

## Section V - Techniques for Local Implementation

### A. Local Laws and Regulations Necessary to Implement the LWRP

#### Existing Local Laws/Regulations

**Freedom of Information Regulation** (Chapter 2, Article IV of the Village Codes; 9-1-74).

Guarantees access to public documents and designates the Clerk-Treasurer as the Village records officer. As such, this regulation will provide for public availability of LWRP documents and issue access to information on the generation of the program.

**Fire Prevention and Protection Ordinance** (Chapter 98; 1972).

The Fire Prevention and Protection Ordinance sets up fire regulations and procedures within the Village. Specifically, a section of the code limits the storage, manufacture and transportation of explosives, flammable liquids, liquefied petroleum gases, chemicals and other hazardous agents in accordance with the 1970 American Insurance Association Fire Prevention Code. As many such agents are transported through Lewiston, designated routes are established to protect Village residents (Creek Road Extension and Route 104 South).

The Ordinance prohibits the storage and transport of hazardous materials within the LWRA. It also furthers the policies of the LWRP by protecting coastal resources through restriction/limitation of hazardous substances.

**Solid Waste Management Ordinance** (Chapter 9, Article II; 1974).

The Solid Waste Management Ordinance provides for the control and disposal of solid waste and the promotion of resource recovery. The Ordinance encourages energy recovery and furthers LWRP policies on solid waste management and water quality through restriction of waste collection and disposal.

**Parks and Recreation Ordinance** (Chapter 13; 1980)

This Ordinance provides for the use and operation of Village parks and establishes recreation regulations. It also creates the Village Parks, Recreation and Conservation Board, which has the power to plan, establish policy, maintain an open-space index, develop capital improvements and advise the Village Board on environmental matters affecting park, recreation and conservation. The Board works in cooperation with the Planning Board in reviewing development applications.

As part of the review process for use and development in accordance with zoning, the Board will help implement the LWRP in environmental reviews of actions within the LWRA. The Board will also advise on development and management of the [Lewiston Landing Park](#), which is the focal point of waterfront revitalization.

**Planning Regulations** (Chapter 15 of the Village Code; 1966, 1975).

The Planning Regulations provide for creation of the Planning Commission and establishment of local environmental quality review, historic preservation review, and review and evaluation of coastal actions for consistency with the LWRP policies and purposes. The Commission has, by law, advisory responsibilities to the Village Board of Trustees. Article II establishes the executive authority for review of actions in the LWRA. The Planning Commission provides its advice and recommendations to the Village Board for consideration in determining the consistency of the proposed action with the LWRP. The Planning Commission also has specific responsibilities for approval of development plans within the Village. Article IV amendments provide for the coordinated review of all actions within the LWRA as part of the local environmental quality review process. It incorporates a coastal assessment of actions subject to SEQRA review and establishes criteria for evaluation of LWRP consistency. The amendments ensure that Type I and Unlisted actions undertaken in the LWRA will be consistent with the LWRP.

Chapter 15 provides review procedures and authority for consideration of actions within the LWRA. As proposed for modification, the Chapter will provide the legal authority for consistency with the LWRP and ensure that local actions are bound by LWRP policies and provisions.

**Sewers and Sewage Disposal Regulation** (Chapter 20, Article II; 1979).

The Sewers and Sewage Disposal Regulation provides for restrictions of sewer discharge into a water course, industrial waste permits, discharge limitations and treatment standards consistent with NYSDEC regulations. These regulations will enhance water quality policies of the LWRP in protecting coastal waters and aid in implementing local actions consistent with State regulations.

**Subdivision Regulations and Zoning Ordinance** (Appendix A and B of the Village Codes; 1973 and amendments)

These local regulations provide for the regulation of land use, development and land improvements within the Village. The Subdivision Regulations contain street, utility and land improvement standards consistent with public development requirements. It also contains design criteria for the layout of streets, lots, blocks, etc. in accordance with natural features and the accommodation of land for public purposes. The Zoning Ordinance provides for use and development control of parcels, bulk regulations, overall design, yard and lot coverage requirements. Regulations include special provisions for flood hazard areas and parcels along the Niagara River and other natural features. Both include detailed review procedures. Preliminary approval of development plans is given by the Planning Commission and final approval by the Village Board of Trustees.

These regulations establish the procedures and authority for development approval in the LWRA. The standards contained therein provide applicable elements for the advancement of LWRP policies (development, natural resources, waterfront protection from flood/erosion, water quality, and wetlands) and the review of coastal actions.

**Zoning Ordinance** (Appendix B of the Village Code)

The purpose of the Village of Lewiston Zoning Law is to promote the public health, safety, convenience, order, prosperity and general welfare of the community and protecting and enhancing its coastal resources.

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

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

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

**B. Other Public and Private Actions Necessary to Implement the LWRP**

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

**Local Government Actions**

**Completion of Lewiston Landing Waterfront Park** (See Section IV, Project 3) -Completion of the park is the most crucial part of the LWRA redevelopment, necessary to create a waterfront attraction and provide the impetus for adjacent private improvements. The Village will be primarily responsible for furthering the project, including securing sufficient funding from State and Federal sources. The first step is preparation of an updated and detailed master plan for the upland park development. Other actions which may proceed simultaneously include: (1) completion of feasibility and design studies for the re-use of the abandoned coal silo, (2) demolition of sewage treatment plant (contingent upon

alternative provisions for overflows), (3) identification of relocation site/building for the DPW garage, and (4) negotiation for acquisition of the two residences at First and Onondaga Streets.

**Center Street entry sign and landscaping** (See Section IV, Project 1)-the Village intends to complete this work with Village funds within a year of the LWRP approval.

**Improvement of Shoreline Access and Boating Facilities South of Lewiston Landing** (See Section IV - Project 4) - Action on this project will follow initiation of the Lewiston Landing Waterfront Park development. A detailed strategy is needed for accomplishing both public and private improvements.

**Improvement of "Onondaga Trail"** (See Section IV - Project 6) - Action on this project also will follow the development of the Lewiston Landing Waterfront Park. The Village will need to identify and apply for State and/or Federal funding as the first step in undertaking this project.

**Development of Robert Moses Parkway Scenic Overlooks** (See Section IV, Project 7) - The Village will enlist the assistance of the NYS Department of State in pursuing discussions with the NYS Department of Transportation on the implementation of this project. The project, however, is of less immediate importance to the overall implementation of the LWRP than those listed above.

**Comprehensive Drainage Study** - A detailed study of the existing drainage system is needed to address problems of stormwater and overland runoff which affect shoreline erosion and Niagara River water quality. As part of this study, detailed planimetric and topographic maps will need to be prepared. (These maps will then be available for use in future planning and project reviews). The study will be undertaken by the Village as funds are available and will include development of a specific program for improving the drainage system.

**Niagara River Study** - Lewiston Landing and its transition waters provide excellent shelter for boat launching and mooring, due to the coastal protection it offers from river currents and channel flow in the river. Water near the shore in this area actually ebbs and, at times, reverses flow, creating a safe harbor. The high surrounding walls of the gorge also protect the area from wind and frequently are sought by lake boaters when there are wind-driven waves and storms. The extent of this "calm water" phenomenon is unknown, but may provide a unique opportunity for expansion of boating facilities.

In order to properly assess the potential for marina docks and moorings, a joint study of river conditions is proposed, with the U.S. Army Corps of Engineers and the New York State Department of Environmental Conservation. The study would address river depths and water levels, bottom conditions, current, navigation and overall limitations to marina development. The result will provide definitive information on the extent of this phenomenon, types and sizes of dock facilities applicable, and the feasibility of expansion of marina development in the Target Area.

**Establishment of Waterfront Coordinating Committee** - Many of the actions necessary to implement the LWRP either can be best undertaken by private groups or other public agencies or involve coordinating the efforts of a combination of groups or agencies. To further the implementation of these actions, the Village Board intends to establish a coordinating committee or task force made up of representatives of the various groups which can assist in implementing the Village's LWRP, including

the Lewiston Historical Society, the Lewiston Businessman's and Professional Association, the Chamber of Commerce and the Angler's Association. Artpark management will also be invited to participate and other interested public agencies, such as the Niagara County Cooperative Extension, may also be involved. The purpose of this committee will be specifically to pursue the implementation of those actions described below by mobilizing and coordinating the resources of the community. (The committee will not be involved in the project review processes established by the LWRP.) The establishment of this committee will supplement the limited staff resources of the Village and help ensure that those actions necessary to implement the LWRP will be carried out.

### **Private Actions**

**Study of Fish Breeding Grounds** - The fishing opportunities in the Lewiston area are one of the primary attractions of waterfront activities. Anglers are attracted year-round due to fishing and boating opportunities off Lewiston Landing and in the area. While the local habitat generally stretches from Onondaga Street north to the Village line off the shoreline, its condition, depth, character and density need better evaluation. It is proposed that a study be undertaken to determine more specifically the existing extent and characteristics of the fish habitat, evaluate the feasibility of improving fish breeding opportunities, and define any additional preservation measures needed. The study is currently to involve the Angler's Association, but may also involve the Cooperative Extension Association of Niagara County and the New York State Department of Environmental Conservation who conducts fish stocking programs in the Lower Niagara River and Lake Ontario. It is expected that the study would take about six months to complete and should be scheduled early in the implementation process to determine relevant costs and options for waterfront improvement.

**Seasonal Fishing Derby** - The fishing resources in Lewiston are excellent, providing for sheltered year-round access to Lower Niagara River game fish and shoreline panfish. Trout, perch, smelt and salmon are frequently caught in the area. Lewiston's unique boat launching and fishing facilities should be promoted to encourage awareness and use of the waterfront. The Village should investigate the joint sponsorship of an annual Lower Niagara River fishing derby with the Niagara County Cooperative Extension and area merchants to promote fishing opportunities.

**Rehabilitation of Waterfront Residences** - A number of residences in the LWRA, particularly along the shoreline were identified as needing minor improvements to enhance the attractiveness/aesthetics of the waterfront. Private initiative in rehabilitation through awareness of the LWRP and land use stabilization is required to achieve this action. This effort will enhance the visual quality of the LWRA and help implement those policies.

**LWRA Promotion** - The lack of awareness and visibility of Lewiston's coastal resources (Artpark, Lewiston Landing, The Seaway Trail, etc.) prompted the need for a definitive promotional program to capitalize on LWRP improvements and efforts. The involvement of the Lewiston Historical Society, Lewiston Businessman's and Professional Association and others in concert with Artpark, New York State, etc. would provide greatly needed identity, complementary efforts and expanded attractiveness to the entire LWRA. Privately financed promotional literature and coordinated advertising with State

and local organizations would increase awareness of the Lewiston Waterfront and generate usage of coastal facilities.

### **C. Management Structure Necessary to Implement the LWRP**

LWRP management capitalizes on existing responsibilities and legal authorities, where possible, to avoid municipal complexity and consolidate review activities. Generally, the local laws dealing with zoning and environmental review/SEQRA are utilized as they represent both traditional procedures accepted by the community and, simultaneously, State and Federal coordination of actions within the Village. These procedures have been enhanced through local ordinances to accommodate LWRP implementation and insure compliance with local LWRP policies and program.

#### **Lead Agency/Designated LWRP Officer**

The Lead Agency responsible for overall management of the LWRP and coordination of review procedures is the Village Board of Trustees. The Board is responsible for local environmental quality review determinations and zoning decisions and, as such, is the appropriate agency for coastal assessment and LWRP implementation. The Board is assisted in this task by the Mayor, Planning Commission, Zoning Officer, Building Inspector and such other departments as may be required to adequately carry out the LWRP.

The designated LWRP official is the Village Mayor who coordinates Board functions and responsibilities and is the key organizational position within the Village government. Actions in the LWRA will be submitted to the Village Clerk for scheduling of Board consideration and coordination of review procedures, as appropriate.

#### **Summary of Specific Responsibilities for Implementation of the LWRP**

**Mayor and Village Board of Trustees** (5 elected members; 4-year terms). As the executive and legislative head of the Village, the Mayor and Board of Trustees are responsible for municipal decision-making, fiscal programming and administrative implementation. The Board carries the legislative authority of zoning and local actions, while the Mayor has the authority for execution of Village policy and directive through the staff.

For the LWRP, the Board is responsible for consistency determinations and the Mayor is responsible for the review process of LWRP consistency through staff evaluation and enforcement of LWRP policy through Village regulations. The Board obtains advice from such appointed Boards as is deemed appropriate in the evaluation of proposed LWRP actions and consults the Planning Commission on all actions requiring a determination of consistency with the LWRP.

**Planning Commission** (5 members appointed by the Mayor; 2-year terms). The Planning Commission is an advisory body to the Board of Trustees and has preliminary approval authority for site plans and subdivisions. The Commission may also, upon request by Board resolution, advise the Board on waterfront improvements, public structures and public actions in the Village.

The Commission is responsible for evaluating actions within the LWRA and advising the Board as to their consistency with the LWRP. All actions that must be accompanied by a Waterfront Assessment Form (Type I, Unlisted Actions) are referred to the Commission and evaluated for completeness and consistency with the LWRP and reported back to the Board with the Commission's recommendations.

**Historic Preservation Commission** (7 members appointed by the Village Board; 5-year terms). The Commission is responsible for review of historic resources within the LWRA and provides the Planning Commission with an evaluation of actions within the LWRA that affect historic structures or sites.

**Mayor** (Elected) - The Mayor and/or the Mayor's designee are responsible for receipt of the Waterfront Assessment Form (WAF) and the coordination and scheduling of reviews for the evaluation of LWRP consistency. As the designated LWRP official, the Mayor makes WAF's available, determines which projects will require a WAF, schedules administrative reviews with the various boards/commissions, and handles the notification of the NYSDOS/other affected agencies if any questions on the WAF are answered "yes". The Mayor also issues a Certificate of Consistency with the LWRP as authorized by the Village Board of Trustees.

**Zoning Officer/Building Inspector** (appointed) - The Zoning Officer is responsible for the certification of use in accordance with the Zoning Ordinance. No zoning permit shall be issued in the LWRA for an action subject to a determination of consistency that does not have a Certificate of Consistency with the LWRP. The Zoning Officer is charged with enforcement of LWRP uses in accordance with the Zoning Ordinance and the consistency determination process.

The Building Inspector receives applications for building permits, permits in flood hazard areas and Certificates of Occupancy. Applications for permits in the LWRA are referred to the Mayor or the Mayor's designee to determine the need for a consistency review. No permit or certificate shall be issued until an evaluation of the action has been made, if necessary, in accordance with consistency determination procedures. The Building Inspector will also enforce the LWRP by monitoring compliance with approved provisions and restrain from issuance of a Certificate of Occupancy on development not in compliance with the LWRP and/or conditions established by the Village Board of Trustees pursuant to a consistency determination.

### **Procedures for Management of the LWRP**

The procedures to be established for consideration of local actions and those for review of Federal and State actions are similar in the Village of Lewiston. The process utilizes local environmental quality established pursuant to Article 8 of the New York State Environmental Conservation Law - commonly titled the State Environmental Quality Review Act (SEQRA) and Part 617 of 6NYCRR. The regulatory requirements of SEQRA and the procedural requirements embodied in Chapter 15, Article IV of the Village Code (as proposed for amendment) provide for the review and assessment of actions in the Lewiston LWRA and the determination of consistency with LWRP policies. All departments and boards of the Village are bound by these regulations. The assessment of private uses also relies on the Zoning Ordinance, which includes considerations of the LWRP in evaluating applications in the LWRA.

Every project or action subject to the local environmental quality review will be accompanied by a Waterfront Assessment Form (WAF) submitted to the Mayor or the Mayor's designee. Those actions that are identified as Type II under SEQRA definitions are excluded from consistency. Actions in the LWRA that are identified as Type I or Unlisted under SEQRA are submitted by the Mayor/Mayor's designee for consideration by the Board of Trustees. The Mayor/Mayor's designee shall also refer each WAF to the Planning Commission for evaluation of consistency with LWRP policies.

The Planning Commission will make a recommendation to the Village Board of Trustees and may obtain such information and reports from departments, local boards/- commissions, state agencies and/or the applicant as is necessary to adequately consider the action. The Commission will make a report of their findings and recommendations to the Village Board. The Village Board of Trustees will make a determination based on the submitted WAF and Planning Commission evaluations and issue a Certificate of Consistency on those actions that comply with the LWRP. No approval to fund, proceed or grant a permit for an action will be issued without a Certificate of Consistency.

Compliance of implementation will be monitored by appropriate Village departments (Building Inspector, Director of Public Works, etc.). Any problems will be reported to the Mayor for consideration by the Board of Trustees and the assignment of punitive action, if necessary.

#### **Review of Proposed State and Federal Actions**

Proposed State and Federal actions to be located within the LWRA will be reviewed in accordance with guidelines established by the New York State Department of State, and set forth in Appendix C.

### **D. Financial Resources Necessary to Implement the LWRP**

The financial resources of the Village of Lewiston are limited and the Village must depend on outside assistance and private initiative for successful waterfront revitalization. The Village has concentrated on manageable projects and actions that will generate complementary private development and promote interest in the waterfront. Village participation in the Lewiston Landing Waterfront Park, shoreline access and local actions that will precipitate use and improvement of the coastal area is the focus of the Lewiston resources. However, the completion of these and other projects cannot be accomplished without financial incentives and assistance from both the public and private sector to compensate for the physical and economic difficulties of the area. This section summarizes the identified funding sources anticipated to aid in the LWRP implementation. (See also Table 5.)

Projects costs for LWRP activities are estimated at \$2.8 million (TABLE 5), excluding land acquisition and design/engineering/contingency costs (30%). Approximately \$1.5 million in private resources and \$1.3 million in public resources will be required to complete the development program. The Village of Lewiston also anticipates participation by the Power Authority of the State of New York in waterfront actions.

This would be part of a final settlement for lands and construction of the power plant adjacent to Artpark (south). Although not finalized, discussions center on relocation of DPW facilities to accommodate the waterfront park and assistance with park development.

It is also anticipated that pedestrian linkages and tourism promotion in the LWRA would include assistance from Artpark (New York State Office of Parks and Recreation). Such actions would be of mutual interest and would require nominal participation. In addition, it is expected that the Niagara River Study would be implemented by the U.S. Army Corps of Engineers and the NYSDEC. These agencies have specific responsibilities for the use and navigability of Niagara River waters and such a study would cooperatively add to their body of knowledge.

Private actions in the LWRA include promotional efforts (coordinated with Artpark), promotion of Bed and Breakfast establishments, rehabilitation of waterfront residences (\$14,000 total) and the Fish Habitat Study. The study anticipates NYSDEC and Niagara County Cooperative Extension participation for fish stocking, management and improvement.

### E. Management of the LWRP

The Village of Lewiston will assume prime responsibilities for planning, coordination, review and enforcement of the LWRP. Since these management functions rely on existing networks and municipal structures for implementation, no additional resources are required.

However, the preparation, design and engineering of public actions is not included in current costs and may easily exceed Village capabilities. Lewiston will need to seek additional assistance to adequately finalize the scope of costs of these activities.

**Table V - Project Schedules and Resources, Village of Lewiston**

| LWRP PROJECTS:                      | IMPLEMENTATION SCHEDULE | ESTIMATED COST | FUNDING RESOURCES |
|-------------------------------------|-------------------------|----------------|-------------------|
| Lewiston Landing Entrance Signage   | 1986                    | \$ 3,500       | 1                 |
| Center Street Landscaping           | 1986                    | \$ 15,000      | 1                 |
| LWRA Walking Tours                  | 1985-1986               |                | 6                 |
| Waterfront Park                     | 1987 - 89               | 825,000        | 2                 |
| Marina Rehabilitation/Boat Services | 1987 - 89               | 400,000        | 2                 |

| LWRP PROJECTS:  | IMPLEMENTATION SCHEDULE | ESTIMATED COST | FUNDING RESOURCES |
|---|-------------------------|----------------|-------------------|
| Commercial Rehab/Expansion  | 1988 - 91               | 1,000,000      | 4                 |
| Commercial Expansion/Parking (Water Street)   | 1989 - 91               | 575,000        | 5                 |
| Playground "Onondaga Trail" Link  | 1987 - 88               | 33,000         | 2/3               |
| Robert Moses Parkway Scenic Overlook  | 1988 - 90               |                | NYSDOT            |
| SUBTOTAL  |                         | \$ 2,851,500   |                   |
| 30% Design and Contingencies  |                         | \$ 855,450     |                   |
| 1. Village of Lewiston Resources<br>2. Federal Grant/Village Match<br>3. State Grant/Village Match<br>4. Private Resources<br>5. Private/Village<br>6. Private/Public Resources |                         |                |                   |