

# City of Lackawanna Local Waterfront Revitalization Program

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**Adopted:**  
City of Lackawanna City Council, June 19, 1989

**Approved:**  
NYS Secretary of State Gail S. Shaffer, June 21, 1989

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

HT 168.L33.C58 1990

FEB 11 1990

This Local Waterfront Revitalization Program has been adopted and approved in accordance with the provisions of the Waterfront Revitalization and Coastal Resources Act of 1981 (Executive Law, Article 42) and its implementing regulations (6 NYCRR 601). Federal concurrence on the incorporation of this Local Waterfront Revitalization Program into the New York State Coastal Management Program as a Routine Program Implementation has been obtained in accordance with the provisions of the U.S. Coastal Zone Management Act of 1972 (P.L. 92-583), as amended, and its implementing regulations (15 CFR 923).

The preparation of this program was financially aided by a federal grant from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended. Federal Grant No. NA-82-AA-D-CZ068.

The New York State Coastal Management Program and the preparation of Local Waterfront Revitalization Programs are administered by the New York State Department of State, Division of Coastal Resources and Waterfront Revitalization, 162 Washington Avenue, New York 12231.



STATE OF NEW YORK  
DEPARTMENT OF STATE  
ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER  
SECRETARY OF STATE

June 21, 1989

Honorable Thomas E. Radich  
Mayor, City of Lackawanna  
City Hall  
714 Ridge Road  
Lackawanna, New York 14218

Dear Mayor Radich:

It is with great pleasure that I inform you that, pursuant to the Waterfront Revitalization and Coastal Resources Act, I have approved the City of Lackawanna's Local Waterfront Revitalization Program (LWRP). The City is to be commended for its thoughtful and energetic response to opportunities presented along its waterfront.

I will notify State agencies shortly that I have approved the City's LWRP and will provide them a list of their activities which must be undertaken in a manner consistent to the maximum extent practicable with the Lackawanna LWRP.

Again, I would like to commend the City of Lackawanna on its efforts to develop the LWRP and look forward to working with you in the years to come as you endeavor to revitalize your waterfront.

Sincerely,

A handwritten signature in black ink, appearing to read "Gail S. Shaffer". The signature is fluid and cursive, with the first name "Gail" being the most prominent.

Gail S. Shaffer

GSS:gn



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT  
Washington, D.C. 20235

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DEPARTMENT OF STATE  
COASTAL PROGRAMS

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George Stafford  
Director  
Division of Coastal Resources  
and Waterfront Revitalization  
Department of State  
162 Washington Street  
Albany, N.Y. 12231

Dear Mr. Stafford:

The Office of Ocean and Coastal Resource Management concurs with your request to incorporate the City of Lackawanna Local Waterfront Revitalization Program (LWRP) into the New York State Coastal Management Program as a Routine Program Implementation (RPI) change. We received comments from six Federal agencies, none objecting to incorporating the LWRP as a RPI. This approval does not include the Smokes Creek Shoals Significant Fish and Wildlife Habitat, as it is outside the boundary. We assume you will submit it with a package of other Fish and Wildlife Habitats after the public notice and review requirements are met.

In accordance with the Coastal Management Regulations, 15 CFR 923.84, Federal Consistency will apply to the City of Lackawanna LWRP after you publish notice of our approval.

Sincerely,

*James P. Lawless*  
for Timothy R.E. Keeney  
Director



RESOLUTION NO. 29 , 1989

WHEREAS, the City of Lackawanna applied for, and was awarded, a grant by the New York State Department of State for preparation of a Local Waterfront Revitalization Program, and entered into a contract with the Department of State on August 1, 1983; and

WHEREAS, a Draft Local Waterfront Revitalization Program and Draft Environmental Impact Statement, prepared on behalf of the City by the Erie County Department of Environment and Planning, were accepted by the City and forwarded to the Department of State for review by federal, State, and local agencies pursuant to the requirements of Article 42 of the Executive Law and the State Environmental Quality Review Act; and

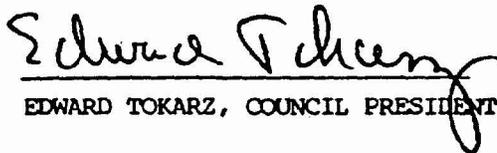
WHEREAS, a Final Environmental Impact Statement was accepted by the City Council as complete;

NOW, THEREFORE, BE IT

RESOLVED, that the City Council of the City of Lackawanna hereby adopts the City of Lackawanna Waterfront Revitalization Program, and authorizes the Mayor to submit said Program to the New York State Secretary of State for approval pursuant to Article 42 of the Executive Law.

THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.

Dated: June 19, 1989  
Lackawanna, New York

  
EDWARD TOKARZ, COUNCIL PRESIDENT

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CITY OF LACKAWANNA

Approved as to form and  
substance.  
Norman A. LeBlanc, Jr.  
City Attorney  
6/14/89

CITY OF LACKAWANNA  
LOCAL WATERFRONT REVITALIZATION PROGRAM

Prepared with the assistance of the  
Erie County Department of Environment and Planning

This report was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number NA-82-AA-D-CZ068

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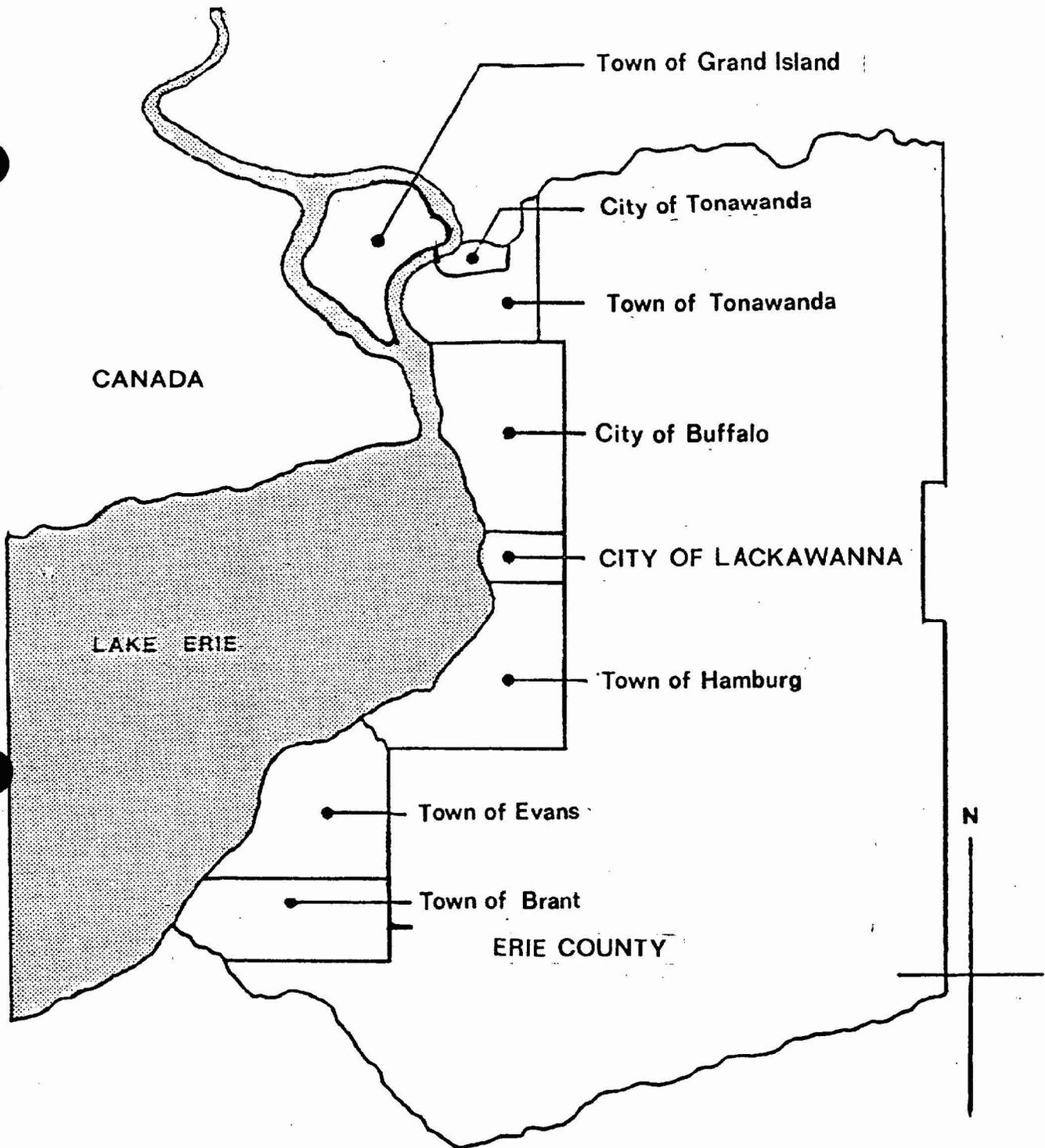
## CITY OF LACKAWANNA

### INTRODUCTION

The City of Lackawanna occupies 6 square miles of land in Erie County, extending two miles along the shore line of Lake Erie. The City is bordered on the north by the City of Buffalo, on the east by the Town of West Seneca, on the south by the Towns of Orchard Park and Hamburg, and on the west by Lake Erie. The population of the City is roughly 23,000. See Map 1 on the following page which displays Lackawanna's regional setting.

Lackawanna's development resulted directly from the construction of the Bethlehem Steel Plant on the shores of Lake Erie in the early 1900's. This massive industrial complex of 1300 acres occupies nearly one-third of the City's total land area, as well as the entire Lackawanna shoreline. At its peak in the 1950's and 1960's, the plant employed 23,000 workers. At that time, the population of Lackawanna approached 30,000. However, Bethlehem Steel began a shutdown of operations at the plant in 1982; today, most of the facility is idle and employment has been cut to less than 2,000.

With the exception of the Bethlehem complex, most of Lackawanna is occupied by low-to-medium density residences. The eastern third of the City is characterized by newer construction (i.e. post-World War II); the western portion of the City was largely developed between 1900 and 1930. Major concentrations of commercial development occur along Ridge Road, South Park Avenue, and Abbott Road. Extensive rail yards occupy over 500 acres of land in the central and southeast portions of the City.



LOCAL WATERFRONT REVITALIZATION PROGRAM  
 ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 1  
**REGIONAL  
 SETTING**  
 CITY OF LACKAWANNA

SECTION I

WATERFRONT REVITALIZATION  
AREA BOUNDARY

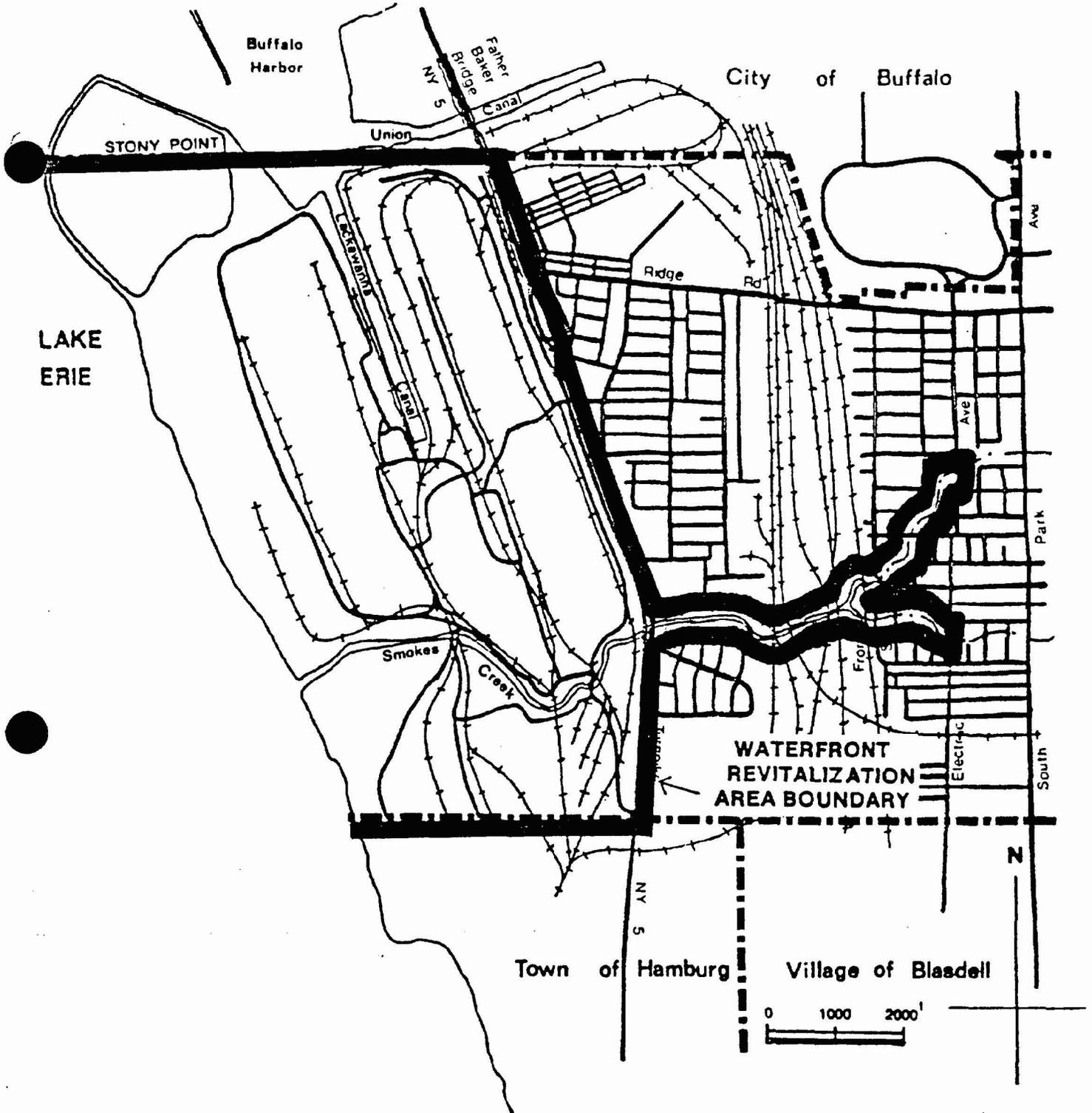
CITY OF LACKAWANNA

WATERFRONT REVITALIZATION AREA BOUNDARY

The City of Lackawanna Waterfront Revitalization Area (WRA) includes all lands and waters in the City extending from the Lake Erie shoreline inland to the eastern right-of-way of New York State Route 5, between the Lackawanna/Hamburg border on the south and the Lackawanna/Buffalo border on the north.

A narrow linear extension of the WRA includes Smoke's Creek to the junction of the north and south branches. The WRA also includes each branch to Electric Ave. It should be noted that the WRA only includes the small portion of the Creek corridor between the top of the two banks. No horizontal land area is included.

Map 1A on the following page graphically displays the location of the WRA.



LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 1A

**COASTAL  
BOUNDARY**

CITY OF LACKAWANNA

SECTION II

INVENTORY AND ANALYSIS

**A. INTRODUCTION**

The Lackawanna Waterfront Revitalization Area (WRA) as previously established by the City, extends for over two miles along Lake Erie, reaching inland roughly one mile to Route 5.

Much of the City's WRA is occupied by the sprawling Bethlehem Steel complex. Steel making operations at this facility have been severely curtailed since 1983 resulting in major regional economic consequences. The Bethlehem Steel Corporation, Buffalo Crushed Stone and various public agencies are engaged in numerous activities to determine appropriate actions concerning this facility. It is anticipated these activities will have a major impact on municipal waterfront revitalization efforts.

**B. PHYSICAL STATUS**

**1. Land Use and Buildings:**

Bethlehem Steel Complex - The grounds of the Bethlehem Steel complex are occupied by over 7,000,000 sq. ft. of building space. Much of this is underutilized or vacant industrial space constructed in the early 1900's. Several smaller office and maintenance buildings are also present. Cessation of steel-making operations within the City of Lackawanna began in 1983, although the coke ovens remain active. Extensive parking and outdoor storage areas also occupy large portions of the 1600-acre complex. In addition, numerous rail lines are located throughout the site. Bethlehem currently employs roughly 1,600 people at the complex.

The former Bethlehem complex occupies the entire two-mile length of the City's Lake Erie shoreline. Over the years since the plant's establishment in the early 1900's, the shoreline has been extended nearly one-half mile into Lake Erie as a result of slag disposal activities. The present shoreline is characterized by a continuous series of massive mounds of slag reaching 50' to 90' in height. An additional 108-acre diked disposal area (Diked Disposal Area No. 4) is located at the extreme northern end of the Bethlehem complex at Stony Point, astride the Lackawanna/Buffalo City border and adjacent to the south entrance of the Buffalo Outer Harbor. This facility is maintained by the U.S. Army Corps of Engineers and received dredge spoil from the Buffalo Harbor area; however, only 20% of this area has received significant deposits. The remaining 80 acres of its surface area consists of water. At the current rate of dredging operations, the facility has an approximate 25-year life span remaining.

In 1985, large portions of the Bethlehem complex were purchased by Buffalo Crushed Stone, which recently prepared a redevelopment plan for the property jointly with Bethlehem Steel, and the Western New York Economic Development Corporation. Approximately 1,500,000 sq. ft. of building space is expected to be retained. Demolition of roughly 4,000,000 sq. ft. of buildings and one mile of blast furnace

has begun, and is expected to continue during the near future. The approximately 30,000,000 tons of slag, coke, and scrap metal on site will be removed over a 20-year period.

Existing facilities which have potential for re-use include bulk storage buildings, a 55-acre tank farm (with a liquid storage capacity of 600,000 bbl.), three miles of conveyors, numerous cranes and loaders, and port facilities.

Marketing efforts have been undertaken throughout the United States, Canada, and Japan publicizing the availability of space at the Bethlehem complex. Promotional brochures and press releases have been nationally circulated. Eight buildings housing 15 companies have been leased to date.

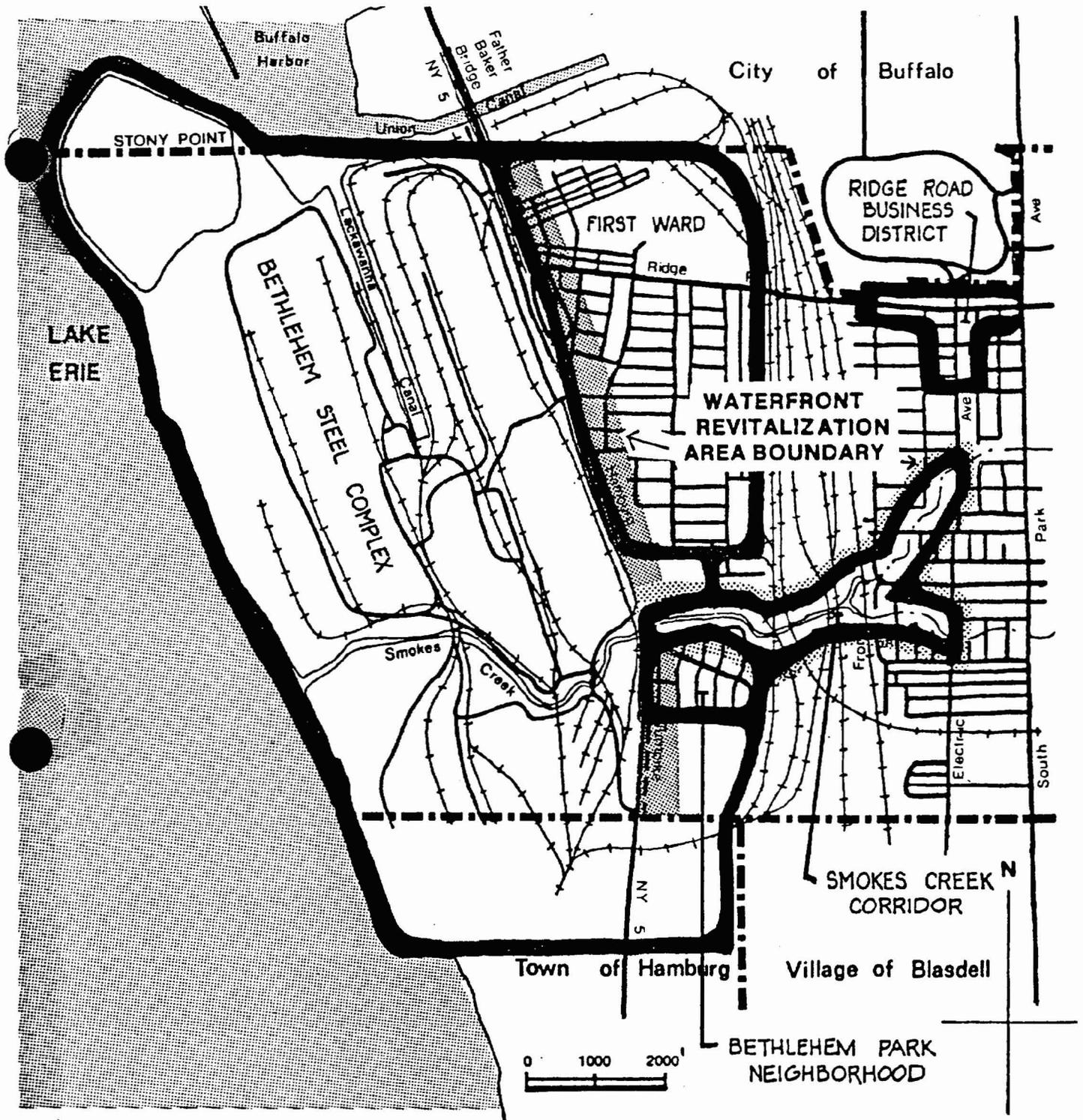
## **2. Transportation and Utilities:**

Route 5, a four-lane State highway known locally as the Hamburg Turnpike, parallels the Lackawanna lakeshore along the inland border of the Bethlehem complex and is a major suburban commuting route into downtown Buffalo. In the vicinity of the Lackawanna/Buffalo city line, Route 5 becomes a four-lane divided expressway with grade-separated interchanges from Ridge Road north to Downtown Buffalo. The high-level Father Baker Memorial Bridge at the city line carries Route 5 over the Union Ship Canal in Buffalo. Ridge Road (which has an interchange with Route 5 in the northern Lackawanna) and Route 179 (which intersects with Route 5 slightly south of the Lackawanna border in the Town of Hamburg) both provide direct access to the New York State Thruway (I-90) two miles to the east.

The Bethlehem complex includes over 100 miles of standard-gauge railroad tracks and 20 miles of narrow-gauge tracks operated by the South Buffalo Railway, with direct connections to national rail lines. The rail system has extensive maintenance and cargo-handling facilities which are currently underutilized. Locomotive repair facilities are also present.

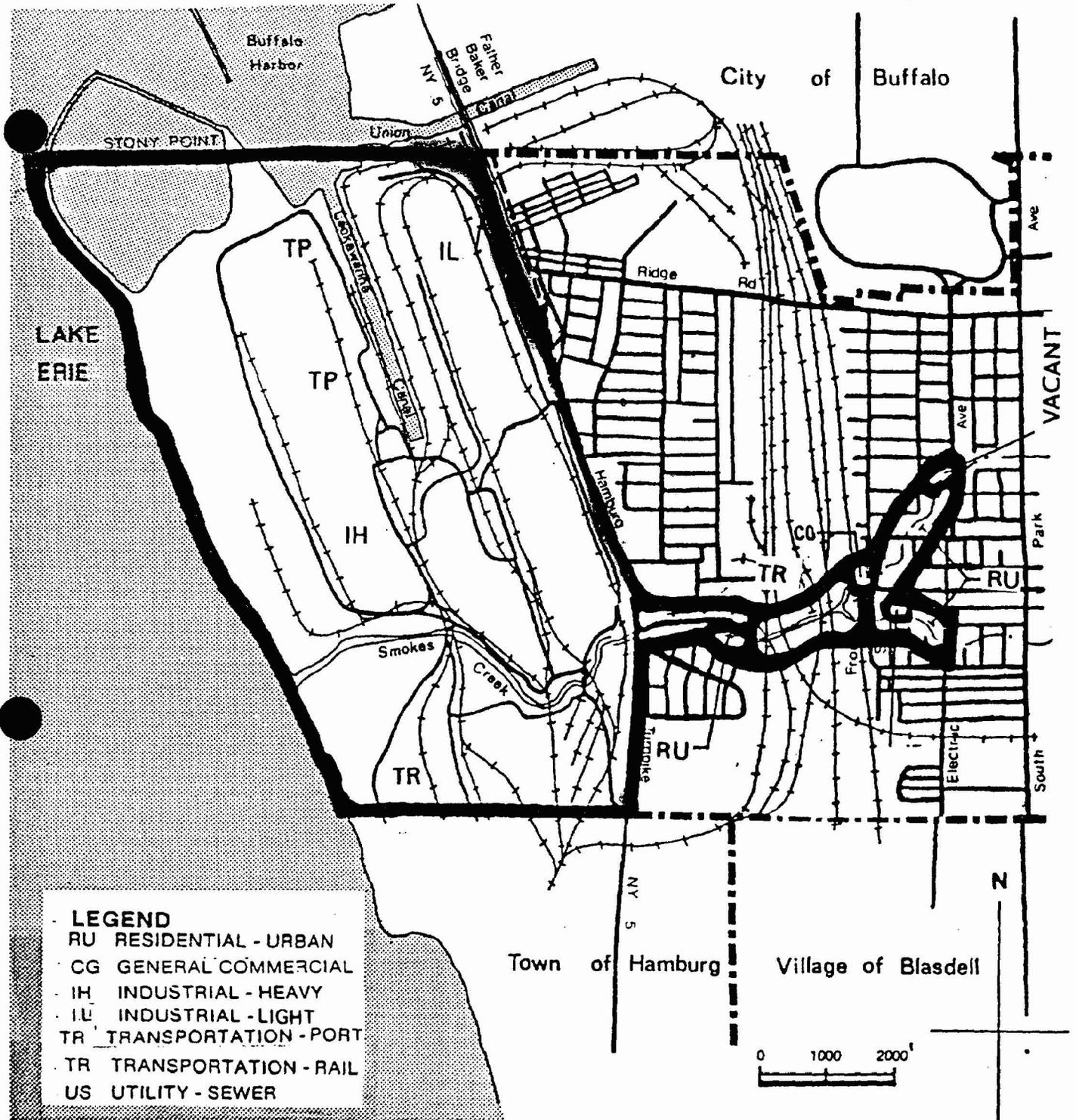
The Father Baker Bridge is being replaced by a new low-level structure (30' clearance above the Union Ship Canal). This will provide more convenient access to the Bethlehem and Gateway properties, as well as connect more logically with Ridge Road in the City of Lackawanna. The bridge replacement project will be completed by 1991.

The Lackawanna Ship Canal, now known as the Gateway Metroport, is a 4,000'-long, 200'-wide, 28'-deep channel at the northern end of the Bethlehem complex. It now serves as the regional commercial port facility. The Canal, which is accessible from the Buffalo Harbor's south entrance, can accommodate several 1,000-foot lake freighters. Port facilities include 9,500' of dock, 150 acres of open storage, and 160,000 sq. ft. of enclosed bulk storage. In 1986, port and rail facilities were handling 3,500,000 tons of coal, coke, bar mill



LOCAL WATERFRONT REVITALIZATION PROGRAM  
 ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 2  
**CHARACTER/  
 NEIGHBORHOODS**  
 CITY OF LACKAWANNA



LOCAL WATERFRONT REVITALIZATION PROGRAM  
 ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 3  
**EXISTING  
 USES**  
 CITY OF LACKAWANNA

products, scrap, steel coils, fuel oil, and automotive parts for Bethlehem Steel, the Ford Motor Company, and several smaller firms.

Public transportation is provided along Route 5 by the Niagara Frontier Transportation Authority. Hourly trips to Downtown Buffalo are provided Monday through Friday. Four trips daily operate on Saturdays. There is no Sunday service.

Sanitary sewer service is provided to the Bethlehem complex by Erie County Sewer District No. 6, which maintains a treatment plant about one-half mile east of Route 5 in Lackawanna. The plant handles approximately 0-1 MG of wastewater from BethEnergy Corp., Lackawanna Coke Division. This processed wastewater is discharged to the treatment plant via the existing sanitary sewer system. The design flow of the treatment plant is 4.5 MGD, and the plant is currently treating an average of 4.4 MGD annually.

Current capacity at the Lackawanna treatment plant cannot handle a full industrial buildout situation at the former Bethlehem complex. A preliminary study by Erie County Sewer District #6 is underway which is aimed at identifying alternative treatment possibilities and associated costs. This issue will have to be resolved prior to any major site redevelopment.

A further problem relates to the treatment of industrial wastes generated from Bethlehem's coke oven operations. The Lackawanna plant was not designed to handle such waste, but was geared to handle residential/commercial wastes. The coke waste interferes with the process at the Lackawanna sewer plant. The City agreed to accept the waste from the coke plant because once Bethlehem ceased operations, the Corporation could no longer dispose of the waste at the steel plant. This situation will also be examined in greater detail by the Sewer District #6 study.

Two water intakes operate along the banks of the Lackawanna Ship Canal. Number 1 pump supplies 20-24 MGD for an extraction turbine on the Canal's west side, BethEnergy operates Number 4 pump, which supplies 20 MGD to the coke ovens. Number 6 pumphouse is located in the north end of the plant at the mouth of Buffalo Harbor. One of three 30 MGD pumps currently is operated to supply water to the Bar Mill and Galvanizing Mill operations on the east side of Route 5.

Presently, industrial water is used for cooling and processing. Cooling water is maintained within a closed system. Water is piped to one of three filtration and settling facilities where it is treated and returned to the cooling system. Process water from the Bethlehem Galvanizing Mill is treated on-site at Water Quality Control Station No. 7 under a SPDES permit. Sludge is periodically removed from settling tanks and deposited in solid waste disposal areas.

The City has a municipal pickup service for solid waste. It transfers the material via a private contractor to the Occidental Chemical Corporation (Hooker) resource recovery facility in the City of Niagara Falls. The latter is presently operating at 81% of design capacity. (These figures were obtained from the New York State Legislative Commission on Solid Waste Management 1986 report entitled "Where Will the Garbage Go? New York Looming Crisis in Disposal Management.")

**3. Topography:**

The bulk of the Bethlehem complex is level land, however, mounds of by-products reaching up to 90' heights have been deposited along the shoreline. When viewed from Lake Erie, these features dominate the landscape.

**4. Soils:**

The soils within the City of Lackawanna's waterfront boundaries are predominantly categorized as urban land according to the U.S.D.A. Soil Conservation Service. The single exception to this classification is along Smokes Creek where Wayland Soils exist.

The Wayland Soil series varies from a silt loam to a silty clay loam. It is generally poorly drained erosion deposits found in floodplain areas of small streams. Due to its location and slow permeability, it is subject to seasonal flooding and thereby severely limited to development or vegetative potential. Approximately 20 feet of bedrock begins five feet below the surface.

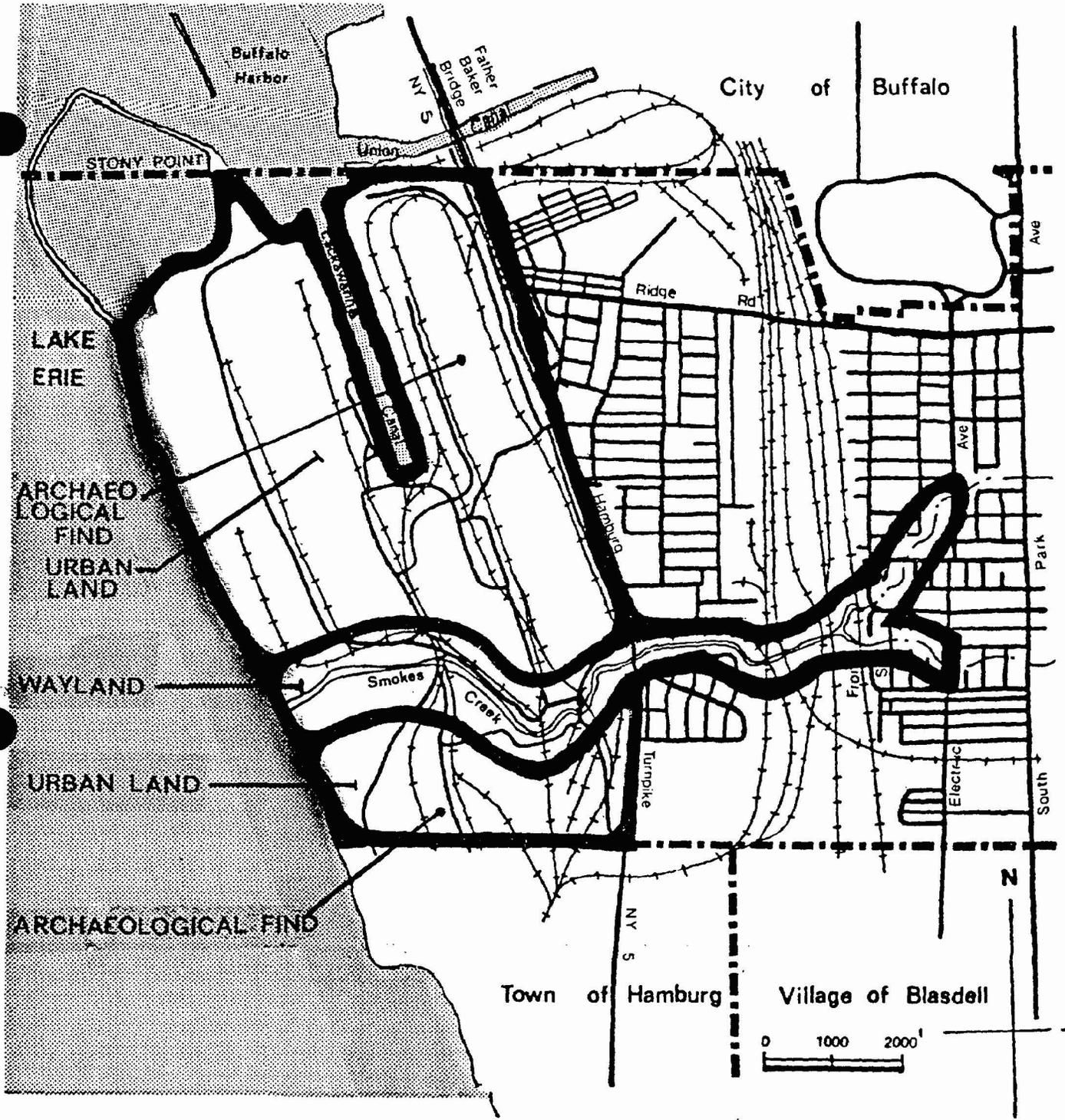
Slag deposits along the shoreline cover over 400 acres of land to a depth of 40'.

**5. Hydrology, Flooding, and Erosion:**

Smoke's Creek is the only stream to traverse the waterfront area. This creek's branches drain a large area of Lackawanna, Hamburg, and Orchard Park. Smoke's Creek has a "D" classification. (See Appendix A for description of classification.)

Lake Erie has been designated a class "C" water body to a distance of roughly 1,000' offshore; beyond this limit the Lake has been designated "Class A - Special (International Boundary Waters) in accordance with 6NYCRR 839.6, Item No. 3. The Lackawanna Ship Canal, 4,000' long and 200' wide, is class "D". The southern limits of the Buffalo Outer Harbor are class "C". (For classification descriptions, see Appendix A).

A flood hazard area, as well as a floodway, has been identified along the entire length of Smoke's Creek within the City by the Federal Emergency Management Agency. Such flood-prone areas coincide in many locations with the top of the Creek's banks. Several smaller flood



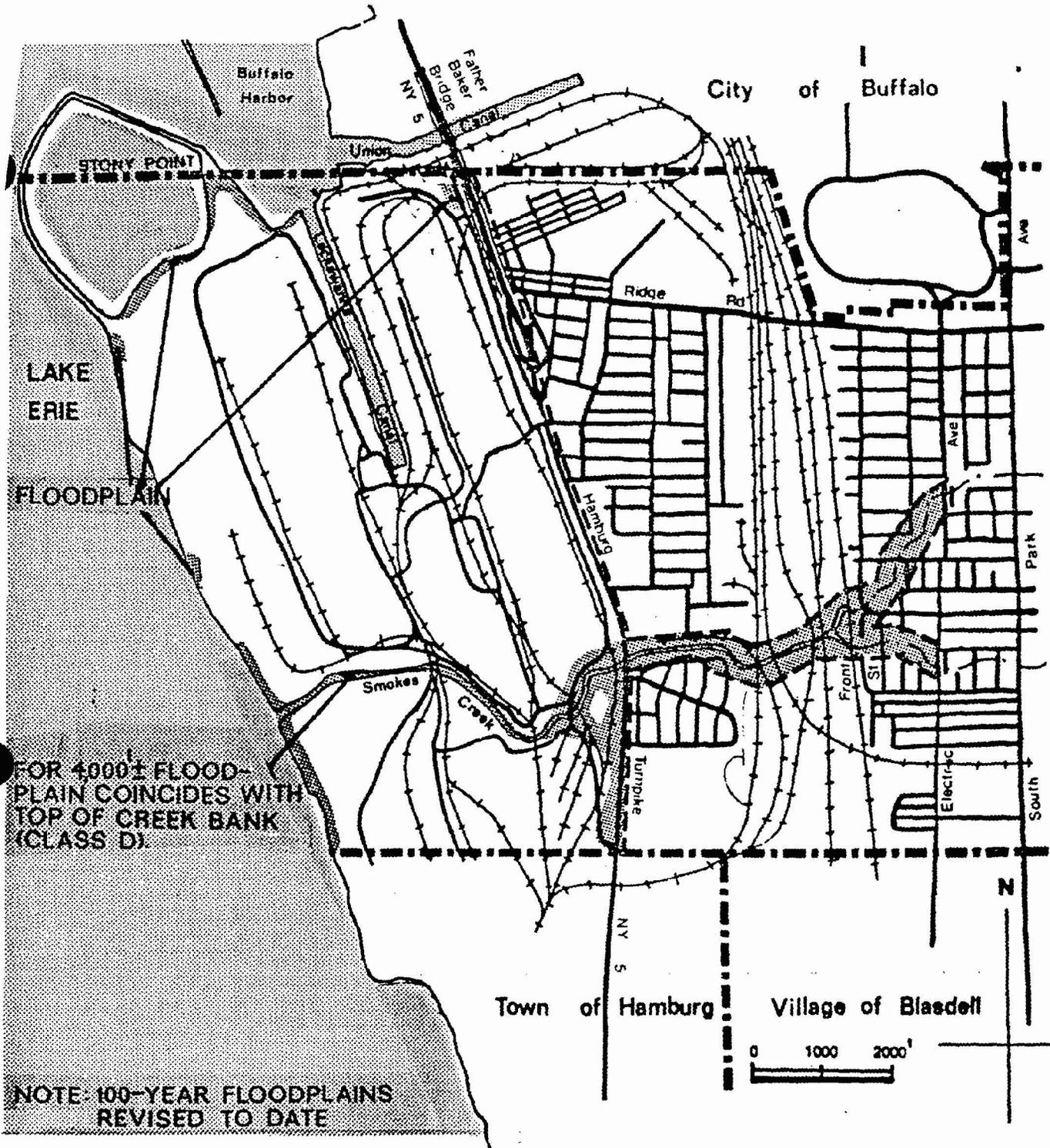
LOCAL WATERFRONT REVITALIZATION PROGRAM

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 4

SOILS

CITY OF LACKAWANNA



LOCAL WATERFRONT REVITALIZATION PROGRAM  
 ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 5  
 HYDROLOGY /  
 EROSION  
 CITY OF LACKAWANNA

hazard areas have been designated along the Lake Erie shoreline, as well. See Map 5 which displays the locations of such areas.

Flooding at one time was a major problem along Smoke's Creek. U.S. Army Corps of Engineers flood control projects featuring channel straightening and bank stabilization have significantly diminished the likelihood of flood damage in developed portions of Lackawanna. These improvements are fully documented in a letter and accompanying report of July 13, 1959 from the Secretary of the Army to the House of Representatives (86th Congress, 1st Session, House Document No. 200, U.S. Government Printing Office).

Within the former Bethlehem complex Smokes Creek is occasionally subjected to a reversal of normal flow during conditions of high lake levels and strong westerly winds which result in Lake Erie water entering the Creek. Typically, however, flooding does not result from these conditions. Erosion is not a major problem within the LWA.

**6. Off-Shore Conditions:**

Channels in the Buffalo Outer Harbor are maintained by the U.S. Army Corps of Engineers at a 28' depth.

Reference should be made to sub-section II-7 for a thorough description of the Smoke's Creek Shoal habitat. The depth of Smoke's Creek and its branches from its mouth to Electric Avenue ranges from 1 to 3 meters with the deeper channels located close to Lake Erie. This information was contained in NYSDEC report entitled A Habitat Inventory of Smoke's Creek (date unknown).

**7. Air and Water Quality:**

Air quality in the Lackawanna waterfront area has noticeably improved since the 1970's, partly as a result of improved emission controls and partly due to cutbacks in industrial activities. The amount of atmospheric pollutants is in compliance with State and federal limits. Recent air quality monitoring of this factor by the Erie County Department of Environment and Planning (during 1983-84) shows that TSP values range from 36 to 50 mg/cubic meter, well below the federal standard of 75 mg/cubic meter. Lackawanna has been reclassified as being in attainment of TSP.

In 1984, the New York State Dept. of Environmental Conservation issued Order 84-135 which, for the Bethlehem Steel complex, identified those facilities which were permanently shut down, those which are temporarily inactive, and those to remain in operation which require the imposition of air quality controls. The primary effects of this order require repair and modifications in coke oven facilities and operations, and institution of a fugitive dust control program (generally consisting of applying water to paved roadways) in order to reduce particulate emissions to acceptable standards.

The coke oven operation is controlled by State permits. However, when the production of coke oven gas drops below 1.5 million cubic feet per hour, the desulfurization and sulfur recovery units do not operate effectively. The State has allowed an exemption for those low production periods, thus resulting in foul odors emanating from the plant during those periods.

In addition to odor problems, the coke oven operation causes visual pollution to the surrounding area. A thick white plume billows out of the smokestack, visible for miles in all directions and dis-incentive to long-term site redevelopment. Air emission source standards established by NYSDEC are not being met by Bethlehem Steel Corporation relative to their coke over operations. Legal action is being pursued by NYSDEC.

Historically, water quality along the Lackawanna shoreline has been poor. Although direct discharges of industrial wastewater have been practically eliminated, past discharges have noticeably contaminated bottom sediment in the vicinity. During storms, contaminated sediment becomes re-suspended in lake water and is subject to transport and redeposition elsewhere in the lake and the Niagara River. The Report of the Niagara River Toxics Committee (October 1984) documents various concentrations of metals and polynuclear aromatics (PAH's) in sediment samples obtained from Smoke's Creek, the Lackawanna Ship Canal, and the Lake Erie open-dredged material disposal site. During steelmaking, Bethlehem was a major discharger of lead and zinc.

Hazardous wastes were disposed of on a 50-acre site along the Lackawanna shoreline. The site consists of a landfill and lagoon. Hazardous waste disposal ceased in 1983. The site received spent pickle liquor, tar sludge, ammonia still lime sludge, and metal sludge, and a large amount of assorted scrap metals, sand, gravel and slag cinders. Both NYSDEC and the U.S. Army Corps of Engineers are involved in closure plans at these sites. A hydro-geologic investigation was completed in October, 1985, and the report concluded that there has not been much impact from these sites. However, the NYSDEC recently classified the area as a Class 2 site, indicating that it represents a significant threat to public health or environment. Closure and post-closure plans are being evaluated by Bethlehem Steel Corp., NYSDEC, USEPA, and the U.S. Army Corps of Engineers prior to finalizing specific mitigation measures.

#### **8. Fish and Wildlife Habitats:**

Lake Erie provides a habitat for a variety of cool and cold water gamefish species, as well as panfish. The more common gamefish species sought by sport anglers are walleye, smallmouth bass, rainbow/steelhead trout, brown trout and coho and chinook salmon. Common panfish species include perch and rock bass. Lake Erie in the species include perch and rock bass. Lake Erie in the vicinity

of the mouth of Smoke's Creek has traditionally been a popular fishing area among local sport fishermen.

Smoke's Creek Shoals is located on the shore line of Lake Erie, on the boundary between the City of Lackawanna and the Town of Hamburg, Erie County. The fish and wildlife habitat is an approximately 500-acre area of open water, generally located within a one-half mile radius of the mouth of Smoke's Creek (see Map 5A). 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's Creek Shoals has been modified through filling or bulkheading in conjunction with adjacent industrial development (steel mills). Smoke's Creek Shoals has been designated by the New York State Secretary of State as a coastal fish habitat of Statewide significance.

Smoke's 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's 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 smallmouth bass. Observations of walleye in and around the mouth of Smoke's 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 concentrations of smallmouth bass, walleye, and panfish at Smoke's Creek Shoals, this area attracts significant recreational fishing pressure during late spring and early summer. See the appendix to this section for a complete description of this habitat.

In addition to the shoals area, Smoke's Creek between Route 5 and Lake Erie may be the site of substantial walleye spawning. A recent study by the State University of New York College at Buffalo entitled, "Smoke's Creek: An Important Spawning Habitat for Walleye in Eastern Lake Erie?" and submitted to the NYSDEC in 1985 concluded that the Creek was not presently a viable spawning area for walleye due to surrounding environmental conditions. The report did indicate, however, that some walleye do migrate into the area for spawning purposes, as well as in the Creek mouth.

The Lake Erie area offshore from Lackawanna is used by migratory waterfowl during the spring and fall. The largest colony of nesting ring-billed gulls on the Niagara Frontier is located adjacent to the Stony Point disposal area.

**9. Zoning:**

The WRA west of Route 5 is zoned M-D, Mixed-Development District. This allows a variety of uses subject to submittal and approval of a consolidated development plan for each proposal. Specific regulations are established during the consolidated development plan review process. Virtually all uses permitted in other zoning districts are allowed in the District if the above-mentioned development plan is sound. The following uses are not allowed: banks, finance, insurance and real estate offices; tailor shops; taverns. See Appendix C for the text of this district.

In addition, a Flood Plain Overlay District has been established for special flood hazard areas within the City. Within the waterfront area, flood hazard areas have been identified along Smokes Creek and Lake Erie. The Flood Plain Overlay District limits development within flood-prone lands and the alteration of natural flood plains and stream channels.

The Smoke's Creek corridor east of Route 5 is bordered by various zoning districts including light industrial, planned industrial, and residential zones. Reference should be made to Map 6 for a description of applicable zoning regulations.

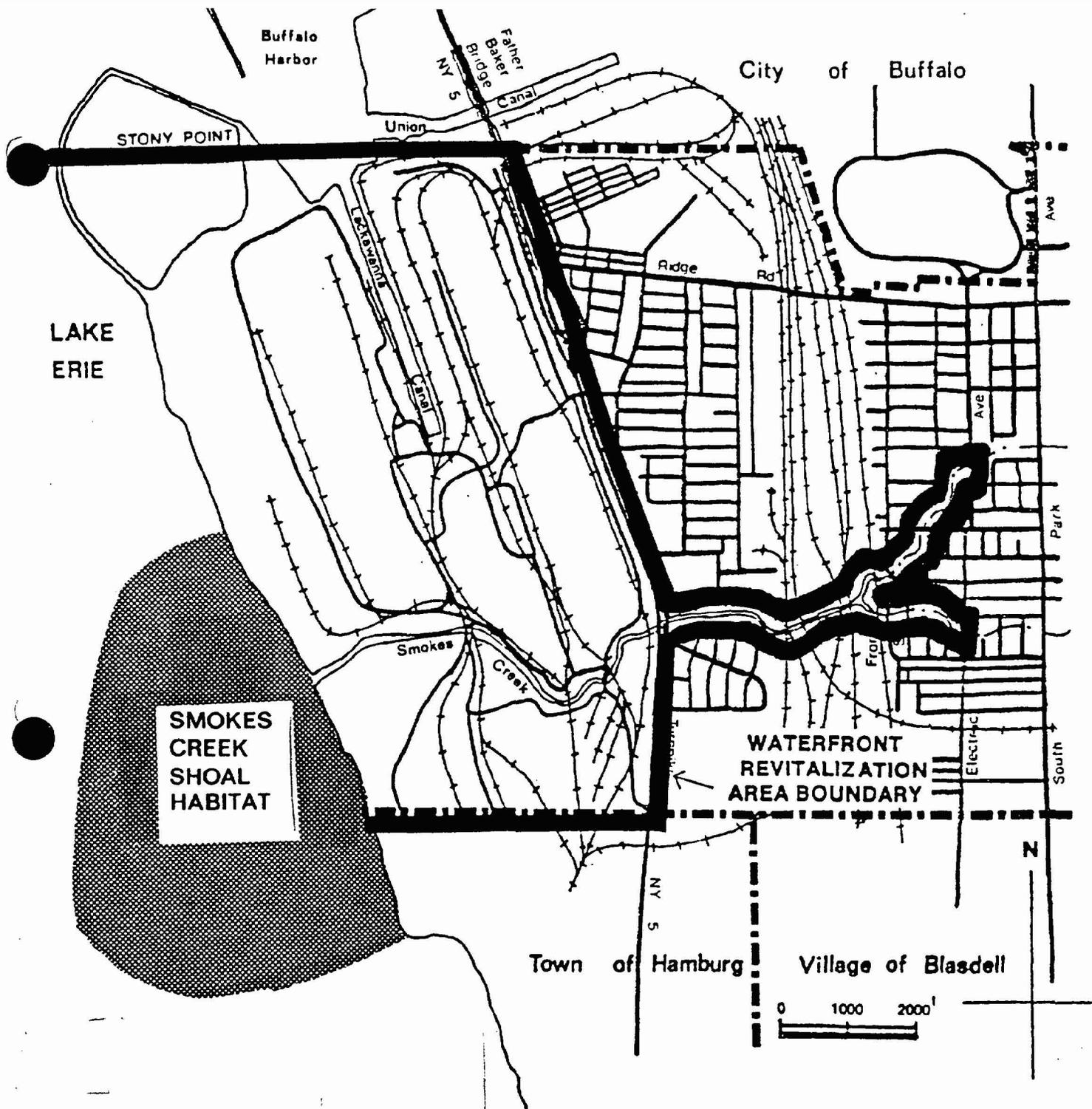
**10. Historical and Archaeological Sites:**

There are no structures listed, or eligible for listing, on the National Register of Historic Places within the Lackawanna WRA. A zone of archaeological sensitivity has, however, been identified by the New York State Office of Parks, Recreation and Historic Preservation in the vicinity of Route 5 and Smoke's Creek. In addition, a survey of archaeological sites undertaken by the State University of New York at Buffalo in March 1984 suggests that two sites may be located either within the LWA, or within a one-kilometer proximity to the area in the vicinity of Smoke's Creek.

The former Bethlehem Steel employment office near the Buffalo-Lackawanna city line is an early twentieth century structure which is both architecturally and historically significant. The structure's historic significance comes from its association with the Bethlehem Steel Corporation, while the architectural importance stems from its classical, revival style of grey brick on a rusticated ashlar basement. It is topped with a hipped roof. The building, however, is not presently listed on the National or State Registers of Historic places.

**11. Public Access and Recreation:**

Public Access to Lackawanna's Lake Erie shoreline is non-existent. The banks of Smoke's Creek are fully developed and privately-owned. No recreation facilities exist within the LWA. As such, a major



LOCAL WATERFRONT REVITALIZATION PROGRAM

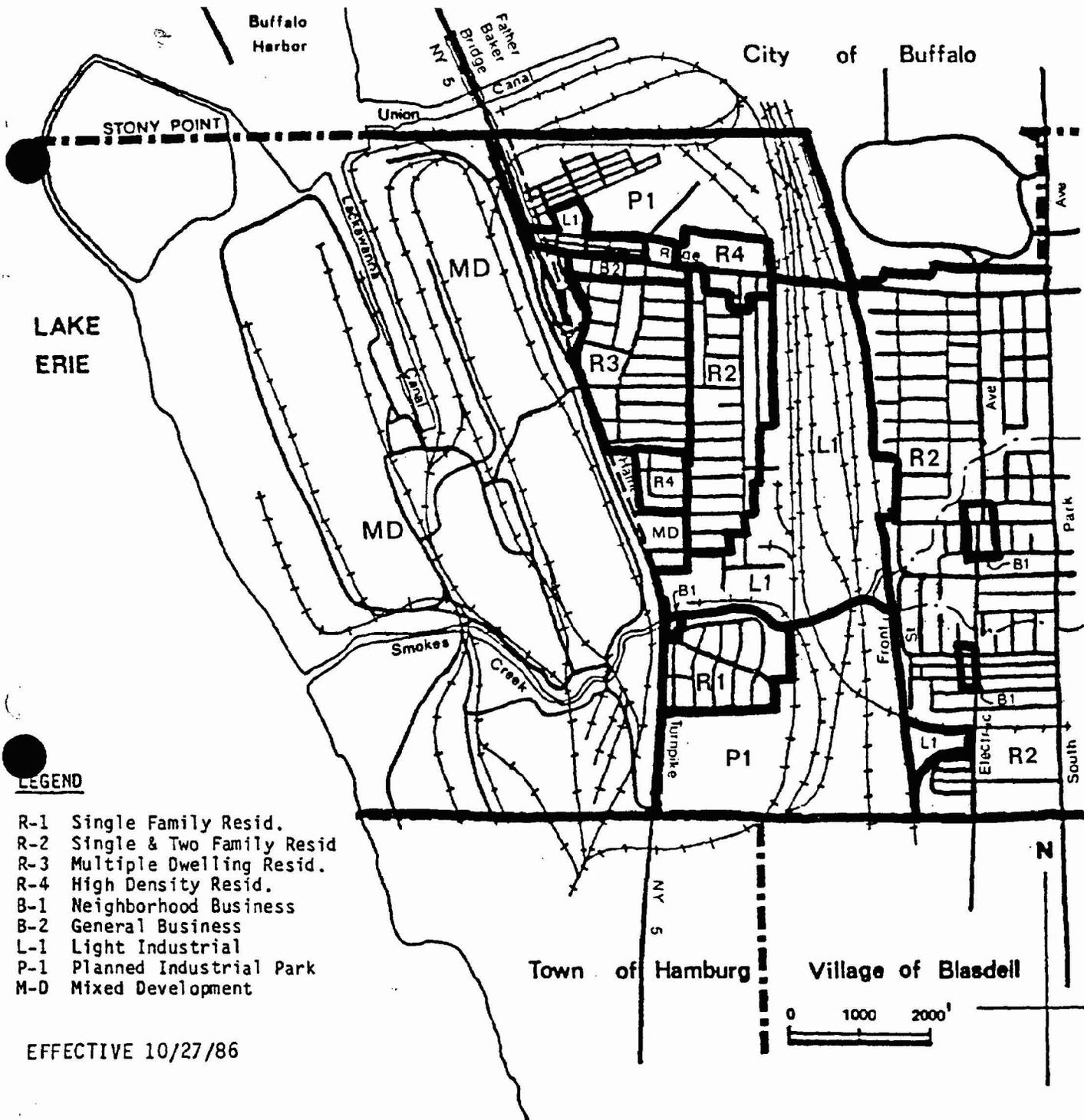
ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

Source: New York State Department of Environmental Conservation

MAP 5A

**SMOKES  
CREEK  
SHOALS**

CITY OF LACKAWANNA



**LOCAL WATERFRONT REVITALIZATION PROGRAM**

ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

**MAP 6  
EXISTING  
ZONING**

**CITY OF LACKAWANNA**

component of the redevelopment of the waterfront will be the incorporation of water-related recreation and public access to the Lake Erie and Smokes Creek shorelines.

**12. Water-Dependent Uses:**

Historically, the Bethlehem Steel complex has been dependent upon Lake Erie for transportation and industrial processing. Although steelmaking has been curtailed, the coke ovens remain active and require water for their operation. In addition, an independent water system is maintained to serve the Bethlehem complex.

The Gateway Metroport is a major deepwater port channel handling commercial cargo. Buffalo Crushed Stone and Bethlehem Steel especially depend upon this facility for transportation.

**13. Aesthetics:**

The visual environment of the Lackawanna waterfront is dominated by massive industrial buildings which are discolored and otherwise deteriorated, and by rail lines, overhead utilities, extensive parking, fences, and roads. The Father Baker Bridge has been a dominant feature at the Lackawanna-Buffalo city line. In Lackawanna, Lake Erie is not visible from Route 5 and points east. Landscaping is virtually non-existent. Overall aesthetic quality within the Waterfront Revitalization Area is poor.

**C. MAJOR RECENT AND PLANNED IMPROVEMENTS**

The following information describes recent and future waterfront improvements for the shoreline. This provides good background material on the level of public and private investment and suggests possible opportunities for additional improvements.

Prior to listing the projects, it is important to note that a portion of the WRA was recently designated by New York State as an Economic Opportunity Zone (EOZ). The EOZ boundaries are reflected on Map 7A. This designation provides attractive financial incentives to industries locating in the area and will be used as a major marketing tool to redevelop the site.

The recent and planned improvements within the LWA are noted below:

1. Port Terminal Building: A grant application has been submitted by the Erie County Industrial Development Agency to the Federal Economic Development Administration. This will provide funds for construction of a large warehouse structure adjacent to the port and better accommodate port activities.
2. Ridge Road Extension: The ECIDA has submitted preliminary application materials to the Federal Economic Development Administration. The road extension and accompanying infra-structure improvements will

provide better access and vehicle circulation to the north end of the former Bethlehem complex.

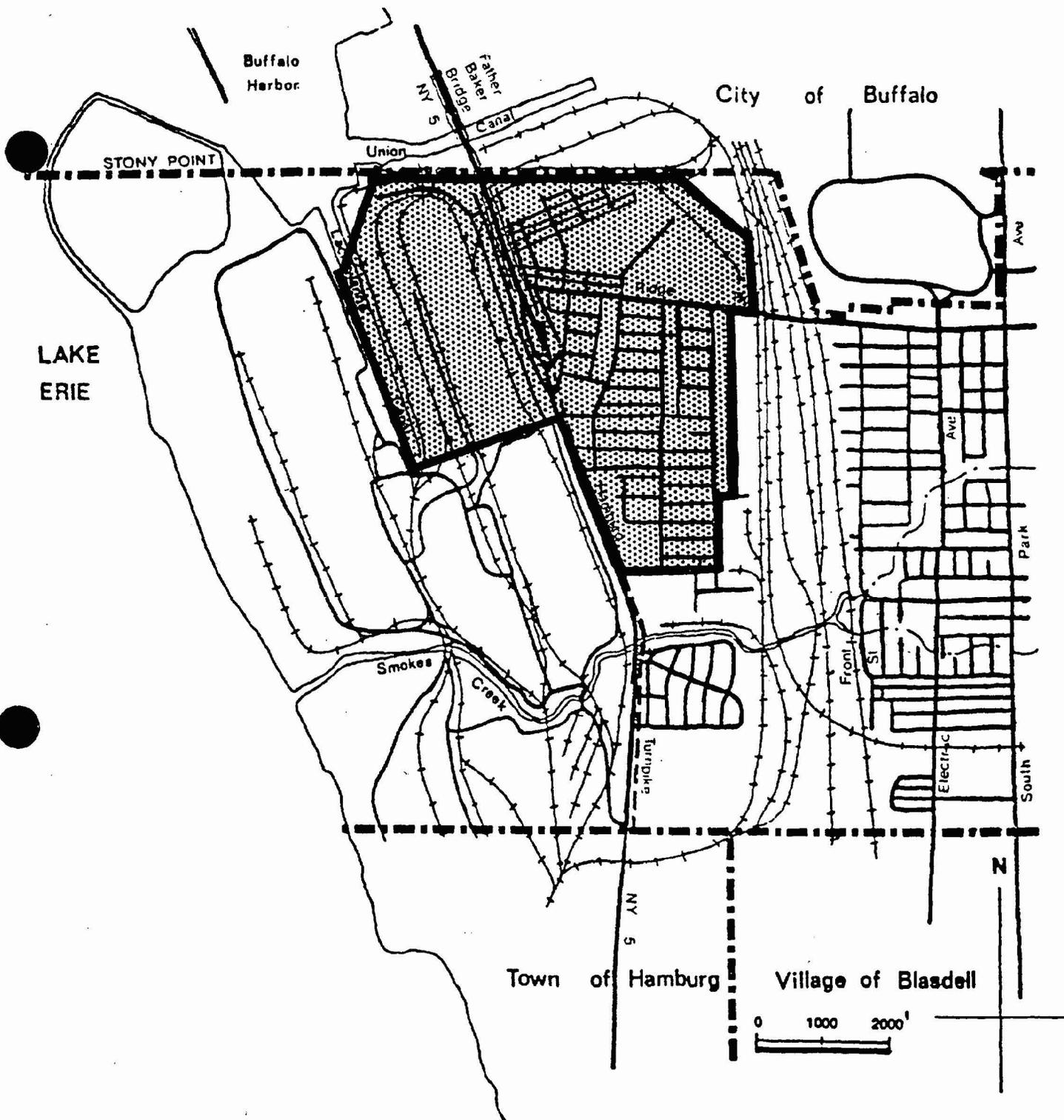
3. Father Baker Bridge Replacement: As mentioned earlier, the New York State, Department of Transportation is undertaking a major replacement of the Father Baker Bridge. The latter spans various railroad bridges and the Union Ship Canal. The south bridge abutment is within the City of Lackawanna, with the north abutment being in the City of Buffalo.

#### D. CRITICAL ISSUES

Given the privately-owned nature of the Lackawanna waterfront and ongoing studies concerning the future of the Bethlehem complex, difficulties in creating an effective waterfront revitalization program are numerous. However, several issues of particular importance to the community have been articulated and should be emphasized.

There is profound municipal concern about the steel plant's future status and consequent effects on the local tax base. Of special importance is the desire to continue private ownership of most waterfront land in order to maintain this tax base. The vast network of existing infrastructure represents both a substantial capital investment and a significant urban resource which may become endangered through abandonment.

Despite these justifiable concerns, there is also considerable local sentiment for opening portions of the Lackawanna waterfront to the public. Lackawanna is the only waterfront municipality in Western New York having no public access to its own shoreline. However, implementation of any such proposals to provide public shoreline access await the development of general policy objectives incorporating the goals of private industry, municipal agencies and the public at large.



LOCAL WATERFRONT REVITALIZATION PROGRAM  
 ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

MAP 7A  
**ECONOMIC  
 OPPORTUNITY  
 ZONE**  
 CITY OF LACKAWANNA

INVENTORY AND ANALYSIS  
APPENDIX

SMOKE CREEK SHOALS HABITAT

COASTAL FISH AND WILDLIFE HABITAT RATING FORM

Name of Area: Smoke Creek Shoals

SEP 18 1987

County(ies): Erie

Town(s): Lackawanna, Hamburg

7.5' Quadrangle(s): Buffalo SE, NY

	(IS) Individual Score		(R) Replace- ability		(ISxR) Final Score
ECOSYSTEM RARITY (ER): Relatively large, shallow, gravel and rubble shoal, uncommon in Erie County.	9.0 ----	x	1.0 ----	=	9.0 ----
SPECIES VULNERABILITY (SV): No endangered, threatened, or special concern species are known to reside in the area.	0 ----	x	1.0 ----	=	0.0 ----
HUMAN USE (HU): Recreational fishery for walleye attracts many anglers from through- out Erie County.	4 ----	x	1.0 ----	=	4.0 ----
POPULATION LEVEL (PL): Concentrations of walleye in this area are unusual in Erie County, although it is not known if spawn- ing is successful.	4 ----	x	1.0 ----	=	4.0 ----

REPLACEABILITY (R): 1.0  
Uncertain of ability to replace the  
habitat or the population level.

SIGNIFICANCE =  $[(ER \times R) + (SV \times R) + (HU \times R) + (PL \times R)]$  = 17.0

\*\*\*SIGNIFICANT COASTAL FISH AND WILDLIFE\*\*\*

PROJECT NARRATIVE

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 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 most of the channel has been modified for flood control purposes.

FISH AND WILDLIFE VALUE:

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:

Any activity that substantially degrades water quality, increases temperature or turbidity, alters water depths, or reduces physical diversity of bottom substrate at Smoke Creek Shoals could affect the fisheries resources of this area. Discharges of sewage, stormwater runoff, or industrial wastewater, containing heavy sediments loads or chemical pollutants could 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 may 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 necessary 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, could 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.

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or Jim Pomeroy, Environmental Protection Biologist  
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Dunkirk, NY 14048  
Phone: (716) 366-0228

NYSDEC - Significant Habitat Unit  
Wildlife Resources Center  
Delmar, NY 12054  
Phone: (518) 439-7486

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Director, Fisheries and Ecology Program  
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Buffalo, NY 14222  
Phone: (716) 878-6409

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BUFFALO METROPOLITAN URBAN AREA  
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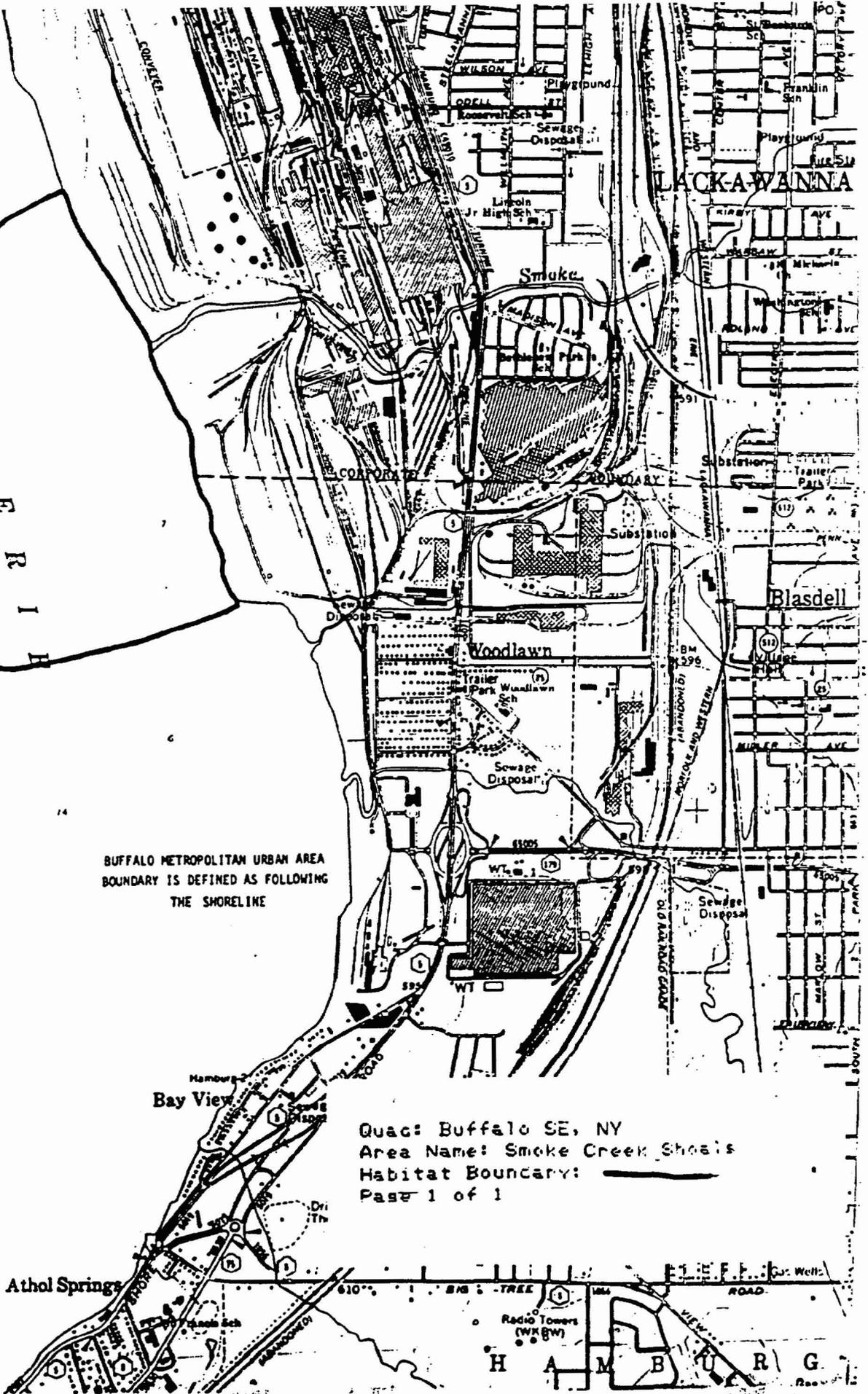
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FEET

Athol Springs

Hamburg  
Bay View

Quac: Buffalo SE, NY  
Area Name: Smoke Creek Shoals  
Habitat Boundary:  
Page 1 of 1

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SECTION III

WATERFRONT REVITALIZATION PROGRAM POLICIES

A. DEVELOPMENT POLICIES

POLICY 1 RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDERUTILIZED WATERFRONT AREAS FOR COMMERCIAL, INDUSTRIAL, CULTURAL, RECREATIONAL, AND OTHER COMPATIBLE USES.

POLICY 1A REDEVELOP, THE FORMER BETHLEHEM STEEL PLANT FOR INDUSTRIAL, TRANSPORTATION, OFFICE AND PASSIVE RECREATION USES.

This policy applies to that area depicted on Map 3. Its intent is to focus capital resources on the redevelopment of the former Bethlehem Steel Plant site into a quality mixed-use development which capitalizes on its waterfront location and transportation linkages. The renewal area contains approximately 1,300 acres within the City's waterfront zone and is entirely in private ownership. Reference should be made to the Inventory and Analysis Section for a further description of the site.

The following guidelines will be used to review actions for consistency with this policy as it pertains to any future development of the Bethlehem Steel Site.

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

If an action is proposed to take place outside the areas covered by this policy, and is either within the City of Buffalo or Town of Hamburg the agency proposing the action must first determine if it is feasible to take the action within the area covered by this policy. If such an action is feasible, the agency should give strong consideration to taking the action in that area. If not feasible, the agency must take the appropriate steps to ensure that the action does not cause deterioration of that area covered by this policy.

See Policy 25B.

**POLICY 2                    FACILITATE THE SITING OF WATER-DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.**

**POLICY 2A                   MAINTAIN WATER-DEPENDENT AND WATER-ENHANCED INDUSTRIAL AND PORT-RELATED FACILITIES AT APPROPRIATE LOCATIONS WITHIN THE FORMER BETHLEHEM STEEL PLANT SITE.**

Reference should be made to Map 7 for a graphic description as to where the policy applies.

This policy applies to the bulk storage, coke plant, and Gateway Metroport. While the demand for any given piece of property will fluctuate in response to varying economic and social conditions, on a regional basis the only reasonable expectation is that long-term demand for waterfront space will intensify.

To ensure that water-dependent uses can be accommodated within the City, local, federal and State agencies will avoid undertaking, funding or approving non-water-dependent uses when such uses would pre-empt the reasonably foreseeable development of water-dependent uses; furthermore, State, Federal and local agencies will utilize appropriate existing programs to encourage water-dependent activities.

As noted in the Inventory and Analysis Section, the City has an abundance of available land along the Lake which can be developed. There is ample space to accommodate water-dependent, as well as non-water-dependent uses along the shore. The application of this policy shall be applied within this context.

The following uses and facilities are considered as water-dependent.

1.    Uses which depend on the utilization of resources found in coastal waters (for example: fishing, mining of sand and gravel, mariculture activities);
2.    Recreational activities which depend on access to coastal waters (for example: swimming, fishing, boating, wildlife viewing);
3.    Uses involved in the sea/land transfer of goods (for example: docks, loading areas, pipelines, short-term storage facilities)

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

In addition to water-dependent uses, uses which are enhanced by a waterfront location should be encouraged to locate along the shore, though not at the expense of water-dependent uses. A water-enhanced use is defined as a use that has no critical dependence on obtaining a waterfront location, but the profitability of the use and/or the enjoyment level of the users would be increased significantly if the use were adjacent to, or had visual access to, the waterfront. A restaurant which uses good site design to take advantage of a waterfront view, and an industrial park which incorporates the waterfront into the site layout while providing for public access are two examples of water-enhanced uses.

If there is no immediate demand for a water-dependent or water-enhanced use at the former Bethlehem site but a future demand is reasonably foreseeable, temporary non-water-dependent uses should be considered preferable to a non-water-dependent or enhanced use which involves an irreversible or nearly

irreversible commitment of land. Parking lots, passive recreational facilities, outdoor storage areas, and non-permanent structures are uses or facilities which would likely be considered as "temporary" non-water-dependent uses.

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

1. Competition for space: Competition for space, or the potential for it, should be indicated before any given site is promoted for water-dependent uses. The intent is to match water-dependent uses with suitable locations and thereby reduce any conflicts between competing uses that might arise. Not just any site suitable for development should be chosen as a water-dependent use area. The choice of a site should be made with some meaningful impact on the real estate market anticipated. The anticipated impact could either be one of increased protection to existing water-dependent activities or else the encouragement of water-dependent development.
2. In-place facilities and services: Most water-dependent uses, if they are to function effectively, will require basic public facilities and services. In selecting appropriate areas for water-dependent uses, consideration should be given to the following factors:
  - a) The availability of public sewers, public water lines and adequate power supply;
  - b) Access to the area for trucks and rail, if heavy industry is to be accommodated; and
  - c) Access to public transportation, if a high number of person trips are to be generated.
3. Access to navigational channels: If commercial shipping, commercial fishing, or recreational boating are planned, consideration should be given to setting aside a site, within a sheltered harbor, from which access to adequately sized navigation channels would be assured.
4. Compatibility with adjacent uses and the protection of other coastal resources: Water-dependent uses should be located so that they enhance, or at least do not detract from, the surrounding community. Consideration should also be given to such factors as the protection of nearby residential areas from odors, noise and traffic. Affirmative approaches should also be employed so that water-dependent uses must also be sited so as to avoid adverse impacts on the significant coastal resources.
5. Preference to underutilized sites: The promotion of water-dependent uses should serve to foster development as a result of the capital programming, permit expediting and other State and local actions that

will be used to promote the site. Nowhere is such a stimulus needed more than at the former Bethlehem Steel plant site.

**POLICY 3**                    **FURTHER DEVELOP THE STATE'S MAJOR PORTS OF ALBANY, BUFFALO, NEW YORK, OGDENSBURG, AND OSWEGO AS CENTERS OF COMMERCE AND INDUSTRY, AND ENCOURAGE THE SITING IN THESE PORT AREAS, INCLUDING THOSE UNDER THE JURISDICTION OF STATE PUBLIC AUTHORITIES, OF LAND USE AND DEVELOPMENT WHICH IS ESSENTIAL TO OR IN SUPPORT OF THE WATERBORNE TRANSPORTATION OF CARGO AND PEOPLE.**

**POLICY 3A**                    **FURTHER DEVELOP THE GATEWAY METROPORT WITHIN THE FORMER BETHLEHEM STEEL PLANT SITE AS A CENTER OF COMMERCE AND INDUSTRY.**

The acquisition by Buffalo Crushed Stone of the former Bethlehem Steel Port area and surrounding lands provides an opportunity to rejuvenate an underutilized site. Now known as Gateway Metroport, it serves as the regional commercial port facility. The application of this policy will serve the public interest by retaining land in the local tax base, creating an environment where jobs can be promoted and fostered, and providing an anchor to the remaining undeveloped portions of the Lackawanna waterfront thereby increasing their market potential.

Reference should be made to Map 7 of this program for a graphic description of where this policy applies. It includes the former Bethlehem Ship Canal, as well as the Gateway harbor, bulk storage, tank farm and coke oven areas. It also includes that part of the Lake and Union Ship Canal which provides the necessary channelization for commercial ship traffic. Reference should be made to the Inventory and Analysis Section for a clear description of these areas.

Reference should be made to Policies 1, 1A, 2, and 2A for guidelines to be used in applying this policy.

**POLICY 4**                    **THE STATE COASTAL POLICY REGARDING THE STRENGTHENING OF SMALL HARBOR AREAS IS NOT APPLICABLE TO THE CITY OF LACKAWANNA.**

**POLICY 5**                    **ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE, EXCEPT WHEN SUCH DEVELOPMENT HAS SPECIAL FUNCTIONAL REQUIREMENTS OR OTHER CHARACTERISTICS WHICH NECESSITATE ITS LOCATION IN OTHER COASTAL AREAS.**

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

The City of Lackawanna is an area of concentrated development where infrastructure and public services are generally adequate to support future land uses and development, as specified in the proposed uses and projects for the waterfront area (Section IV). However, certain capital improvements may be needed in the sewer facilities servicing the waterfront area. In this respect, maximum development by Buffalo Crushed Stone of their desired mixed-use scheme will likely exceed the capacity of the Lackawanna Sewage Treatment Plant. Due to the proximity of this redevelopment site to the Southtowns Sewage Treatment Plant, however, diversion of sanitary wastes to that facility is a possibility. Other alternatives need to be examined, as well as including the Buffalo Sewer Authority System. Local, State and federal agencies charged with allocating funds for investments in water and sewer facilities should give high priority to the needs of the waterfront area, so that full advantage may be taken of the rich array of existing infrastructure components in promoting waterfront revitalization.

For actions that would result in large scale development or which would facilitate or serve future development, the following guidelines shall be considered in assessing the adequacy of the infrastructure and public services:

1. Streets and highways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development;
2. Development's water needs (consumptive and fire fighting) can be met by the existing water supply system;
3. Sewage disposal system can accommodate the wastes generated by the development;
4. Energy needs of the proposed land development can be accommodated by existing utility systems;
5. Storm water runoff from the proposed site can be accommodated by on-site and/or off-site facilities; and
6. Schools, police and fire protection, and health and social services are adequate to meet the needs of the population expected to live, work, shop, or conduct business in the area as a result of the development.

**POLICY 6                    EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE LOCATIONS.**

The confusion, time delay, and costs associated with the issuance of permits required from all government levels prior to approval of waterfront development is not conducive to attracting public or private investment along the shoreline.

The City of Lackawanna will utilize existing and proposed laws to ensure compliance with the City LWRP, and for those new regulations, will coordinate

and combine review periods, as well as public hearing requirements, to the maximum extent possible.

For specific types of development activities, and in areas suitable for such development, the City will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, and will work with Federal and State agencies to coordinate procedures as long as the integrity of the regulations' objectives is not jeopardized. These procedures and programs will be coordinated within each agency. Also, efforts will be made to ensure that each board's and agency's procedures and programs are synchronized with other agencies' procedures at each level of government. Finally, regulatory programs and procedures will be coordinated and synchronized between levels of government, and if necessary, legislative and/or programmatic changes will be recommended. When proposing new regulations, an agency will determine the feasibility of incorporating the regulations within existing procedures; if this reduces the burden on a particular type of development and does not jeopardize the integrity of the regulations' objectives.

## **B. FISH AND WILDLIFE POLICIES**

**POLICY 7                    SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS, AS IDENTIFIED ON THE COASTAL AREA MAP, SHALL BE PROTECTED, PRESERVED, AND WHERE PRACTICABLE, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.**

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

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

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

In order to protect and preserve a significant habitat, land and water uses or development shall not be under-taken 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:

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

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

**POLICY 7A**

**THE SMOKES CREEK SHOALS HABITAT SHALL BE PROTECTED, PRESERVED AND, WHERE PRACTICAL, RESTORES SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**

Smokes Creek Shoals is located adjacent to the City within Lake Erie near the boundary with the Town of Hamburg. The fish habitat is a 500 acre area of open water, generally located within a one-half mile radius of the mouth of Smokes Creek.

Smokes Creek Shoals serves as a likely spawning area for a variety of warmwater fish species, especially walleye, along with yellow perch and smallmouth bass. A detailed description and map of the habitat is provided in the appendix to the Inventory and Analysis Section.

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Any activity that would substantially degrade water quality, increase temperature or turbidity, alter water depth, or reduce physical diversity of bottom substrates at Smokes Creek Shoals could affect the fisheries resources of this area. Discharges of sewage, storm water runoff, or industrial waste water containing heavy sediment loads or chemical pollutants could result in significant impairment of the habitat. 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 may increase sedimentation, resulting in loss of suitable spawning habitat for walleye. Temporary habitat disturbances would be most detrimental during fish spawning and nursery periods (mid-March through July for most warmwater species); any necessary 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 the time of year, could also result in significant impairment of the habitat, 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.

**POLICY 8**

**PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIO-ACCUMULATE IN THE FOOD CHAIN OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECT ON THOSE RESOURCES.**

**POLICY 8A**

**PROTECT FISH RESOURCES IN THE SMOKE'S CREEK SHOALS AREA.**

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (S27-0901(3)) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a

substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed." A list of DEC-defined hazardous wastes can be found in 6NYCRR Part 371.

The handling (storage, transport, treatment and disposal) of the materials included on the hazardous waste list are being strictly regulated in New York State to prevent their entry or introduction into the environment, particularly into the State's air, land and waters. Such controls should effectively minimize possible contamination of and bio-accumulation in the State's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders.

Other pollutants refer to conventional wastes generated from point and non-point sources and not identified as hazardous wastes, but controlled through other State regulations.

Any activity that would substantially degrade water quality, increase temperature or turbidity, alter water depths, reduce the physical diversity of bottom substrate, or pose similar negative impacts on the Smoke's Creek Shoals habitat is of particular concern. See also Policy 7, and 7A for explanations.

**POLICY 9**                    **EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS, AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILD-LIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.**

**POLICY 9A**                    **EXPAND RECREATIONAL USE OF FISH RESOURCES AT THE SMOKE'S CREEK SHOALS.**

The educational and recreational value of coastal areas having a significant concentration of fish resources is of extreme importance to the general public. This is especially important at Smoke's Creek Shoals. The latter represents a high quality fishing spot. The combination of these factors presents a unique opportunity for public enjoyment.

Any efforts to increase recreational use of these resources will be made in a manner which ensures the protection of fish and wildlife resources and which takes into consideration other activities dependent on these resources. Also, such efforts must be done in accordance with existing State law and in keeping with sound management considerations. Such considerations include biology of the species, carrying capacity of the resources, public demand, costs and available technology.

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

1. Consideration should be made by Federal, State and City agencies as to whether an action will impede existing or future utilization of the City's recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources shall not lead to over-utilization of that resource or cause impairment of the habitat. Sometimes such impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the habitat area.
3. The impacts of increasing access to recreational fish and wildlife resources shall be determined on a case-by-case basis, and/or conferring with a trained fish and wildlife biologist.
4. Any public or private sector initiatives to supplement existing stocks (e.g., stocking the Lake with fish reared in a hatchery) or develop new resources (e.g., creating private fee-fishing facilities) must be done in accord with existing State law.

See also Policies 19, 21, and 22.

**POLICY 10**                    **THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF COMMERCIAL FISHING IS NOT APPLICABLE TO THE CITY OF LACKAWANNA.**

**C. FLOODING AND EROSION HAZARDS POLICIES**

**POLICY 11**                    **BUILDINGS AND OTHER STRUCTURES WILL BE SITED IN THE COASTAL AREA SO AS TO MINIMIZE DAMAGE TO PROPERTY AND THE ENDANGERING OF HUMAN LIVES CAUSED BY FLOODING AND EROSION.**

This policy shall apply to those areas identified as Areas of Special Flood Hazard within the Flood Insurance Study for the City of Lackawanna dated July 2, 1980 and generally illustrated on Map 5.

Guidelines for determining an action's consistency with this policy are as follows:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
3. All new and replacement water supply shall be constructed using methods and practices that minimize flood damage.

4. All new and replacement water supply shall be designed to minimize or eliminate infiltration of flood waters into the system.
5. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
6. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
7. All subdivision proposals shall be consistent with the need to minimize flood damage.
8. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
9. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
10. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five (5) acres (whichever is less). The term "base flood" is the flood having a one percent chance of being equalled or exceeded in any given year.

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 3.2 or 4.3-2 of the City Flood Damage Prevention Ordinance, the following standards are required:

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
2. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or together with attendant utility and sanitary facilities, shall:
  - a) be floodproofed so that below the base level the structure is watertight with walls substantially impermeable to the passage of water; and
  - b) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Located within areas of special flood hazards established in Section 3 of the City's Flood Damage Prevention Ordinance are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood

waters which carry debris, potential projectiles, and erosion potential the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If Section 5.3(1) of the City's Flood Damage Prevention Ordinance is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0 of the same City Ordinance.

The City of Lackawanna has an adopted Disaster Preparedness Plan (3/4/80) which serves as the primary tool to guide relief efforts during periods of natural disasters.

**POLICY 12**                    **THE STATE COASTAL POLICY REGARDING PROTECTION OF NATURAL PROTECTIVE FEATURES IS NOT APPLICABLE TO THE CITY OF LACKAWANNA.**

**POLICY 13**                    **THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN ONLY IF THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.**

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

**POLICY 14**                    **ACTIVITIES AND DEVELOPMENT, INCLUDING THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES, SHALL BE UNDERTAKEN SO THAT THERE WILL BE NO MEASURABLE INCREASE IN EROSION OR FLOODING AT THE SITE OF SUCH ACTIVITIES OR DEVELOPMENT, OR AT OTHER LOCATIONS.**

Erosion and flooding are processes which occur naturally. However, by his actions, man can increase the severity and adverse effects of those processes, causing damage to, or loss of property, and endangering human lives. Those actions include: (1) the use of erosion protection structures such as groins, jetties and bulkheads, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; (2) the failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of shorelands; and (3) the placing of structures in identified floodways so that the base flood level is increased causing damage to otherwise hazard-free areas.

See explanation for Policy 11.

**POLICY 15**            **MINING, EXCAVATION OR DREDGING IN COASTAL WATERS SHALL NOT SIGNIFICANTLY INTERFERE WITH THE NATURAL COASTAL PROCESSES WHICH SUPPLY BEACH MATERIALS TO LAND ADJACENT TO SUCH WATERS AND SHALL BE UNDERTAKEN IN A MANNER WHICH WILL NOT CAUSE AN INCREASE IN EROSION OF SUCH LAND.**

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

Dredging will be needed to maintain the commercial shipping channels serving the Gateway Metroport. These activities are regulated by existing federal and State law.

**POLICY 16**            **PUBLIC FUNDS SHALL ONLY BE USED FOR EROSION PROTECTIVE STRUCTURES WHERE NECESSARY TO PROTECT HUMAN LIFE, AND NEW DEVELOPMENT WHICH REQUIRES A LOCATION WITHIN OR ADJACENT TO AN EROSION HAZARD AREA TO BE ABLE TO FUNCTION, OR EXISTING DEVELOPMENT; AND ONLY WHERE THE PUBLIC BENEFITS OUTWEIGH THE LONG TERM MONETARY AND OTHER COSTS INCLUDING THE POTENTIAL FOR INCREASING EROSION AND ADVERSE EFFECTS ON NATURAL PROTECTIVE FEATURES.**

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

**POLICY 17**            **WHENEVER POSSIBLE, USE NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION. SUCH MEASURES SHALL INCLUDE: (1) THE SET BACK OF BUILDINGS AND STRUCTURES; (2) THE PLANTING OF VEGETATION AND THE INSTALLATION OF SAND FENCING AND DRAINING; (3) THE RESHAPING OF BLUFFS; AND (4) THE FLOOD-PROOFING OF BUILDINGS OR THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.**

This policy recognizes both the potential adverse impacts of flooding and erosion upon development and upon natural protective features in the coastal

area, as well as the costs of protection against those hazards which structural measures entail.

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

In determining whether or not non-structural measures to protect against erosion or flooding will offer appropriate protection, an analysis, and if necessary, other materials such as plans or sketches of the activity or development, of the site and of the alternative protection measures should be prepared to allow an assessment to be made.

See Policy 11.

#### D. GENERAL POLICY

**POLICY 18** TO SAFEGUARD THE VITAL ECONOMIC, SOCIAL AND ENVIRONMENTAL INTERESTS OF THE STATE AND OF ITS CITIZENS, PROPOSED MAJOR ACTIONS IN THE COASTAL AREA MUST GIVE FULL CONSIDERATION TO THOSE INTERESTS, AND TO THE SAFEGUARDS WHICH THE STATE HAS ESTABLISHED TO PROTECT VALUABLE COASTAL RESOURCE AREAS.

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

#### E. PUBLIC ACCESS POLICIES

**POLICY 19** PROTECT, MAINTAIN, AND INCREASE THE LEVEL AND TYPES OF ACCESS TO PUBLIC WATER-RELATED RECREATION RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES. IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS AND WATERFRONT PARKS.

POLICY 19A INCREASE THE LEVEL AND TYPE OF ACCESS TO LAKE ERIE VIA A PUBLIC CORRIDOR TO BE LOCATED ALONG THE LAKE BETWEEN SMOKE'S CREEK AND THE TOWN OF HAMBURG MUNICIPAL BOUNDARY.

POLICY 19B INCREASE THE LEVEL AND TYPE OF ACCESS TO LAKE ERIE. IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO A PUBLIC ROAD PROVIDING ACCESS OFF ROUTE 5 TO THE PROPOSED PUBLIC CORRIDOR DESCRIBED IN POLICY 19A.

Policies 10A and 19B apply to the Buffalo Crushed Stone property south of Smoke's Creek.

The City has not had any public access to the Lake Erie waterfront since construction of the steel making plant. Although access has been denied, the demand for fishing facilities and passive waterfront recreation by City residents has increased over the past few years. With the closure of Bethlehem Steel and subsequent purchase by Buffalo Crushed Stone, it is in the public interest to insure that future plans for this area incorporate public access to the waterfront. This must also include provisions for vehicular access off New York State Route 5 to the water's edge. A further description of this proposal is described in Section IV.

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

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

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

- a) Access - the ability and right of the public to reach and use public coastal lands and waters.
- b) Public lands or facilities - lands or facilities held by the State or City in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including underwater lands and the foreshore.
- c) An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:

- (i) Construction of public facilities, which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.
  - (ii) Sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation resource or facility.
  - (iii) Construction of private facilities which physically prevent the provision of convenient public access to public water-related recreation resources or facilities from public lands and facilities.
2. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:
    - a) The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
    - b. The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource or facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
  3. The State and City will not undertake or fund any projects which increase access to a water-related resource or facility that is not open to all members of the public.
  4. Priority in capital construction activities at future City waterfront parks will be given to those facilities which increase public access to water-related activities.

**POLICY 20**

**ACCESS TO THE PUBLICLY-OWNED FORESHORE AND TO LANDS IMMEDIATELY ADJACENT TO THE FORESHORE OR THE WATER'S EDGE THAT ARE PUBLICLY-OWNED SHALL BE PROVIDED, AND IT SHOULD BE PROVIDED IN A MANNER COMPATIBLE WITH ADJOINING USES. SUCH LANDS SHALL BE RETAINED IN PUBLIC OWNERSHIP.**

While publicly-owned lands shall be retained in public ownership, traditional sales of easements on land, underwater lands, and lands immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety, military security, or the protection of fragile coastal resources.

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

1. Existing or future access from adjacent or proximate public lands or facilities to existing or future public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrated to be of overriding regional or Statewide public benefit or, in the latter case, estimates of future use of these lands and waters are too low to justify maintaining or providing increased access.

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

- a) (See definitions under Policy 19 for "access" and "public lands or facilities").
  - b) A reduction in the existing or anticipated level of public access - includes, but is not limited, to the following:
    - (i) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
    - (ii) Pedestrian access is diminished or blocked completely by public or private development.
  - c) An elimination of the possibility of increasing public access in the future - includes, but is not limited to, the following:
    - (i) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.
    - (ii) Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters.
    - (iii) Construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.
2. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated.

- a) A reduction in the existing level of public access includes, but is not limited to, the following:
  - (i) Access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
  - (ii) Access is reduced or blocked completely by any public developments.
- 3. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where (1) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources; (2) adequate access exists within one-half mile; or (3) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.
- 4. The State will not undertake or directly fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
- 5. In their plans and programs for increasing public access, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.
- 6. Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:
  - (a) The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
  - (b) The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

#### **F. RECREATION POLICIES**

**POLICY 21            WATER-DEPENDENT AND WATER-ENHANCED RECREATION WILL BE ENCOURAGED AND FACILITATED, AND WILL BE GIVEN PRIORITY OVER**

NON-WATER-RELATED USED ALONG THE COAST, PROVIDED IT IS CONSISTENT WITH THE PRESERVATION AND ENHANCEMENT OF OTHER COASTAL RESOURCES AND TAKES INTO ACCOUNT DEMAND FOR SUCH FACILITIES. IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING PUBLIC TRANSPORTATION SERVICES AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.

**POLICY 21A** WATER-DEPENDENT AND WATER-ENHANCED RECREATION WILL BE ENCOURAGED VIA A PUBLIC CORRIDOR ALONG THE LAKE BETWEEN SMOKE'S CREEK AND THE TOWN OF HAMBURG MUNICIPAL BOUNDARY.

**POLICY 21B** WATER-DEPENDENT RECREATION SHALL BE ENCOURAGED WITHIN AND ADJACENT TO SMOKE'S CREEK.

Presently, City of Lackawanna residents have no access to Lake Erie. As noted in the Inventory and Analysis Section, the coastal zone is entirely in private ownership. Buffalo Crushed Stone has proposed a redevelopment plan for the former Bethlehem Plant site which is reflected on Map 8. Due to the lack of water access, it is in the public interest to facilitate a public water-dependent recreation facility within the redevelopment plans being promoted by Buffalo Crushed Stone. A detailed feasibility study will be needed to ensure such a proposal is properly integrated with long-term private development needs. A key part of the study must be the adequate provision of vehicular access off Route 5. This policy shall apply to that area depicted on Map 8. The actual implementation of the policy will be achieved through the fee simple or easement purchase of the land paralleling the Lake. Since the area is presently being worked for slag removal, it will be 8-10 years before the project could be moved forward. Discussions should begin, however, in the near future with Town of Hamburg and Buffalo Crushed Stone officials to determine appropriate access opportunities and integrate the concept into the redevelopment plans of Buffalo Crushed Stone.

The proposed water recreational area in the City would be accessible by public transit. The frequency of service is noted in the Inventory and Analysis Section. During the detailed feasibility studies necessary for further project development, pedestrian access to the site from the public transit stop would need further definition. The distance between the public transit stop and the proposed waterfront recreation area is approximately one-half mile.

See Policy 19A and 19B.

Smoke's Creek has a long-term potential as a water access corridor to Lake Erie for car-top boats and shallow draft fishing boats. The development of such facilities would have to correspond with the redevelopment of the former Bethlehem Steel Plant site to uses which would not conflict with the new activity proposed for the stream. In addition, a detailed analysis of location for such launching needs to occur.

**POLICY 22** DEVELOPMENT, WHEN LOCATED ADJACENT TO THE SHORE, WILL PROVIDE FOR WATER-RELATED RECREATION, AS A MULTIPLE USE, WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.

**POLICY 22A** THE INCORPORATION OF WATER-RELATED RECREATION FOR PUBLIC ENJOYMENT INTO PRIVATE REDEVELOPMENT PLANS BETWEEN SMOKE'S CREEK AND THE TOWN OF HAMBURG/CITY OF LACKAWANNA BOUNDARY LINE WILL BE ACTIVELY PURSUED.

Many developments present practical opportunities for providing recreation facilities as an additional use of the site or facility. Therefore, whenever developments are located adjacent to the shore, they should, to the fullest extent permitted by existing law, provide for some form of water-related recreation use unless there are compelling reasons why any form of such recreation would not be compatible with the development, or a reasonable demand for public use cannot be foreseen.

The City of Lackawanna shall negotiate with developers of the former Bethlehem Steel Plant site regarding the development of a public corridor along the water's edge between Smoke's Creek and the Town of Hamburg municipal boundary.

Prior to taking action relative to any development in the City, State agencies should consult with the State Office of Parks, Recreation, and Historic Preservation (OPRHP), and with the City to determine appropriate recreation uses. The agency should provide OPRHP and the City with the opportunity to participate in project planning.

Appropriate recreation uses which do not require any substantial additional construction shall be provided at the expense of the project sponsor provided the cost does not exceed 2% of total project cost.

In determining whether compelling reasons exist which would make recreation inadvisable as a multiple use, public safety should reflect a recognition that some risk is acceptable in the use of recreation facilities.

Whenever a proposed development is compatible would be consistent with LWRP policies and the development could, through the provision of recreation and other multiple uses, significantly increase public use of the shore, then such development should be encouraged to locate adjacent to the shore.

See Policy 21A.

#### **G. HISTORIC AND SCENIC RESOURCES POLICIES**

**POLICY 23** PROTECT, ENHANCE AND RESTORE STRUCTURES, DISTRICTS, AREAS OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHAEOLOGY OR CULTURE OF THE STATE, CITY OF LACKAWANNA, OR THE NATION.

**POLICY 23A            PROTECT, ENHANCE AND RESTORE THE ARCHAEOLOGICALLY SIGNIFICANT SITE IN THE VICINITY OF SMOKE'S CREEK IN THE CITY OF LACKAWANNA.**

An area of archaeological significance may exist in the vicinity of Smoke's Creek, as described in Chapter B-9 of the Inventory and Analysis Section. Prior to undertaking major construction activities in this area, anyone proposing such activity shall consult with the NYS Office of Parks, Recreation and Historic Preservation to determine whether significant archaeological resources are present at the site and what measures are necessary to preserve these resources. All practicable means shall be used to preserve significant archaeological resources.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthwork, or component thereof which has been officially certified as being imminently dangerous to public health and safety.

There are no other resources located in the local waterfront area to which the policy applies.

**POLICY 24            THE STATE COASTAL POLICY REGARDING THE PROTECTION OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE IS NOT APPLICABLE TO THE CITY OF LACKAWANNA.**

**POLICY 25            PROTECT, RESTORE OR ENHANCE NATURAL AND MAN-MADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE, BUT WHICH CONTRIBUTE TO THE OVERALL SCENIC QUALITY OF THE COASTAL AREA.**

When considering a proposed action, agencies shall ensure that the action will be undertaken so as to protect, restore or enhance the overall scenic quality of the coastal area. This is especially applicable to the Route 5 corridor.

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

Guidelines include:

1. Siting structures and other development such as highways, power lines and signs, back from shoreline or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore;
2. Clustering or orienting structures to retain views, save open space and provide visual organization to a development;

3. Incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
4. Removing deteriorated and/or degrading elements;
5. Maintaining or adding vegetation to provide interest, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters;
6. Using appropriate materials, in addition to vegetation, to screen unattractive elements; and
7. Using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

POLICY 25A            RESTORE THE SCENIC QUALITIES OF THE NEW YORK STATE ROUTE 5 CORRIDOR.

POLICY 25B            ENHANCE THE NEW YORK STATE ROUTE 5 AND RIDGE ROAD INTERSECTION AS AN ATTRACTIVE GATEWAY TO THE CITY OF LACKAWANNA.

POLICY 25C            PROTECT AND RESTORE THE HISTORIC AND ARCHITECTURAL QUALITIES OF THE FORMER BETHLEHEM STEEL PLANT EMPLOYMENT OFFICE BUILDING.

As noted in the Inventory and Analysis Section, the former employment office of the Bethlehem Steel Plant represents a unique architectural form within the former steel plant complex. Due to the importance of steel making operations to the growth and development of the City, it is in the public interest to promote the preservation of locally significant structures which can serve as a reminder to area residents of the site's history.

Public and private dollars shall be used, when appropriate and consistent with the Buffalo Crushed Stone redevelopment plans, to rehabilitate the structure into a regional trade center.

#### H.     AGRICULTURAL LANDS POLICY

POLICY 26            THE STATE COASTAL POLICY REGARDING THE PROTECTION OF IMPORTANT AGRICULTURAL LANDS IS NOT APPLICABLE TO THE CITY OF LACKAWANNA.

#### I.     ENERGY AND ICE MANAGEMENT POLICIES

POLICY 27            DECISIONS ON THE SITING AND CONSTRUCTION OF MAJOR ENERGY FACILITIES IN THE COASTAL AREA WILL BE BASED ON PUBLIC ENERGY

**NEEDS, COMPATIBILITY OF SUCH FACILITIES WITH THE ENVIRONMENT,  
AND THE FACILITY'S NEED FOR A SHOREFRONT LOCATION.**

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

A determination of public need for energy is the first step in the process for siting new facilities. The directives for determining this need are set forth in the New York State Energy Law. With respect to transmission lines, Articles VII and VIII of the State's Public Service Law require additional forecasts and establish the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront location. The policies derived from these proceedings are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization and Coastal Resources Act. That Act is used for the purposes of ensuring consistency with the Coastal Management Program.

In consultation with the City, the Department of State will comment on State Energy Office policies and planning reports as may exist; present testimony for the record during relevant certification proceedings under Articles VII and VIII of the PSL; and use the State SEQR and DOS regulations to ensure that decisions on other proposed energy facilities (other than transmission facilities and steam electric generating plants) which would impact the waterfront area, are made consistent with policies and purposes of this Local Waterfront Revitalization Program.

**POLICY 28                    ICE MANAGEMENT PRACTICES SHALL NOT DAMAGE SIGNIFICANT FISH AND WILDLIFE AND THEIR HABITATS, INCREASE SHORELINE EROSION OR FLOODING, OR INTERFERE WITH THE PRODUCTION OF HYDROELECTRIC POWER.**

Prior to undertaking actions required for ice management, an assessment must be made of the potential effects of such actions upon the production of hydroelectric power, fish and wildlife and their habitats in Lake Erie offshore of the City of Lackawanna, flood levels and damage, and rates of shoreline erosion damage.

Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented.

**POLICY 29                    ENCOURAGE THE DEVELOPMENT OF ENERGY RESOURCES ON THE OUTER CONTINENTAL SHELF, IN LAKE ERIE AND IN OTHER WATER BODIES, AND ENSURE THE ENVIRONMENTAL SAFETY OF SUCH ACTIVITIES.**

The State recognizes the need to develop new indigenous energy sources. It also recognizes that such development may endanger the environment. Among the various energy sources being examined are those which may be found on the Outer

Continental Shelf (OCS) or in Lake Erie. The State has been encouraging the wise development of both.

The Department of Environmental Conservation has examined the potential impacts of Lake Erie gas drilling and is instituting reasonable guidelines so that activities can proceed without damage to public water supplies and other valuable coastal resources. State law prohibits 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 in or on Lake Erie. Further, State law prohibits production of liquid hydrocarbons in Lake Erie, either alone, or in association with natural gas. The Department has not, however, reached a decision as to whether or not the lands under Lake Erie will be leased for gas exploration purposes.

#### J. WATER AND AIR RESOURCES POLICIES

**POLICY 30 MUNICIPAL, INDUSTRIAL, AND COMMERCIAL DISCHARGE OF POLLUTANTS, INCLUDING BUT NOT LIMITED TO, TOXIC AND HAZARDOUS SUBSTANCES, INTO COASTAL WATERS WILL CONFORM TO STATE AND NATIONAL WATER QUALITY STANDARDS.**

Municipal, industrial and commercial discharges include not only "end-of-the pipe" discharges into surface and groundwater but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial discharges are both those which directly empty into receiving coastal waters and those which empty directly into Lake Erie and Smoke's Creek and those which pass through the regional treatment system before reaching the State's waterways.

**POLICY 31 STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVERBURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.**

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217) the State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment. Local Waterfront Revitalization Programs and State coastal management policies shall be factored into the review process for coastal waters. However, such consideration shall not affect any water pollution control requirement establishment by the State pursuant to the Federal Clean Water Act.

The existing water quality classifications in the City of Lackawanna shore area should be maintained. However, in the long term the "D" classification assigned to Smoke's Creek should be re-evaluated to reflect changing conditions along the stream bank and better accommodate future recreation opportunities.

**POLICY 32** THE STATE COASTAL POLICY REGARDING THE USE OF ALTERNATIVE WASTE SYSTEMS IS NOT APPLICABLE TO THE CITY OF LACKAWANNA.

**POLICY 33** BEST MANAGEMENT PRACTICES WILL BE USED TO ENSURE THE CONTROL OF STORMWATER RUNOFF AND COMBINED SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and sewer overflows. At present, the stormwater and sanitary sewer system within the City waterfront area is separate.

**POLICY 34** DISCHARGE OF WASTE MATERIALS INTO COASTAL WATERS FROM VESSELS WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS AND WATER SUPPLY AREAS.

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the State's waters is regulated. Priority will be given to the enforcement of this law in significant habitats and public water supply intakes which need protection from contamination by vessel wastes. Also, specific effluent standards for marina toilets have been promulgated by the Department of Environmental Conservation (6 NYCRR, Part 657).

**POLICY 35** DREDGING AND DREDGE SPOIL DISPOSAL IN COASTAL WATERS WILL BE UNDERTAKEN IN A MANNER THAT MEETS EXISTING STATE DREDGING PERMIT REQUIREMENTS, AND PROTECTS SIGNIFICANT FISH AND WILDLIFE HABITATS, SCENIC RESOURCES, NATURAL PROTECTIVE FEATURES, IMPORTANT AGRICULTURAL LANDS, AND WETLANDS.

State dredging permits will be granted if it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to levels which satisfy State dredging permit standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15, 24, 25, and 34).

**POLICY 36** ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS; ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE THE CLEANUP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGES WILL BE REQUIRED WHEN THESE SPILLS OCCUR.

See Policy 39 for definition of hazardous wastes. All activities within the City of Lackawanna waterfront which are subject to this policy shall comply with all State and Federal regulations.

**POLICY 37** BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-POINT DISCHARGE OF EXCESS NUTRIENTS, ORGANICS AND ERODED SOILS INTO COASTAL WATERS.

See Policy 33.

**POLICY 38**            **THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUND-WATER SUPPLIES, WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE SUCH WATERS CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.**

Surface water is the source of drinking water in the City of Lackawanna and therefore must be protected. The City waterfront area is serviced by a high technology water treatment and sanitary sewer system, and all commercial and industrial discharges are regulated by State and Federal Law.

**POLICY 39**            **THE TRANSPORT, STORAGE, TREATMENT AND DISPOSAL OF SOLID WASTES, PARTICULARLY HAZARDOUS WASTES, WITHIN COASTAL AREAS WILL BE CONDUCTED IN SUCH A MANNER SO AS TO PROTECT GROUNDWATER AND SURFACE WATER SUPPLIES, RECREATION AREAS, AND SCENIC RESOURCES.**

The definitions of terms "solid wastes" and "solid waste management facilities" are taken from New York's Solid Waste Management Act (Environmental Conservation Law, Article 27). Solid wastes include sludges from air or water pollution control facilities, demolition and construction debris and industrial and commercial wastes.

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Section 27-0901[3]), as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, disposed, transported or otherwise managed." A list of hazardous wastes (NYCRR Part 366) has been adopted by DEC (6 NYCRR Part 371).

Examples of solid waste management facilities include resource recovery facilities, sanitary landfills and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

**POLICY 40**            **THE STATE COASTAL POLICY REGARDING EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING FACILITIES IS NOT APPLICABLE TO THE CITY OF LACKAWANNA.**

**POLICY 41**            **LAND USE OR DEVELOPMENT IN THE COASTAL AREA WILL NOT CAUSE NATIONAL OR STATE AIR QUALITY STANDARDS TO BE VIOLATED.**

The City's Local Waterfront Revitalization Program incorporates the air quality policies and programs developed for the State by the Department of Environmental

Conservation pursuant to the Federal Clean Air Act and State laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

**POLICY 42                    COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF THE STATE RECLASSIFIES LAND AREA PURSUANT TO THE PREVENTION OF SIGNIFICANT DETERIORATION REGULATIONS OF THE FEDERAL CLEAN AIR ACT.**

Reclassification of an area from non-attainment to attainment allows for construction of new major sources of air pollution, when Prevention of Significant Deterioration (PSD) requirements are met. Should an area remain non-attainment, no new major sources of air pollution are allowed to be built. Permit requirements for construction of a new major source in a non-attainment area are more restrictive than for construction of the same source in an attainment area. Therefore, it is the policy of New York State to have areas classified as attainment as soon as possible to allow for future industrial growth.

NYSDEC has submitted a State Implementation Plan to the U.S. Environmental Protection Agency to achieve air quality standards for the Lackawanna area as required by the Clean Air Act. In addition, DEC has requested the USEPA to reclassify the Lackawanna/South Buffalo area to attainment for particulates, since air quality sampling has shown the area to be in compliance for particulates. The area has already been classified as attainment for the remaining criteria contaminants (SO<sub>2</sub>, NOX, CO, and Ozone) and PSD must be considered.

**POLICY 43                    LAND USE OR DEVELOPMENT IN THE COASTAL AREA MUST NOT CAUSE THE GENERATION OF SIGNIFICANT AMOUNTS OF THE ACID RAIN PRECURSORS: NITRATES AND SULFATES.**

The New York State Coastal Management Program and this Local Waterfront Revitalization Program incorporates the State's policies on acid rain. As such, these programs will assist in the State's efforts to control acid rain. Such efforts will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

**POLICY 44                    THE STATE COASTAL POLICY REGARDING THE PROTECTION OF WETLANDS IS NOT APPLICABLE TO THE CITY OF LACKAWANNA.**

SECTION IV

PROPOSED LAND AND WATER USES

A. LAND USES

Plans for redeveloping the Bethlehem Steel complex are presently in their initial stages. The recently completed Harborfront study (Feb. 1987), prepared for the Western New York Economic Development Corporation, Bethlehem Steel and Buffalo Crushed Stone, states that: "Fundamentally, the land plan strives to accomplish one primary objective which is to promote a balanced built environment along one of the region's primary locational assets - its waterfront" (p. 19). Conceptually, that portion of the Bethlehem complex within the City of Lackawanna is proposed to be redeveloped for industrial uses, transportation purposes and recreation.

The steel company's coke plant is expected to remain in operation for the foreseeable future. The facility will continue to occupy about 60 acres of land along the west side of the Lackawanna Ship Canal. This canal and the extensive rail network within the Bethlehem Steel Complex combine to provide a major opportunity for developing a multi-modal transportation center serving the entire Western New York region, and has been named "Gateway Metroport" (See Map 8).

Gateway Metroport's principal asset is the canal, a 4,000'-long, 200'-wide channel with a 28' depth. The canal can accommodate several 1,000' lake freighters simultaneously, and is the easternmost port on the Great Lakes that can berth ships of this size (lock sizes on the Welland Canal prohibit entry of these vessels into Lake Ontario and the St. Lawrence River). The South Buffalo Railway network servicing the Bethlehem complex provides connections to five national carriers, and has 27 locomotives and an automatic rail car loader. Three miles of conveyors expedite cargo handling and ship-to-rail transfer of materials. Selective demolition of several abandoned buildings in the vicinity of the canal will result in the retention and rehabilitation of roughly 160,000 sq. ft. of enclosed bulk-storage space and the availability of 150 acres of open bulk storage area. In addition, an existing 600,000 bbl. tank farm will be demolished and made available for heavy industrial use. About 350 acres of land will be occupied by Gateway Metroport facilities.

Roughly 4 acres of land within Gateway Metroport has been designated a foreign trade zone. Aggressive marketing of this facility is currently underway in Canada and Japan, as well as throughout much of the United States. In addition, the former Bethlehem Employment Building is proposed to be redeveloped into an office center, with roughly 50,000 sq. ft. of floor space being made available.

Over 400 acres of lakeshore land is presently an abandoned slag disposal area. Buffalo Crushed Stone is in the process of reclaiming these deposits for use in construction projects throughout the northeast. A state-of-the-art slag processing facility has recently been established on the site. Full recovery of all deposits is estimated to take 20 years. A final grade of roughly 12' above the lake level is proposed to be established along the shoreline. Upon completion of slag reclamation, land will be available for water-dependent or water-enhanced uses. Specific future uses to

be accommodated will be determined based partly upon future market conditions.

The remainder of the steel complex is proposed to house general industrial uses and rail transfer yards. Demolition of roughly 70% of all abandoned structures will result in the retention of about 1,500,000 sq. ft. of industrial space on site. Roughly 400 acres of cleared land will become available for the construction of new industrial space.

Light and medium industrial development compatible with the nearby Gateway and New Village Industrial Parks is planned for the northeast portion of the Bethlehem complex along Route 5. A variety of smaller industrial parcels ranging in size from 2 to 20 acres could be created, depending upon market conditions. Further south along Route 5, approximately 200 acres of land are available with ready access to major electric and natural gas trunk lines. This area is particularly suitable for a single large-scale end user of high energy quantities.

A landscaped corridor along the Lake Erie shore is proposed to be created, extending from the mouth of Smoke's Creek south into the Town of Hamburg to Woodlawn Beach. This corridor would be suitable for passive recreation such as bank fishing, picnics, strolling and cycling, and would provide the general public with an opportunity to gain access to the Lackawanna waterfront for the first time in the City's history. Vehicular access to the corridor from Route 5 will require further study and cooperative efforts among the City of Lackawanna, Town of Hamburg, and private owners.

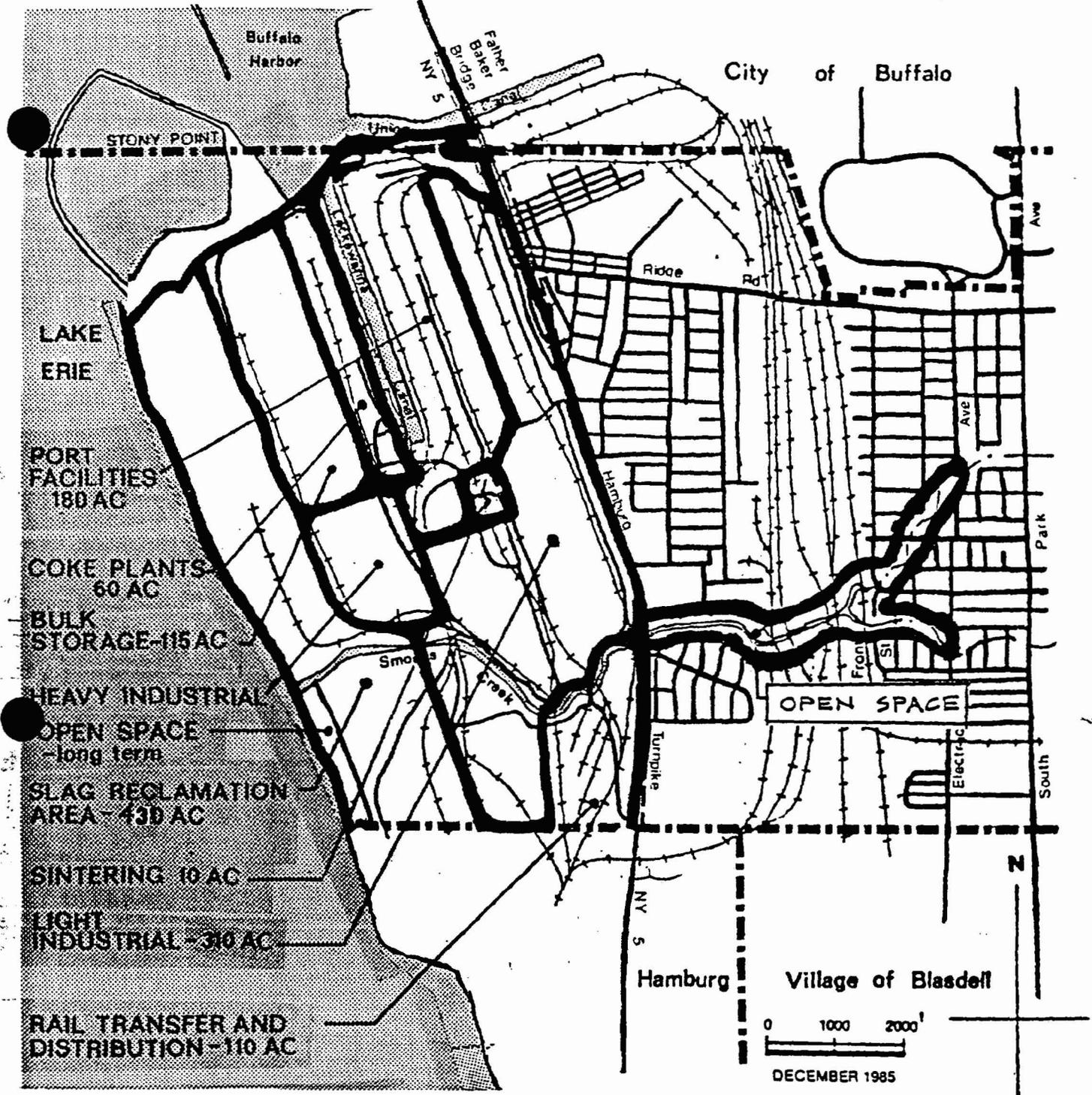
Substantial landscaping is also proposed along the Route 5 corridor, with berms, plantings, and coordinated signage envisioned. Special attention is planned for the Route 5 - Ridge Road intersection in order to create an aesthetically pleasing entry to the Ridge Road business district and the New Village Industrial Park immediately east of Route 5.

Finally, the Smoke's Creek corridor from Route 5 inland to Electric Avenue is proposed to be retained as open space in conformance with its existing condition.

## **B. WATER USES**

The Lackawanna Ship Canal and nearby sections of Lake Erie have historically been used for transportation and industrial purposes. Although future demand for industrial cooling and processing water will be greatly diminished from pre-1980 levels, some water will continue to be required for the remaining active portions of the Bethlehem Steel facility, and possibly for future water-dependent industrial uses which might develop in response to market conditions. With strong emphasis being given to developing Gateway Metroport into a major transportation hub, the use of the canal by commercial shipping will likely increase.

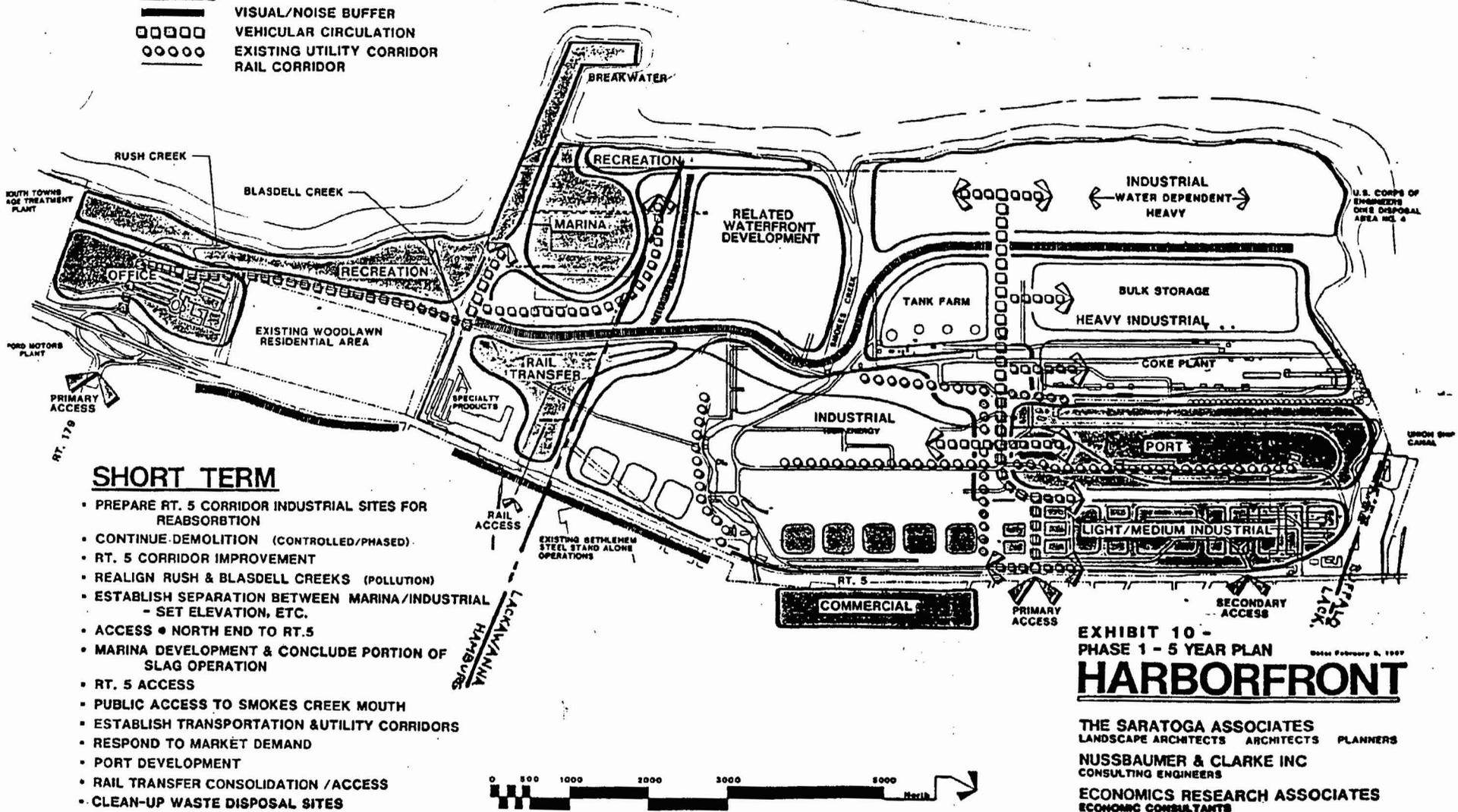
Elsewhere along the City's shoreline, the Lake will be used for recreational boating and fishing. The Lake will also act as a scenic setting for passive shoreline recreation activities.



<p>LOCAL WATERFRONT REVITALIZATION PROGRAM</p> <p>ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING</p>	<p>MAP 7</p> <p><b>LAND USE PLAN</b></p> <p>CITY OF LACKAWANNA</p>
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**LEGEND**

-  VISUAL/NOISE BUFFER
-  VEHICULAR CIRCULATION
-  EXISTING UTILITY CORRIDOR
-  RAIL CORRIDOR



**SHORT TERM**

- PREPARE RT. 5 CORRIDOR INDUSTRIAL SITES FOR REABSORPTION
- CONTINUE DEMOLITION (CONTROLLED/PHASED)
- RT. 5 CORRIDOR IMPROVEMENT
- REALIGN RUSH & BLASDELL CREEKS (POLLUTION)
- ESTABLISH SEPARATION BETWEEN MARINA/INDUSTRIAL - SET ELEVATION, ETC.
- ACCESS • NORTH END TO RT.5
- MARINA DEVELOPMENT & CONCLUDE PORTION OF SLAG OPERATION
- RT. 5 ACCESS
- PUBLIC ACCESS TO SMOKES CREEK MOUTH
- ESTABLISH TRANSPORTATION & UTILITY CORRIDORS
- RESPOND TO MARKET DEMAND
- PORT DEVELOPMENT
- RAIL TRANSFER CONSOLIDATION /ACCESS
- CLEAN-UP WASTE DISPOSAL SITES



**EXHIBIT 10 -  
PHASE 1 - 5 YEAR PLAN**  
**HARBORFRONT**

THE SARATOGA ASSOCIATES  
LANDSCAPE ARCHITECTS ARCHITECTS PLANNERS  
NUSSBAUMER & CLARKE INC  
CONSULTING ENGINEERS  
ECONOMICS RESEARCH ASSOCIATES  
ECONOMIC CONSULTANTS

**MAP 8  
ILLUSTRATIVE SITE PLAN**

SECTION V

TECHNIQUES FOR LOCAL IMPLEMENTATION OF THE PROGRAM

The City of Lackawanna has statutory, financial, and administrative mechanisms presently in place which can be used to implement waterfront policies. The Zoning Ordinance, for example, includes provisions for good site design review. There are no local environmental review provisions within City ordinances. However, the City does have a floodplain management ordinance and an active City Planning Board, which will also function as the Local Waterfront Advisory Committee. The City also has a Department of Development which is responsible for administering the City's Community Development Block Grant funds, providing liaison with the City Planning Board regarding zoning matters, and general policy guidance regarding physical development to the Mayor and City Council.

The following pages briefly describe existing implementation mechanisms, and list additional mechanisms appropriate for realization of local waterfront policy objectives.

**A. LOCAL LAWS AND REGULATIONS NECESSARY TO IMPLEMENT THE LWRP**

1. Existing Local Laws and Regulations

a) Sewers and Sewage Disposal Ordinance:

This local law regulates wastewater disposal procedures in the City. The law classifies and regulates industrial and non-industrial discharges, and establishes permit requirements (Section 16-73, 74). Developments are required to connect to public sewers where available (Section 16-5). Untreated discharges into natural outlets are prohibited (Section 16-3). Downspouts and similar stormwater drains are prohibited from connecting to sanitary sewers (Section 16-32).

The Sewers and Sewage Disposal Ordinance serves to implement the following policies:

- (1) Policy 5 - Re: Location of Development in Areas Where Public Services are Available - The Law requires all development to connect to public sewers if possible.
- (2) Policy 30 - Re: Discharge of Pollutants Into Coastal Waters - The ordinance establishes a permitting system for the discharge of industrial and non-industrial pollutants. It also prohibits untreated discharges into natural outlets.
- (3) Policy 38 - Re: Conservation of Surface Water - Reference should be made to the preceding paragraph.
- (4) Policy 33 - Re: Stormwater Runoff and Combined Sewer Overflow - The ordinance prohibits downspouts and similar stormwater drains from connecting to the sanitary sewer.

b) Flood Damage Prevention Ordinance

This local law restricts development in flood hazard areas and floodways identified by the Federal Emergency Management Agency. The law minimizes the likelihood of property damage due to flooding.

The law assists in implementing the following LWRP Policies:

- (1) Policy 11A - Re: Flooding in Special Flood Hazard Areas: Restrictions are placed on building construction techniques to protect property and human safety in certain areas subject to flooding.
- (2) Policy 17 - Re: Use of Non-Structural Measures to Minimize Flooding and Erosion Damage: The law includes requirements for floodproofing buildings such as construction above the base flood level.

c) Zoning Ordinance

The purpose of the City's Zoning Ordinance is to promote public health, safety, and the welfare of the public through the establishment of various land use zones within the City and accompanying provisions pertaining to land use type, bulk, location, landscaping, parking, signage, flood damage prevention, site plan review, etc.

As previously described in the Inventory and Analysis Section, virtually all of the waterfront area lies within the recently established Mixed Development District. The District is designed as a planned unit development for a wide range of uses and to permit great flexibility in the use and design of structures. See Appendix C for the text of this district.

The Zoning Ordinance will assist in the implementation of the following policies:

Policy 1 - The provisions of the Mixed Development District (Section 20-30) will assist in implementing the mixed-use development strategy proposed for the former Bethlehem Steel Complex. The Site Plan Review provisions of the Ordinance (Article XI) will also contribute substantially toward implementation of this policy, as it functions to ensure optimum overall design and redevelopment of parcels, taking into account natural and man-made resources.

Policy 2 - The Mixed Development District established a variety of water-dependent uses as principal permitted uses, such as marinas, boat launches, docks, marine services, and public recreation and swimming uses.

Policy 5 - The Site Plan Review provisions of the Zoning Ordinance will help to ensure that future development be designed in a manner which takes into consideration the adequacy of the necessary infrastructure (Section 20-84).

Policy 11 - The provisions of the Flood Plain Overlay District (Section 20-38) substantially contribute to the implementation of this policy. This district, which governs development within flood hazard areas and floodways, discourages and restricts uses which can be sited in flood prone areas and establishes methods for minimizing property damage for those uses which can be located within such areas.

Policy 14 - The provisions of the Flood Plain Overlay District (Section 20-38) contribute towards the implementation of this policy through the regulation of development and placement of fill within flood hazard areas and floodways.

Policy 17 - The provisions of the Flood Plain Overlay District, as well as Site Plan Review (Article XI) assist in the implementation of this policy. As previously described, the Flood Plain Overlay District provides for the restriction of development within flood prone areas, as well as design standards aimed at preventing and minimizing damage to property from flooding. In addition, the Zoning Ordinance's Site Plan Review provisions (Section 20-84,D, especially) establish specific standards related to the siting of shoreline development.

Policy 21 - The provisions of the Mixed Development District assist in the implementation of this policy. The District establishes a number of water-related uses (marinas, boat launches, public recreation facilities, etc.) as principal permitted uses.

Policy 22 - The Mixed Development District is designed to provide for redevelopment of the waterfront area through mixed uses in an integrated and controlled manner. The District provides for a full range of residential, commercial, and industrial uses to be established in conjunction with water-related uses which allow for public access and recreation along the shoreline.

Policy 25 - The Signage and Site Plan Review provisions will assist in the implementation of this policy. Section 20-37 provides signage regulations which are intended to assure that signs will be aesthetically harmonious with the overall design of an area, and which will restrict garish and out-of-scale signs. Site Plan Review provisions establish landscaping and other design standards which are intended to enhance the aesthetic appearance of future development.

Policy 33 - The Site Plan Review provisions set forth a number of general standards, such as landscaping and regulation of parking areas, which are intended to control stormwater runoff.

**B. ADDITIONAL LOCAL LAWS AND REGULATIONS ADOPTED**

1. LWRP Consistency Law

This local law will assist in the implementation of all applicable policies by requiring that direct and indirect (permitted and funded) actions undertaken by the City be done in a manner which is consistent, to the maximum extent practicable, with the policies and purposes of the LWRP. See Appendix B for the text of this local law.

**C. OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP.**

1. Local Government Actions Necessary to Implement the LWRP

a) **Public Property Acquisition:** The City will actively work with Buffalo Crushed Stone and the Town of Hamburg to provide public access to Lake Erie via a 3,200' linear corridor between Smoke's Creek and the Town of Hamburg boundary. It is understood that actual implementation of such a concept is 6-10 years away; however, discussions should begin soon to ensure proper integration with private redevelopment plans.

b) **Public Access Feasibility Study:** The City of Lackawanna should undertake a detailed feasibility study to best determine the constraints and opportunities of (1) developing a public corridor along Lake Erie, and (2) providing vehicular access to the site through private property. Maximum coordination must occur with Buffalo Crushed Stone.

The study should also include a physical analysis of the Smoke's Creek shoreline to determine good locations for launching car-top boats and/or shallow draft motor boats. The analysis must also consider parking needs as a key element of the study. Finally, any study to provide public access to Smoke's Creek must include detailed information regarding the impact any improvements would have on the U.S. Army Corps of Engineers Flood Protection Program.

c) **Non-Local Funding:** The City will apply for funding assistance through appropriate State and Federal programs and other funding sources which may become available to implement the public park along Lake Erie. Relevant programs are listed under Section VI "Federal and State Programs Likely to Affect Implementation." City personnel will assist in the preparation of specific grant applications to secure such funding.

- d) Economic Opportunity Zone: The City, through the Lackawanna Community Development Corporation, should continue promoting and marketing the Economic Opportunity Zone. This will aid in attracting new industrial and transportation uses to appropriate sections of the LWA.
- e) Continued assistance from the Erie County Industrial Development Agency in securing federal and State grant monies for (1) the port terminal building, and (2) Ridge Road extension projects.
- f) Successful resolution of the sewer treatment issue among Bethlehem Steel Corporation, Buffalo Crushed Stone, Erie County Sewer District #6, and the City of Lackawanna.

2. Private Actions Necessary to Implement the LWRP

The following private actions are necessary to implement the LWRP.

- a) Continued aggressive marketing by Buffalo Crushed Stone and Bethlehem Steel Corporation to successfully attract tenants to the proposed industrial park within the former Bethlehem site.
- b) Successful rental and rehabilitation by the private owners of the former Bethlehem Steel employment office building and its preservation as an architecturally and historically significant structure. The owners will be made aware of State assistance in determining the structure's eligibility for inclusion in the Federal or State Registers of Historic Places and the subsequent financial incentives such designation opens up to the property owner. The Erie County Department of Environment and Planning and City of Lackawanna will so inform the owner.
- c) Positive negotiation between Bethlehem Steel Corporation and the City of Lackawanna regarding the provision of public access to Lake Erie between Smoke's Creek and the Town of Hamburg boundary.
- d) Continued aggressive marketing by Buffalo Crushed Stone to successfully attract commercial shipping to the Lackawanna Ship Canal, thereby creating spin-off development for adjacent parcels.
- e) Cleanup of inactive hazardous waste sites by the Bethlehem Steel Corporation.
- f) Full compliance with all federal and State air quality permits by Bethlehem Steel Corporation as pertains to the coke oven operation.

- g) Completion of all demolition phases by the Bethlehem Steel Corporation.

**D. MANAGEMENT STRUCTURE NECESSARY TO IMPLEMENT THE LWRP**

1. Overall Program Coordination

Successful implementation of the Local Waterfront Revitalization Program will require the participation of the City Council, Planning Board, Zoning Board of Appeals, and Director of Development.

The Mayor will serve as the lead local contact for the LWRP. The office will be responsible for ensuring that all waterfront related actions are properly reviewed by the City Council for consistency with shoreline policies. The office will also be the contact for all correspondence with NYSDOS regarding this program.

2. Management Responsibilities

- a) The Planning Board will review all Type I and Unlisted proposed public and private actions within the waterfront area to ensure compatibility with adopted waterfront policies. The recommendations will then be forwarded to the City Council. The Planning Board will also determine the necessity for various technical studies, and initiate efforts to identify and implement various public and private projects that further enhance waterfront revitalization.
- b) City Council: The City Council will enact and amend the local laws affecting the implementation of waterfront policy objectives, including adoption of the municipal budget. The Council will be responsible for determining consistency of waterfront actions with the LWRP.
- c) Zoning Board of Appeals: The Zoning Board of Appeals will exercise authority over the granting of variances from the provisions proposed in the revised City Zoning Ordinance.
- d) Department of Development: The staff and resources of the Department of Development will provide necessary technical support to the Planning Board and Mayor's office as requested. Such support will include environmental reviews and zoning analyses for actions within the local waterfront area.
- e) Local Compliance: All proposed Type I and Unlisted actions as defined by the State Environmental Quality Review Act within the waterfront area will be subject to scrutiny by the Planning Board for consistency with adopted waterfront policies. Reference should be made to Appendix B and the local consistency law for a clear description of local compliance.

- f) Local Review of State and Federal Actions: The City will review proposed State and federal actions within the waterfront area in accordance with guidelines established by the New York State Department of State. Such guidelines are set forth in Appendix D.

IMPLEMENTATION BLUEPRINT

ACTION	IMPLEMENTOR	TIME FRAME
<b>1. <u>REGULATORY CHANGES</u></b>		
o Local Consistency Law	City of Lackawanna	1989
<b>2. <u>CAPITAL PROJECT</u></b>		
o Lake Erie Linear Park		
- Property Acquisition Reservation	City of Lackawanna	1991
- Design	City of Lackawanna	1993
- Construction	City of Lackawanna	1994
	U.S. Dept. of Housing and Urban Development	
	NYS Office of Parks, Recreation and Historic Preservation	
- Owner	City of Lackawanna	
<b>3. <u>CAPITAL PROJECT</u></b>		
o Father Baker Bridge Reconstruction		
- Design	NYS DOT	1988
- Construction	NYS DOT	1989-1991
- Owner	New York State	
<b>4. <u>BETHLEHEM SITE DEVELOPMENT</u></b>		
o Site Demolition	Private Action	1989
o Slag Reclamation	Private Action	1988-1995
o Port Area Redevelopment	Private Action	1988-1990
o Development of Light Industrial Park	Private Action	1992-2000
<b>5. <u>PLANNING ACTIONS</u></b>		
o Public Access Feasibility Study	City of Lackawanna NYS Dept. of State	1990

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.

The first part of this section identifies the actions and programs of State and Federal agencies which should be undertaken in a manner consistent with the LWRP. This is a generic list of actions and programs, as identified by the NYS Department of State; therefore, some of the actions and programs listed may not be relevant to this LWRP. Pursuant to the State Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. Similarly, Federal agency actions and programs subject to consistency requirements are identified in the manner prescribed by the U.S. Coastal Zone Management Act and its implementing regulations. The lists of State and Federal actions and programs included herein are informational only and do not represent or substitute for the required identification and notification procedures. The current official lists of actions subject to State and Federal consistency requirements may be obtained from the NYS Department of State.

The second part of this section is a more focused and descriptive list of State and Federal agency actions which are necessary to further implementation of the LWRP. It is recognized that a State or 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 can not 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 discuss State and Federal assistance needed to implement the LWRP.

A. State and Federal Actions and Programs Which Should be Undertaken in a Manner Consistent with the LWRP

1. 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 Programs.  
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

**DIVISION OF ALCOHOLISM AND ALCOHOL ABUSE**

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Letter Approval for Certificate of Need
  - 2.02 Operating Certificate (Alcoholism Facility)
  - 2.03 Operating Certificate (Community Residence)
  - 2.04 Operating Certificate (Outpatient Facility)
  - 2.05 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 Corporation 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 De Novo 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

**DEPARTMENT OF COMMERCE**

- 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.

**DEPARTMENT OF CORRECTIONAL SERVICES**

- 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.

**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

**ENERGY PLANNING BOARD AND ENERGY OFFICE**

- 1.00 Preparation and revision of the State Energy Master Plan.

**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
- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).
- 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.
- 8.00 New York Harbor Drift Removal Project.
- 9.00 Permit and approval programs:
  - 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
- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities
- 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 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.22 Floating Object Permit
- 9.23 Marine Regatta Permit
- 9.24 Mining Permit
- 9.25 Navigation Aid Permit
- 9.26 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- 9.27 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.28 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.29 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish
- 9.30 Underground Storage Permit (Gas)
- 9.31 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)
- 9.32 Digger's Permit (Shellfish)
- 9.33 License of Menhaden Fishing Vessel
- 9.34 License for Non-Resident Food Fishing Vessel
- 9.35 Non-Resident Lobster Permit
- 9.36 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 9.37 Permits to Take Blue-Claw Crabs
- 9.38 Permit to Use Pond or Trap Net
- 9.39 Resident Commercial Lobster Permit
- 9.40 Shellfish Bed Permit
- 9.41 Shellfish Shipper's Permits
- 9.42 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- 9.43 Approval - Drainage Improvement District
- 9.44 Approval - Water (Diversion for) Power
- 9.45 Approval of Well System and Permit to Operate

- 9.46 Permit - Article 15, (Protection of Water) - Dam
- 9.47 Permit - Article 15, (Protection of Water) - Dock, Pier or Wharf
- 9.48 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 9.49 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- 9.50 Permit - Article 15, Title 15 (Water Supply)
- 9.51 Permit - Article 24, (Freshwater Wetlands)
- 9.52 Permit - Article 25, (Tidal Wetlands)
- 9.53 River Improvement District Approvals
- 9.54 River Regulatory District Approvals
- 9.55 Well Drilling Certificate of Registration
- 9.56 Permit to Construct and/or Operate a Solid Waste Management Facility
- 9.57 Septic Tank Cleaner and Industrial Waste Collector Permit
- 9.58 Approval of Plans for Wastewater Disposal Systems
- 9.59 Certificate of Approval of Realty Subdivision Plans
- 9.60 Certificate of Compliance (Industrial Wastewater Treatment Facility)
- 9.61 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
- 9.62 Permit - Article 36, (Construction in Flood Hazard Areas)
- 9.63 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.64 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.65 State Pollutant Discharge Elimination System (SPDES) Permit
- 9.66 401 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.

**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 HOUSING AND COMMUNITY RENEWAL AND ITS SUBSIDIARIES AND AFFILIATES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.

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.

**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 OF MENTAL RETARDATION AND DEVELOPMENT 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**

- 1.00 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.
- 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.

**POWER AUTHORITY OF THE STATE OF NEW YORK**

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

**NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION**

- 1.00 Corporation for Innovation Development Program.
- 2.00 Center for Advanced Technology Program.

**NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION**

- 1.00 Corporation for Innovation Development Program
- 2.00 Center for Advanced Technology Program

**DEPARTMENT OF SOCIAL 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 STATE**

- 1.00 Appalachian Regional Development Program.
- 2.00 Coastal Management Program.
- 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**

- 1.00 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 or other activities related to the management of land under the jurisdiction of the University.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

**DIVISION OF 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)

**NEW YORK STATE THRUWAY 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.
- 3.00 Permit and approval programs:
  - 3.01 Advertising Device Permit
  - 3.02 Approval to Transport Radioactive Waste
  - 3.03 Occupancy Permit

**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) Barge Canal
  - (e) Rail facilities
- 3.00 Financial assistance/grant programs:
  - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
  - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg and New York
  - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
  - 3.04 Subsidies program for marginal branchlines 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 Permits for Use and Occupancy of N.Y. State Canal Lands (except Regional Permits [Snow Dumping])
- 4.10 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 Construction, rehabilitation, expansion, or demolition of residential, commercial, industrial, and civic facilities and the funding of such activities, including but not limited to actions under the following programs:
  - (a) Tax-Exempt Financing Program
  - (b) Lease Collateral Program
  - (c) Lease Financial Program
  - (d) Targeted Investment Program
  - (e) Industrial Buildings Recycling Program

**DIVISION OF YOUTH**

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

**2. Federal Agencies**

DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

**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.

2.00 Disposition of Federal surplus lands and structures.

**DEPARTMENT OF INTERIOR**

Fish and Wildlife Service

1.00 Management of National Wildlife refuges and proposed acquisitions.

Mineral Management Service

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

National Park Service

- 3.00 National Park and Seashore management and proposed acquisitions.

**DEPARTMENT OF TRANSPORTATION**

Amtrak, Conrail

- 1.00 Expansions, curtailments, new construction, upgrading or abandonments or railroad facilities or services, in or affecting the State's coastal area.

Coast Guard

- 2.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.
- 3.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).
- 4.00 Expansion, abandonment, designation or anchorages, lightening areas or shipping lanes and ice management practices and activities.

Federal Aviation Administration

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

Federal Highway Administration

- 6.00 Highway construction.

St. Lawrence Seaway Development Corporation

- 7.00 Acquisition, location, design, improvement and construction of new and existing facilities for the operation of the Seaway, including traffic safety, traffic control and length of navigation season.

FEDERAL LICENSES AND PERMITS

**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 USACE 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**

Economic 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)).

##### Mineral 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.

## **INTERSTATE COMMERCE COMMISSION**

- 1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines.

## **NUCLEAR REGULATORY COMMISSION**

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

## **DEPARTMENT OF TRANSPORTATION**

### 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).

### Federal Aviation Administration

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

## **FEDERAL ASSISTANCE\***

### **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
- 10.422 Business and Industrial Loans
- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

#### DEPARTMENT OF COMMERCE

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

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- 14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
- 14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects
- 14.117 Mortgage Insurance - Homes
- 14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing
- 14.125 Mortgage Insurance - Land Development and New Communities
- 14.126 Mortgage Insurance - 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

**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

**GENERAL SERVICES ADMINISTRATION**

- 39.002 Disposal of Federal Surplus Real Property

**COMMUNITY SERVICES ADMINISTRATION**

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

**SMALL BUSINESS ADMINISTRATION**

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 59.031 Small Business Pollution Control Financing Guarantee

**ENVIRONMENTAL PROTECTION AGENCY**

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control - State and 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)

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

**B. FEDERAL AND STATE ACTIONS AND PROGRAMS NECESSARY TO FURTHER THE LWRP.**

Redevelopment activities within the Lackawanna waterfront area will largely be dependent upon private initiatives. Where appropriate, private ventures may be assisted throughout a variety of federal and state programs which provide financial incentives and technical support for economic development. Since specific needs cannot be identified at this time, the following list represents a sample of the types of programs which would assist redevelopment efforts.

1. Federal Actions or Programs

a) Department of Commerce

Economic Development Administration

- (1) Grants for public works and development facilities
- (2) Business development assistance
- (3) Technical assistance
- (4) Public works impact projects
- (5) Special Economic Development and Adjustment Assistance Program -- Sudden and severe or long-term economic deterioration.

b) Department of Housing and Urban Development

- (1) Community Development Block Grant Program
- (2) Urban Development Action Grants

c) Department of Transportation

Maritime Administration

- (1) Development and promotion of domestic waterborne transport systems.

d) Small Business Administration

- (1) Small Business Loans
- (2) Small Business Investment Companies
- (3) State and Local Development Company Loans
- (4) Small Business Energy Loans
- (5) Small Business Pollution Control Financing Guarantee

The Federal programs listed above could provide important assistance for the following types of actions within the City's waterfront area:

- (1) Construction of streets and utilities to facilitate industrial park development;

(2) Provision of low-interest loans and grants to corporations, including the Lackawanna Community Development Corporation, in order to promote re-occupancy of the area;

(3) Promotion of Gateway Metroport as a vital component of the Great Lakes navigation system.

2. State Actions and Programs

a) **Job Development Authority:**

(1) Provision of low-interest mortgage loans to local non-profit development corporations to finance commercial and industrial facilities.

b) **Job Incentive Board:**

(1) Provision of tax abatements or credits to business firms.

c) **N.Y.S. Urban Development Corporation and its Subsidiaries and Affiliates:**

- (1) Tax-Exempt Financing Program
- (2) Lease Collateral Program
- (3) Targeted Investment Program
- (4) Industrial Building Recycling Program

The State programs listed above could provide assistance to undertake the following types of actions within the City's waterfront area:

(1) Construction of streets and utilities to facilitate industrial park development;

(2) Financial assistance for rehabilitation of the former Bethlehem Employment Office Building and other buildings suitable for renovation in the area;

(3) Financial incentives to firms in order to promote re-occupancy of the area.

d) **Office of Parks, Recreation, and Historic Preservation.**

(1) Provision of funding for State and local activities from the Land and Water Conservation Fund to acquire and develop a passive recreation corridor along the shoreline from Smokes Creek south to the Town of Hamburg and to provide public vehicular access to the corridor from Route 5.

- (2) Technical assistance and possible funding through the Environmental Quality Bond Act of 1986 for designation of the former Bethlehem Steel employment office building as a structure of national or State significance. This would also include funding assistance for renovation.

**e) Department of Transportation**

- (1) Design and construction programs should reflect the City's policies concerning the reconstruction of the Father Baker Bridge and the Route 5 - Ridge Road intersection, (Policy 25B: "Enhance the NYS Route 5 - Ridge Road intersection as an attractive gateway to the City of Lackawanna.") and the explanations of those policies.

**f) Department of Environmental Conservation**

- (1) Permits will be required for any activity within the state-maintained federal flood-control project along Smoke's Creek.

**g) Office of General Services**

- (1) Prior to any development occurring in the water or on the immediate waterfront, OGS should be consulted for a determination of the State's interest in underwater or formerly underwater lands and for authorization to use and occupy these lands.

SECTION VII

CONSULTATION WITH OTHER AFFECTED  
FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES

A. DESCRIPTION OF CONSULTATION ACTIVITIES

1. Method

The City of Lackawanna has established and carried out several approaches for consulting with federal, State, regional and other local agencies that are affected by the development of a City of Lackawanna Local Waterfront Revitalization Program (LWRP). These approaches have been selected to facilitate understanding of the City's LWRP, promote information sharing, coordinate related City and agency activities, and resolve conflicts between the City's LWRP and the policies and/or programs of these governmental agencies.

The approaches used include: (1) establishment of the Erie County Waterfront Task Force; (2) technical assistance consultations; and (3) supportive written communications.

2. Erie County Waterfront Task Force Meetings

Description: Activities of the Task Force are detailed in Section VIII, Local Commitment. The Task Force was formed to assist in coordinating LWRP efforts among all waterfront municipalities in Erie County (including the Towns of Brant, Evans, Hamburg, Tonawanda, Grand Island and the Cities of Lackawanna, Tonawanda and Buffalo). Representatives from these municipalities serve on the Task Force, as well as representatives from all related agencies carrying out waterfront programs policies or projects in Erie County. Another major function of the Task Force is to provide for an information exchange among both agency and LWRP municipal officials regarding their waterfront concerns and interests.

Meeting Schedule: The Erie County Waterfront Task Force has met three times since the beginning of LWRP development in the waterfront municipalities. The first meeting was held on August 1, 1983, the second meeting on February 2, 1984, and a third meeting on September 26, 1984.

Accomplishments: The Erie County Task Force meetings provide a needed mechanism for information exchange and coordination of waterfront activities among agencies and governments. Just as important, it serves as an alarm system by which potentially controversial, inconsistent, or duplicating efforts can be identified. Attendance at the meeting has been excellent. The support demonstrated by Task Force participants has established the Task Force as a viable effective entity for coordinating waterfront planning on a county-wide basis. The media attention radio, TV, and newspapers have given these meetings is indicative of the Task Force's meaningful role in waterfront planning.

### 3. Technical Consultations

New York State Department of Transportation: Close coordination has continued throughout the development of the City's LWRP with NYSDOT due to the interrelationship of the State Department of Transportation's development of a transportation access plan in the Lackawanna area. The plan relates directly to determining the recreation potential of the Union Ship Canal, on the disposition of the Father Baker Bridge and the development of vehicular access routes from Route 5 into the Bethlehem Industrial Park.

U.S. Army Corps of Engineers: Discussions have taken place with the Corps of Engineers concerning diked disposal area #4 offshore of the Bethlehem complex and the area's water quality. Also, issues have concerned projected use changes along the waterfront and possible effects of use changes on water quality in the diked disposal area.

New York State Department of Environmental Conservation: Discussions have occurred concerning existing and projected air quality standards and controls due to the partial shutdown of the Bethlehem Steel complex.

Niagara Frontier Transportation Authority: As part of the City of Buffalo-NFTA Waterfront Master Plan development, the City of Lackawanna and Erie County are representatives on the City's Waterfront Planning Board. This involvement provides continuous review and coordination of such issues as the relocation of the Port of Buffalo to the City of Lackawanna.

Coordination with LWRP's in Adjacent Waterfront Municipalities - Town of Hamburg, City of Buffalo: As part of the waterfront program development in these municipalities, there has been as special emphasis placed on assessing impacts each program might have on the other. This is particularly important due to the relocation of the Port of Buffalo to the City of Lackawanna and the interest of Lackawanna in the development of Woodlawn Beach in the Town of Hamburg as a passive recreational park.

Elected Federal, State, Local Officials Representing City of Lackawanna Waterfront: Not only do these officials participate in Erie County Waterfront Task Force meetings, but they, and/or their representatives, usually attend waterfront committee meetings. A special briefing session on the LWRP was held for County Legislators on April 16, 1984.

Accomplishments: Consultation on the technical aspects of Lackawanna's program with all appropriate agencies and government representatives has proven necessary since few really understand the parameters of developing a LWRP. These conversations should help provide the basis for consistency with agency programs and policies.

4. Written Communication

In order to assure that all relevant waterfront agencies were kept informed of progress being made on the development of the Local Waterfront Revitalization Program, two methods were used as follows:

- o A technical memo was sent to appropriate federal, State and regional agencies on April 17, 1984, which reviewed all aspects of the City's local waterfront revitalization program, including an explanation of the City's waterfront policies and coastal area projects and program implementation techniques.
- o A quarterly information sheet "Waterfront News," provides a summary of ongoing activities concerning the development of the LWRP. The mailing list of approximately 250 includes all relevant waterfront agencies as well as elected representatives from waterfront municipalities.

Both techniques appear to be an effective way to transmit pertinent information on the development of the local waterfront revitalization programs. Responses to review of the technical memo have indicated understanding and acceptance of elements thus far.

5. Review of Draft LWRP by State, Federal, and Local Agencies

The Draft LWRP (with Draft EIS) was reviewed and approved by the City Council and forwarded to the NYS Department of State (DOS). The DOS then initiated a 60-day review of the Draft LWRP/DEIS pursuant to the Waterfront Revitalization and Coastal Resources Act and State Environmental Quality Review Act. Copies of the Draft LWRP and DEIS were distributed by DOS to all potentially affected State and Federal agencies, Erie County, adjacent waterfront municipalities, and the Erie and Niagara Counties Regional Planning Board. Comments received on the Draft LWRP/DEIS were reviewed by DOS and the City and resultant changes were made to the LWRP, which are detailed in the Final Environmental Impact Statement.

SECTION VIII

ACTIVITIES TO SECURE LOCAL COMMITMENT

## ACTIVITIES TO SECURE LOCAL COMMITMENT

The City of Lackawanna has established and carried out in conjunction with Erie County and the other waterfront LWRP municipalities in Erie County, the following procedures for obtaining local commitment to its LWRP. A two-tier method has been selected to facilitate understanding and commitment at the municipal level and also promote information sharing and coordination of LWRP's among all participating Erie County LWRP municipalities, as well as with related waterfront agencies.

Two types of advisory committees comprise this two-tier approach in the City of Lackawanna: (1) an intermunicipal Erie County Waterfront Task Force; and (2) the City of Lackawanna Planning Board serving as the LWRP municipal advisory committee.

These groups met throughout the LWRP preparation process and provided valuable guidance to City and County officials. A series of public meetings were also held to obtain citizen feedback.

APPENDIX A

STREAM CLASSIFICATION DESCRIPTIONS

In summary, stream classifications as prepared by the New York State Department of Environmental Conservation in accordance with the provisions of ECL Article 17 and 6NYCRR Part 701, reflect the following objectives for water use:

- Class A - Source of water supply for drinking, culinary or food processing purposes and any other usage.
- Class B - Bathing and any other usage except as a source of water supply for drinking, culinary, or food processing purposes.
- Class C - Fishing and any other usage except for bathing or source of water supply for drinking, culinary, or food processing purposes.
- Class D - Agricultural, or source of industrial cooling or process water supply and any other use except for fishing, bathing, or as a source of water supply for drinking, culinary or food processing purposes.

APPENDIX B  
LOCAL CONSISTENCY LAW

CITY OF LACKAWANNA  
LOCAL LAW NO. \_\_\_\_\_, 1989

A LOCAL LAW RELATING TO THE CITY OF LACKAWANNA, NEW YORK'S LOCAL WATERFRONT REVITALIZATION PROGRAM.

BE IT ENACTED by the City Council of the City of Lackawanna, New York, as follows:

This Local Waterfront Revitalization Program (LWRP) Consistency Law for the City of Lackawanna requires all Type I and Unlisted actions (as defined by the State Environmental Quality Review Act (SEQRA) implementing regulations) that would be directly undertaken, approved, or funded by the City to be reviewed by the City Council for consistency with the City of Lackawanna LWRP.

ARTICLE I - GENERAL PROVISIONS.

Section 1.1 - TITLE.

This Local Law shall be known and may be cited as the City of Lackawanna LWRP Consistency Law.

Section 1.2 - PURPOSE.

The purpose of this Local Law is to provide for the protection and beneficial use of the natural and man-made resources within the City of Lackawanna waterfront area by ensuring that certain actions to be undertaken, approved, or funded by the City will be done in a manner consistent with the policies and purposes of the City of Lackawanna LWRP. The consistency review, while triggered by SEQRA, is a free standing review conducted by the City Council.

Section 1.3 - AUTHORITY.

This Local Law is adopted under the authority of the Municipal Home Rule Law and Article 42 of the Executive Law.

Section 1.4 - APPLICABILITY.

All agencies of the City of Lackawanna shall comply with this Local Law, prior to directly undertaking, approving, or funding any action within the waterfront area when such action is classified as Type I or Unlisted under Part 617 of Title 6 of the official compilation of codes, rules and regulations of the State of New York (NYCRR).

**Section 1.5 - SEVERABILITY.**

The provisions of this Local Law are severable. If any part of this Local Law is found invalid, such findings will apply only to the particular provision and circumstances in question. The remainder of this Local Law, and the application of the disputed provision to other circumstance, will remain valid.

**Section 1.6 - DEFINITIONS.**

- a) "Action" means either a "Type I" or "Unlisted" action as defined in SEQR regulations at 6 NYCRR 617.2.
- b) "Consistent" means the action will be fully in compliance with and will not hinder any of the City of Lackawanna LWRP policy standards and conditions.
- c) "EIS" means Environmental Impact Statement as defined at 6 NYCRR 617.2(m).
- d) "Local Waterfront Revitalization Program (LWRP)" means the local program to implement the N.Y.S. Coastal Management Program within the City of Lackawanna approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law of New York State), a copy of which is on file in the office of the Clerk of the City of Lackawanna.
- e) "Part 617" means the State Environmental Quality Review Regulations. (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.)
- f) "SEQR" means the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law, which is Chapter 43-b of the Consolidated Laws of the State of New York.)
- g) "City" means the City of Lackawanna.
- h) "City Agency" means any board, department, office, other bodies or officers of the City of Lackawanna.
- i) "City Council" means the City Council of the City of Lackawanna.
- j) "CAF" means Coastal Assessment Form as appended to this Local Law.
- k) "Waterfront Area" means that portion of the New York State Coastal Area within the City of Lackawanna as delineated in the City of Lackawanna Local Waterfront Revitalization Program.

1) All other terms for which definitions are given in SEQR and/or Part 617 shall have the same meanings in this Local Law.

m) "Planning Board" means the City of Lackawanna Planning Board.

## ARTICLE II - CONSISTENCY REVIEW PROCEDURES.

### Section 2.1 - INITIAL REVIEW.

2.1.1. As early as possible in the formulation of Type I or an Unlisted action, the agency shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review. However, when an applicant submits an application to a City agency for an approval of an action, the applicant shall prepare a CAF.

The City Council or a City agency when proposing to undertake, approve, or fund a Type I or Unlisted action in the waterfront area, shall prepare or cause to be prepared a Coastal Assessment Form (CAF) for the proposed action. Following preparation, the City Agency shall refer the CAF, and any other pertinent information for that action to the City Council for review and determination regarding the action's consistency with the policies and purposes of the LWRP.

### Section 2.2 - CONSISTENCY DETERMINATION.

2.2.1. Prior to its undertaking, approving, or funding of a proposed Type I or Unlisted action in the waterfront area, and for each action referred by a City agency pursuant to Section 2.1, the City Council shall either:

- a) Determine that the action is consistent with the policies and purposes of the LWRP and will not substantially hinder achieving the policies and purposes of the LWRP; or
- b) Determine that the action will substantially hinder achieving the LWRP standards and conditions.

If the City Council determines that the action will cause a substantial hindrance to the achievement of the LWRP policy standards and conditions, such action will not be undertaken unless the City Council determines with respect to the proposed project that:

- i) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
- ii) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions to the maximum extent practicable; and
- iii) The action will advance one or more of the other coastal policies; and

- iv) The action will result in an overriding City, regional or statewide public benefit.

Such a finding shall constitute a determination that the action is consistent.

2.2.2. The City Council shall complete its review of the proposed action's consistency and prepare a written finding to the referring City agency within thirty (30) days of the referral date. This time may be extended by agreement of the City Council and the Agency or as may be necessary to coordinate with SEQR review. The City Council may refer such actions for review to any municipal agency. Such agencies include but are not limited to the City Attorney, Department of Public Works, Planning Board and Department of Development.

2.2.3. The written findings of the City Council shall be filed with the City Clerk before the action is undertaken, approved or funded.

2.2.4. No action shall be undertaken, approved or funded unless the City Council determines its consistency with the policies and purposes of the LWRP by a finding pursuant to either 2.2.1(a) or 2.2.1(b), above.

**Section 3.1 - EFFECTIVE DATE.**

This Local Law shall take effect immediately upon filing with the New York State Secretary of State.

Dated : June \_\_\_\_\_, 1989  
Lackawanna, New York

APPROVED : June \_\_\_\_\_, 1989

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THOMAS E. RADICH, MAYOR

APPENDIX C

M-D ZONING DISTRICT

## Section 20-30 Mixed Development District (M-D)

### 30.1 Purpose

The purpose of the M-D District is to provide certain limited areas within the City with flexible land use requirements to encourage the best redevelopment of mixed uses in an integrated, controlled environment. The district is designed as a planned unit development (PUD) for a full range of residential, commercial and industrial uses, to permit great flexibility in the use and design of structures and land in situations where modification of specific provisions of this Ordinance will not be contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the areas of the City in which they occur. Each M-D District shall be organized and located in such a manner that it:

- A. Creates projects that contain both individual building sites and common property and open space, all of which is planned and developed as a unit, with buildings related to common areas.
- B. Protects resident uses, inhabitants and adjacent properties from the harmful effects of its own commercial and industrial operations, and encourages the maintenance of high environmental quality throughout the District.
- C. Encourages a mix of residential uses including clustering, in a manner that is compatible with business and industrial developments that are also located within the M-D District.
- D. Provides for inclusion of water-dependent and water-enhanced uses along the City's Lake Erie shoreline, allowing for public access and recreation in the coastal area.
- E. Prevents encroachment on surrounding uses, and prevents surrounding uses from interfering with its development and operations.

To accomplish a successful mixed-development strategy, it is necessary in some cases to expand the scope of land planning and development beyond a concept of homogeneous use within formally defined districts and beyond a concept of individual lots with separate structures, to include the planning and development of larger areas with groups of structures erected thereon to create a diversified and coordinated entity. In this manner, topography, existing infrastructure and other site features can be utilized to best advantage to obtain creative and coordinated designs. The district is designed to generate a balanced mix of productive land uses within each M-D District, and thereby improve the City's employment and tax base and redevelopment potentials.

30.2 Permitted Principal Uses.

- A. Any combination or mix of permitted uses in R-2, R-3, R-4, B-2, B-3 and P-1 is permitted within an M-D District, provided that each use, and all uses, meet the following requirements:
1. Such use must comply fully with the requirements of an approved, consolidated development plan for that specific district, in accordance with the provisions of Article XII of this Ordinance, and with all requirements and covenants pertaining to M-D provisions in this Ordinance, including requirements for site plan review and approval in Article XI.
  2. Such use must be conducted entirely within completely enclosed buildings, except as is permitted herein.
  3. Such use shall not violate the limitations on permitted M-D uses that are presented in this Ordinance in Section 20.30.6 of this part.
- B. Uses which depend on proximity, access and/or utilization of the water, or which are enhanced by a waterfront location and proximity to water-dependent uses, are permitted within an M-D District, provided that such uses are subject to the same requirements as all other M-D uses, with the exception of being located within completely enclosed buildings. Such uses include, but are not limited to, the following:
1. Marinas, boat launch and docks.
  2. Marine service, repair, rental and accessories.
  3. Fishing and tackle equipment.
  4. Public recreation and swimming.
  5. Cultural facilities.
  6. Motels and hotels.
  7. Tourist facilities.
  8. Flood and erosion protection structures.
  9. Any other use which in the opinion of the Planning Board is similar in nature and effect to the water-dependent and water-enhanced uses prescribed in this Section, and which are consistent with the City's comprehensive plan.

**30.3 Permitted Accessory Uses**

- A. Accessory uses and structures permitted and as regulated in the R-2, R-3, R-4, B-2, B-3 and P-I Districts.
- B. Accessory uses and structures customarily incidental to water-dependent and water-enhanced uses.

**30.4 Conditional Uses Requiring a Special Permit Issued by the Planning Board Subject to Supplemental Regulations, Article VII, and Special Permit Use Regulations, Article X**

- A. Cargo handling, freight transfer, port and rail terminal operations.
- B. Any additional use as may be adopted in an approved development plan, in accordance with the provisions of Article XII of this Ordinance.

**30.5 Area and Bulk Requirements**

The area and bulk requirements of each specific district shall apply whenever such district is part of an approved development plan for an M-D District. See Article V, "Schedule of Regulations," limiting the height and bulk of buildings, and presenting the minimum size and frontage of lot permitted by land use, the maximum density permitted and providing minimum yard setback requirements. Alternative requirements may be adopted for an M-D District as part of an approved development plan, in accordance with the provisions of Article XII of this Ordinance.

**30.6 Limitations on Uses in the M-D District**

- A. All uses in an M-D District shall be subject to the same limitations as are provided for L-I District, in Section 20-28.6 of this part.
- B. All uses in an M-D District shall comply fully with all additional limitations as may be adopted in an approved development plan, in accordance with the provisions of Article XII of this Ordinance.

APPENDIX D

GUIDELINES FOR LOCAL REVIEW OF  
STATE AND FEDERAL ACTIONS

NEW YORK STATE DEPARTMENT OF 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 and Coastal Resources 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 (SEQR);
- 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 any 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.

2/1/85

**Procedural Guidelines for Coordinating NYS 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 and 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 that 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 will be forwarded to the program coordinator.
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 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.