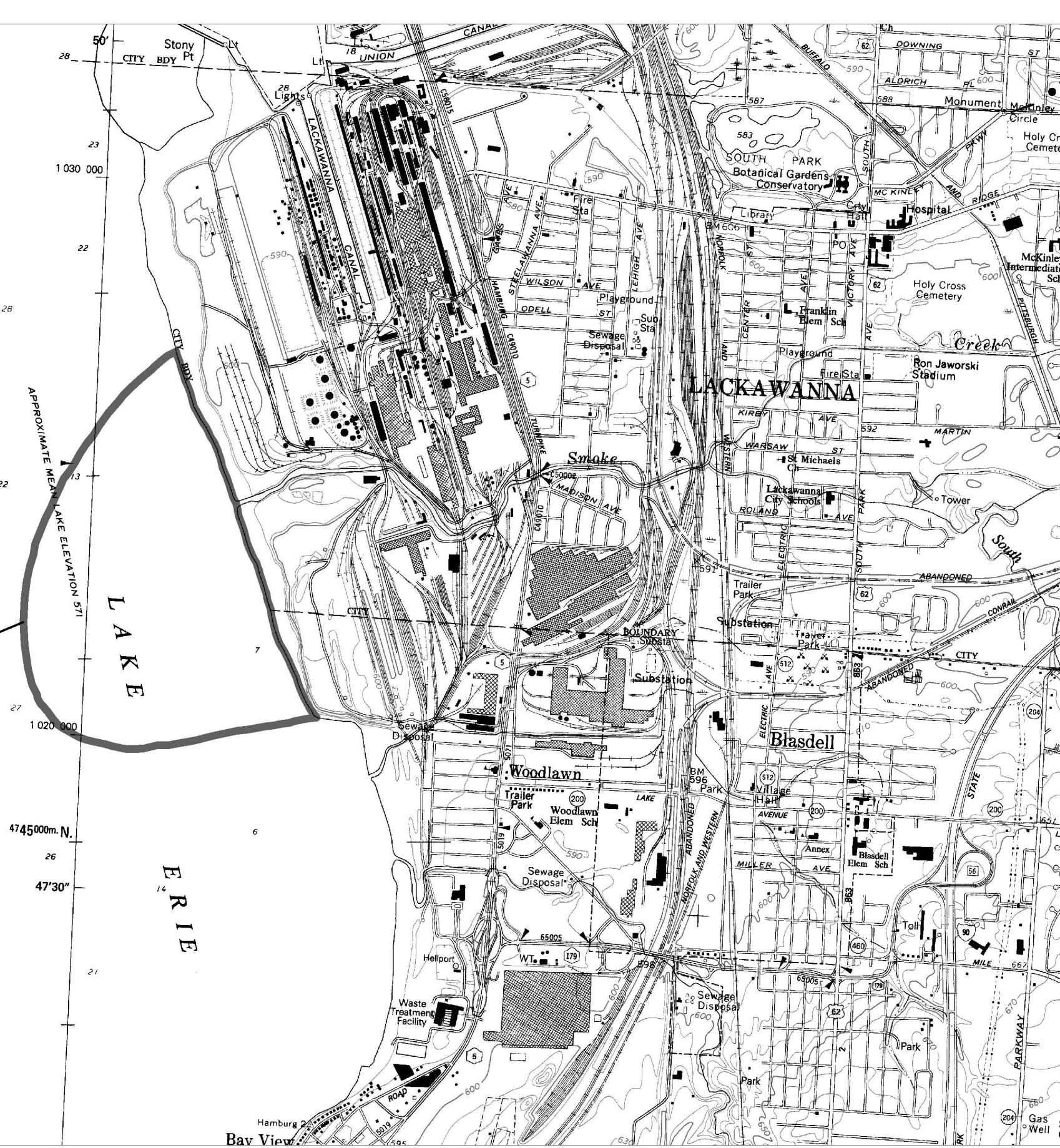
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New York State
Department of State

Your coast, your future

NYS Coasts

COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: **Seneca Shoals**
Designated: **October 15, 1987**
County: **Erie**
Town(s): **Three miles west of Hamburg**
7½' Quadrangle(s): **NOAA Chart # 14822**

<u>Score</u>	<u>Criterion</u>
--------------	------------------

- | | |
|------------|---|
| 20 | Ecosystem Rarity (ER)
Large, shallow, offshore shoal area; rare in the Great Lakes Plain ecological region, especially Lake Erie. Geometric mean: $(16 \times 25)^{1/2}$ |
| 0 | Species Vulnerability (SV)
No endangered, threatened or special concern species reside in the area. |
| 9 | Human Use (HU)
One of the most popular recreational fishing areas in New York's portion of Lake Erie. |
| 6 | Population Level (PL)
Concentrations of smallmouth bass and other warmwater species are unusual in New York's Lake Erie waters. Geometric mean: $(4 \times 9)^{1/2}$ |
| 1.0 | Replaceability (R)
Due to the size of this area, costs for replacement may be prohibitive. |

SIGNIFICANCE VALUE = $[(ER + SV + HU + PL) \times R] = 35$

**SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM**

BACKGROUND

New York State's Coastal Management Program (CMP) includes a total of 44 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local waterfront revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." 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. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative, along with its accompanying map, constitutes a record of the basis for this significant coastal fish and wildlife habitat's designation and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant coastal habitats policy.

DESIGNATED HABITAT: SENECA SHOALS

LOCATION AND DESCRIPTION OF HABITAT:

Seneca Shoals is located in the waters of Lake Erie, approximately three miles west of the hamlet of Woodlawn, in the Town of Hamburg, in Erie County (NOAA National Ocean Survey Chart No. 14822). The fish and wildlife habitat is an approximate 400 acre, rocky, underwater ridge. Water depths over the shoals range from approximately 12 to 30 feet. The surrounding waters are up to 50 feet deep, and commercial navigation corridors are located to the north of this area. Seneca Shoals is owned by the New York State Office of General Services.

FISH AND WILDLIFE VALUES:

Seneca Shoals is one of the few relatively large, shallow offshore areas in the New York portion of Lake Erie. The availability of extensive rock, ledge, and cobble substrates away from the heavily scoured shoreline provide favorable spawning habitats for a variety of warmwater fish species. Seneca Shoals is believed to be a major spawning area for populations of smallmouth bass, walleye, yellow perch, rock bass, and other panfish. As a result of the abundant fisheries resources around Seneca Shoals, and its proximity to the Buffalo metropolitan area, this is one of the most popular recreational fishing sites in Lake Erie. Anglers from throughout western New York are attracted to the area. In addition, reproduction of walleye and yellow perch at Seneca Shoals probably contributes significantly to local commercial fisheries for these species, located farther offshore in waters greater than 55 feet deep.

IMPACT ASSESSMENT:

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 the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

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

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

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

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

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

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Any activity that substantially degrades water quality, increases temperature or turbidity, or reduces physical diversity of bottom substrates around Seneca Shoals would affect the fisheries resources of this area. Activities such as dredging, oil and gas drilling, and waste disposal are all potential causes of permanent habitat degradation. Temporary habitat disturbances would be most detrimental during fish spawning and nursery periods (mid-March - July for most warmwater species). Any unavoidable human disturbance of the littoral zone should be scheduled during late summer or fall to minimize potential impacts on fisheries in the area. Thermal discharges, depending on time of year, may also have adverse effects on fish populations, especially walleye. Installation and operation of water intakes near Seneca Shoals could have a significant impact on fish concentrations, through impingement of juveniles and adults, or entrainment of eggs and larval stages.

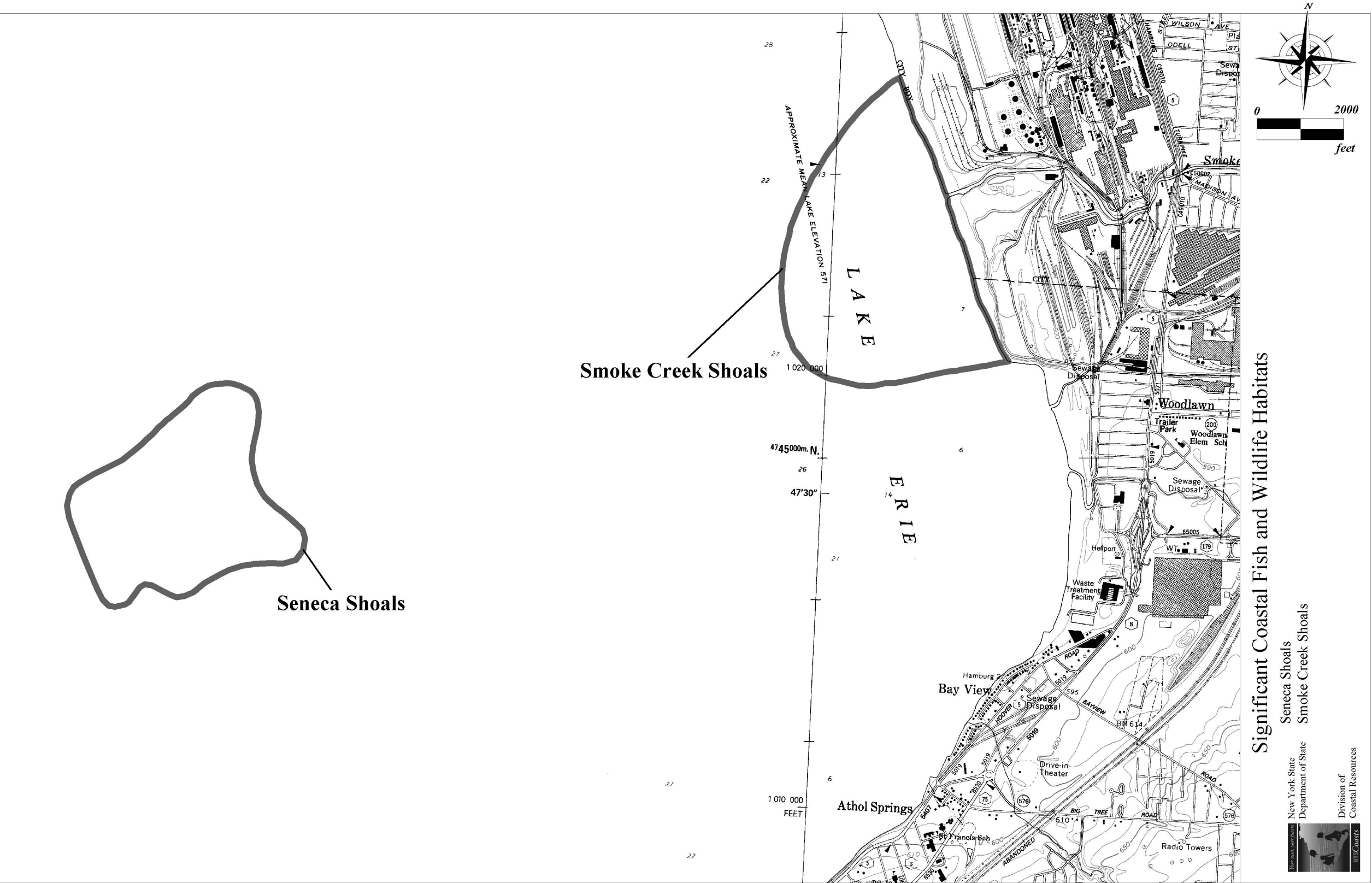
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Appendix D – Aerial Photographs of the Shoreline



Sub-Area 1

1 - Woodlawn Beach and the wastewater treatment plant



Sub-Area 1

2 - North end of Hoover Road - area suitable for transition from industrial use to marine commercial



Sub-Area 1

3 - Shoreline protection at Hoover Beach



Sub-Area 1

4 - Hoover Beach, south of Foster Brook



Sub-Area 1

5 - Terminus of Hoover Road, at Big Tree Road and Rte 5, showing Hoak's Restaurant and the Route 5 seawall



Sub-Area 1

6 - Foit's property, showing transition from beach to rock ledge shoreline



Sub-Area 2

7 - Riprap along Lake Shore Road (Rte 5), north of the Town Beach



Sub-Area 2

8 - Town Beach



Sub-Area 2

9 - South of Town Beach near Mt. Vernon Blvd., transition to steep rock bluff



Sub-Area 2

10 - Mouth of Berricks Creek, bluff with some beach and minor shoreline alteration



Sub-Area 2

11 - Shoreline protection structures and shoreline alteration, south of Norton Drive



Sub-Area 2

12 - Closer view of shoreline protection, south of Norton Drive



Sub-Area 2

13 - Area of extensive concrete seawalls, with limited rocky beach in some areas



Sub-Area 2

14 - Seaway Trail Visitor's Center, with stone riprap along bluff face



Sub-Area 2

15 - Seawalls and beachfront, south of Seaway Trail Visitor's Center



Sub-Area 2

16 - Low-lying beachfront, with evidence of former jetty use



Sub-Area 2

17 - Re-emergence of steeper bluff, with no beach (north of Wanakah Country Club)



Sub-Area 2

18 - Return of seawall usage, with some limited beachfront (seaward of Country Club)



Sub-Area 3

19 - Low-lying beach, with boat ramps and low seawalls, south of Pleasant Avenue



Sub-Area 3

20 - Re-emergence of steep rock bluff with lies immediately seaward of Old Lake Shore Road



Sub-Area 3

21 - Area of steep bluff, with narrow rocky beach along Old Lake Shore Road



Sub-Area 3

22 - Gradual reduction in bluff, with increase in shoreline vegetation (no shoreline protection)



Sub-Area 3

23 - Transition to lower bluff and wider beachfront, where Old Lake Shore Road moves inland



Sub-Area 3

24 - Return of shoreline protection structures, including seawalls and stone riprap



Sub-Area 3

25 - Higher bluffs give way to rocky beach area, height precludes the hardening of the shoreline



Sub-Area 3

26 - High, modulating bluff, with no beach area, (moving south of Lakeview Road)



Sub-Area 3

27 - Continuance of steep bluff, with a few shoreline structures



Sub-Area 3

28 - Gradual reduction in bluff height giving way to wide beachfront and increased vegetation



Sub-Area 3

29 - Approaching the mouth of Eighteen-Mile Creek, steeper bluff and wide beachfront



Sub-Area 3

30 - Mouth of Eighteen-Mile Creek, showing tip of sandspit and pattern of littoral drift



Sub-Area 3

31 - Mouth of Eighteen-Mile Creek



Sub-Area 3

32 - Eighteen-Mile Creek, moving inland showing oxbow island

Appendix E - Guidelines for Notification and Review

New York State Coastal Management Program - Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect

I. PURPOSES OF GUIDELINES

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. DEFINITIONS

- A. Action means:
 - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
 - 2. Occurring within the boundaries of an approved LWRP; and
 - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.
- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
 2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
 3. That will result in an overriding regional or statewide public benefit.
- C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
1. Shall fully describe the nature and location of the action;
 2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
 3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the

state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

- C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. RESOLUTION OF CONFLICTS

- A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
 - 1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.
 - 2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
 - 3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.

4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.
5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations~
6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

Procedural Guidelines for Coordinating NYS Department of State (Dos) & LWRP Consistency Review of Federal Agency Actions

DIRECT ACTIONS

1. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.
2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
3. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.
4. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator than will identify the Department's principal reviewer for the proposed action.

2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.
3. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.
4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.
5. After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.
6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant.
7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

FINANCIAL ASSISTANCE ACTIONS

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.
2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
3. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.
4. The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty days (or other time agreed to by DOS and the program coordinator) from the start of the review period. If comments and recommendations

are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.

5. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.