

Village of Lewiston Local Waterfront Revitalization Program

Adopted:

Village of Lewiston Board of Trustees, December 18, 1989

Approved:

NYS Secretary of State Gail S. Shaffer, February 26, 1991

Concurred:

U.S. Office of Ocean and Coastal Resources Management, April 24, 1991

Adopted Amendment:

Village of Lewiston Board of Trustees, March 21, 2011

Approved:

NYS Secretary of State, Cesar A. Perales, September 23, 2011

Concurred:

U.S. Office of Ocean and Coastal Resources Management, December 6, 2011

This Local Waterfront Revitalization Program (LWRP) has been prepared and approved in accordance with provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42) and its implementing Regulations (19 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 change has been obtained in accordance with 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, Office of Coastal, Local Government and Community Sustainability, One Commerce Plaza, 99 Washington Avenue, Suite 1010, Albany, New York 12231-0001.

MAR 24 2011

Village of LEWISTON

145 North Fourth Street • P.O. Box 325
Lewiston, New York 14092
(716) 754-8271 • FAX (716) 754-2703



**Resolution of the Village of Lewiston Board of Trustees
Adopting the
Local Waterfront Revitalization Program Amendment**

WHEREAS, the Village of Lewiston initiated preparation of a Local Waterfront Revitalization Program amendment in cooperation with the New York State Department of State, pursuant to Article 42 of the Executive Law; and

WHEREAS, a Draft Local Waterfront Revitalization Program amendment was prepared and circulated by the Department of State to potentially affected State, federal, and local agencies in accordance with the requirements of Executive Law, Article 42; and

WHEREAS, the Village of Lewiston Board of Trustees, as lead agency, filed a Negative Declaration - Notice of Determination of Non-Significance on August 18, 2010 for preparation of the Local Waterfront Revitalization Program Amendment, pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act);

NOW, THEREFORE, BE IT RESOLVED, that the Village of Lewiston Local Waterfront Revitalization Program amendment is hereby adopted, and that the Mayor is authorized to submit the Local Waterfront Revitalization Program amendment to the New York State Secretary of State for approval, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

Seal


Terry C. Collesano, Mayor

Dated

3/21/11



STATE OF NEW YORK
DEPARTMENT OF STATE

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

September 23, 2011

Honorable Terry Collesano
Mayor
Village of Lewiston
145 N. 4th St., P.O. Box 325
Lewiston, NY 14092

Dear Mayor Collesano:

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

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

The approved amendment to the Local Waterfront Revitalization Program will be available on the website of the Department of State, at <http://nyswaterfronts.com/LWRP.asp>. If you have any questions, please contact Kevin Millington of the Office of Coastal, Local Government and Community Sustainability at 518-473-2479.

Sincerely,

Cesar A. Perales
Secretary of State



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

DEC 06 2011

Steve Ridler, Chief
Bureau of Local and Regional Programs
Office of Coastal, Local Government and Community Sustainability
New York Department of State
99 Washington Avenue
Albany, NY 12231-0001

Dear Mr. Ridler:

Thank you for the New York Department of State's November 2, 2011 request to incorporate changes to the Village of Lewiston's Local Waterfront Revitalization Program (LWRP) into the New York Coastal Management Program (CMP). You requested that changes to the Village of Lewiston LWRP described below be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and Office of Ocean and Coastal Resource Management (OCRM) Program Change Guidance (July 1996). OCRM received the request on November 8, 2011, and OCRM's decision deadline is December 6, 2011.

Based on our review of your submission, we concur that the changes to the Village of Lewiston LWRP are RPCs and we approve the incorporation of the non-enforceable and enforceable changes, as specified below, into the New York CMP. Federal Consistency will apply to the approved enforceable policy changes only after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b)(4). Please include in the public notice the list of changes provided in this letter, and please send a copy of the notice to OCRM.

CHANGES APPROVED

Name/Description of State or Local Law/ Regulation/Policy/Program Authority or Change	State/Local Legal Citation	Date Adopted by State	Date Effective in State
MODIFIED:			
*Modified to reflect zoning changes adopted by Village that established the W-D Waterfront Development District, revised the O-P Open and Public District, and rezoned parcels to extend the retail area and allow for townhouse development	*Lewiston LWRP, Sections II, IV, and V	9/23/2011	9/23/2011
Modified to include a new final paragraph in Policy 2 that specifies allowable water-dependent and enhanced uses. Water-dependent uses include: boat liveries and marinas; boat and boating accessories service, repair, sales and rental; fishing and tackle equipment and supplies sales; and, flood and erosion protection structures. The following water-enhanced	Lewiston LWRP, Section III, Policy 2	9/23/2011	9/23/2011



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Name/Description of State or Local Law/ Regulation/Policy/Program Authority or Change	State/Local Legal Citation	Date Adopted by State	Date Effective in State
uses are allowable 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.			
*Throughout the document, various portions of non-enforceable policy sections have been modified for stylistic and grammatical reasons, or to update the document with recent information.	*Lewiston LWRP, Sections I, IV, V	9/23/2011	9/23/2011
Changes marked with an asterisk (*) are incorporated into the New York CMP, but do not contain enforceable policies that can be used for Federal Consistency.			

PUBLIC AND FEDERAL AGENCY COMMENTS

OCRM received no comments on this RPC submission.

Thank you for your cooperation in this review. Please contact Elisa Chae-Banaja at (301) 325-3674 if you have any questions.

Sincerely,




 Joelle Gore, Acting Chief
Coastal Programs Division

Table of Contents

SECTION I - WATERFRONT REVITALIZATION AREA BOUNDARY	1
LWRA Boundary.....	1
Waterside Boundary	1
 SECTION II- INVENTORY AND ANALYSIS	 1
Historical Development.....	1
Water and Land Resources	2
Niagara River/Lake Ontario Area	2
Water Quality.....	2
Water Uses/Classification	3
Natural Resources	5
Human/Cultural Resources	8
Land Uses and Physical Conditions	9
Community Services/Infrastructure.....	19
 SECTION III - STATE AND LOCAL COASTAL POLICIES	 1
Development Policies.....	1
POLICY 1	1
POLICY 1A.....	1
POLICY 2	2
POLICY 2A.....	2
POLICY 2B	2
POLICY 3	3
POLICY 4	3
POLICY 5	4
POLICY 6	4
Fish and Wildlife Policies	5
POLICY 7	5
POLICY 7A.....	5
POLICY 8	5

POLICY 9	6
POLICY 9A.....	6
POLICY 9B.....	6
POLICY 9C.....	6
POLICY 10.....	7
Flooding and Erosion Hazards Policies	8
POLICY 11	8
POLICY 11A.....	8
POLICY 12	8
POLICY 12A.....	8
POLICY 13	9
POLICY 13A.....	9
POLICY 14	10
POLICY 15	10
POLICY 16	10
POLICY 17	11
POLICY 17A.....	11
General Policy.....	12
POLICY 18	12
Public Access Policies	12
POLICY 19	12
POLICY 19A.....	12
POLICY 19B.....	12
POLICY 19C.....	12
POLICY 20	15
POLICY 20A.....	15
Recreation Policies.....	18
POLICY 21	18
POLICY 21A.....	18
POLICY 21B.....	18
POLICY 21C.....	18
POLICY 21D.....	18
POLICY 21E	18
POLICY 21F	18
POLICY 22	20

Historic and Scenic Resources Policies	20
POLICY 23	20
POLICY 24	22
POLICY 25	22
POLICY 25A.....	22
POLICY 25B	22
Agricultural Lands Policy	24
POLICY 26	24
Energy and Ice Management Policies	24
POLICY 27	24
POLICY 28	25
POLICY 28A.....	25
POLICY 29	26
POLICY 30	26
POLICY 31	27
POLICY 32	27
POLICY 33	27
POLICY 33A.....	27
POLICY 34	28
POLICY 34A.....	28
POLICY 35	28
POLICY 36	29
POLICY 37	29
POLICY 38	29
POLICY 39	30
POLICY 40	30
POLICY 41	31
POLICY 42	31
POLICY 43	31
Wetlands Policy	32
POLICY 44	32
 SECTION IV - PROPOSED LAND AND WATER USES AND PROPOSED PUBLIC AND PRIVATE PROJECTS	 1
Proposed Land and Water Uses	1
Waterfront Revitalization Target Area.....	1

North of Target Area	2
East of Target Area	3
South of Target Area	3
Artpark	4
Waterfront Preservation and Revitalization Strategy	4
LWRA - wide Activities	4
Waterfront Revitalization Target Area.....	4
Section 1 - North of Target Area	5
Section 2 - East of Target Area	5
Section 4 - Artpark Area	5
Proposed Public and Private Projects.....	5
Project 1 - Center Street Landscaping And Entry Signage Improvement Project	5
Project 2 - Creation of Historical, Cultural, Scenic Walking Tours	6
Project 3 - Completion of Lewiston Landing Waterfront Park	6
Project 4 - Improvement of Shoreline Access and Boating Facilities between Center and Cayuga Streets	8
Project 6 - Improvement of "Onondaga Trail" and Village Playground	9
Project 7 - Robert Moses Parkway Scenic Overlooks.....	9
SECTION V - TECHNIQUES FOR LOCAL IMPLEMENTATION	1
A. Local Laws and Regulations Necessary to Implement the LWRP	1
Existing Local Laws/Regulations.....	1
B. Other Public and Private Actions Necessary to Implement the LWRP	3
Local Government Actions	3
Private Actions	5
C. Management Structure Necessary to Implement the LWRP	6
Lead Agency/Designated LWRP Officer	6
Summary of Specific Responsibilities for Implementation of the LWRP	6
Procedures for Management of the LWRP	7
Review of Proposed State and Federal Actions	8
D. Financial Resources Necessary to Implement the LWRP	8
E. Management of the LWRP	9
SECTION VI - STATE AND FEDERAL PROGRAMS LIKELY TO AFFECT IMPLEMENTATION	1
SECTION VII - CONSULTATION WITH OTHER AFFECTED FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES.....	1
Consultation with Affected Agencies - Narrative	1

Consultation with Affected Agencies - Procedure.....	1
Consultation with Affected Agencies - Focus.....	2
Review of Draft LWPR by State, Federal and Local Agencies	4
 SECTION VIII - OBTAINING LOCAL COMMITMENT	 1
Obtaining Local Commitment	1
Resource Locations/Materials	1
Developing Support for LWPR among Agencies, Organizations and the General Public.....	1
Local Commitment.....	2
Public Participation Responsiveness Section	2
 APPENDIX A - WATERFRONT CONSISTENCY REVIEW	 1
 APPENDIX B - ZONING	 1
 APPENDIX C - GUIDELINES FOR NOTIFICATION AND REVIEW.....	 1

Section I - Waterfront Revitalization Area Boundary

LWRA Boundary

The boundaries of the Village's Local Waterfront Revitalization Area (LWRA) are as follows:

- The LWRA boundary first contacts the Village from the north at the confluence of the eastern and northern limits of the Village, commonly delineated as the Village Line;
- The boundary runs easterly along the northern Village Line to the east right-of-way line of Second Street (known as State Route 18F), where it intersects with the Village Line; then,
- Southerly along the east right-of-way line of Second Street to the north right-of-way line of Oneida Street; then,
- Easterly along the north right-of-way line of Oneida Street to the east right-of-way line of Fourth Street; then,
- Southerly along the east right-of-way line of Fourth Street across Tuscarora Street and to the southern right-of-way line of Tuscarora Street; then,
- Easterly along the southern right-of-way line of Tuscarora Street to a point approximately 390 feet east of the eastern right-of-way line of Seventh Street (not surveyed) coincident with the southeast corner of Parcel No. 3178, as recorded in the Niagara County Clerk's Office, Lockport, New York (Liber 1671, page 21); then,
- Generally northeasterly along the eastern property lines of Parcels No. 3178 and 3177, as recorded above, to the intersection of the east property line of Parcel No. 3177 with the south right-of-way line of Seneca Street, approximately 24 feet west of the west right-of-way line of South Eighth Street; then,
- Generally easterly along the south right of way line of Seneca Street to the intersection with the centerline of Robert Moses Parkway right of way; then,
- Generally southwesterly following the centerline of the Robert Moses Parkway right of way to the Town of Lewiston line; then,
- Westerly along the Village/Town of Lewiston line to the Village waterside boundary; then
- Northerly along the Village Waterside Boundary to the northern limit of the Village at the Village/Town line, to the point of beginning.

Waterside Boundary

The waterside boundary of the LWRA is established by the waterside boundary of the Village. This boundary is coterminous with the New York State/ United States Border with Canada which is located in the Niagara River.

See [Figure 1](#), which graphically displays the LWRP boundary.

Section II- Inventory and Analysis

Historical Development

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

Recorded activities of European explorers can be traced to 1615 when Stephen Brule, an interpreter for the French explorer Champlain, visited the Neuter Indians and spent the winter in the area. He was followed by numerous traders and explorers, who established Lewiston as the primary transfer point of goods through the area via the Niagara Portage around the falls (which have since receded to their present location six miles downriver). The first trading post was established in 1720 by Chaubert Joncaire, a French trader, and in 1764, Captain John Montessor built the first tram railway in America to transport goods up the Niagara Escarpment. The natural landing point at Lewiston and the western terminus of the Lewiston Trail to Albany made the community a major frontier trading settlement, with a thriving portage business, before 1800.

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

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

Although tourism remains the primary industry of the Village, the historic waterfront is no longer the center of this activity or village life. Recently, however, with improved water quality and increased recreational use of Lake Ontario and the Niagara River, the natural landing point at Lewiston, providing rare access along the steeply embanked Niagara River gorge, has taken on renewed importance. Today, there are new opportunities for restoring the Village's historical association with the Niagara River in traditional and new ways.

Water and Land Resources

Niagara River/Lake Ontario Area

The lower Niagara River is a swift, north flowing water course that is the spillway between Lakes Erie and Ontario. As the major outlet for the upper Great Lakes, it provides critical water level adjustments and acts as the control for Lake Erie elevations. It empties into Lake Ontario and on through the St. Lawrence Seaway System to the Atlantic Ocean. Average mean water elevation is 248-249 feet (International Datum) above sea level at Lewiston. However, maximum daily fluctuations recorded at the Niagara Power Station (Power Authority of the State of New York) can be three feet above Lake Ontario (mean elevation of 243-247 feet) at the mouth of the River according to the U.S. Army Corps of Engineers. This results in a maximum daily variation in river water level from 244-250 feet at Lewiston, or a six-foot level change that must be compensated for in any in-water or shoreline improvements.

The Niagara River runs through a steep gorge near Lewiston and is well protected from wind and storm action. This creates nearly continuous calm water, excellent for boating and water activities. These activities increase even more when Lake Ontario and the mouth of the River are roughened by winds, as the area acts as a safe harbor large enough to support numerous water sports (sailing, water skiing, fishing, etc.). In addition, the River is widened at Lewiston (due to the original location of the falls at the Niagara Escarpment that created a splash pool at Lewiston) which provides a natural refuge from the swift river current. Water flow is actually up-river at the Lewiston shore, creating a safe shelter for boat launching and landing. It also provides a protected area for spawning of perch and smelt just north of the Lewiston docks. The River is about 1,300 feet wide at this point and approximately 120-180 feet deep. This offers excellent navigational waters that attracted the early lake steamers to Lewiston in the 1800's.

Water Quality

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

Water quality is an important concern to the Village in support of fishing and recreation opportunities. The River is currently designated Class A -Special (International Boundary Waters) and should be

retained as such to preserve this natural resource. The major concerns along the Village shoreline include bank erosion and urban runoff. A section of the shoreline between Onondaga and Center Streets (south of the docks) is unprotected and subject to erosion and should be bulkheaded to reduce further deterioration. Bulkheads south of Center Street may need to be repaired. In addition, overland runoff from the LWRA exits indiscriminately into the Niagara River at numerous points. They often carry urban pollutants (salt, dust, settled particulates) and should be better managed. A drainage study of road/residential runoff into the River is required to insure that recreation opportunities and critical fish habitats are not compromised.

Water Uses/Classification

Lewiston is one of the older communities in Western New York and has been developed for many years. As a result of historical changes in commerce and land use, the waterfront has become underutilized and somewhat neglected. To help assess opportunities for new waterfront uses, off-shore areas have been classified as either River Channel, Transition Waters, or Shoreline Waters and existing water uses and activities within each area have been inventoried ([Figure 2](#)).

River Channel

The Niagara River Channel is well off the shoreline of Lewiston and represents swift-running waters designated as navigable by the U.S. Army Corps of Engineers. Typical uses include boating, fishing, access to Lake Ontario and other river locales, and municipal water supply (farther up-river above the Falls). The channel is quite deep and no longer used for commercial purposes, but provides active recreational and pleasure uses to the area. Local fishing includes perch, smelt, salmon, trout and bass.

Transition Waters

The Transition Waters of the River are defined as the area between shore-line facilities and the channel from the area of Cayuga Street to Oneida Street, inclusive. It is a refuge from the river channel where water flow reverses, creating a mild up-river eddy and protected boat landing opportunity. The area is fully accessible by deep water as the river bottom slopes off very sharply from the shore (formed by the ancient plunge pool of the original waterfalls). No significant shoaling or siltation is known to exist in this area. In the northern portion of this area lies a fish spawning area that is highly favored for fishing (perch, smelt).

Major activities in the Transition Waters are varied. Powered and non-powered boats use the waters for access to shoreline facilities. Off-shore fishing is frequent in this area as in on-shore fishing from the banks, docks and pier. During the summer season, it is not unusual to find children swimming in these waters and/or jumping from adjacent docks. In addition, there is high-speed boating and water skiing, including a ski-jump maintained by a local water ski club and anchored in the water during the main season (May -September).

Many of these uses tend to be inconsistent with one another. The use of high-speed boats and water skiing often conflicts with fishing, non-powered boating or sailing and boat launching/access to shoreline facilities. Most power boat activities conflict with swimming in the area and may pose a substantial hazard to the safety of those in the water. A resolution of incompatible uses and some

segregation is required to accommodate the range of activities, and not totally compromise or endanger one for the sake of the other. Of key importance, also, is the preservation of the fish spawning area to protect the resource that currently draws the bulk of patrons to Lewiston and its waterfront.

Shoreline Waters

Shoreline waters are defined as the area immediately adjacent to the shoreline. This area extends for over 5,600 feet and is where land and water uses interact most heavily. It includes important natural and man-made features which need to be considered in planning for the waterfront.

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

According to the OGS maps, the four underwater parcels, all of which are adjacent to the shoreline, include: (1) a parcel extending for the entire length of the block between the Oneida and Onondaga streets right-of-ways, about 465 feet, and extending off-shore for 125 feet on the north side and 100 feet on the south side; (2) a parcel extending south of the Seneca Street right-of-way for approximately 260 feet and extending off-shore for about 120 feet; (3) a small parcel, 67 1/2 feet by 119 feet, located just north of the Tuscarora Street right-of-way; and (4) a parcel located between the Tuscarora and Fourth Streets right-of-ways, which extends for 935 feet at the shoreline and extends off-shore for 100 feet on the north side and 73 1/2 feet off the south side. (Note that the location of these parcels with respect to the shoreline may have been altered with changes in the shoreline from erosion, filling or other factors and can only be determined by a property survey).

Steep banks crown the shoreline north of Onondaga Street and south of Cayuga Street, limiting the development and potential for development of in-water structures. The northern portion of the shoreline above Onondaga Street currently contains no in-water or shoreline structures. Valuable fish spawning beds exist in and adjacent to this area, making it an important sport fishing resource (see also the Fish and Wildlife chapter, below). The area, which is accessible only by boat, is best preserved for fish production. The lands adjacent to the shoreline are privately owned (except for paper street ends) and there is some potential for development of private docking and mooring facilities by adjacent upland property owners. Such facilities need to be properly planned, designed and constructed so as to ensure boating safety, boat access to public facilities at [Lewiston Landing](#), protection of fish resources, and preservation of the natural erosion protection and scenic features of the shoreline bluffs ([Figure 2](#)).

The southern portion of the shoreline below Cayuga Street is bordered by Artpark and privately owned lands. A public fishing pier, providing limited shore fishing, is located within Artpark. No other in-water or shoreline structures exist in this area. The area is not easily accessible, but like the northern portion of the shoreline, has some potential for development of private docking and mooring facilities by adjacent property owners.

The shoreline between Cayuga and Onondaga Streets is the most accessible portion of the waterfront and contains public and private boat docking facilities. The shoreline is protected by bulkheads. The public docks, a double boat launch, and bulkheading at [Lewiston Landing](#) (north of Center Street) are of recent construction and in excellent condition. The facilities are used year-round for fishing and boat launching. The area to the south of Lewiston Landing presents the best opportunity along the Lewiston shoreline for public and/or private expansion of boat docking facilities. (See the Public Access and Recreation chapter for further description.)

Natural Resources

Geography

The Village of Lewiston lies in the western part of Niagara County at the base of the Niagara Escarpment. It is part of the Iroquois Plain which stretches from the Escarpment to Lake Ontario and covers the entire northern half of Niagara County. The Plain is gently rolling near the Village and varies in elevation from 245 feet above sea level at the Lake to 600 feet at the Escarpment. The Escarpment is composed of mixed sandstones (Whirlpool, Grimsby and Thorold), capped by Lockport Dolomite, while the Iroquois Plain is Queenston Shale which underlies the entire area about 1,200 feet thick. These formations are generally overlain with glacial till and/or sandy, fine-textured soil of moderate to poor drainage characteristics. The Niagara Escarpment and Iroquois Plain are the northernmost geologic features of the region. ([Figure 3](#))

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

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

Vegetation

Niagara County is in the Oak-Hickory forest biome indigenous to most of Western New York. Characteristic species include Red Maple, Beech, Hemlock, White Oak, Elm, Chestnut, Hickory and a variety of other oaks and hickories. A number of plants that are on the New York State list of protected

species occur in Niagara County and include the showy Calciphilic group found along the Niagara River Gorge. Common species occasionally found in wooded areas or along bluffs include Butterfly-Weed, American Bittersweet, various fern (Buckhorn, Curly-Grass, Maidenhair, Salvinia, Walking-Leak, Woodsia, etc.), Blue-Bottles, Golden-Seal, Lily, Cardinal Flower, Wild Crabapple, Bloodroot and Trillium.

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

Fish and Wildlife

Fish: The lower Niagara River is one of the best fishing spots in Western New York, offering year-round game and pan fishing, numerous annual fishing derbies and excellent warmwater/coldwater fisheries. The lower one-mile (near Lake Ontario) is fine spawning for smallmouth bass and panfish (perch, blackbass and smelt in abundance). Significant seasonal game fish include coldwater species (stocked coho, chinook and steelhead salmon; rainbow and brown trout) and warmwater species (northern pike, bass and walleye). The stocked species have had a favorable effect on the sport fishing industry, replacing the blue pike and lake sturgeon which are classified as endangered. Although numerous fish kills have been recorded in Erie and Niagara Counties (NYSDEC, 1970-1976), no significant losses have been noted along the Lower Niagara River.

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

Fowl: The Lower Niagara River area is an excellent habitat for many local and migratory birds and waterfowl. The open river (year-round) and steep bluffs offer summer and winter refuge and good feeding conditions for gulls and various waterfowl species. Herring, Ring-billed, Bonaparte' and other gull species are commonly found in abundance in the river gorge and along the lower river area. Wintering waterfowl populations (NYSDEC winter survey, 1970-1976 indicated an average of 2,135 on the Lower Niagara River) include the Black Duck, Mallard, Scaup, Canvasback, Bufflehead, Merganser and other species. These species are continually threatened by up-river pollution that affects both summer and winter waterfowl. The shores of the Niagara River also provide modest habitat for small birds and pheasant. Although the Village is urban in character, many species such as the sparrow and various songbirds occupy the wooded areas in limited numbers. Among the endangered species that may occasionally migrate through the area are the American and Arctic Peregrine Falcon and the Bald Eagle.

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

Flooding, Erosion, and Wetlands

The Lewiston shoreline has a very small flood-prone area, as determined by the Federal Emergency Management Agency. The only likely inland area of potential inundation is the gully in Artpark near the south Village line. This is the only portion of the waterfront unprotected by steep slopes along the shore where flood waters can encroach on adjacent property. Major flooding in the Village in past years has been attributed to ice jams in the River that caused ice levels to rise nearly seventy feet over normal water elevations. These events have been significantly reduced by the installation of the ice boom at the mouth of the River in Buffalo. The ice boom successfully limits down river ice accumulation and mitigates flood and erosion damage and keeps the Lower Niagara relatively ice-free most of the year. Flooding of the magnitude described above has not occurred in over 20 years and not since the ice boom has been utilized.

Shoreline erosion has not been significant in Lewiston, but has resulted from two main causes - deterioration of the occasionally exposed shale/clay slopes near the waterfront and ice damage from winter jams. While ice jams have been curtailed by use of the ice boom up river, the demise of local shale to red clay requires stabilization and vegetation cover to retard erosion damage. Any disturbance of slope areas needs to be accompanied by adequate pitching and appropriate tree/ground cover and restoration of exposed slopes, especially near the waterfront.

The Village contains no designated wetlands within its boundaries, based on County surveys by NYSDEC. No significant wet areas are identified.

Climate and Air Quality

Climatic conditions in Lewiston are heavily influenced by the prevailing westerly winds and weather patterns. These typically produce summer circulation systems from the Gulf of Mexico and winter circulation systems from Canada. The proximity of Lakes Erie and Ontario tend to moderate temperature in the area and also increases annual precipitation from additional local air moisture. Local data is collected nearby at the U.S. Weather Bureau Stations in Lockport (440 feet elevation, initiated 1891) and Buffalo Airport (705 feet elevation, initiated 1870). The Lockport station collects temperature, precipitation, wind and snowfall.

Average annual precipitation in Lewiston is twenty-nine inches, which includes an average sixty-five inches of snowfall per year (6.5 equivalent inches of water). Annual snowfall is among the lowest in the region, which increases substantially to the south to a maximum average of 140 inches in southern Erie County. Snow accumulation occurs primarily from December through February and annual thaws in March and April can occasionally create significant runoff in combination with spring storms. Average

annual temperature at Lockport is 47.3 degrees, with a maximum of 103.0 degrees and a minimum of -24.0 degrees having been recorded. Based on data recorded at Buffalo, average annual humidity is 80% at sunrise and 64% in the early afternoon. Cloud cover occurs approximately 47% of the time during the year, with March to October being the predominantly sunny periods.

Air quality in Lewiston is monitored by New York stations in Lockport and Niagara Falls and a Niagara County station in the Village of Lewiston. The Village is in regional classification area Level II for suspended and settleable emission particulates, which comprise the major air quality elements related to public health. Total particulates must not exceed 100 tons per year in accordance with U.S. EPA standards.

Suspended particulates make up the bulk of total particulates and are critical due to their potential respirability and, therefore, harm to health. NYSDEC data reported in April, 1977 indicated that the Lewiston monitor provided an annual geometric mean of 49 $\mu\text{g}/\text{m}^3$ (1975-1976), which is well below the standard of 65 $\mu\text{g}/\text{m}^3$ for Level II classified areas. Nearby monitoring stations active from 1970-1976 demonstrated a continual decline in suspended particulates recorded. Settleable particulates represent dust fall in the air which, although a nuisance, are not as critical to public health. Monitors in 1974 and 1975 (30 day periods) produced annual geometric means of 0.33 $\mu\text{g}/\text{m}^3$ and 0.44 $\mu\text{g}/\text{m}^3$, respectively, which exceeded the standard of 0.40 $\mu\text{g}/\text{m}^3$ in 1975. Combined total particulates have not been known to be exceeded in Lewiston at any time.

Mobile source pollutants are not considered a problem in Lewiston, as most regional monitors do not exceed existing air quality standards and critical levels are mitigated through improved vehicle equipment by 1985. Acid rain presents recurrent problems in the entire region from sources outside the area.

Human/Cultural Resources

The population of the Village of Lewiston is relatively static, having increased only slightly, by 1.0 percent, from 3,292 in 1970 to 3,326 in 1980. A recent projection (September, 1985) by the Erie and Niagara Counties Regional Planning Board (Population Disaggregation for Transportation Purpose) for the year 2010 shows a small rise in population to 3,382, an increase of 1.6 percent over the 1980 population.

Median age in the Village is a relatively high 35.0 years, compared to a County-wide average of 29.0 years in 1980; 656 persons, or 19.7 percent, were 62 or older in 1980. Because of the high concentration of elderly, the number of persons per household, 2.58 in 1980, is lower than the County average. Of the 1,250 households in the Village, 73% were family households (married couples with or without children) and 27% were non-family households.

In 1980, some 50% of the population was in the labor force; unemployment was 7.34% of the labor force. To a considerable extent, a large proportion of the employed, 45.2%, were executive, administrators, managers, professionals or administrative support, included clerical works.

This high concentration of managerial-type personnel is reflected in the median household income of \$21,489 in 1980. Two-worker families accounted for 59.3% of all families, which, combined with the

status of the employed group, helps explain the relatively high household income. As a corollary, owner households had a mean income of \$30,153 while, for the renters, household income was \$18,096 in 1980.

Median educational level was high, 12.0 years. Some 86.2% of all pupils in primary and secondary schools were in public schools. The average number of school children per household was 0.7.

The mean value of owner-occupied units was \$47,859 and median rent was \$291 monthly, in 1980.

Land Uses and Physical Conditions

The Village of Lewiston contains 640 acres, or one square mile. Detailed land use data was collected in 1968 for the Lewiston Master Plan and updated in 1975 from LUNR maps. Categories from these surveys are shown in Table I, and have not substantially changed. Urban uses (residential, commercial and roads) represent nearly 70% of Village development, while public, institutional and recreational uses total over 18%. Useful vacant land (not on steep slopes) is less than 10% of total land and no agricultural uses exist in the Village. The only major land use changes since 1968 have been the development of Artpark and the conversion of an elementary school for a Village Hall at Fourth and Onondaga Streets. Lewiston is considered a stable, established community of predominantly residential character.

Total acreage in the LWRA is 211 acres, which is 33.0% of total Village land. The LWRA (Figure 4) is similar to the Village in land use, but has a higher share of public/institutional uses and lower percentages of urban uses (Table 2). Most of the Village public/institutional space (75.6%) is in the LWRA. While the bulk of this is in Artpark (50 acres), it also includes the Village Hall, Lewiston Landing and wooded areas along the waterfront.

The low roadway percentage of the LWRA relative to the Village (23% of total acreage versus 33% Village-wide) demonstrates the potential access problems that plague the waterfront. The center of the Village's commercial district is located outside of the LWRA toward the eastern end of Center Street, but commercial uses extend along Center Street to the LWRA boundary at Fourth Street. Commercial development in the LWRA is concentrated in the two-block area east of First Street and south of Center Street.

TABLE I - Existing Land Use, Village of Lewiston, New York

Uses	Acres	Percent Total Acres
Residential	200.8 Acres	31.4%
Single-Family	187.9	
Two-Family	6.7	
Multi-Family	6.2	
Commercial	35.2 Acres	5.5%
Retail	29.6	

Uses	Acres	Percent Total Acres
Service	4.4	
Professional Offices	1.2	
Public/Institutional	116.4 Acres	18.2%
Public Buildings	3.2	
Parks/Recreation	97.2	
Churches, Other	15.6	
Open Space (Vacant Woodland)	76.1	11.9%
Streets and Roads	211.5 Acres	33.0%
TOTAL	640.0 Acres	100.0%

TABLE II - Existing LWRA Land Uses, Village of Lewiston, New York

Uses	Acres	Percent Total Acres
Residential	200.8 Acres	31.4%
Single-Family	187.9	
Two-Family	6.7	
Multi-Family	6.2	
Commercial	35.2 Acres	5.5%
Retail	29.6	
Service	4.4	
Professional Offices	1.2	
Public/Institutional	116.4 Acres	18.2%
Public Buildings	3.2	
Parks/Recreation	97.2	
Churches, Other	15.6	
Open Space (Vacant Woodland)	76.1	11.9%
Streets and Roads	211.5 Acres	33.0%
TOTAL	640.0 Acres	100.0%

The majority of open space/vacant land coincide with steep slopes that are restrictive to construction. The difficult terrain of the LWRA has been, and continues to be, a major factor shaping land uses and development. Most of the shoreline is bordered by very steep, 30-100 foot banks. Another steep slope crosses the waterfront area diagonally from approximately Mohawk Street at the river to the intersection of Seneca and Fourth Streets, causing the breaks in the grid pattern of the streets through this area. While the two blocks along the shoreline between Cayuga and Onondaga Streets to First Street is the most accessible portion of the waterfront from the water and the land (via Center Street), the area is still relatively steep and hilly. Development on the west sides of both First Street and Water Street sits on top of the steep banks which traverse this area.

Lewiston's development began at the foot of Center Street along the narrow band of relatively accessible waterfront which gave the economic incentive for growth. As development spread, it was concentrated on the more suitable flats between the hill at the waterfront and the Niagara Escarpment. This has left the LWRA as mostly residential and public space. It is anticipated that the area along Water Street can be used for concentrated waterfront development to capitalize on the natural attributes of the area and the extensive tourist trade. The principal impediments are the lack of adequate public and private recreational facilities and the lack of visible access between the central area of the Village and the waterfront. While little developable vacant land exists in the Water Street - Center Street area, much of the existing development is underutilized or inappropriate for waterfront activities.

Shoreline Uses and Conditions

This portion of the LWRA comprises the entire shoreline of the Village from First Street to the Niagara River. The shoreline area encompasses 5,630 linear feet, devoted to a variety of public and private uses. Only the 1,190 feet at the end of Center Street is directly accessible and currently useable. Approximately 710 feet of this area (north of Center Street to Onondaga Street) is under public ownership and contains the [Lewiston Landing](#), a new boat launch and docking facility built on the site of the historical landing area.

Lewiston Landing is part of a partially developed Village park, currently referred to as Lewiston Landing Waterfront Park. Current uses of the park are limited to the dock area (west of Water Street) and include fishing, passive recreation (walks, benches), boat launching and occasionally swimming. An abandoned coal silo (1,000+ square feet) stands next to the landing against the bank. Although the launch and bulkhead are new, the silo is deteriorated, detracting from the attractiveness of the area. The top of the bank to Water Street is also publicly-owned and used for roadside parking for trailered and non-trailered vehicles.

The adjacent block east of Water Street is also largely publicly-owned. The Village's Department of Public Works garage, abandoned sewage treatment plant, pump station, and storage building occupy most of the block. Two residences are located in the northeastern corner of the block. Existing plans call for this block to be developed as part of the Lewiston Landing Waterfront Park (see below, Public Access and Recreation).

Immediately south of Center Street is a private marina, set on finger docks along 460 feet of wooden bulkhead. This is the only water-dependent use located in the Village aside from the Lewiston Landing

boat launch and dock and the Artpark fishing pier. About 30+ boat slips are available and boats are repaired and stored along the waterfront. Access is provided via a marginal gravel road at the end of Center Street which is posted private. A few deteriorated buildings exist and the entire area lacks attractiveness.

The marina property is leased to the current operator by the owners of the Riverside Inn, which is located at the top of the bank on the east side of Water Street. Originally a waterfront hotel built in 1870 to take advantage of lake travel and tourism, the Riverside Inn is now a fine restaurant and a locally identified historic site. While in generally good condition, the building needs some exterior work and its setting would benefit from improved landscaping. Commercial, water-enhanced uses extend into the block to the west of Water Street and south of Center Street. Uses included: a motel in fair condition; the Village Inn, a popular tavern and locally identified historic site; a private parking lot that accommodates area patrons; and a few residences fronting on First Street.

Because of its proximity to the Lewiston Landing Waterfront Park and its accessibility, this two-block area is critical to realizing the full potential of the Village's waterfront area. Although development is limited by the hilly topography, developable land is not utilized to best advantage. Given the Village's existing and planned investment in the park and the growing interest in waterfront property throughout this region, it is reasonable to assume that private investment will be attracted to the area. While such investment should be encouraged, development should be planned to physically and visually complement the Lewiston Landing Waterfront Park, to extend public access, to preserve and upgrade the existing marina facilities, and to provide commercial services which support recreational uses and tourism. These objectives may be best accomplished through some form of cooperative, public-private efforts.

North and south of the two-block boat launch and dock area are residential units or undevelopable banks. North of Onondaga Street are ten single-family units, one of which is in deteriorated condition. Immediately north and controlled by the Village is the Oneida Street right-of-way. Beyond the right-of-way, the steep river bank makes construction exceedingly difficult. Water Street is the only access, dead-ending 475 feet north of Onondaga Street. Nevertheless, there is some potential for development in this area, as demonstrated by past proposals to develop townhouse condominiums. North of Mohawk Street is the Niagara Frontier Bible Institute, which is well-maintained, extends eastward to Second Street and includes a locally identified historic site known as DeChantal Hall. Although the property has the potential for conversion to higher density uses, the Bible Institute is expected to maintain its facilities here for the foreseeable future.

The shoreline area south of the Cayuga Street right-of-way is also occupied by residential uses. Approximately twenty single family residences are located along First Street and a few multiple units are located on Guard Street. About two-thirds of the residences on First Street need minor improvements, which would improve the attractiveness of the shoreline. These range from simple painting to exterior repairs and landscaping. South of the Guard Street development, the shoreline area is within Artpark, which is controlled by the Niagara Frontier Parks Commission (see below, Public Access and Recreation, for further description).

Table 3 summarizes the uses and conditions along the shoreline. Figure 5 summarizes the LWRA Land Resources.

TABLE 3-Waterfront Use Inventory, Village of Lewiston, New York

Waterfront Section Shoreline:	Land Use	Square Footage	General Condition	In-Water Structure
North Village Line to Onondaga Street	Residential(10)/1	15,200	Good	
Onondaga Street to Center Street	Municipal (3) Residential(10)/-2	8,200 6,350	Fair-Poor Poor	Bulkhead Public Launch
Center Street to Cayuga Street	Marina (5) Commercial (3)	1,200 8,100	Poor Good	Private Finger Docks
Cayuga Street to Artpark	Residential (21)	32,500	Fair-Poor	
Artpark/ South Village Line	Park/Open Space		Excellent	Fishing Pier
Total = 71,550				
/-1 Numbers in parentheses are total structures				
/-2 Located upland between First and Second Streets				

Upland Uses and Conditions

The area east of First Street is occupied primarily by medium density single-family residences. Notable exceptions are the Village Hall (public-institutional) and adjacent playground (recreation), located between Onondaga and Ridge Streets and Fourth and Second Streets; small businesses, shops and offices; bed and breakfasts; a hotel/spa; and Artpark (recreation). Neighborhood business uses and mixed business/residential uses are allowed along both sides of Center Street between Fourth and First Streets. The Onondaga Trail follows the Onondaga Street right-of-way from the intersection of Second and Onondaga Streets down the hill to First Street, and provides a pedestrian connection and open space link to Lewiston Landing.

The Village realized linking the waterfront area to the Village's Center Street commercial district to the east, and in 2003, extended the RB-2 Retail Business Zoning District on Center Street from Fourth Street to First Street. The rezoning allows small retail shops, business offices (when such use is combined with retail business and personal service establishments), and bed & breakfasts (when such use is a secondary use of the premises), and establishes better continuity between the upland commercial area and the waterfront – while remaining complementary to residential uses. These facilities are compatible with residential uses, and provide additional accommodations for visitors to the Lewiston area.

Additional opportunities for establishing better linkages are discussed below under Public Access and Recreation.

Waterfront Revitalization Target Area

Opportunities for enhancing the use of the Village's waterfront focused on the four block area west of First Street between Onondaga and Cayuga streets; therefore, the Village's revitalization efforts should

also be concentrated on this "target area". The area is accessible from both the land and water, one of the few such sites along the Niagara River below Niagara Falls. The Village has already made a substantial public investment in the area in the construction of the new Lewiston Landing boat launch and docks. Use of these facilities by residents and visitors for boating and fishing can be expected to increase. Completion of the upland portion of the Lewiston Landing Waterfront Park would increase the recreational uses of the area and improve the area's attractiveness, thereby encouraging further improvement and expansion of private recreation and related commercial uses in the two block area south of Center Street. This private development would, then, directly increase the contribution of the area to the Village's economy and tax base. The increased use and amenities of the area would also be expected to benefit businesses throughout the Village. Increased use and development in this area, however, must be carefully planned and designed, so as to be compatible with surrounding residential uses and ensure the preservation of important natural and scenic resources. [Figure 5](#) shows the Waterfront Revitalization Target Area, as well as other significant land resources of the waterfront area.

Zoning

The Village is fully zoned and contains a range of residential and commercial categories ([Figure 6](#)). Commercial zoning is concentrated along Center and Portage Streets and residential and open space districts occupy the rest of the community. Similarly, the LWRA is predominantly residential and open space.

The principal residential class is R-1a providing for medium-density, single-family residences on 6,500 square foot lots. This runs up to the shoreline north and south of Lewiston Landing. The W-D Waterfront Development District was adopted by the Village in 1989, with amendments in 1990 and 1991, to ensure that lands along the waterfront be used for water-dependent, water-enhanced and other related activities. The W-D Waterfront Development District along both sides of North Water Street, generally south of Center Street, allows a mix of water-dependent and water-enhanced commercial and recreational uses. The O-P Open and Public District preserves and enhances publicly owned open spaces and recreational areas. Open space zoning includes Lewiston Landing and adjacent area to the east, Artpark, and identified linkages up the hill to Center Street and the Village Hall on Fourth. In 2003, the Village extended the RB-2 (Retail Business) District along Center Street, from Fourth to First Street, to promote and enhance the continuity of use as a retail shopping area – allowing for the development of retail business and personal service establishments, and complimentary waterfront uses subject to a special use permit, such as bed & breakfasts (when such use is a secondary use of the premises) and other overnight accommodations.

Rezoning of properties on North First Street and North Second Street, between Center and Onondaga Streets, from R-1A (Residential Single Family Medium Density) to R-5 (Residential Townhouse) occurred in 2003. The R-5 Residential Townhouse District allows the development of townhouse dwellings (requires a special use permit), and creates a transition from the Retail Business to the Waterfront Development District. See [Figure 6 – Existing Zoning](#)

Historical/Archaeological Resources

The Village of Lewiston has been referred to as "the most historic square mile in America". The vestiges of Lewiston's history still remain in many parts of the Village and provide a substantial resource of local and national importance. Center Street is the location of the old Lewiston Trail which traversed the ridge of pre-historic Lake Iroquois. This became a primary location for early structures, since 1800's goods arriving at the Center Street Locks had to be portaged up the hill to Fourth Street and move along Center Street to other destinations. [Figure 7](#) identifies the major sites of local and national historic significance in or adjacent to the LWRA. Many more interesting, older (but not designated) structures exist along Center Street, Plain Street and Ridge Street.

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

- **Frontier House** at 460 Center Street (Registry No. PH0040118; 7/8/84) - built in 1824 by Benjamin Barton, it was known as the finest hotel west of Albany and hosted many famous guests; it is well preserved today as a restaurant and museum (restored in 1964).
- **Lewiston Portage Landing Site** in Artpark (registry No. Ph0040134; 7/18/74) - original site of early trade access to the Niagara Frontier and the Niagara Portage (approximately 1626).
- **Lewiston Mound** at Artpark (Registry No. PH0040126; 7/26/74) - early Indian burial site, carbon dated to 160 A.D. and site of pre-historic mammoth/mastodon finds.

The other sites shown on [Figure 7](#) have been identified by the Village Historic Preservation Commission as locally important sites. Barton Hill and the Fairbanks House, two homes at the top of the hill at Center Street, were built by prominent community leaders. About 1815 Barton Hill was the site of American gun placements during the War of 1812 and bears a State of New York historical marker commemorating the Battle of Queenston Heights, October 1812 (placed 1901). Both are well-maintained, attractive properties.

Angler's Retreat (now the Riverside Inn), DeChantal Hall (now the Niagara Frontier Bible School), and the Village Inn are also notable historic buildings located in the waterfront area. Used for non-residential purposes, they are in good condition. The site of the original steamboat docks is also identified on [Figure 7](#) because of the dock's historical association with the Village's development. None of the original structures remain, however.

Adjacent to the waterfront area, the Village Historic Preservation Commission has identified a historic area that encompasses Center, Plain and Cayuga Streets from Fourth Street to Fifth Street. St. Peter's Church and the Tiffany Shop, shown on [Figure 7](#), are two significant contributing buildings located in this area.

While the structures in this area have been subjected to enough modification to reduce their potential for designation as a national district, they still offer a complement to nearby LWRA activities.

Public Access and Recreation

The lower Niagara River is a major recreation area for sport fishing and boating, attracting thousands to the area annually. The 1983 Fisheries Development Plan for Niagara County documented the dramatic growth and impact of sport fishing in the area (Niagara County Department of Economic Development and Planning, 1984). It indicated a rise in fishing demand of nearly four-fold (\$2.6 million revenues to over \$10 million annually) by 1985 and the need for improvement in boating and fishing facilities to accommodate current and anticipated demand.

At present, there are few public facilities along the lower Niagara River providing access for fishing and boating. Boat launches exist at Fort Niagara (public ramp at the mouth of the river), Youngstown (a small natural harbor near the mouth of the river), and Lewiston (double-wide public ramp). The Village of Lewiston's facility is the only up-river boat launch providing access to game fishing in the river gorge and offering virtually year-round sheltered river access. On-shore fishing opportunities exist at the above locations plus at the fishing pier in Artpark and at the Joseph Davis State Park (about mid-way between Lewiston and the river mouth).

The Village's boat launch is part of the planned Lewiston Landing Park, which was created in 1976 when, with funds from the NYS Division of Housing and Community Renewal, the Village purchased 2.25 acres of riverfront property. Together with other Village-owned land, this created an eight-acre site, suitable for development as a water-related park and recreation facility. In 1980, initial design work was completed with a grant from the National Endowment for the Arts. Since then, construction has been completed on a new dock and double-wide (20 foot) boat launch, a shoreline retaining wall with a walkway on top, boat slips to accommodate 14-20 medium-sized boats, handicapped parking, and landscaping which includes plantings specially selected to control erosion caused by run-off. The boat launch, which was opened in 1983, is used almost year-round and is heavily used during the prime boating and fishing seasons.

Work which remains to be done would extend the park to First Street between Onondaga Street and Center Street, providing additional facilities for year-round recreational pursuits, improving circulation and access, and creating an attractive setting for the boat launch and dock. Most of the existing structures occupying the site, which are in fair to poor condition, would have to be demolished. This requires relocating the DPW garage to a new facility and making alternative arrangements for handling the sewer overflow currently diverted to the old sewer treatment plant. Only the abandoned coal silo and the new pump station would be retained as part of the park.

Completion of the park would provide needed support facilities for users of the existing boating and fishing facilities, increase the opportunities for recreational use of the waterfront area by adding facilities for other recreational activities (e.g., picnicking and ice skating), and generally accomplish the redevelopment of an underutilized and unattractive, yet critical, waterfront site. The Village is committed to implementing the second phase of the park's development and is actively pursuing sources of funding.

The only other existing public recreation facility in the Village of Lewiston, which has access to the Niagara River, is Artpark. Artpark was developed by the State of New York on lands owned by PASNY. It

is also partially located in the Town of Lewiston, although its major facilities and entrances are located within the Village. Artpark is intended primarily to be a cultural, educational, and passive recreation resource for residents of, and visitors to, the State. Facilities include a performing arts center, amphitheater, and support facilities. Facilities also include a fishing pier, as previously noted, and nature trails. Artpark's location on a steep slope descending from the Niagara Escarpment affords excellent views of the river area. Artpark is also a sensitive archeological area and includes two nationally designated historic sites, the Lewiston Indian Burial Mound and the Lewiston Portage Landing Site. Over 250,000 people are estimated to visit Artpark each year.

The development of Artpark has helped to attract significant numbers of visitors to the Lewiston area and has benefitted local businesses and governments. It is expected that the performing and visual arts will continue to be the emphasis of programming for Artpark. There are additional opportunities, however, for cooperative efforts which could support the Village's waterfront revitalization efforts, as well as the recreational use of Artpark. Activities are programmed at Artpark only from Memorial Day to Labor Day. Although the grounds are open year round, facilities are closed and off-season use is limited. In addition, there is currently little joint promotion of facilities and activities and little physical connection between Artpark and the Village's central waterfront area, although both the State and Village have expressed interest in better coordination. There are several low-cost opportunities for coordinating Artpark's facilities and activities with the Village's waterfront development projects which would enhance the use of and benefits derived from both. One of the best of these opportunities is to develop self-guided walking tours (for example, from Artpark along First Street to the Lewiston Landing Waterfront Park), connecting the historical, scenic, and recreational points of interest in Artpark and the Village.

Route 18F through Lewiston, designated as part of the Seaway Trail, is a major scenic route for tourists travelling along the lower Niagara River and is a substantial source of tourism activity in the Village. This route forms the eastern boundary of the LWRA, but does not directly access the waterfront, nor is the waterfront visible from it because of the steep slopes. Better signage and/or visible linkage is needed to better capitalize on existing tourist activity and attract potential users to new recreation and recreation-related facilities on the waterfront. Center Street and Onondaga Street (for pedestrian access) seem to offer the best opportunities for providing this linkage.

Center Street provides the only direct vehicular access to the shoreline and is marked at Fourth Street by a gateway-like entrance for Lewiston Landing. The entrance marker, however, could benefit from improved landscaping and lighting and the addition of a motif more clearly indicating that Lewiston Landing is on the riverfront. The Lewiston Businessman's and Professional Association recently has had an attractive waterfront logo designed and has installed visitor-oriented signs using this logo. This has helped considerably to provide useful linkages between the Lewiston Landing area and the major transportation routes through the Village and should improve access to the waterfront area.

The Onondaga Street right-of-way between First and Second Streets, which is undeveloped because of the steep slope, is currently used as a pedestrian pathway. This pathway, which provides access from the Village Hall and adjacent playground at Onondaga and Second Streets to the Lewiston Landing and

the area proposed for park development, could be developed to provide a defined open-space connection and an easier to use pedestrian access way between the two park areas.

Other publicly-owned lands in the LWRA consist primarily of other paper street right-of-ways and street-ends. Since the street-ends extend to the river, they possess some potential for increasing shore-line access, which is severely restricted by the steep banks lining the shoreline, with the exception of the two-block area from Onondaga to Cayuga streets. The street-ends are open to public use and the Village Board has recently taken the position of retaining all street-ends in public ownership and discontinuing the past practice of leasing select locations to private groups; however, surrounding residential uses and extremely difficult physical characteristics mitigate against developing most of the street-ends for public access or recreation purposes. This is not the case for the Onondaga, Center, and Cayuga street-ends, which have the potential to be integrated into the redevelopment of the central riverfront area for recreation and recreation-related uses.

Table 4 below summarizes the ownership and accessibility characteristics of shoreline property (that is, property adjacent to the Niagara River).

TABLE IV - Shoreline Ownership and Accessibility, Village of Lewiston, New York

Ownership	Location	Footage	Percent	Accessibility
Public (Local and State Gov't)	Lewiston Landing and Street Ends	1,210 Feet	21.5%	Open
Artpark	South Waterfront	1,150	20.4	Limited Season
Private	Marina at Center Street Private Residences	2,750	48.	Closed
Institutional (Private)	North Waterfront	520	9.2	Closed

Visual / Aesthetic Resources

The Village has some dramatic visual resources that should be preserved as crucial components of waterfront development. These primarily include the Niagara Gorge with its steep bluffs and turbulent waters, and the Niagara Escarpment which is heavily wooded and represents a unique natural land form in the area. There are also steep wooded banks along the shoreline and scenic river vistas that are part of the local attraction to the Village.

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

opportunities for safely viewing this scene from the Robert Moses Parkway could be improved by providing a scenic overlook off both sides of the parkway above Artpark.

Another excellent land-side vantage point is the intersection of Center and Fourth Streets. To the south is a vista of the Lewiston-Queenston Bridge set against the bluffs of the Niagara Gorge and to the west is a view of Queenston Heights in Canada as it appeared to the American forces during the War of 1812. A more extensive vista of the Niagara Gorge is visible from the shoreline in Artpark. Visitors to the area are continually subjected to excellent views along the river (bluffs, power-house, bridge etc.), due to Artpark's open character and this opportunity could be further developed with viewing areas and access trails.

Many local views are afforded within Lewiston, due to the vantage points created by the slopes near the river. Two ridges, one along the shoreline and one along Third Street (Onondaga to Cayuga), provide views of the river and development below. Most of the land is residential and limited in access; however, the Village park/playground at Third and Onondaga Streets (behind Village Hall) is well located to take advantage of this local vista and could be further developed to capitalize on its visual potential.

The in-water aesthetics of the shoreline is, again, quite dramatic, in that an observer on the river can see either the Niagara Gorge with its bluffs or the wooded slopes of the Village rising from the river to the Escarpment. Currently, however, the poor condition of some properties near the Lewiston Landing detracts from both the land-side and in-water views of the waterfront.

This area, which is the most accessible portion of the shoreline, presents an abandoned silo, municipal garage and deteriorating marina as the focal point of the Village waterfront view. These need extensive structural and landscaping improvements to be attractive to area visitors and encourage usage of the waterfront. In addition, new development in this area should be carefully sited to improve the visual qualities of the waterfront and preserve the vistas available from higher elevations within the Village. Wooded areas should be preserved to provide aesthetic appeal to the shoreline and soften the character of nearby urban development.

Community Services/Infrastructure

Transportation

The Village of Lewiston has excellent highway access to nearby cities via the Robert Moses Parkway (limited-access expressway to Niagara Falls and Buffalo via I-190) and N.Y. Route 104 (Ridge Road to Lockport). These two arterials interchange at the Village line and exit onto Center Street (Route 104 extended). Center Street is the major east-west highway in the Village, is the center of community activity, and links the Robert Moses Parkway on the east and the Lewiston Landing at the waterfront on the west and contains the majority of all commercial development in the Village. Center Street is also part of Route 18F, the designated New York State Seaway Trail. Following Center, Fourth, Oneida and Second Streets, Route 18F attracts numerous tourists annually to the scenic Niagara River drive between Lewiston and Lake Ontario.

Internal circulation within the Village is accommodated by six collector streets to residential uses and community generators. Mohawk and Cayuga Streets provide additional east-west circulation, while Fourth, Fifth, Eighth and Portage Streets provide north-south circulation and access to major land uses. Portage and Fourth Streets are the entrances to Artpark and are heavily utilized by theater patrons and tourists throughout the season. Village streets occupy 211 acres of land and comprise 33 percent of total land use. The Village is laid out in a grid pattern and land is fully accessible by local streets. Principal traffic generators include Artpark, commercial development along Center Street, and the boat launch at the landing on the waterfront (Figure 8).

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

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

Parking

Public parking in the LWRA is at a premium, especially near the landing and boat launch. Only eight to ten spaces exist on the landing, while approximately 75 to 100 spaces are designated on Water Street (including a private, gravel parking lot), some for trailers. This promotes some conflicts between parking and vehicular access on Water Street and taxes on-street residential parking on adjacent streets during seasonal uses. Other public spaces exist at the Village Hall on Fourth and Onondaga Streets (20 to 30 spaces) and numerous spaces at Artpark (Figure 8). However, neither of these is adequately linked to the prime waterfront area (Lewiston Landing) and offer only marginal use at this time. Facilities at Artpark are currently inadequate during performances, as extensive overflow is encountered on Village streets. Future improvements in waterfront activities and access will depend on adequate parking increases proximate to new development.

Water Distribution/Supply

Until the Spring of 1983, the entire Village of Lewiston received its potable water supply from two services - the City of Niagara Falls and the Niagara County Water Authority. Due to supply and distribution difficulties experienced by the City, all potable water is now supplied by the County Water Authority. The Village's residential and commercial users consume an average of 360,000 gallons per day and public water is available to all residences and commercial establishments.

The Village of Lewiston owns and maintains all distribution lines within its corporate boundary. Supply and distribution has been adequate to meet demand. Water supplied to the Village is metered daily for billing purposes and to monitor system loss. The area within the coastal zone is serviced by a complete

distribution system (Figure 9). The system is generally adequate to support future development at prevalent densities. The Village performs routine line maintenance and replacement as required.

Wastewater Collection and Treatment

The Village of Lewiston, including the area within the coastal boundary is completely serviced by a separate wastewater collection system. All residential and commercial establishments are serviced. The total Village system consists of approximately 77,000 linear feet of sewer. The sanitary sewer system within the coastal boundary consists primarily of vitrified tile, gravity sewer, and ranges from thirty to fifty years old (Figure 10). All wastewater flows generated in the coastal area are tributary to a pump station and pumped over the Escarpment to a metering pit prior to connection to the Town of Lewiston's sewer system. Until early 1981, the Village of Lewiston treated its sewage at a primary treatment facility located at the Department of Public Works facilities. Treated sewage was discharged directly into the Niagara River. In 1981, the Village terminated treatment at its facility and began conveying all wastewater flows generated in the Village to the Town of Lewiston for treatment. The Village is included in the Lewiston Master Sewer Improvement Area (LMSIA), which includes the Towns of Lewiston and Porter and Village of Youngstown.

The Village of Lewiston's participation in the LMSIA required termination of treatment at their existing facility with the addition of a new pump station and interceptor sewer to convey wastes to the Town's system. The Village no longer operates its wastewater treatment plant. In the early stages of the operation of the LMSIA, the Village used their treatment plant as an overflow structure when the Town's treatment facility experienced excessive flows.

With improved wastewater treatment plant operations and sewer improvements throughout the district, overflows have been essentially eliminated. The Village no longer utilizes their former treatment facility and it is scheduled for demolition in the future. Any subsequent development must provide adequate access and land for a pump station. Overflow storage, if needed, is planned for inclusion with the new public works garage in the Village.

Conveyance of Village wastewater flows to the Town facility has resulted in two positive impacts in the coastal area. First, effluent quality from the Town's facility is substantially improved over the Village's old facility, resulting in improved overall water quality. Second, with the eventual demolition of the former treatment plant, additional land area will be available for Village use.

The sanitary sewer system is a vital part of the coastal areas' infrastructure. The existing system has the capacity to support present and future development. The Village supports a continual and rigorous system maintenance and rehabilitation to ensure system efficiency. All wastewater collection system additions and improvements are designed and constructed in accordance with "10 States Standards", Niagara County Health Department, and NYSDEC Standards.

Storm sewer system

Stormwater drainage within the Village of Lewiston, including the area within the coastal zone boundary, is accomplished through a system of closed conduits, open ditches, and generalized overland run-off. The stormwater collection system is a separate system with no known cross connections to the

sanitary sewer system. Because of the relatively steep slopes in the coastal area, localized flooding and ponding is not prevalent. There are at least two known locations where stormwater conduits discharge directly to the Niagara River. The Village Public Works Department maintains all roadside ditches and will install drainage piping at the request of residents and businesses for a nominal fee. The closed piping is installed in rights-of-way where landowners prefer piping over open ditching.

One problem in the coastal area caused by uncontrolled overland run-off is bank erosion at various locations. Through structural modifications and improved management practices, this problem can be alleviated. However, further detailed study of existing drainage is needed to determine more specifically the best methods for improving the drainage system. All major drainage improvements are designed according to the Stormwater Design Manual published by the Erie-Niagara Regional Planning Board, which are generally based on ten-year storm.

Community Services

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

The Village has its own Police Department, while the Village and the Town share costs for the Volunteer Fire Company, Lewiston Fire Company No. 1. The Village pays on a contractual basis for the costs of operating the Fire Company and also pays for insurance for the Fire Company.

Solid Waste Management

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

Hazardous Waste Site

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

Fiscal Resources

For 1983-84, the Village's total budget was \$1,375,133, of which property tax payments were \$267,329. Total assessed or full value (properties in Niagara County went on a full value basis for 1983-84) was

\$70,349,707. The tax rate was \$3.80 per \$1,000 of full value for 1983-84, or \$190 for an average \$50,000 home.

The Village had adequate taxing power for the 1983-84 fiscal year. Taxing power was \$1,019,012, while the tax levy was \$267,329; the constitutional tax margin was \$751,683.

In terms of debt limit, the Village can borrow up to seven percent of five-year average full value, or about \$3,100,000. As of June 1, 1983, outstanding debt was \$311,550 or 10.0 percent of the debt limit. Based on an opinion by the State Comptroller on January 26, 1983, \$800,000 of Bond Anticipation Notes for Sanitary Sewers were excluded from the debt limit.

SECTION III - State and Local Coastal Policies

Development Policies

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

POLICY 1A REDEVELOP THE WATERFRONT REVITALIZATION TARGET AREA FOR FISHING, BOATING, AND RELATED RECREATION AND COMMERCIAL USES.

Explanation of Policy

The Lewiston Landing area was once the heart of Village commerce, yet now contains deteriorated structures, limited access for boating, inadequate dockage and shore protection and insufficient support facilities (convenience, parking etc.) to meet current demand. The restoration of economic activity and redevelopment of this area for tourist/recreational purpose is crucial to the revitalization of the waterfront. (See Chapter B.6 "Land Uses and Physical Conditions" of the Inventory and Analysis Section for further description).

Plans for revitalization include completion of the Lewiston Landing Waterfront Park, rehabilitation and expansion of existing private marine facilities, and improvement and expansion of recreation-oriented and tourist-oriented commercial uses, as further described in Section IV. Plans for revitalization provide for the concentration of development around the Lewiston Landing in order to enhance existing uses and protect adjacent residential areas. The completion of the park around the Lewiston Landing will ensure adequate support services and enable the development of adjacent commercial services without compromising water-dependent uses.

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

1. When an action is proposed to take place in the Waterfront Revitalization Target Area:
 - a. Priority should be given to uses which are dependent on a location adjacent to the water and, in particular, those uses which expand boating facilities and increase water-related recreation opportunities (see also policies 2 and 21);
 - b. The action should enhance existing and anticipated recreational and related commercial uses within the target area, while minimizing any adverse impacts on surrounding residential areas;
 - c. The action should serve as a catalyst to private investment in the area, particularly for the improvement and expansion of private water-related recreational and commercial uses located in the two-block area south of Center Street;

- d. The action should improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration. For example, a building could not be abandoned without protecting it against vandalism and/or structural decline;
 - e. The action must lead to development which is compatible with the character of the area, with consideration given to scale, architectural style, density, and intensity of use. New development should not compromise the traditional value and function of the Lewiston Landing for recreational boating, fishing, and transport;
 - f. The action should have the potential to improve the existing economic base of the community, and, at the waterfront development meant to serve consumer needs would be inappropriate in an area where no increased consumer demands were expected and existing development was already meeting demand;
 - g. The action should improve adjacent and upland views of the water, and, at a minimum, must not affect these views in an insensitive manner (see also Policy 25); and
 - h. The action should have the potential to improve multiple uses of the site (see also Policy 22).
2. If an action is proposed to take place outside of the Waterfront Revitalization Target Area and is either within the Village of Lewiston or adjacent coastal communities, the agency proposing the action must first determine if it is feasible to undertake the action within the Waterfront Revitalization Target Area. If such an action is feasible, the agency should give strong consideration to taking the action in that area. If not feasible, the agency must take the appropriate steps to ensure that the action does not cause further deterioration of the Waterfront Revitalization Target Area.

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

POLICY 2A PROVIDE FOR WATER-DEPENDENT RECREATION AT SHOREFRONT PROPERTIES IN THE WATERFRONT REVITALIZATION TARGET AREA.

POLICY 2B SITE WATER-ENHANCED USES UPLAND IN THE LEWISTON LANDING WATERFRONT PARK AND AREA ALONG WATER STREET.

Explanation of Policy

The Waterfront Revitalization Target Area is only two blocks long and potentially subject to intense pressure from private development of non-water-dependent uses. In order to ensure coastal preference for water-dependent uses, new facilities on the waterfront will be sited that depend on access for use of the river. These include:

Fishing

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

These uses will be given preferential treatment for waterfront location, access and operation. Land adjacent to shorefront parcels (e.g. Water Street) will be promoted for commercial facilities (restaurant, motel, etc.) consistent with existing uses and in sufficient quantity to satisfy waterfront demand only. See Section IV for a further description of uses to be accommodated within the Waterfront Revitalization Target Area.

If there is no immediate demand for a water-dependent use in a given area, but a future demand is reasonably foreseeable, temporary non-water-dependent uses should be considered preferable to a non-water-dependent use which involves an irreversible or nearly-irreversible commitment of land. Parking lots, passive recreational facilities, outdoor storage areas, or non-permanent structures are uses or facilities which would likely be considered "temporary" non-water-dependent uses.

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

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

POLICY 3

THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF MAJOR PORTS IS NOT APPLICABLE TO LEWISTON.

POLICY 4

THE STATE COASTAL POLICY REGARDING THE STRENGTHENING OF SMALL HARBORS IS NOT APPLICABLE TO LEWISTON.

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

Explanation of Policy

The Village of Lewiston is an area of concentrated development where infrastructure and public services are generally adequate to support future land uses and development, as specified in Section IV, Proposed Uses and Proposed Projects.

Development of the LWRA is concentrated in areas of existing adequate infrastructure. The extension of facilities directly to the waterside will promote dock improvement and offer support facilities for recreation development. Modifications to road circulation and relocation of the public works garage and abandoned sewer plant are also needed to enhance the target area, but will not compromise the provision of services.

Infrastructure is adequate to accommodate future development, with the exception of storm water drainage which indiscriminately flows overland from upland areas into the Niagara River. A study of water run-off and its impact on the waterfront is needed to identify potential erosion and water quality problems and prospective solutions.

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

Explanation of Policy

For specific types of development activities and in areas suitable for such development, State agencies and the Village will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, as long as the integrity of the regulations' objectives is not jeopardized. These procedures and programs will be coordinated within each agency. Also, efforts will be made to ensure that each agency's procedures and programs are synchronized with other agencies' procedures at each level of government. Finally, regulatory programs and procedures will be coordinated and synchronized between levels of government, and if necessary, legislative and/or programmatic changes will be recommended.

When proposing new regulations, an agency will determine the feasibility of incorporating the regulations within existing procedures, if this reduces the burden on the particular type of development and will not jeopardize the integrity of the regulations' objectives.

Fish and Wildlife Policies

POLICY 7 THE STATE COASTAL POLICY REGARDING THE PROTECTION OF SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS IS NOT APPLICABLE TO LEWISTON.

POLICY 7A THE LOCALLY IMPORTANT FISH HABITAT WITHIN THE NIAGARA RIVER WATERS NORTH OF THE LEWISTON LANDING PARK SHALL BE PROTECTED, PRESERVED AND WHERE PRACTICAL IMPROVED SO AS TO MAINTAIN AND STRENGTHEN ITS VITALITY.

Explanation of Policy

A locally important fish habitat in the Lewiston coastal area exists just north of the Lewiston Landing along the shoreline (See Inventory and Analysis Section, [Figure 2](#)). Its significance is in the seasonal breeding and feeding of smelt and perch which attracts game fish to the area. The feeding grounds are essential to pan and sport/game fishing in the Lower Niagara River and represent a substantial resource of key importance to recreational development of the Village waterfront. In order to protect and preserve the habitat, actions shall not be undertaken if such actions would destroy or significantly impair the viability of this area as a habitat. The value of the feeding grounds would be compromised if the habitat is destroyed or seriously impaired by road salt and highway chemical contamination, sedimentation from surface run off, siltation, high concentration of gas or oil contamination from boating or spills and sanitary sewage outflow or hazardous waste run-off. Activities that could impair the fish habitats include new in-water structures in breeding beds, over-fishing, substantial increases in high-speed boating or small craft activity in habitat areas. As feasible, efforts should be undertaken to improve or strengthen the habitat values of this area.

POLICY 8 PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIO-ACCUMULATE IN THE FOOD CHAIN OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECT ON THOSE RESOURCES.

Explanation of Policy

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

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

- b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed". A list of hazardous wastes (6NYCRR Part 317) has been adopted by DEC.

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

Other pollutants are those conventional wastes, generated from point and non-point sources, not identified as hazardous wastes. Such pollutants are also controlled through State laws. The Stauffer Chemical-Artpark inactive hazardous waste disposal site (Section II, Inventory and Analysis) will be monitored and remediated when and if funds for Class 3 sites become available.

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

POLICY 9A IMPROVE THE EXPANSION OF FISH RESOURCES THROUGH SUPPORT OF STATE STOCKING PROGRAMS AND IMPROVEMENT OF HABITAT AREAS.

POLICY 9B EXPAND RECREATIONAL USE OF AREA FISHING BY SPONSORING A FISHING DERBY IN THE LEWISTON AREA AND DEVELOPING FACILITIES FOR FISHING OPPORTUNITIES.

POLICY 9C EXPAND RECREATIONAL USE OF ARTPARK FOR PASSIVE RECREATIONAL OPPORTUNITIES (E.G., BIRD WATCHING) BY PROMOTING AND IMPROVING ACCESS, TRAILS AND OTHER FACILITIES.

Explanation of Policy

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

The recreational use of these resources and the associated economic benefits are to be increased primarily through promotion of the resources and existing facilities and some improvement of access and recreational facilities. Promotional efforts include public/private sponsorship of an annual fishing

derby, further development of self-guided walking tours and nature trails, and promotion of year-round use of Artpark. Provisions for increasing access and recreational facilities are described under Policies 19, 20 and 21. Continuation of the NYSDEC fish stocking program is essential to maintaining and increasing the recreational uses of the lower Niagara River. In addition, fishing opportunities might be increased by improving off-shore habitat conditions; however, further study is needed to determine the costs and benefits of such projects.

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

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

1. Consideration should be made as to whether an action will impede existing or future utilization of the local recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources should not lead to over-utilization of the resource or cause impairment of the habitat.
3. The impacts of increasing access to the local recreational fish and wildlife resources should be determined on a case-by-case basis, consulting Policy 7A and/or conferring with a trained fish and wildlife biologist.
4. Any public or private sector initiatives to supplement existing stocks (e.g., stocking with fish reared in a hatchery) or develop new resources (e.g. expanding the habitat) must be done in accordance with existing NYSDEC regulations and programs.

POLICY 10

THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF COMMERCIAL FISHING RESOURCES IS NOT APPLICABLE TO LEWISTON.

Flooding and Erosion Hazards Policies

POLICY 11 THE STATE COASTAL POLICY REGARDING THE SITING OF STRUCTURES TO MINIMIZE DAMAGE TO PROPERTY AND THE ENDANGERING OF HUMAN LIVES CAUSED BY FLOODING EROSION IS NOT APPLICABLE TO LEWISTON.

POLICY 11A STRUCTURES SITED ALONG AND WITHIN THE WATER SHOULD BE DESIGNED TO WITHSTAND PERIODIC INUNDATION AND CURRENT ACTION. THESE STRUCTURES INCLUDE BULKHEADS, GROINS, DOCKS, ETC., AND SHOULD BE SITED AND CONSTRUCTED TO LESSEN FUTURE EROSION POTENTIAL.

Explanation of Policy

Shoreline and in-water structures must be sited and constructed in a manner which can withstand periodic inundation, river current action and potential ice damage. Proper protection and installation of structures to limit erosion, i.e., installation of riverside "groin" to protect launch ramps, must be planned. These structures must not act as a cause for further erosion. The use of floating docks and anchoring systems to limit damage to in-water mooring is preferred.

POLICY 12 ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION BY PROTECTING NATURAL PROTECTIVE FEATURES INCLUDING BEACHES, DUNES, BARRIER ISLANDS AND BLUFFS. PRIMARY DUNES WILL BE PROTECTED FROM ALL ENCROACHMENTS THAT COULD IMPAIR THEIR NATURAL PROTECTIVE CAPACITY.

POLICY 12A TO THE EXTENT POSSIBLE, SHORELINE PROTECTION STRUCTURES SUCH AS BULKHEADS, GROIN, WALLS, RIP-RAP PLACEMENT AND FINGER PIERS SHOULD BE CONSTRUCTED IN A MANNER WHICH PRESERVES THE NATURAL BARRIER PROTECTION AFFORDED BY THE SHORELINE BLUFFS.

Explanation of Policy

The coastal bluffs and other natural protective features help safeguard lands and property from damage, as well as reduce the danger to human life, resulting from flooding and erosion. Excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize their fragile nature and high protective values, lead to the weakening or destruction of those landforms. Activities or development in, or in proximity to, natural protective features must ensure that all such diverse effects are minimized. The bluffs will be protected from development that could lead to increased erosion.

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

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

POLICY 13A PROVIDE FOR THE PROPER DESIGN AND CONSTRUCTION OF EROSION CONTROL STRUCTURES IN THE LEWISTON LANDING WATERFRONT PARK AND MAJOR PRIVATE DEVELOPMENTS. PROPER EROSION CONTROL STRUCTURES ARE NECESSARY BOTH WATERSIDE AND LANDSIDE (BASE OF BLUFF) TO LESSEN EXISTING EROSION.

Explanation of Policy

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

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

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

1. Materials selection will be based on life cycle costing criteria, which considers not only initial costs but discounted maintenance costs for a minimum of 30 years (Present Worth Analysis).
2. Structures should be designed to be aesthetically pleasing, should be compatible with surrounding facilities and should not pose a barrier to public access.
3. Public and private structures should be subject to formal engineering review.
4. Facilities must be demonstrated to be required when considering viable alternatives such as non-structural controls.

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

Explanation of Policy

Erosion and flooding are processes which occur naturally. However, 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: the use of erosion protection structures such as groins, or the use of impermeable docks which block the littoral transport of sediment to adjacent shoreland thus increasing their rate of recession; and the failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of shorelands.

In the Village of Lewiston, with the exception of a river-side groin wall and finger pier extension(s), erosion control structures will be either sheet piled bulkheads (shore-side), select rip-rap placement or landside structures to protect upland bluffs. Docks and finger-piers of the floating type are the preferred alternative. Base flood levels will not be influenced by erosion control structures in the Village LWRA. Structures will be planned which will not adversely affect drainage patterns or weaken shorelines. Proper slopes will be planned above and adjacent to structures to alleviate run-off which can further exacerbate the action of erosion.

POLICY 15

THE STATE COASTAL POLICY REGARDING MINING, EXCAVATION OR DREDGING IN COASTAL WATERS IS NOT APPLICABLE TO LEWISTON.

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

Explanation of Policy

Public funds are used for a variety of purposes on the State's shorelines. This policy recognizes the public need for the protection of human life and existing investment in development or new development which requires a location in proximity to the coastal area or in adjacent waters to be able to function.

However, it also recognizes the adverse impacts of such activities and development on the rate of erosion and on natural protective features and requires that careful analysis be made of such benefits and long-term costs prior to expending public funds.

POLICY 17 WHENEVER POSSIBLE, USE NONSTRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION. SUCH MEASURES SHALL INCLUDE: (I) THE SET-BACK OF BUILDINGS AND STRUCTURES; (II) THE PLANTING OF VEGETATION AND THE INSTALLATION OF SAND FENCING AND DRAINAGE; (III) THE RESLOPING OF BLUFFS; AND (IV) THE FLOOD-PROOFING OF BUILDINGS OR THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.

POLICY 17A UTILIZE SLOPE REDUCTION, BANK STABILIZATION, DEVELOPMENT RESTRICTIONS AND LANDSCAPE TECHNIQUES TO REDUCE SURFACE EROSION ON STEEP SLOPES ALONG THE WATERFRONT.

Explanation of Policy

This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with the policy, it must be determined if any one, or a combination of, non-structural measures would afford the degree of protection appropriate both to the character and purpose of the activity or development, and to the hazard. If non-structural measures are determined to offer 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 afford the degree of protection appropriate, an analysis, and if necessary, other materials such as plans or sketches of the activity or development of the site and of the alternative protection measures should be prepared to allow an assessment to be made.

The topography of the waterfront area of the Village is characterized by steep slopes and banks along the waterfront composed of clay and shale which are subject to surface erosion through weathering and ice damage. The local policy reflects nonstructural measures to reduce surface erosion. The use of development restrictions on 15% or greater slopes, minimum 50 foot setbacks, minimal slope manipulation and vegetation cover to stabilize banks along the waterfront will be utilized in the coastal area.

This policy recognizes both the potential adverse impacts of flooding and erosion upon development and upon natural protective features in the coastal area, as well as the costs of protection against those hazards which structural measures entail.

General Policy

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

Explanation of Policy

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

Public Access Policies

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

POLICY 19A PROVIDE IMPROVED PUBLIC ACCESS TO THE LEWISTON LANDING, ADJACENT DOCKS AND PIERS, AND THE WATERFRONT PARK THROUGH IMPROVEMENT OF CIRCULATION ROUTES AND EXPANSION OF PARKING FACILITIES.

POLICY 19B PROVIDE PEDESTRIAN TRAILS TO ARTPARK AND WATERFRONT PARK FROM THE REST OF THE COMMUNITY.

POLICY 19C INCREASE PUBLIC ACCESS TO WATERFRONT AREAS WITHIN ARTPARK.

Explanation of Policy

The Village waterfront is currently limited in public access - only one block in the target area, numerous vacant "street ends" above the water and Artpark (limited seasonally by fees). Topography and private ownership further restricts public access. In addition, recreation areas along the waterfront are neither viable nor advertised from the community (Seaway Trail, Center Street commercial area, etc.) or connected by pedestrian walks and trails. This policy is intended to increase and improve access to public lands along the waterfront.

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

Existing public water-related recreation facilities within the Village of Lewiston include the Village boat launching, docking, and fishing facilities at Lewiston Landing Waterfront Park and limited State facilities at Artpark (fishing pier and nature trails). The Lewiston Landing Waterfront Park, the surrounding area (the Waterfront Revitalization Target Area), and Artpark also provide significant visual access opportunities. The existing level and types of access provided by these facilities is to be maintained and improved by:

- Improving and/or expanding parking facilities at the Lewiston Landing Waterfront park, the adjacent commercial area, the Village playground - "Onondaga Trail" site, and for summer events at Artpark;
- Improving the Onondaga Street right-of-way for pedestrian use between First and Second streets;
- Increasing public awareness of public facilities providing access by improving signage and other visible linkages along Center Street between the Seaway Trail (Route 18F) and the Lewiston Landing Waterfront Park, developing walking tours of the waterfront area, coordinating promotional and public information activities with Artpark, and sponsoring a seasonal fishing derby.

Lewiston Landing Waterfront Park and Artpark shall receive priority for improvements in access, parking, and connection with other areas of the Village. All access improvements along Center Street, the Onondaga Street right-of-way, and connecting the Lewiston Landing Waterfront Park to Artpark along First Street must be compatible with existing residential uses (see Section IV, Proposed Uses: East of Target Area).

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

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

1. The existing access from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access or unless such actions are found to be

necessary or beneficial by the public body having jurisdiction over such access as the result of a reasonable justification of the need to meet systematic objectives.

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

- a) Access - the ability and right of the public to reach and use public waterfront lands and waters.
- b) Public water-related recreation resources or facilities - all public lands or facilities suitable for passive or active recreation that requires either water or a waterfront location or is enhanced by a waterfront location.
- c) Public lands or facilities - lands or facilities held by State or local government in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including underwater lands.
- d) A reduction in the existing level of public access - includes but is not limited to the following:
 - (1) The number of parking spaces at a public water-related recreation resource or facility is significantly reduced.
 - (2) The service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting system-wide objectives.
 - (3) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
 - (4) There are substantial increases in the following: already existing special fares (not including regular fares in any instance) of public transportation to a public water-related recreation resource or facility, except where the public body having jurisdiction over such fares determines that such substantial fare increases are necessary; and/or admission fees to such a resource or facility, and an analysis shows that such increases will significantly reduce usage by individuals or families with incomes below the State government established poverty level.
- e) An elimination of the possibility of increasing public access in the future includes, but is not limited to the following:
 - (1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.
 - (2) Sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation resource or facility.

- (3) Construction of private facilities which physically prevent the provision of convenient public access to public water-related recreation resources or facilities from public lands and facilities.
2. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:
 - a. The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
 - b. The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource or facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
3. The Village or State government will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
4. In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

See also policies 1, 2, 9, 20, 21, and 22.

POLICY 20 ACCESS TO THE PUBLICLY OWNED FORESHORE AND TO LANDS IMMEDIATELY ADJACENT TO THE FORESHORE OR THE WATER'S EDGE THAT ARE PUBLICLY OWNED SHALL BE PROVIDED, AND IT SHOULD BE PROVIDED IN A MANNER COMPATIBLE WITH ADJOINING USES. SUCH LANDS SHALL BE RETAINED IN PUBLIC OWNERSHIP.

POLICY 20A ACCESS SHALL BE IMPROVED TO VILLAGE-OWNED LANDS ADJACENT TO THE NIAGARA RIVER AT THE LEWISTON LANDING WATERFRONT PARK AND UNDEVELOPED STREET ENDS OF ONONDAGA, CENTER, AND CAYUGA STREETS AND TO STATE-OWNED LANDS WITHIN ARTPARK.

Explanation of Policy

Given the limited availability in the lower Niagara River of public facilities providing specific water-related recreational activities and the limited opportunities for developing such facilities to meet an

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

Within the Village of Lewiston waterfront area, such public lands include: lands owned by the Village within the planned Lewiston Landing Waterfront Park site; lands owned by the State within Artpark that are not currently used for specific water-related recreational activities; Village-owned undeveloped street right-of-ways at Mohawk, Oneida, Onondaga, Center, Cayuga, Seneca, and Tuscarora Streets; and State-owned underwater lands.

While State-owned underwater lands shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent onshore property owners are consistent with this policy, provided such easements do not substantially interfere with continued public use of the public lands on which the easement is granted. In particular, the provision of easements for mooring or docking facilities for adjacent property owners in the area north of Onondaga Street to the Village boundary must not conflict with the use of, or access to, public boating facilities at Lewiston Landing, the protection of off-shore fish resources (see Policy 7A), or the preservation of natural erosion protection features and scenic values of shoreline bluffs.

Access to the Lewiston Landing Waterfront Park lands and Onondaga, Center, and Cayuga street-ends is to be provided with the development of the park and revitalization of the Waterfront Revitalization Target Area (see Policy 22 and Section IV, Proposes Uses: Waterfront Revitalization Target Area). Access to Artpark lands is to be improved for passive recreational and year-round uses (see Section IV, Proposes Uses: Artpark area). Improving access at the Mohawk, Oneida, Seneca, and Tuscarora street-ends is constrained by topography and neighboring residential uses; nevertheless, these street-ends shall remain in public ownership, shall be available for public use, and shall not be leased or otherwise conveyed to any persons or organizations for any purposes which would limit public use of these street-ends for access to the Niagara River.

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

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

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

- a. (See definitions under Policy 19 of "access", and "public lands or facilities").

- b. A reduction in the existing level of public access - includes but is not limited to the following:
 - (1) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
 - (2) Pedestrian access is diminished or blocked completely by public or private development.
 - c. An elimination of the possibility of increasing public access in the future - includes, but is not limited to, the following:
 - (1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to the public waterfront lands and/or waters.
 - (2) Sale, lease, or other conveyance of public lands that could provide public access to public waterfront lands and/or waters.
 - (3) Construction of private facilities which physically prevent the provision of convenient public access to public waterfront lands and/or waters from public lands and facilities.
2. The existing level of public access within public waterfront lands or waters shall not be reduced or eliminated.
 - a. A reduction in the existing level of public access - includes, but is not limited to, the following:
 - (1) Access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
 - (2) Access is reduced or blocked completely by any public developments.
3. Public access from the nearest public roadway to and along the shoreline shall be provided by new land use or development, except where (a) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources or (b) adequate access exists within one-half mile. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.
4. The Village or State government will not undertake or fund any project which increases access to public waterfront lands and/or waters that is not open to all members of the public.
5. In their plans and programs for increasing public access, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban

Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

6. Proposals for increased public access to public waterfront lands or waters shall be analyzed according to the following factors:
 - a. The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
 - b. The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

See also policies 1, 2, 9, 19, 21, and 22.

Recreation Policies

POLICY 21 WATER-DEPENDENT AND WATER-ENHANCED RECREATION WILL BE ENCOURAGED AND FACILITATED, AND WILL BE GIVEN PRIORITY OVER NON-WATER-RELATED USES ALONG THE COAST, 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 COMPLETE THE DEVELOPMENT OF LEWISTON LANDING WATERFRONT PARK.

POLICY 21B IMPROVE SHORELINE ACCESS AND BOATING FACILITIES BETWEEN CENTER AND CAYUGA STREETS.

POLICY 21C WITHIN THE WATERFRONT REVITALIZATION TARGET AREA, IMPROVE AND EXPAND WATER-ENHANCED COMMERCIAL FACILITIES WHICH SUPPORT WATER-DEPENDENT RECREATIONAL USES.

POLICY 21D IMPROVE THE "ONONDAGA TRAIL" AND VILLAGE PARKGROUND.

POLICY 21E EXPAND THE YEAR-ROUND RECREATIONAL USE OF ARTPARK.

POLICY 21F DEVELOP SCENIC OVERLOOKS ALONG THE ROBERT MOSES PARKWAY.

Explanation of Policy

As described in the Inventory and Analysis Section, recreational opportunities along the lower Niagara River are currently extremely limited, while topography and existing development limit the potential for

developing much-needed recreational facilities. The Village of Lewiston is uniquely situated to provide increased opportunities for water-related recreation in the lower Niagara River, as well as Lake Ontario, through the expansion, improvement and development of public and private recreational and supporting facilities, as provided by Policies 21A, 21B, 21C, 21D, 21E, and 21F.

The improvement of recreational opportunities will be focused in the Waterfront Revitalization Target Area and will involve: completion of the Lewiston Landing Waterfront Park as a first priority; public and private improvement of access, infrastructure, and boating facilities in the adjacent area on the river; and private investment in supporting commercial facilities and services in the upland area. The expansion, improvement and development of these facilities will be undertaken as described in Section IV, Proposed Uses: Waterfront Revitalization Target Area, Project 3: Lewiston Landing Waterfront Park, Project 4: Shoreline Access and Boating Facilities, and Project 5: Supporting Commercial Facilities.

Outside of the Waterfront Revitalization Target Area, additional recreational opportunities will be provided through: improvement of the "Onondaga Trail" and Village Playground, as described in Section IV, Proposed Uses: East of Target Area and Project 6; development of scenic overlooks on the Robert Moses Parkway, as described in Section IV Project 7; and expansion of year-round recreational use of Artpark, as described in Section IV, Proposes Uses: Artpark Area.

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

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

See also policies 1, 2, 9, 019, 20, and 22.

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.

Explanation of Policy

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

The types of development which can generally provide water-related recreation as a multiple use include, but are not limited to:

- Parks
- Highways
- Utility transmission rights of way
- Sewage Treatment Facilities
- Schools, Universities*
- Nature Preserves*
- Large Residential Subdivisions
- Retail and Office Complexes

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

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

Historic and Scenic Resources Policies

POLICY 23 PROTECT, ENHANCE AND RESTORE STRUCTURES, DISTRICTS, AREAS AND SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHEOLOGY OR CULTURE OF THE STATE, ITS COMMUNITIES OR THE NATION.

Explanation of Policy

Reflecting its historic importance as a landing and portage site, pre-dating European settlement or the founding of the nation, the Lewiston waterfront area contains two sites listed on the National Register of Historic Places: Lewiston Mound and Lewiston Portage Landing Site. Both sites, as further described in

the Inventory and Analysis, are on the grounds of Artpark. In addition, the entire waterfront area is within a zone of potential archeological significance, as identified by the NYS Office of Parks, Recreation and Historic Preservation.

There are also five buildings and one site within the waterfront area that have been identified as locally important. These include: Angler's Retreat (now the Riverside Inn), Barton Hill, Fairbanks House, Dechantal Hall (now the Niagara Frontier Bible Institute), the Village Inn, and the site of the historical steamboat docks. These buildings and sites, along with the many attractive older buildings in the waterfront area and the adjacent area (including the nationally designated Frontier House), make a significant contribution to the appealing character of the Village. These resources directly complement the recreational and tourism potential of the waterfront and their preservation should be an integral part of revitalization efforts.

All practicable means shall be used to protect and enhance the above cited resources which are listed on the National Register of Historic Places or have been identified as locally important historic resources.

All practicable means shall be deemed to include the consideration and adoption of any techniques, measures, or controls to prevent a significant adverse change to significant structures, districts, areas or sites. A significant adverse change includes, but is not limited to:

1. Alteration of or addition to one or more of the architectural, structural, ornamental or functional features of a building, structure, or site that is a recognized historic, cultural, or archeological resource, or components thereof. Such features are defined as encompassing the style and general arrangement of the exterior of a structure and any original or historically significant interior features including type, color and texture of building materials; entryways and doors; fenestration; lighting fixtures; roofing, sculpture and carving; steps; rails; fencing; windows; vents and other openings; grillwork; signs; canopies; and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topographical features, earthworks, paving and signs located on the designated resources property. (To the extent they are relevant, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be adhered to.)
2. Demolition or removal in full or part of a building, structure, or earthworks that is a recognized historic, cultural, or archeological resource or component thereof, to include all those features described in (a) above plus any other appurtenant fixture associated with a building structure or earthwork.
3. All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archeological resources and all actions within a historic district that would be incompatible with the objective or preserving the quality and integrity of the resource. Primary considerations to be used in making judgment about compatibility should focus on the visual and locational relationship between the proposed action and the special character of the historic, cultural, or archeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design material, scale, proportion, composition, mass, line, color, texture,

detail, setback, landscaping and related items of the proposed actions. Within historic districts, this would include infrastructure improvements or changes, such as street and sidewalk paving, street furniture and lighting.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthwork, or component thereof of a recognized historic, cultural or archeological resource which has been officially certified as being imminently dangerous to life or public health. Nor shall the policy be construed to prevent the ordinary maintenance, repair, or proper restoration according to the U.S. Department of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings of any building, structure, site or earthwork, or component thereof of a recognized historic, cultural or archaeological resources which does not involve a significant adverse change to the resource, as defined above.

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

POLICY 24

THE STATE COASTAL POLICY REGARDING THE PROTECTION OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE IS NOT APPLICABLE TO LEWISTON.

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

POLICY 25A PREVENT THE IMPAIRMENT OF THE SCENIC QUALITY OF THE LOWER NIAGARA RIVER AND THE NIAGARA ESCARPMENT.

POLICY 25B PROTECT, RESTORE OR ENHANCE NATURAL AND MAN-MADE RESOURCES WHICH CONTRIBUTE TO THE OVERALL VISUAL QUALITY OF THE LEWISTON WATERFRONT AREA.

Explanation of Policy

The Village of Lewiston waterfront area, located along the Niagara River, is part of one of the most important scenic resources in the region, if not the State, as well as providing rare opportunities to view the scenic vistas of the lower Niagara River. In addition, the Niagara Escarpment, a unique landform, provides the backdrop for the Village's waterfront area. The scenic quality of the lower Niagara River, as

viewed from Lewiston, is the result primarily of its dramatic geology, natural vegetation, turbulent waters, and massive man-made structures. Lewiston's contributions to this resource are the tall, steep, wooded slopes which descend from the boundaries of the Village to the shore at the Lewiston Landing and the abrupt rise of the Niagara Escarpment cutting across the southeastern corner of the Village.

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

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

In addition to those elements of the Lewiston waterfront area cited above that contribute to the important scenic resources of this area, the visual quality of the Village's waterfront area is also enhanced by the sloping topography of the waterfront area, abundant vegetation and open spaces, and the historic village ambience created by existing buildings and street patterns. At the focal point of the waterfront area, however, deteriorated, underutilized or inappropriate structures near the Lewiston Landing detract considerably from visual quality (see Section II for further description). These conditions will be remedied, in large part, through proposed improvements for the Waterfront Revitalization Target Redevelopment, however, will be undertaken so as to preserve views from existing development to the extent possible.

When considering a proposed action within the waterfront area, Village, State and federal agencies shall ensure that the action will be undertaken so as to protect, restore or enhance the overall visual quality of the waterfront area. The following siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly:

1. Structures and other development such as highways, power lines, and signs, should be sited back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore.
2. Structures should be clustered or oriented to retain views, save open space and provide visual organization to a development.
3. Sound, existing structures (especially historic buildings) should be incorporated into the overall development scheme.
4. Deteriorated and/or degrading elements should be removed.

5. The original land form should be maintained or restored, except when changes screen unattractive elements and/or add appropriate interest.
6. Vegetation should be maintained or added to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased, or hazardous vegetation and creates views of coastal waters.
7. Appropriate materials, in addition to vegetation, should be used to screen unattractive elements.
8. Appropriate scales, forms and materials should be used to ensure that buildings and other structures are compatible with and add interest to the landscape.

Agricultural Lands Policy

POLICY 26

THE STATE COASTAL POLICY REGARDING THE PROTECTION OF IMPORTANT AGRICULTURAL LAND IS NOT APPLICABLE TO LEWISTON.

Energy and Ice Management Policies

POLICY 27 DECISIONS ON THE SITING AND CONSTRUCTION OF MAJOR ENERGY FACILITIES IN THE COASTAL AREA WILL BE BASED ON PUBLIC ENERGY NEEDS, COMPATIBILITY OF SUCH FACILITIES WITH THE ENVIRONMENT, AND THE FACILITY'S NEED FOR A SHOREFRONT LOCATION.

Explanation of Policy

Although the Village contains no existing energy facilities in the LWRA, it is directly downstream from the New York State Power Vista which affects the waterfront and, by agreement, may participate in revitalization efforts as part of current expansion plans. These plans should include consideration of coastal resources and activities identified in this LWRP.

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

A determination of public need for energy is the first step in the process for siting new facilities. The directives for determining this need are set forth in the New York Energy Law. With respect to transmission lines, Article VII of the State's Public Service Law requires additional forecasts and establishes the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront location. With respect to electric generating facilities, environmental impacts

associated with siting and construction will be considered by one or more State agencies or, if in existence, an energy siting board. The policies derived from these proceedings are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. The Act is used for the purposes of ensuring consistency with the State Coastal Management Program and this Local Waterfront Revitalization Program.

In consultation with the Village of Lewiston, the Department of State will comment on State Energy Office policies and planning reports as may exist; present testimony for the record during relevant proceedings under State law; and use the State SEQR and DOS regulations to ensure that decisions on other proposed energy facilities (other than those certified under the Public Service Law) which would impact the waterfront area are made consistent with the policies and purposes of this 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.

POLICY 28A THE VILLAGE OF LEWISTON ENDORSES THE USE OF THE NIAGARA RIVER ICE BOOM FOR ITS CONTROL OF ICE ON THE LOWER NIAGARA RIVER AND REDUCTION OF EROSION AND DAMAGE TO IN-WATER STRUCTURES ALONG THE LEWISTON COAST.

Explanation of Policy

Prior to undertaking actions required for ice management, an assessment must be made of the potential effects of such actions upon hydroelectric power production, fish and wildlife and their habitats (See Policy 7A), flood levels and damage, rates of shoreline erosion damage, and natural protective features. Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented.

In particular, substantial changes in the use and installation of the ice boom in the Upper Niagara River should assess the potential effects on down-river coastal resources, erosion and flooding. Public investments and private improvements in waterfront revitalization could be seriously jeopardized if the ice management facility were significantly altered or discontinued. Of prime concern in this and other prospective activities are clay-shale shoreline slopes, waterfront structures, geologic resources, archeological sites, fish habitats, and future recreational improvements. This policy is a critical priority in the protection of existing and future development along the Lewiston waterfront.

**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.**

Explanation of Policy

The development of energy resources and alternative techniques for energy generation is of prime importance to the Village and the region. However, the development of these resources must be carefully balanced with potential impacts on the environment and other natural resources that are of critical importance to the Lewiston Waterfront Area and its revitalization. Development of river and Lake Erie energy resources must consider the potential adverse effects on fishing, fish habitats, water quality, boating, commercial fishing, swimming, recreation and general waterfront and water-dependent use of the coastal area. There must be a careful balance between the benefits of energy resource development and all anticipated losses or destruction of opportunities along the affected waterfront and their economic impact.

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

Explanation of Policy

The Village of Lewiston no longer operates its wastewater treatment process. The Village is a member in a regional facility - the Lewiston Master Sewer Improvement Area (LMSIA). There are no industrial discharges in the Village, only commercial and residential. The outfall for the LMSIA is north of the LWRA in the Town of Lewiston.

The advanced treatment facility of the LMSIA has resulted in an effluent discharge of substantially better quality than previously discharged into the River by the Village in past years. Although the Village no longer treats its own wastewater, it maintains a rigorous sewer use enforcement program and sewer maintenance/rehabilitation program. The entire Village of Lewiston is serviced by public sewers. The continued operation and maintenance of this system is essential to sustain and enhance economic growth in the LWRA.

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

Explanation of Policy

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

POLICY 32

THE STATE COASTAL POLICY REGARDING THE USE OF ALTERNATIVE SANITARY WASTE SYSTEMS IS NOT APPLICABLE TO LEWISTON.

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

POLICY 33A PROMOTE COMPREHENSIVE STORMWATER DRAINAGE PLAN AND PROGRAM IMPLEMENTATION IN THE LWRA. ENSURE THE PROPER SITING OF STORM SEWER OUTFALLS TO AVOID CONFLICTS WITH BOTH WATER-DEPENDENT USES AND PROTECTION OF THE FISH HABITAT NORTH OF LEWISTON LANDING.

Explanation of Policy

The Village has separate sanitary and storm sewer systems. The sanitary sewer system does overflow under extreme storm events. The overflow prevents damage to treatment systems and alleviates basement flooding problems. The existing sewer maintenance program will lessen sanitary sewer overflows and structural improvements to the regional treatment system, which are currently being planned, will eventually eliminate overflows.

Effective storm water drainage and run-off will require both structural and non-structural measures. Non-structural measures include proper grading, sloping, and landscaping and plantings selection.

Structural modifications include effective storm water collection systems designed for efficient storm water removal to alleviate ponding and localized flooding.

Guidelines for effective storm water management:

1. Provide specific criteria in site plan review processes which focus on storm water removal techniques and downstream capacities.
2. Provide for a comprehensive drainage plan which incorporates design standards as set forth by the Erie-Niagara Counties Regional Planning Board.
3. Examine grading changes, landscape amenities, and natural percolation as alternatives to piped storm water run-off.

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

POLICY 34A REGULATE THE DISPOSAL OF SEPTAGE AND SOLID WASTES FROM RECREATIONAL AND COMMERCIAL VESSELS WITHIN THE VILLAGE'S WATERFRONT AREA.

Explanation of Policy

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

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

Explanation of Policy

Dredge spoil disposal in the Village LWRA will likely be off-site, as no adequate on-site area exists for proper disposal. Dredging should be limited in the Local Waterfront Area to that required for bulkhead and groin wall installations. Rip-rap stone fill should be returned to the river for shore protection,

bulkhead toe protection and groin fill. Dredging, in general, should not adversely affect the water quality of the Niagara River, the natural protective capacity of shoreline bluffs, or important fish habitats and scenic resources (See Policies 7 and 25). Dredged shore and river sediments (i.e.-muck, organics) shall be removed and disposed of off-site in a site approved by NYSDEC and/or the U.S. Corps of Engineers, if applicable.

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

Explanation of Policy

See Policy 39 for definition of hazardous materials.

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

Explanation of Policy

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

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

Explanation of Policy

Surface and groundwater are the principle sources of drinking water in the State, and therefore must be protected. The Village of Lewiston receives its public water supply from the Niagara County Water Authority, whose source is the Upper Niagara River. The Village of Lewiston has a crucial interest in any

upstream activity affecting the quality of their water supply and/or the recreational value of their surface water. In addition, any action which adversely affects the fish and wildlife resources of the Niagara River is of utmost importance when considering the economic vitality of the Local Waterfront area.

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

Explanation of Policy

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

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive, or toxic. See Policy 8 for further definition.

The primary wastes attributable to the Village are municipal (domestic) wastes, trash, and white goods.

The Village disposes of all municipal refuse off-site at a NYSDEC permitted sanitary landfill. All wastewater sludge has been removed from the Village's former wastewater treatment facility. Wastewater sludge from the LMSIA facility is taken to a permitted landfill.

There is one known, inactive hazardous waste disposal site within the Village's Waterfront Area, the Stauffer-Artpark site. Any transport of hazardous wastes through the Waterfront Area, as regulated by State law, should be conducted in such a manner so as to protect the Village's groundwater and surface water supplies, existing and planned recreation areas identified in this LWRP, and important fish, wildlife and scenic resources identified in this LWRP (See Policies 7A, 22, and 25.)

POLICY 40

THE STATE COASTAL POLICY REGARDING EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING FACILITIES IS NOT APPLICABLE TO LEWISTON.

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

Explanation of Policy

The Lewiston LWRP incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean Air Act and State laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the Waterfront Area.

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

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

Explanation of Policy

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

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

Explanation of Policy

The Lewiston LWRP incorporates the State's policies on acid rain. As such, it will assist in the State's efforts to control acid rain. These efforts to control acid rain will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

Wetlands Policy

POLICY 44

THE STATE COASTAL POLICY REGARDING THE PROTECTION OF WETLANDS IS NOT APPLICABLE TO LEWISTON.

SECTION IV - Proposed Land and Water Uses and Proposed Public and Private Projects

Proposed Land and Water Uses

The Lewiston Local Waterfront Revitalization Area (LWRA) has been evaluated and planned to preserve sensitive natural features and complement existing development, while enhancing recreational and tourist use of waterfront resources. Existing land and water uses in the LWRA are residential with commercial and recreation facilities located at the waterfront on either side of Center Street. These include Lewiston Landing, a private marina, public dock/boat ramp and boat slip facilities, Whirlpool Jet Boating dock facilities, restaurants, a motel, a hotel/spa, and parking facilities. Proposed uses reinforce this land use pattern. Water-dependent recreation uses are to be improved and expanded in the most accessible area of the shoreline (Cayuga to Onondaga Streets) with more intensive, supporting recreation and commercial uses proposed for the adjacent upland area. Low-density and townhouse residential and public (i.e., Artpark) uses are to be maintained in the remainder of the waterfront area, and helping to preserve the open space and scenic values of the area.

The LWRA is divided into five sub-areas for convenience in describing proposed uses. The five sub-areas or sections (see [Figure 11](#) for map of sections) are as follows:

Waterfront Revitalization Target Area - The Target Area includes Lewiston Landing Waterfront Park (First Street between Center and Onondaga Streets to the shoreline) and the adjacent blocks west of First Street between Center Street and the line of Cayuga Street.

Section 1 (North of the Target Area) - The entire portion of the LWRA from Onondaga Street north to the Village Line.

Section 2 (East of the Target Area) - The area between Cayuga and Onondaga Streets east of the Target Area to Fourth Street (the LWRA boundary).

Section 3 (South of the Target Area) - The area south of Cayuga Street to Tuscarora Street from Fourth Street (the LWRA boundary) to the waterfront, including residential development on the south side of Tuscarora Street and around Guard Street.

Section 4 (Artpark) - The portion of the LWRA south of Seneca and Tuscarora Streets dominated by Artpark. It also includes the public lands, devoted primarily to transportation uses, which are east of Artpark.

Waterfront Revitalization Target Area

Opportunities for enhancing the use of the Village's waterfront are focused in the four block area west of First Street between Onondaga and Cayuga Streets; therefore, the Village's revitalization efforts should also be concentrated on this "target area".

This area represents the prime waterfront development area. Proposed uses focus on improving access to the water and expanding water-dependent tourism/recreation uses. In the block west of Water Street between Onondaga and Center Streets where the Lewiston Landing is located, the existing water-dependent recreation uses, providing public boat launching, boat docking and fishing facilities, are to be maintained along the shoreline. The adjacent blocks east to First Street are designated for further development as the Lewiston Landing Waterfront Park.

Water-dependent recreation uses are also proposed for the shoreline area south of Lewiston Landing (Center to Cayuga Streets). The rehabilitation and expansion of existing private marina/docking facilities is encouraged; however, any major development or improvement of uses is also to provide public shoreline access as compatible with private uses. Marina uses are meant to include riverside operation and premises for mooring, docking, renting, storing, or servicing of boats and for sales of boating supplies as an accessory use. To facilitate revitalization of the waterfront and fulfill the goals of the LWRP, the Village amended its Zoning Law (1989; amended 1990, 1991) to establish the W-D Waterfront Development District. Permitted principal uses include those which depend on proximity, access and/or utilization of the water.

Proposed uses for the adjacent upland areas (east of First Street between Center and Cayuga Streets) are recreation-and tourist-oriented commercial services which will complement public and private investment in water-related facilities. These include restaurants and inns, overnight accommodations (hotel, motel, tourist home, or bed and breakfast residence), and retail/service facilities complementary to water-related recreation and tourist uses. The following water-enhanced uses are allowed in the W-D Waterfront Development District: tourist facilities (i.e., restrooms, snack bars, information areas, cultural and recreation facilities); restaurants and eating establishments; hotels and motels; bed and breakfast residences, tourist homes; and retail and service facilities complementary to the aforementioned uses.

Proposed in-water uses for the waterfront target area include fishing piers, boat launches and docks, and navigational transition/access to on-shore facilities. Swimming and speed-boating are conflicting uses in these transitional waters and are excluded.

The undeveloped street-ends at Onondaga, Center, and Cayuga Streets are to be retained in public ownership and used for access or waterfront expansion.

Section 1- North of Target Area

The section of the LWRA from Onondaga Street to the Village Line is bordered by steep bluffs along the shoreline and traversed by another steep slope from Second Street to the northwest corner of the LWRA (see Inventory and Analysis, [Figure 2](#)). Existing residential uses are well established and opportunity for new development is limited. Uses proposed for this area, except for the block north of Mohawk Street, are medium density (6-7 units/acre) single-family residences; compatible public, quasi-public and institutional uses (churches, schools, private clubs, health facilities, etc.); and commercial uses limited to home occupations, personal services and bed and breakfast residences.

The shoreline of this section of the LWRA is to be preserved as open space to control encroachment of structures and conserve the wooded bluffs. In-water structures are to be limited to mooring and docking for boats owned by the adjacent upland property owner.

The undeveloped-street ends at Oneida and Mohawk Streets are to be retained in public ownership and preserved as open space.

Section 2- East of Target Area

This section is an important transitional area, linking the Target Area, the Center Street business district, and other community facilities and containing the crossroads of access to the waterfront. Center Street is the major tourist entrance to the Village and, similarly, represents the most viable tie to the Target Area. The Center and Fourth Street intersection is a highly visible connection with the Seaway Trail (Route 18F, the State Touring Route) and can be the major entrance to the waterfront. To the north, the Onondaga Trail (Onondaga Street right-of-way) provides a pedestrian link between the Village Hall and playground and the Target Area. Finally, First Street provides the major north-south access, connecting the Target Area to Artpark. While access to the waterfront along these corridors can be improved (see Proposed Projects), care must be taken to provide such access in a manner compatible with the existing residential uses which are the predominant uses in this section.

The proposed uses for this section are a mix of medium density single-family residences, small businesses, shops, offices, bed & breakfasts, shops, offices, apartments and rental homes. Neighborhood business uses and mixed business/residential uses are allowed along the south side of Center Street between the Fourth Street and the First Street. The establishment of bed and breakfast residences is particularly encouraged throughout this section to provide needed accommodations for visitors and a connection in uses such as small retail business shops, gift shops, tourist attractions and associated waterfront uses and activities.

In 2003, the Village extended the RB-2 (Retail Business) District along Center Street, from Fourth to First Street, to promote and enhance the continuity of use as a retail shopping area – allowing for the development of small retail shops, bed & breakfasts (as a secondary use of the premises) and other overnight accommodations, and complimentary waterfront uses.

Rezoning of properties on North First Street and North Second Street, between Center and Onondaga Streets, from R-1A (Residential Single Family Medium Density) to R-5 (Residential Townhouse) occurred in 2004. The R-5 Residential Townhouse District allows the development of townhouse dwellings (requires a special use permit), and creates a transition from the Retail Business to the Waterfront Development District.

Section 3- South of Target Area

Reflecting the existing land use pattern, proposed uses for this section are primarily medium density single-family residences and compatible uses, as described above for Section 1. Two-family residences may be accommodated in the area along Tuscarora and Guard Streets. Seneca and Tuscarora street-ends are to be retained in Village ownership for open space. Since shoreline access is difficult at best, pedestrian travel is to be accommodated via First Street. Vehicular access is proposed along Fourth

Street to Artpark. The shoreline is to be preserved as open space to protect the steep banks lining the area. In-water structures are to be limited to mooring and docking for boats owned by the adjacent upland property.

Section 4- Artpark

The Artpark section of the LWRA is proposed for continued cultural uses oriented toward existing visual and performing arts. Expansion of recreational uses, however, are also envisioned to complement the LWRA, including the development of passive recreation opportunities along the waterfront (natural and scenic trails), promotion of fishing uses along the shore, preservation of historic sites, improvement of scenic access along the Robert Moses Parkway, and expansion of parking facilities to support uses. The transportation corridors to the east of Artpark are expected to continue to be used for transportation purposes. Should transportation uses be abandoned, lands will be preserved as open space or dedicated to public uses. Development in this area may not breach, alter or damage the Niagara Escarpment.

Waterfront Preservation and Revitalization Strategy

There are a variety of activities necessary to achieve the policies and purposes of the Village's LWRP. Some of these are projects described in more detail in Section IV, Proposed Public and Private Projects; others are types of implementation activities, described in more detail in Section V, Local Implementation Techniques. The following summarizes all of these activities as an overall strategy for preservation and revitalization of the Village's waterfront resources.

LWRA - wide Activities

1. Undertake comprehensive study of LWRA drainage (source, outfall, overland flow and impact on the waterfront and the river) and detailed development program for improving drainage.
2. Improve the visibility, public awareness, and use of the Village waterfront.
 - a) Improve entry signage at Center and Fourth Streets and landscaping along Center Street between Fourth and Water Streets (See Project 1).
 - b) Identify historic sites/structures (plaque, marker) in the LWRA and create a walking tour/trail in the Village. (See Project 2).
 - c) Sponsor a seasonal fishing derby.
 - d) Promote and advertise waterfront facilities in local and State recreation and tourism literature and improve coordination and promotion of events with Artpark.

Waterfront Revitalization Target Area

3. Complete Lewiston Landing Waterfront Park (See Project 3).
4. Improve shoreline access and boating facilities between Center and Cayuga Streets (Project 4).

5. Expand and improve commercial facilities (retail, lodging, etc.) to complement water-dependent uses in the south section of the Target Area (See Project 5).
6. Undertake river study - detailed analysis of river bottom, current, flow and generally foreshore conditions to determine acceptable extent of in-water structures (marinas, etc.) and navigation to docks.

Section 1 - North of Target Area

7. Undertake study of fish breeding grounds off-shore to better define the characteristics, the extent of the habitat and to determine the potential for improvement and expansion.
8. Maintain existing land use pattern and densities and preserve sensitive natural features (slopes and bluffs) through land use and development regulation.

Section 2 - East of Target Area

9. Improve pedestrian pathway along the Onondaga Street right-of-way between Second and First Streets to provide open space link and better pedestrian access to Lewiston Landing Park and upgrade playground and parking facilities at the Village Park (Third/Onondaga) for visitors to area. (See Project 6).
10. Encourage rehabilitation of waterfront residences, particularly in the First Street area.

Section 4 - Artpark Area

11. Improve opportunities for year-round use of Artpark grounds for recreation purposes (hiking, cross-country skiing, scenic access, touring historic/geological sites, fishing) and improve parking facilities for summer events.
12. Develop scenic overlooks along the Robert Moses Parkway (both sides) above Artpark. (See Project 7).

Proposed Public and Private Projects

Project locations are shown on [Figure 14](#).

Project 1 - Center Street Landscaping And Entry Signage Improvement Project

While the main vehicular and pedestrian entry point to the LWRA at the intersection of Center and Fourth Streets is currently marked, the entry needs to be better highlighted and made more attractive. This project intends to clearly make this intersection the "front door" to the waterfront area by improving the landscaping around the markers and providing better lighting. (Estimated cost \$3,500; one month to implement).

In this manner, the out-of-town motorist can be made aware of activities beyond this point. It will also serve as a reminder to Village residents and beautify the intersection.

As the major vehicular and pedestrian link between the Village Center and the Lewiston Landing Waterfront Park, Center Street between Fourth and Water Streets should be an attractive magnet of green space and streetscape to encourage the visitation and use of waterfront development. The 1,000+ feet from Fourth down to Water Street should be tree-lined and landscaped at intersections to create an attractive setting for the scenic vista of the Niagara River available from atop the hill at Third Street. This would require about fifty trees and shrubs and a four-foot stabilized pedestrian path at a cost of approximately \$15,000. Appropriate hearty species in the urban setting of Western New York include Norway and Red Maple, Radiant Crab Apple, Linden, Ginko, Honeylocust, Barberry and Juniper.

Project 2 - Creation of Historical, Cultural, Scenic Walking Tours

The abundant resources of the Village of Lewiston offer excellent opportunities for the attraction of area tourists through identification and consolidation of historic, scenic and cultural sites in the LWRA.

Such sites include:

- The Barton House (Center and Third);
- The Fairbanks House (Center and Third);
- The Riverside Inn/Anglers Retreat (Water Street);
- Lewiston Landing Docks (foot of Center Street);
- Indian Burial Mound (Artpark);
- Lewiston Landing Gully (Artpark);
- Joncaire Cabin Site (Artpark);
- Scovell Knoll (Artpark).

These sites should be appropriately marked with a marker or plaque to identify their date and significance. Coordinated with other Village sites by the Lewiston Historical Society, they would form the basis for a walking tour of the area's history promoting awareness and exposure to LWRA resources. Similar tours could also be assembled by the Chamber of Commerce in concert with Artpark, based on geologic and natural formations in the area and the dramatic scenic vistas available from numerous vantage points in the LWRA. Production of appropriate literature should be developed for distribution at State and local tourism offices, retail facilities, and Artpark.

Project 3 - Completion of Lewiston Landing Waterfront Park

The completion of the Lewiston Landing Waterfront Park is the most crucial project in the development of the Lewiston waterfront and represents the provision of new water-dependent and water-related facilities to encourage recreation and tourism activities. The project focuses on the narrow portion of the shoreline that offers water access and traditional uses consistent with the objectives of the LWRP. Primary objectives of the project include improved access to the Lower Niagara River, improved facilities for boating and fishing, vehicular and pedestrian circulation, active and passive

recreation opportunities and support services (parking, renovation of the existing coal silo for restrooms and bait/tackle, dockside services, etc.) in a scenic, attractive setting.

The 1983 Fisheries Development Plan for Niagara County outlined the dramatic growth and impact of sport fishing in the area (Niagara County Department of Economic Development and Planning, 1984). It indicated a rise in fishing demand of nearly four-fold (\$2.6 million revenues to over \$10 million, annually) by 1985 and the need for improvement in County boating/fishing facilities in response. The Plan identified the intended improvements in Lewiston Landing boat launching facilities and the viable bank fishing opportunities there. Clearly, the potential exists for increased fishing in the area and appropriate facilities to accommodate anticipated demand.

The construction or renovation of waterside facilities for the park has been completed. These include a double-wide boat launch, docks, fishing pier, waterfront bulkhead and walkway. The next phase of the park's development will provide support facilities and active recreation uses in upland areas and utilize the topography of the site to create a scenic environment that complements waterfront uses. Major changes in the existing development will be required to complete the park. As shown in [Figure 12](#), the site is mostly owned by the Village, but currently underutilized and in poor condition. Structures include an abandoned coal silo, three dilapidated shacks (since removed), an abandoned sewer treatment plant (replaced by Town facilities), a public works garage in fair condition (to be demolished and relocated), a storage building, a new sewerage pump station and two residences in fair condition. These structures would have to be either renovated, relocated or demolished to accommodate site improvements, as many were found to be infeasible for use. Only the coal silo and pump station are recommended for renovation and use as part of the project plan.

The following elements are included in the proposal for upland development:

(Supporting Graphics - [Figure 12](#))

- Removal of three shacks (completed) and storage building.
- Removal of DPW Garage and Sewer Treatment Plant.
- Acquisition and removal of two residences (to provide land for future park/parking expansion).
- Construction of site facilities (picnic areas along the waterfront, recreation equipment atop bank, ice rink/wading pool and park building).
- Rehabilitation of the abandoned coal silo for snack bar, bait/tackle shop, restrooms and observation deck.
- Completion of site improvements (landscaping, paths, stairs, lighting, signage, drainage and parking, for additional trailered and non-trailered vehicles).

The completion of the Waterfront Park is estimated to cost approximately \$825,000 including detailed design and engineering studies necessary to advance the project. Depending on the availability of funding, it is estimated that the park will be completed over the next 4-5 years. Again, depending on

funding availability, the upland development may be phased, beginning with the renovation of the abandoned coal silo.

Project 4 - Improvement of Shoreline Access and Boating Facilities between Center and Cayuga Streets

The deteriorating condition of in-water docks, shore walls and upland structures along the waterfront immediately south of Lewiston Landing indicates the need for rehabilitation to improve underutilized facilities and guarantee public access. The lands on which these activities would take place are currently in State ownership, and the Village will need to obtain a lease of this area in order to proceed with the proposed projects. These include reconstruction of 500 feet of shore wall, replacement of catwalks, and construction of a walkway along the shore to the Cayuga Street right-of-way. Appropriate landscaping and lighting would accompany walkway facilities. Replacement of docks would enhance mooring capabilities (currently at thirty slips) and promote water-dependent activities. The slips are currently used for charter fishing and retail boats. This is a complementary use to the Lewiston Landing and renovation of facilities may encourage expansion.

Upland facilities need improvement, including the access road and two structures utilized for marina service and repair. Since the property is privately owned, improvements must be accommodated via a negotiated agreement, an easement for assisted improvement or acquisition with leaseback operations. It is critical that renovation and continuation of these uses be obtained as a viable commercial venture. The marina service, repair and storage services are appropriately located to support public facilities at Lewiston Landing and should continue at this site. Potential expansion of dockage, pump-out facilities and marine fuel availability should be included (if feasible) in the rehabilitation of this section of the waterfront.

Improvements include shore wall, finger docks, walkway, access road improvement, parking for vehicles, dockside facilities, landscaping, signage and lighting. These will cost about \$350,000 and require two years to implement (scheduled 1986-1988). Structural rehabilitation and exterior site improvement will require another \$50,000, for a total project cost of \$400,000.

Project 5 - Expansion of Supporting Commercial Facilities

The Lewiston Landing Waterfront Park (Project 3) and adjacent boat facilities along the waterfront (Project 4) will provide substantial water-dependent uses in the area, but not provide any significant income-producing activity or support services to accommodate patrons. Demand for retail and commercial facilities will exist, but not be directly satisfied by projects described above. The upland portion of the Waterfront Target Area east of First Street and south of Center Street is ideally suited for water-enhanced development in that Water Street accesses the property and prospective facilities would sit atop the embankment overlooking the river, park and marina.

A potential development site west of Water Street is afforded excellent proximity to the waterfront to complement uses there and is not otherwise suitable for water-dependent activities due to topographic limitations. Appropriate uses in this site include a restaurant, an inn to accommodate boaters and travelers, a few shops or boutiques oriented around a nautical theme (fishing gear, sportswear, boat equipment) and tourist goods and services. Adequate land exists along Water Street for about 15,000

square feet of retail/commercial space. An additional 5,000 square feet are available if structures are constructed over the embankment providing access to both Water Street and the marina level below (15-20 feet). These facilities would cost approximately \$750,000 to \$1,000,000 and would complement area uses, as well as the Riverside Inn, already located on Water Street. Construction would take only one year, but the development should be scheduled following park/marina project implementation to insure a viable market for retail facilities. The project would be privately financed and developed.

The east side of Water Street (Center to Cayuga Streets) is in appropriate proximity to the waterfront to provide additional support services. The block already contains a tavern, a motel and a large gravel private parking lot. Paving of the parking lot for waterfront visitors and associated water-enhanced commercial development is proposed for the area. The existing lot could accommodate 100 vehicles at a cost of \$250,000 (public estimate), or 50 vehicles and 10,000 square feet of retail/service development at \$575,000, depending on tourist and recreational demand. The improved parking lot and commercial development, if any, would be privately financed and developed.

Project 6 - Improvement of "Onondaga Trail" and Village Playground

Improvement of the existing pedestrian pathway along the Onondaga Street right-of-way between First and Second Streets and facilities at the Village playground at Onondaga and Second Streets is proposed to further improve access to the Waterfront Target Area and strengthen the connections between the Waterfront Area and the center of the Village. Improvements would include updated play equipment for children, paths, benches, parking, landscaping, lighting, approximately 400 feet of stairs and walkway down the slope (through trees), and direction signage both on - and off-site. Site development and parking for approximately 30 vehicles will cost about \$33,000.

The project would be developed by the Village over a two-year period and will require Federal assistance to complete.

Project 7 - Robert Moses Parkway Scenic Overlooks

One of the most dramatic vistas of the Niagara River occurs in Lewiston along the Robert Moses Parkway above Artpark. This portion of the Parkway commands a view of the American and Canadian landscape and a substantial part of the Lower Niagara River. Many motorists often pull off along the shoulder of the road to observe the view and enjoy the scenic vista from this vantage point. As a result, it is proposed that a scenic turnout off both sides of the parkway be developed by the New York State Department of Transportation for implementation. This project would not only capitalize on a major regional vista, but also provide visibility and exposure to Artpark and the Lewiston Waterfront to attract tourism and promote LWRP efforts. Cost of this project has not been estimated.

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 2. Federal Grant/Village Match 3. State Grant/Village Match 4. Private Resources 5. Private/Village 6. Private/Public Resources			

Section VI - State and Federal 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 of Coastal Areas and Inland Waterways (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 cannot be used to require a State or Federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section IV and Section V, which also discuss State and Federal assistance needed to implement the LWRP.

A. LIST OF STATE AND FEDERAL ACTIONS AND PROGRAMS WHICH SHOULD BE UNDERTAKEN IN A MANNER CONSISTENT WITH 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 programs.
- 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 License
 - 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 environment 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 Bank 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

BUFFALO AND FORT ERIE PUBLIC BRIDGE 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.

DEPARTMENT OF COMMERCE

- 1.00 Preparation of 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 Certificate 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 Wholesaler 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
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
 - (a) Water Quality Improvement Projects
 - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects, and Waterways Projects.
- 7.00 Marine Finfish and Shellfish Programs
- 9.00 Permit and approval programs

Air Resources

- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief – Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; process, exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct; a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Permit – Article 15, (Protection of Water) – Dredge and Deposit Material in a Waterway
- 9.22 Permit – Article 15, (Protection of Water) – Stream Bed or Bank Disturbances
- 9.23 Permit – Article 24, (Freshwater Wetlands)

Hazardous Substances

- 9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.26 Permit to Use Chemicals for the Control or Elimination of Undesirable Fish

Lands and Forest

- 9.27 Certificate of Environmental Safety (Liquid Natural Gas/Liquid Petroleum Gas)
- 9.28 Floating Object Permit
- 9.29 Marine Regatta Permit
- 9.30 Navigation Aid Permit

Marine Resources

- 9.31 Digger's Permit (Shellfish)
- 9.32 License of Menhaden Fishing Vessel
- 9.33 License for Non-Resident Food Fishing Vessel

9.34 Non-Resident Lobster Permit

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

9.36 Permits to Take Blue-Claw Crabs

9.37 Permit to Use Pond or Trap Net

9.38 Resident Commercial Lobster Permit

9.39 Shellfish Bed Permit

9.40 Shellfish Shipper's Permits

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

9.42 Permit – Article 25, (Tidal Wetlands)

Mineral Resources

9.43 Mining Permit

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

9.45 Underground Storage Permit (Gas)

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

Solid Wastes

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

9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

9.49 Approval of Plans for Wastewater Disposal Systems

9.50 Certificate of Approval of Realty Subdivision Plans

9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)

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

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

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

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

9.56 State Pollutant Discharge Elimination System (SPDES) Permit

9.57 Approval – Drainage Improvement District

9.58 Approval – Water (Diversions for Power)

9.59 Approval of Well System and Permit to Operate

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

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

9.62 River Improvement District Permits

9.63 River Regulatory District approvals

9.64 Well Drilling Certificate of Registration

9.65 401 Water Quality Certification

10.00 Preparation and revision of Air Pollution State Implementation Plan.

11.00 Preparation and revision of Continuous Executive Program Plan.

12.00 Preparation and revision of Statewide Environmental Plan.

13.00 Protection of Natural and Man-made Beauty Program.

14.00 Urban Fisheries Program.

15.00 Urban Forestry Program.

16.00 Urban Wildlife Program.

ENVIRONMENTAL FACILITIES CORPORATION

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

FACILITIES DEVELOPMENT CORPORATION

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

OFFICE OF GENERAL SERVICES

1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land and grants or 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 HOMES 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 FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Establishment and Construction Prior Approval
 - 2.02 Operating Certificate Community Residence
 - 2.03 Outpatient Facility Operating Certificate

DIVISION OF MILITARY AND NAVAL AFFAIRS

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.

NATURAL HERITAGE TRUST

- 1.00 Funding program for natural heritage institutions.

NIAGARA FALLS BRIDGE COMMISSION (regional agency)

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

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 Commissions)

- 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 programs.
- 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.

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

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

STATE UNIVERSITY OF NEW YORK

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

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 (Substances Abuse Services Program)

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 branch lines abandoned by Conrail
 - 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
 - 4.01 Approval of applications for airport improvements (construction projects)

- 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
- 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
- 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
- 4.05 Certificate of Convenience and Necessity to Operate a Railroad
- 4.06 Highway Work Permits
- 4.07 License to Operate Major Petroleum Facilities
- 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
- 4.09 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 and 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 and the funding or approval of such activities.

2. Federal Agencies

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

DEPARTMENT OF COMMERCE

National Marine Fisheries Services

- 1.00 Fisheries Management Plans

DEPARTMENT OF DEFENSE

Army Corps of Engineers

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

Army, Navy and Air Force

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

DEPARTMENT OF ENERGY

- 1.00 Prohibition orders.

GENERAL SERVICES ADMINISTRATION

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

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

- 1.00 Management of National Wildlife refuges and proposed acquisitions.

National Park Service

- 2.00 National Park and Seashore management and proposed acquisitions.

Bureau of Ocean Energy Management Regulation and Enforcement

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

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.

Federal Aviation Administration

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

Federal Highway Administration

- 3.00 Highway construction.

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

DEPARTMENT OF DEFENSE

Army Corps of Engineers

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

DEPARTMENT OF ENERGY

Energy Regulatory Commission

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

Federal Energy Regulatory Commission

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

- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

ENVIRONMENTAL PROTECTION AGENCY

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

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

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

DEPARTMENT OF INTERIOR

Fish and Wildlife Services

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

Bureau of Ocean Energy Management Regulation and Enforcement

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

NUCLEAR REGULATORY COMMISSION

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power 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

Federal Aviation Administration

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

III. FEDERAL FINANCIAL ASSISTANCE*TO STATE AND LOCAL GOVERNMENTS

DEPARTMENT OF AGRICULTURE

10.068 Rural Clean Water Program

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

10.410 Low to Moderate Income Housing Loans

10.411 Rural Housing Site Loans

10.413 Recreation Facility Loans

10.414 Resource Conservation and Development Loans

10.415 Rural Renting Housing Loans

10.416 Soil and Water Loans

10.418 Water and Waste Disposal Systems for Rural Communities

10.419 Watershed Protection and Flood Prevention Loans

10.422 Business and Industrial Loans

10.423 Community Facilities Loans

10.424 Industrial Development Grants

10.426 Area Development Assistance Planning Grants

10.429 Above Moderate Income Housing Loans

10.430 Energy Impacted Area Development Assistance Program

10.901 Resource Conservation and Development

10.902 Soil and Water Conservation

10.904 Watershed Protection and Flood Prevention

10.906 River Basin Surveys and Investigations

DEPARTMENT OF COMMERCE

11.300 Economic Development - Grants and Loans for Public Works and Development Facilities

11.301 Economic Development - Business Development Assistance

11.302 Economic Development - Support for Planning Organizations

11.304 Economic Development - State and Local Economic Development Planning

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

COMMUNITY SERVICES ADMINISTRATION

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

ENVIRONMENTAL PROTECTION AGENCY

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

GENERAL SERVICES ADMINISTRATION

- 39.002 Disposal of Federal Surplus Real Property

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- 14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium
Projects

14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects

14.117 Mortgage Insurance - Homes

14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing

14.125 Mortgage Insurance - Land Development and New Communities

14.126 Mortgage Insurance - Management Type Cooperative Projects

14.127 Mortgage Insurance - Mobile Home Parks

14.218 Community Development Block Grants/Entitlement Grants

14.219 Community Development Block Grants/Small Cities Program

14.221 Urban Development Action Grants

14.223 Indian Community Development Block Grant Program

DEPARTMENT OF INTERIOR

15.400 Outdoor Recreation - Acquisition, Development and Planning

15.402 Outdoor Recreation - Technical Assistance

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

15.411 Historic Preservation Grants-in-Aid

15.417 Urban Park and Recreation Recovery Program

15.600 Anadromous Fish Conservation

15.605 Fish Restoration

15.611 Wildlife Restoration

15.613 Marine Mammal Grant Program

15.802 Minerals Discovery Loan Program

15.950 National Water Research and Development Program

15.951 Water Resources Research and Technology - Assistance to State Institutes

15.952 Water Research and Technology - Matching Funds to State Institutes

SMALL BUSINESS ADMINISTRATION

59.012 Small Business Loans

59.013 State and Local Development Company Loans

59.024 Water Pollution Control Loans

59.025 Air Pollution Control Loans

59.031 Small Business Pollution Control Financing Guarantee

DEPARTMENT OF TRANSPORTATION

20.102 Airport Development Aid Program

20.103 Airport Planning Grant Program

20.205 Highway Research, Planning, and Construction

20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligations

20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares

20.506 Urban Mass Transportation Demonstration Grants

20.509 Public Transportation for Rural and Small Urban Areas

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

B. FEDERAL AND STATE ACTIONS AND PROGRAMS NECESSARY TO FURTHER THE LWRP**1. Federal Actions and Programs**

- a. Department of Defense Army Corps of Engineers (direct Federal Activities and development projects)
 - 1. Participate/assist in Niagara River navigational study.
 - 2. Assessment of erosion conditions along shoreline and recommended remedial action
- b. Department of Commerce (Federal Assistance)
 - 1. 11.30 Economic Development-Grants and Loans for Public Works and Development Facilities for infrastructure in the LWRA.
- c. Small Business Administration (Federal Assistance)
 - 1. 59.012 Small Business Loans-relocation and new business formation assistance for waterfront retail development.

2. State Actions and Programs

- a. 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 lands.
- b. Department of Environmental Conservation
 - 1. Study of fish habitat and improvement/expansion.
 - 2. Land and Water Conservation Fund-access and park expansion for waterfront facilities (Lewiston Landing Waterfront Park).

- c. Office of Parks, Recreation & Historic Preservation
 - 1. Funding assistance for park preservation and development of waterfront access.
 - 2. Improvement of Artpark access complementing waterfront activities (hiking, historic markers, parking, etc.).
 - 3. Coordination of State/Artpark tourism promotion with Lewiston Landing activities/programs (Seaway Trail, Artpark brochures, state tourism).
- d. Department of State
 - 1. Pedestrian trail assistance.
 - 2. Funding assistance for marine expansion, park improvements, street and water access.
- e. Department of Transportation
 - 1. Signage and waterfront identification improvement to Robert Moses Parkway.
 - 2. Scenic Overlook on Robert Moses Parkway.
- f. Power Authority of the State of New York
 - 1. Financial assistance for preparation and development of the Lewiston Landing Waterfront Park.

Section VII - Consultation with Other Affected Federal, State, Regional and Local Agencies

Consultation with Affected Agencies - Narrative

The consultation procedures employed during the preparation of the Local Waterfront Revitalization Program is outlined in this section. Federal, State, regional and local agencies and groups bring a broad array of interest and requirements to bear on the LWRP process. Issues requiring coordination and interface between the Village's program and each agency include: regulatory review and permit authority; funding review and participation; design review and revision authority; and technical advisory inputs. The consultation process is a two-step process - one of identification of projects, actions and programs, the other - the establishment of procedures to coordinate on-going projects, actions and implementation strategies with affected agencies. It is not the intent of this section to identify every Federal, State, regional and local agency, no matter how obscure or narrows its regulatory focus. Rather, this section identifies the major and significant projects, programs and actions (Tasks 4 and 5) and those agencies with the most direct involvement from the regulatory, administrative, and financial perspectives.

Consultation with Affected Agencies - Procedure

Those Federal, State, Regional and Local Agencies most likely to be affected by Village LWRP actions and programs were identified at the start of the LWRP process. A mailing list was developed and notices of all Citizen's Advisory Committee meetings and public meetings were sent to those agencies (and names) on the mailing list. Agencies were encouraged to attend any and all meetings. As LWRP products were developed and submitted, affected agencies were notified by mail - if requested, copies of any tasks were sent to the agency requesting a draft submittal. Task 4 - Proposed Land and Water Uses and Proposed Public and Private Projects was sent to every agency on the mailing list. This Task provided the agency with a definitive list of projects and identified those projects which would require their review, input, permitting, etc.

The structure (constituency) of the LWRP Citizen's Advisory Committee facilitated coordination with affected local agencies, groups and divisions of the Village's government. Members of the Citizen's Committee contained a Village Trustee (Chairman), Chairman of the Village's Planning, Zoning, Historic Preservation, and Parks and Recreation Boards, the Village Clerk-Treasurer, and representatives from the Lewiston Professional and Businessman's Association, Lower Niagara River Angler's Associations, and the Executive Director of Artpark. This Board structure permitted firm linkages between the proposed project and actions and the diverse requirements and participation level by many local agencies and groups to be established - members of the Committee could coordinate LWRP programs and objectives, with their respective boards, commissions and groups.

Throughout the Task 8 process - Obtaining Local Commitment, at Citizen's Advisory Committee meetings, public meetings, and Village Board Meetings the interface between projects/actions and agency coordination, participation and regulatory review was discussed. A special Citizen's Advisory Committee Meeting was conducted for the sole purpose of enabling affected agencies to comment on the initial draft of the LWRP and state their position regarding regulatory and permit authority, funding participation, project review requirements, and level of consultation assistance during planning, design and implementation for various projects and actions. The meeting was structured to permit each agency to comment on its position and requirements, followed by a question and answer period. Four agencies (the New York State Department of Environmental Conservation, the Power Authority of the State of New York, Niagara County Planning Department, and Niagara County Cooperative Extension), attended and spoke at the meeting; two agencies (Erie and Niagara Counties Regional Planning Board and Niagara County Highway Department) either telephoned a response or corresponded.

It should be noted that much of the interface and coordination with regulatory agencies is well advanced. The focal or target project, the Lewiston Landing Waterfront Park, required permit issuance from both the New York State Department of Environmental Conservation and the U.S. Army Corps of Engineers, and financial assistance and coordination from the New York State Department of Environmental Conservation and the New York State Office of Parks, Recreation, and Historic Preservation. The coordination and consultation with the affected agencies was initiated prior to preparation of the LWRP. This process has been integrated into future developmental actions that may arise from the LWRP.

Consultation with Affected Agencies - Focus

The agencies, groups and departments consulted with, and the major focus of involvement and consultation is summarized below:

1. FEDERAL

- a. Entity: U.S. Army Corps of Engineers
- b. Focus: Permit issuance and review authority for in-water and waterside actions/projects.

2. STATE

- a. Entity: New York State Department of Environmental Conservation.
- b. Focus:
 - Permits for in-water and waterside work
 - State Environmental Quality Review Act-reviews/positive and negative declarations
 - Environmental reviews/permits for air and water emissions
 - Funding Programs/Design Review, for waterfront improvements (Lake Access Program)
 - Fish stocking program and habitat enhancement
- a. Entity: New York State Office of Parks, Recreation and Historic Preservation (Niagara Frontier State Parks and Recreation Commission).

- b. Focus: -Funding programs such as Land and Water Conservation Fund (administered for Federal government) for waterfront park funding.
-Development reviews for recreational and historical improvements/enhancements consistent with OPR Policy
- a. Entity: Power Authority of the State of New York
- b. Focus: -Financial assistance for recreational improvements (Federal Energy Regulatory Commission)
-Coordination of expansion programs and potential impact on LWRA.
- a. Entity: New York State Department of Transportation
- b. Focus: -Regulations affecting, and support of scenic overlook.
-Signage placement (tourism)
- a. Entity: Artpark
- b. Focus: Tourism linkages with waterfront park
- a. Entity: Seaway Trail Commission
- b. Focus: Public Awareness and tourism campaigns

3. REGIONAL

- a. Entity: Erie and Niagara Counties Regional Planning Board
- b. Focus: Consistency with area-wide objectives for economic, recreational, and environmental considerations
- a. Entity: Niagara County Planning and Industrial Development
- b. Focus: Consistency with County Planning goals and objectives.
Financial and Planning assistance in comprehensive waterfront plan and programs
- a. Entity: Niagara County Cooperative Extension
- b. Focus: Technical and advisory assistance for waterfront implementation plans and programs (ie - erosion control measures, others).
- a. Entity: Niagara County Highway Department
- b. Focus: Regulations regarding signage and improvements, (incl. drainage) along Route 18F - Seaway Trail-Right-of-Way.

4. LOCAL

Village of Lewiston - Public

- a. Entity: Village Board of Trustees
- b. Focus: -Ultimate approval, implementation and administration of LWRP
-Management and implementation structure
-Lead Agency for SEQRA actions
-Chief financial agent/source/administrator for public actions and projects.

- Program reporting and documentation for LWRP consistency.

a: Entity: Village Planning Board

b: Focus: - Site plan reviews/approvals
- LWRP Consistency reviews

a: Entity: Village Zoning Board of Appeals

b: Focus: Consistency with Zoning requirements, and waterfront district appeals).

a: Entity: Parks, Recreation and Conservation Board

b: Focus: Advisory for recreational and conservation actions in LWRA.

a: Entity: Historic Preservation Commission

b: Focus: Advisory - review of actions in LWRA for consistency with Program and historic preservation objectives.

Village of Lewiston - Private Groups

a: Entity: Lewiston Professional and Businessman's Association

b: Focus: - Advertising and awareness campaigns (signage, advertising).
-Sponsorship of waterfront activities (ie- fishing derby).

a: Entity: Niagara River Angler's Association

b: Focus: -Advisory - technical consultation on fisheries development, improvements and access.

Town of Lewiston - Public

a: Entity: Town of Lewiston

b: Focus: Consultation on programs of joint Town/Village involvement and benefit.

The above public and private agencies and groups represent those most significantly impacted by proposed programs and actions.

Review of Draft LWRP by State, Federal and Local Agencies

The Draft LWRP Amendment was reviewed and approved by the Village Board and forwarded to the NYS Department of State (DOS). The DOS then initiated a 21-day review of the minor LWRP Amendment pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act and State Environmental Quality Review Act. The Draft LWRP amendment was made available online by DOS to all potentially affected State and Federal agencies, Niagara County, adjacent waterfront municipalities, and the Erie and Niagara Counties Regional Planning Board. No substantive changes to the LWRP Amendment were necessary as a result of the comment letters received from the interested agencies.

Section VIII - Obtaining Local Commitment

Obtaining Local Commitment

1. Local Waterfront Revitalization Program Citizens Advisory Committee (LWRPCAC).

The Mayor of the Village established an LWRP CAC at the start of the program development. The CAC consists of nine members, made up of local citizenry with varying interests, a Village Trustee to head the CAC and serve as liaison to the Village Board and various department heads in Village government.

2. LWRP CAC Organizational Meeting/Role/Schedule

A CAC organizational meeting was held on Tuesday, November 22, 1983. All CAC members were in attendance.

- Introduction for Preparing the LWRP Document
- List of State Coastal Policies

The following Village submittals:

- Preliminary Application - Local Waterfront Revitalization Program
- Work Programs (With Task Description and Products)

At the organizational meeting the CAC was instructed as to their duties, responsibilities and task assignments. The CAC served as a reviewing body, making comments on task submittals, furnishing background data for various tasks and providing input to each task's development. The CAC was informed that their role was clearly one of an advisory nature and not decision making. Program elements and policy changes can only be suggested, reviewed or modified by the CAC - ultimate authority lies with the Village Board.

Resource Locations/Materials

The Village maintains a library of all task materials developed for the LWRP. Materials will be made available for public review at the Village municipal building and at the Village's Public Library. All task submittals, pertinent correspondence, meeting notes, agendas and summaries, and public agency comments will be placed in these libraries and continually updated.

Developing Support for LWPR among Agencies, Organizations and the General Public

1. Meetings

A minimum of four CAC meetings were held during preparation of key tasks. Two general public meetings and a public hearing at the conclusion of the LWRP were held for SEQR requirements and

formal adoption of the program. All meetings were open to the public and interested groups. Meetings were advertised and summary notes of any action(s) made.

2. Documentation

The Village documented all public participation activities. Documentation activities range from posting notices, meeting agendas and attendance sheets to supplying summaries of meetings and responses to CAC members, outside agencies, interested groups and the Village Board itself. Some of the methods utilized to obtain involvement of local groups were through advertisement of meetings in local publications, mailing list notification, notice posting and CAC member's invitations to special interest group members, etc.

Local Commitment

The public participation activities for an effective LWRP must be viewed as a two part process. Initially, the program required the creation of the public participation "mechanisms". The mechanisms include CAC formation, meeting schedules, role assignments and formats for public notification and involvement. This first phase established the foundation for the more important aspect of public participation (obtaining local commitment), in that it established the continual and dynamic process for public input. Throughout the program, continual and orderly public participation was planned.

The Village Board has embraced the purpose and intent of the LWRP. As the governing body of the Village, they are responsible for ultimate approval and implementation of the LWRP. The Board takes an active interest in the LWRP Program and the Mayor has designated a Village Trustee to serve as chairman of the CAC. This provides the linkage necessary from the advisory CAC to the decision making Village Board.

Public Participation Responsiveness Section

This section contains a summary of the meetings that were conducted during the LWRP and the topics covered. The primary vehicle for obtaining local commitment centered on the meeting and reporting process of the Citizen's Advisory Committee Meetings. These meetings were held informally and all mailing list members were invited. Because of the membership of the Advisory Committee the feedback to the Village Board and other units of local government was greatly enhanced. The procedure for each meeting involved prior submittal of Task(s) to be reviewed, a meeting notice (mailed), agenda and sign-in sheet. Task submittals were discussed at each meeting, followed by a discussion of upcoming Tasks. The Committee members were asked to participate and provide information for upcoming tasks so that their input could be incorporated in those products. Each meeting was summarized and the results of the meeting and program status were routinely reported to the Village Board.

To date, one public informational meeting was held, four Citizen's Advisory Committee Meetings, two briefings and review sessions with the Village Board (status reports were issued at several Board Meetings), and routine consultation with affected agencies occurred throughout program development.

A summary of the meetings held and topics covered follows:

Meeting: LWRP Scoping Meeting - Albany
Date: November 14, 1983

Purpose/Topic: Establish LWRP schedule, submittal dates and requirements, objectives and budget.

Attendees: Village Clerk, Engineers, and NYSDOS Representative
Meeting: CAC Meeting No. 1
Date: November 22, 1983

Purpose/Topic: Explanation of the LWRP process, the role of the CAC, description of tasks and products, due dates and budgets. At this meeting the LWRP instructions (DOS) were handed out to each member along with the Informational Packet.

Meeting: CAC Meeting No. 2
Date: January 10, 1984

Purpose/Topic: Review Task 1 (Inventory), discuss boundary area and revisions, prioritize 44 coastal policies to establish local relevance. Initiated discussion on projects/programs.

Meeting: CAC Meeting No. 3
Date: February 21, 1985

Purpose/Topic: Reviewed revised boundary and completed coastal policy statements. Finalized projects and programs including a detailed discussion of coastal street ends.

Meeting: Review Session No. 1 - Village Board
Date: October 1, 1984

Purpose/Topic: Initiate discussion and dialogue on management and implementation strategies including zoning, code revisions, assignment of roles and responsibilities.

Meeting: Review Session No. 2 - Village Board
Date: November 5, 1984

Purpose/Topic: Review the projects and programs (Task 4) with Village Board and management/implementation strategy outline issues for upcoming Public Information Meeting.

Meeting: Public Informational Meeting No. 1
Date: December 4, 1984

Purpose/Topic: Public informational meeting to present results of Tasks 1-4 and receive input. All LWRP tasks and objectives were discussed, with in depth discussion of first four tasks. The Meeting was advertised in the Village's official newspaper, the Niagara Gazette. A public informational hand-out was supplied (See Attachment No. 2).

Meeting: CAC Meeting No. 4 - Special (Consultation with affected agencies).
Date: April 25, 1985

Purpose/Topic: Review of Task 6 and 7. Guest speakers from invited agencies presented their respective agencies viewpoints, concerns and requirements.

Appendix A Waterfront Consistency Review

Chapter 15

PLANNING

Article I. In General

- Sec. 15-1. Preservation of fresh water wetlands.
- Sec. 15-2. Planning fees.
- Secs. 15-3—15-15. Reserved.

Article II. Planning Commission

- Sec. 15-16. Authorized.
- Sec. 15-17. Membership; terms.
- Sec. 15-18. Organization.
- Sec. 15-19. Powers and duties.
- Secs. 15-20—15-42. Reserved.

Article III. Environmental Quality Review of Certain Actions

- Sec. 15-43. Definitions.
- Sec. 15-44. Compliance with article required; exceptions.
- Sec. 15-45. Classification of actions.
- Sec. 15-46. Application and statement.
- Sec. 15-47. Application fee.
- Sec. 15-48. Notice of proposed action to be posted.
- Sec. 15-49. Determination on application.
- Sec. 15-50. Draft environmental impact statement—Preparation.
- Sec. 15-51. Same—Notice of completion.
- Sec. 15-52. Same—Hearing; notice.
- Sec. 15-53. Effect of determination that proposed action will not have significant effect on environment.
- Sec. 15-54. Final environmental impact statement—Preparation.
- Sec. 15-55. Same—Notice of completion.
- Sec. 15-56. Same—Filing and consideration prerequisite to decision to carry out or approve actions subject to article.
- Sec. 15-57. Findings to be made upon decision to carry out or approve actions; filing of copy.
- Sec. 15-58. Maintenance of files of notices, statements, certificates and written determinations required.
- Sec. 15-59. Procedure when more than one agency is involved in an action.
- Sec. 15-60. Coordination of time limitations.
- Sec. 15-61. Exemption of actions undertaken or approved prior to certain dates.
- Secs. 15-62—15-99. Reserved.

Article IV. Historic Preservation

- Sec. 15-100. Title.
- Sec. 15-101. Legislative intent.
- Sec. 15-102. Definitions.

CD15:1

LEWISTON VILLAGE CODE

- Sec. 15-103. Historic preservation commission—Established; composition; term of office; officers; meetings.
- Sec. 15-104. Same—Duties and powers.
- Sec. 15-105. Criteria and procedure for designation of buildings, structures, sites, or districts.
- Sec. 15-106. Criteria and procedure for certificate of approval.
- Sec. 15-107. Appeals.
- Sec. 15-108. Exceptions and exemptions.
- Sec. 15-109. Violations and penalties.

ARTICLE I. IN GENERAL

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

(a) *Definitions.* The definitions contained in Environmental Conservation Law § 24-0107 are hereby adopted and incorporated herein by reference. The term "local government" shall mean the village.

(b) *Declaration of policy.* It is declared to be the public policy of the village to preserve, protect and conserve the fresh water wetlands and the benefits derived therefrom, to prevent the despoliation of fresh water wetlands and to regulate the use and development of such wetlands to secure the natural benefits of fresh water wetlands, consistent with the general welfare and beneficial economic and social development of the village.

(c) *Statement of findings.* The statement of findings as set forth in Environmental Conservation Law § 24-0105 are hereby adopted and incorporated herein by reference wherever such findings are or may be applicable to the village.

(d) *Regulations.* The provisions for activities requiring a permit, the application procedures and the method for granting permits and other considerations required in Environmental Conservation Law §§ 24-0701, 24-0703 and 24-0705 are hereby adopted and incorporated herein by reference.

(e) *Implementation.* Wherever a provision is contained in Environmental Conservation Law art. 24 which has not been adopted through the enactment of the provisions hereinbefore provided, which are required to be adopted to comply with the provisions contained in Environmental Conservation Law § 24-0501, such provisions are hereby adopted and incorporated herein by reference.

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

Sec. 15-2. Planning fees.

The following planning fees are hereby established:

(1) Major subdivision application	\$100.00
(2) Minor subdivision application	50.00
(3) Request for special planning meeting	30.00
(4) Application for development plan approval	50.00
(5) Subdivision application package	2.00
(6) State environmental quality review environmental assessment form (SEQREAF)	50.00

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

Secs. 15-3—15-15. Reserved.

ARTICLE II. PLANNING COMMISSION*

Sec. 15-16. Authorized.

The village is hereby authorized to create a planning commission pursuant to General Municipal Law § 234, which commission shall be known as the village planning commission. (Code 1978, § 15-16; Ord. No. 8.2, § 1, 10-3-1966)

Sec. 15-17. Membership; terms.

(a) The village planning commission shall consist of five members, who shall be residents of the village, to be appointed by the mayor, subject to the approval of the board of trustees. Successors to the members of the commission first appointed shall be appointed to hold office for terms of two years and shall be filled in the same manner as the original appointment.

(b) The term of office of a member appointed to such commission shall commence on June 1 in the year of appointment and expire in the year of expiration of such term.

(c) Vacancies in such commission occurring other than by expiration of term shall be filled only for the unexpired term and shall be filled in the same manner as the original appointment.

(d) Requirements of General Municipal Law § 234 , as the same provides for members and terms of office of the planning commission, are hereby superseded within the village for all matters and things which may properly be the subject of control by a local law herein and hereafter adopted by the board of trustees.

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

Sec. 15-18. Organization.

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

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

Sec. 15-19. Powers and duties.

(a) The board of trustees may, at any time by resolution, provide that the following matters, or any one or more of them, shall be referred for report thereon, to the village planning commission by the board of trustees, zoning board of appeals, building inspector or other public officer of the village which is the final authority thereon before final action thereon by such authority:

- (1) The adoption of any map or plan of the village or part thereof including drainage and sewer or water system plans or maps for any such public waterfront, or marginal street, or public structure upon, in or in connection with such front or street, or for any dredging, filling or fixing of lines with relation to said front.

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

- (2) Any change in any such maps or plans.
- (3) The location of any public structure upon, in or in connection with, or fixing lines with relation to said front.
- (4) The location of any public building, bridge, statue or monument, highway, park, parkway, square, playground or recreation ground, or public open place of the village.

(b) Such report upon any matter or class of matters referred to the commission shall be returned to the board of trustees within 30 days from the time such report was requested or the planning commission shall be in default and shall forfeit the right further to suspend action unless the time limitation for the return of the report is otherwise stated by the board of trustees when the report is initially requested.

(c) The planning commission shall have full powers and authority to make such investigations, maps, reports and recommendations in connection therewith relating to the planning and development of the village as to it seems desirable or which have been requested by any public body or officer.

(d) Such planning commission may cause to be made a map of the village or any portion thereof, or of any land outside the limits of the village so near or so related thereto, that in the opinion of the planning commission it should be so mapped. Such plans may show not only such matters as by law have been or may be referred to the planning commission, but also any and all matters and things with relation to the plan of the village which to the planning commission seem necessary and proper, including recommendations and changes suggested by it; and any report at any time made may include any of the above. Such planning commission may obtain expert assistance in the making of any such maps or reports, or in the investigations necessary and proper with relation thereto, not exceeding in all, the annual appropriation made by the board of trustees.

(e) The planning commission shall have power to approve plans showing lots, blocks or sites, with or without streets or highways, and to approve the development of plats, entirely or partially undeveloped and which have been filed in the office of the clerk of the county prior to the appointment of such planning commission and the grant to such board of the power to approve plats.

(f) In addition, the planning commission shall have all other powers and duties given and prescribed by General Municipal Law art. 12-A (General Municipal Law § 234 et seq.).

(g) The planning commission shall be responsible for the review and evaluation of proposed actions in the coastal area of the village in accordance with article IV of this chapter. The planning commission shall evaluate the consistency of the proposed action with the policies and purposes of the adopted local waterfront revitalization program (LWRP) for the village and shall provide its considerations and recommendations to the village board of trustees for final determination and certification of consistency with the LWRP.

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

State law reference—General powers of planning commission, General Municipal Law § 234 et seq.

Secs. 15-20—15-42. Reserved.

ARTICLE III. ENVIRONMENTAL QUALITY REVIEW OF CERTAIN ACTIONS

Sec. 15-43. Definitions.

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

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

Local waterfront revitalization area (LWRA) means that portion of the state coastal area within the village, as delineated in the village waterfront revitalization program.

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

WAF means waterfront assessment form.

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

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

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

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

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

Sec. 15-45. Classification of actions.

(a) Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the actions listed in Section 617.12 of Title 6 NYCRR as Type I actions are likely to have a significant effect on the environment.

(b) Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the actions listed in Section 617.12 of Title 6 NYCRR as Type II actions are deemed not to have a significant effect on the environment.

(c) Consistent with Part 617 of Title 6 NYCRR and the criteria therein, those actions similar to the actions listed in Section 617.4 of Title 6 NYCRR as Type I actions, but not specifically identified are classified as unlisted actions and may have a significant effect on the environment as determined in accordance with Section 617.11 of the Title 6 NYCRR.
(Code 1978, § 15-75; L.L. No. 2-1977, § 3; L.L. No. 7-1989, § 3)

Sec. 15-46. Application and statement.

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

(b) In the event that an action will occur within or will impact the LWRA a WAF shall be completed and filed with the board of trustees. The WAF, and any additional material as may be necessary to explain the nature and extent of the action, shall be required prior to the board of trustees determination of significance pursuant to Title 6 NYCRR.
(Code 1978, § 15-76; L.L. No. 2-1977, § 4; L.L. No. 7-1989, § 4)

Sec. 15-47. Application fee.

Every application for determination under this article shall be accompanied by a reasonable fee as set forth in this section to defray the expenses incurred in rendering such determination. The fee shall be the sum of \$25.00 for each application.
(Code 1978, § 15-77; L.L. No. 2-1977, § 7)

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

Upon receipt of a complete application and a statement, the board of trustees shall cause a notice thereof to be posted on the signboard, if any, of the village maintained by the village and may also cause such notice to be published in the official newspaper of the village, if any, or in

a newspaper having general circulation within the village, describing the nature of the proposed action and stating that written views thereon of any person shall be received by the board of trustees no later than a date specified in such notice.

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

Sec. 15-49. Determination on application.

(a) The board of trustees shall render a written determination on the application filed under section 15-46 within 15 days following receipt of a complete application and statement; provided, however, that, such period may be extended by mutual agreement of the applicant and the board of trustees. The determination shall state whether such proposed action may or will not have a significant effect on the environment or the coastal resources of the village. The board of trustees may hold informal meetings with the applicant and may meet with and consult any other person for the purpose of aiding it in making a determination on the application.

(b) If the board of trustees determines that the proposed action is not an exempt action, or an action listed in section 15-45(b) or Section 617.13 of Title 6 NYCRR as a Type II action and that it will not have a significant effect on the environment, the board of trustees shall prepare, file and circulate such determination as provided in Section 617.10(b) of Title 6 NYCRR and thereafter the proposed action may be processed without further regard to this article. The determination shall include certification as to consistency with the policies and purposes of the LWRP for those actions subject to a WAF. Certification shall include a review and evaluation of the action in accordance with article II of this chapter and a determination that the proposed action is consistent with the policies and purposes of the LWRP based on the following criteria:

- (1) The action will not substantially hinder the achievement of any of the policies and purposes of the LWRP and whenever practicable will advance one or more such policies; or
- (2) If the action will substantially hinder the achievement of any policy or purpose of the LWRP, then the action may be determined to be consistent to the maximum extent practicable with the LWRP provided that:
 - a. No reasonable alternatives exist which would permit the action to be undertaken in a manner which would not substantially hinder the achievement of such policy or purpose;
 - b. The action will minimize all adverse effects on such policy or purpose to the maximum extent practicable;
 - c. The action will advance one or more of the LWRP policies and purposes; and
 - d. The action will result in an overriding local, regional or statewide public benefit.

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

(c) If the board of trustees determines that the proposed action may have a significant effect on the environment or the coastal area, the board of trustees shall prepare, file and circulate such determination as provided in Section 617.10(c) of Title 6 NYCRR; and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this article and Part 617 of Title 6 NYCRR.

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

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

(a) Following a determination pursuant to section 15-49 that a proposed action may have a significant effect on the environment, the board of trustees shall, in accordance with the provisions of Part 617 of Title 6 NYCRR:

- (1) In the case of an action involving an applicant, immediately notify the applicant of the determination and shall request that the applicant prepare an environmental impact report in the form of a draft environmental impact statement.
- (2) In the case of an action not involving an applicant, shall prepare a draft environmental impact statement.

(b) If the applicant decides not to submit an environmental impact report, the board of trustees shall prepare or cause to be prepared the draft environmental impact statement or, in its discretion, notify the applicant that the processing of the application will cease and that no approval will be issued. The board of trustees may require an applicant to submit a fee to defray the expense to it of preparing a draft environmental impact statement or reviewing same if it is prepared by the applicant. Such fees shall be determined as follows: An amount equal to one-half of one percent of the action's total cost unless otherwise reduced by resolution of the board of trustees.

(c) When an action will occur within or will impact the LWRA, the draft environmental impact statement shall include an identification of the applicable policies and purposes of the LWRP and a discussion of the effects of the action on such policies and purposes.

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

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

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

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

Sec. 15-52. Same—Hearing; notice.

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

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

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

If, on the basis of a draft environmental impact statement or a public hearing thereon, the board of trustees determines that an action will not have a significant effect on the environment, the proposed action may be processed without further regard to this article, except that for actions subject to a WAF, a certification of the consistency of the action with the policies and purposes of the LWRP shall be made in the manner and according to the criteria provided in section 15-49(b).

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

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

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

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

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

A notice of completion of a final environmental impact statement shall be prepared, filed and sent to all persons to whom the notice of completion of the draft environmental impact

statement was sent. Copies of the final environmental impact statement shall be filed and made available for review in the same manner as the draft environmental impact statement. (Code 1978, § 15-85; L.L. No. 2-1977, § 13)

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

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

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

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

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

- (1) Consistent with social, economic and other essential considerations of state policy, to the maximum extent practicable, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements; and
- (2) All practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.

(b) For actions subject to a WAF, the written determination shall include a certification of the consistency of the action with the policies and purposes of the LWRP made in a manner and according to the criteria provided in section 15-49(b).

(c) For public information purposes, a copy of the determination shall be filed and made available as provided in Part 617 of Title 6 NYCRR.

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

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

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

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

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

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

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

Sec. 15-60. Coordination of time limitations.

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

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

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

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

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

Secs. 15-62—15-99. Reserved.**ARTICLE IV. HISTORIC PRESERVATION*****Sec. 15-100. Title.**

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

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

Sec. 15-101. Legislative intent.

The village finds that many buildings, structures and sites, or districts of such buildings, structures and sites within its borders, have a unique character and special aesthetic interest and represent fine architectural products of distinct periods in the area's history. The village also finds that such buildings, structures, sites, or districts of such may be damaged without adequate consideration of the irreplaceable loss to the citizens of the village. Therefore, it is

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

hereby declared to be a matter of public policy and a valid exercise of the inherent police powers of the village to protect, enhance and perpetuate such buildings, structures, sites or districts as is necessary to:

- (1) Promote the health, prosperity and safety of village citizens;
 - (2) Safeguard the area's heritage by preserving elements of its cultural, political, economic and aesthetic history;
 - (3) Foster civic pride in the beauty and noble accomplishments of the past; and
 - (4) Promote the use of such buildings, structures, sites, or districts for the education, pleasure and welfare of the people of the area.
- (Code 1978, § 15-101; L.L. No. 1-1978, § 2; L.L. No. 6-1990, § 1)

Sec. 15-102. Definitions.

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

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

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

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

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

Exterior architectural feature means the architectural style, design, general arrangement, and components of a designated property, including, but not limited to, color of paint, type of all windows, doors, lights, signs and other fixtures appurtenant to such portion and all buildings, structures, outbuildings, walls, fences, steps, topographical features, earthworks, paving and signs located on the designated property.

Historic district means any area which:

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

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

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

- (1) The National Register of Historic Places.
 - (2) The Historic American Buildings Survey.
 - (3) The Historic American Engineering Record, U.S. Department of the Interior, National Park Service.
 - (4) The Division for Historic Preservation, New York State Office of Parks and Recreation.
 - (5) The National Trust for Historic Preservation.
 - (6) The Society of Architectural Historians.
- (Code 1978, § 15-102; L.L. No. 1-1978, § 3; L.L. No. 7-1980, § 1; L.L. No. 6-1990, §§ 2—4)

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

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

(a) There shall be created by the village board an historic preservation commission which shall consist of five members to be appointed by the village board. The village historian shall be a nonvoting and ex officio member of the commission.

(b) Said members shall be residents of the village and shall include, if available, two architects, one of whom shall be a landscape architect, and one a municipal planner. Other appointees shall be qualified by reason of training, experience, or demonstrated interest in law, local law, business or the history or historical preservation of the village. A vacancy occurring in the membership for any cause shall be filled for the unexpired portion of the term by the village board of trustees.

(c) The term of office shall be five years, provided that of those five members initially appointed by the village board, one shall be for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year.

(d) The commission shall elect one member as chairman and one member as vice-chairman, and shall submit an annual report in the last week of May to the village board of trustees encapsulating its activities of the past year and listing goals and objectives for the ensuing year. Such report shall also include recommendations that the commission deems necessary to carry out the principles of this local law and to enhance the historic and aesthetic qualities of the village.

(e) Meetings of the commission shall be held at such times as the commission may determine or at the call of the chairman or at the call of at least two commission members, and must be held within 30 days of receipt of complete application for a certificate of appropriate-

ness by the village building inspector. All commission meetings shall be open to the public and notice of such shall be posted on the municipal bulletin board at the municipal building at least five days prior to the meeting.

(f) The commission shall keep regular minutes of its proceedings and show the vote of each member upon any question. It shall also keep records of its examinations and official actions.

(g) The commission shall also constitute the architectural review board and act as such board when reviewing and submitting recommendations pursuant to section 15-104(f).

(h) During such time as there are less than four members constituting the historic preservation commission, the duties of the historic preservation commission shall be performed by the village planning commission.

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

Sec. 15-104. Same—Duties and powers.

(a) The commission shall inventory and designate all historically significant buildings, structures, sites or districts of such within the village enlisting the voluntary assistance of interested civic and social organizations. The initial inventory shall be completed within one year of the effective date of this local law or the date of first appointment of members to the commission created hereunder, whichever is later, or such other extended times as adopted by resolution of the board of trustees and such inventory shall be reviewed, updated or revised where necessary each year thereafter before the submission of the annual report. Such initial inventory and annual alterations shall be distributed to the village building inspector, clerk, historian and assessor.

(b) The commission shall determine the acceptability of applications for certificates of appropriateness.

(c) In addition to the aforementioned powers, the commission shall have the power to:

- (1) Retain or employ professional consultants, secretaries, clerks or other such personnel as may be necessary to assist the commission in carrying out its duties and with budgetary limitations;
- (2) Formulate recommendations concerning the preparation of maps, brochures and historical markers for selected historic sites and buildings or districts;
- (3) Advise owners of historic buildings on problems of preservation and restoration.

(d) Nothing in this article shall be construed as authorizing the commission, in acting with respect to any designated property, to amend the existing zoning requirements or grant any variance from those requirements.

(e) In reviewing the construction, alteration or demolition of designated properties, the commission may impose conditions or determinations that are more restrictive than those prescribed in the zoning law, building code and other provisions of law applicable to such activities.

(f) The commission shall review and submit its recommendations to the planning commission upon matters referred to them for their review by said commission. Such review shall concern the appropriateness of exterior architectural features, as defined in section 15-102, of buildings and structures, plans for the preservation, drives, parking and circulation, and other appropriate features. In reviewing a matter so referred, the commission shall apply the standards as set forth in section 10R of the zoning law (appendix B to this Code).

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

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

(a) Buildings, structures, sites and historic districts may be designated as historically significant if, by virtue of association with historic personages or events or as representative examples of historic styles or methods of construction, they are important in the chronological record of the village, its neighborhoods, the state or the nation and/or such entity's cultural, political, economic, or aesthetic heritage.

(b) When evaluating historic significance, the commission shall consider date of erection and period of historic significance, architectural style, scarcity of the type or period in the village, quality of design, integrity of the original design, present condition and appearance and, in the case of historic districts, the collective merits and interrelationship of neighboring properties.

(c) Procedure for designation.

- (1) Notice of the fact that the commission is considering designation of a building, structure, site or district as historically significant shall be served upon the owner of such building, structure, site or district.
- (2) Said notice shall contain the date, time and place of the meeting at which the proposed designation will be considered, and shall invite owners to comment upon the proposal in person or by providing written comments.
- (3) The notice shall be given at least ten days, but not more than 20 days prior to the date of the scheduled meeting.
- (4) Such notice shall be served personally upon said owner if the owner is a resident of the village; or if the owner is not a resident of the village, said notice shall be sent by certified mail to the last known address as set forth on the latest tax rolls of the village.

- (5) The commission may at its discretion call a public hearing to receive comments concerning a proposed designation. Notice of such hearing shall be served on owners as provided in subsection (c)(4) of this section and shall be announced by public notice at least five days prior to the scheduled hearing.
 - (6) Designation shall be made by resolution of the historic preservation commission and notification of such designation shall be sent to the owner by certified mail.
- (Code 1978, § 15-105; L.L. No. 1-1978, § 6; L.L. No. 7-1980, §§ 3, 4; L.L. No. 6-1990, §§ 8—10)

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

(a) Notwithstanding any inconsistent ordinance, local law, code, rule or regulation concerning the issuance of building permits, no alteration to a designated property shall be commenced without first obtaining a certificate of approval from the commission, nor shall any building permit to demolish, alter, initiate new construction on a designated property be issued without such a certificate of approval having first been issued. The certificate of approval required by this section shall be in addition to and not in lieu of any building permit that may be required by any ordinance, local law, code, rule or regulation of the village.

(b) Application for a certificate of approval shall be made to the commission, in writing, in duplicate and upon forms prescribed by the commission. The application shall be sufficiently detailed for the commission to evaluate whether the proposed changes will be in harmony with the historic building, structure or site and shall be accompanied, unless their necessities are waived by the commission, by plans illustrating the designated property, the proposed changes and the relationship of such to adjacent property and in addition, unless waived, shall include:

- (1) Name, address and telephone number of the applicant;
- (2) Location of the building, structure or land the exterior architectural features of which are proposed to be changed;
- (3) Elevations of the proposed change;
- (4) Perspective drawing;
- (5) Samples of the color or materials to be used in the proposed change;
- (6) Where the proposed change includes signs or lettering, a scale drawing showing the type of lettering, all dimensions and colors; a description of the materials to be used and the method of illumination, if any; and a plan showing the location on the building or property.

(c) Within a reasonable time after the application is filed, but in all events within 30 days (Saturdays, Sundays and legal holidays excluded), unless otherwise mutually agreed upon by the applicant and the commission, the commission shall invite the owner or the owner's representative to attend a meeting when the commission reviews the application. If it approves the application, the commission shall attach a certificate of approval to the building permit, if applicable, or give the certificate of approval to the applicant if no building permit is required. If the commission approves the application, it shall issue a certificate of approval

which shall be attached to the building permit, if applicable, and immediately transmitted to the building inspector, or applicant if no building permit is required. The commission shall also stamp all submitted plans. If the commission disapproves an application, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefor to the applicant and building inspector. The commission may advise what it considers proper if the application is denied, and the applicant, if he so desires, may modify his plans and resubmit his application after doing so.

(d) In approving or denying an application, the commission shall be guided by the secretary of the interior's standards for historic preservation projects. The commission shall consider the historical and architectural importance of the property, the site in relation to its surroundings, the value to the community, the condition of the property at the time of application, the severity of the change in exterior design and the degree of harmony and integration of the proposed changes with the original property. Also to be considered is whether denial of a certificate will cause economic hardship to the applicant, and if so, to what extent.

(e) An applicant whose certificate of appropriateness has been denied may within ten days of such denial apply for relief from the strict application of the historic preservation local law on the grounds of economic hardship. The commission shall meet within 30 days of the application for relief. At the meeting, proponents and opponents of the application will be provided the opportunity to present their views.

(f) The commission may solicit expert testimony or require that the applicant make submissions concerning any or all of the following information before it makes a determination on the application:

- (1) Estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the commission for changes necessary for the issuance of a certificate of appropriateness;
- (2) All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property;
- (3) Any listing of the property for sale or the rent price asked and offers received, if any, within the previous two years;
- (4) Assessed value of the property according to the two most recent assessments;
- (5) Real estate taxes for the previous two years;
- (6) Form of ownership or operation of the property, whether a sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture or other;
- (7) In the case of a proposed demolition, an estimate from an architect, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility or rehabilitation or reuse of the existing structure on the property;

- (8) If the property is income-producing, the annual gross income from the property for the previous two years, itemized operating and maintenance expenses for the previous two years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period; and
 - (9) Any other information considered necessary by the commission for a determination as to whether the property does yield or may yield a reasonable return to the owners.
- (g) For all applications, except those involving demolition or removals, the applicant shall, in order to prove the existence of economic hardship, establish that:
- (1) a. He will suffer significant and unreasonable economic or financial injury if required to comply with the commission's decision as applied to his property; and
 - b. The character of the landmark and/or historic district will be preserved and not substantially changed by the proposed alteration; or
- (2) The property is incapable of earning a reasonable return.
- (h) For applications involving demolition or removal of a landmark or structure within a historic district, the applicant shall, in order to prove the existence of economic hardship, establish that:
- (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return;
 - (3) Reasonable efforts to find a purchaser interested in acquiring the property for rehabilitation and preservation have been made and have failed; and
 - (4) The owner has not created his own hardship through waste and neglect, thereby permitting the structure to fall into a serious state of disrepair.
- (i) Throughout the hardship procedures, the applicant shall consult in good faith with the commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- (j) Failure of the commission to approve or disapprove an application within 30 days after its filing or within the time period mutually agreed upon by the applicant and the commission shall be deemed to constitute approval by the commission.

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

Sec. 15-107. Appeals.

(a) *Appeal from designation.* Any owner whose building, structure, site or district has been designated pursuant to section 15-105 shall have ten days after the adoption of the resolution designating the building, structure, site or district to file an appeal with the village board.

(b) *Appeal from disapproval of application.* Upon a disapproval of an application for a certificate of approval, if the applicant refuses to modify the application to meet the commission's recommendations, he shall have ten days after the issuance of the commission's decision pursuant to section 15-106, to file an appeal with the village board.

(c) *Review.* The village board shall use the same criteria as the commission in reviewing an appeal under subsections (a) and (b) of this section, and shall consider no other facts beyond those contained in the application, the proceedings before the commission and the commission decision, and shall render a decision within 30 days after the filing of said appeal.

(d) *Deadline for appeal.* All properties heretofore designated by the historic preservation commission shall be entitled to file an appeal from such designation pursuant to subsection (a) of this section to the board of trustees provided such appeal is filed within 20 days from the adoption of the local law from which this section is derived.

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

Sec. 15-108. Exceptions and exemptions.

(a) *Ordinary maintenance and repair.* Nothing in this law shall be construed to prevent ordinary maintenance and repair using material that duplicates the original in design, color, texture and other visual qualities.

(b) *Interior changes.* The commission shall have no control over interior changes in any building or structure unless evidence of such change is apparent on the exterior of such building or structure.

(c) *Materials and methods.* Upon approval of an application and subsequent issuance of a certificate of approval, applicant will use materials and methods specified in the approval.

(d) *Exterior design or appearance.* Nothing contained herein shall be construed as to require the owner of any presently existing building or structure if designated historically significant pursuant to this law to make any change in the exterior design or appearance of such building.

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

Sec. 15-109. Violations and penalties.

(a) Violation of any provision of this local law is hereby declared to be an offense, as defined in the New York State Criminal Procedure Law, punishable by a fine not to exceed \$250.00.

(b) Each and every week that a violation of this local law is allowed to continue shall be considered a separate offense.

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

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

State law reference—Penalties for violation of village legislation, Penal Law §§ 55.10, 70.15, 80.05, 80.10, Village Law § 20-2006, Municipal Home Rule Law § 10(4)(b.).

Appendix B Zoning

ZONING*

- Sec. 1. Purposes and interpretation.
- Sec. 2. Administration and enforcement.
- Sec. 3. Establishment of districts.
- Sec. 4. Zoning map.
- Sec. 5. Interpretation of the district boundaries.
- Sec. 6. Application of regulations.
- Sec. 7. Definitions.
- Sec. 8. Zoning schedule.
- Sec. 9. District regulations.
- Sec. 10. General provisions and permitted modifications.
- Sec. 11. Uses requiring a special use permit.
- Sec. 12. Parking requirements.
- Sec. 13. Sign regulations.
- Sec. 14. Nonconforming uses and buildings.
- Sec. 15. Violations; penalties for offenses; remedies.
- Sec. 16. Amendments.
- Sec. 17. Validity.
- Sec. 18. Repealer.
- Sec. 19. Effective date.

***Editor's note**—Local laws zoning or rezoning specific property or granting specific use permits are not included herein, but are on file in the village clerk's office. Also, the zoning map mentioned in this local law is not printed herein, but is kept on file in the office of the village.

Sec. 1. Purposes and interpretation.

A. Title: This Local Law of the Village of Lewiston shall be known and may be cited as "The Village of Lewiston, N.Y., Zoning Ordinance." The Local Law hereinafter will be referred to as the ordinance.

B. The purposes of this ordinance are to promote the health, safety, and general welfare of the community by regulating and restricting the location, construction and the use of buildings and structures and the use of land within the Village of Lewiston and for said purpose to divide the village into districts.

C. In interpreting, construing and applying the provisions of these ordinances, they shall be held to be the minimum requirements for the protection of the public safety, convenience, prosperity and general welfare of the public. It is not intended that these ordinances shall conflict, abrogate, or annul any other ordinance, rule or regulation of the Village of Lewiston, previously adopted or which may hereafter be adopted and not in conflict with these ordinances, nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of this ordinance shall control.

D. The provisions and regulations of this local law, and interpretations thereof, shall be made in accordance with the objectives of the Village of Lewiston Comprehensive Master Plan (2004) and consistent with the policies and purposes of the Village of Lewiston adopted Local Waterfront Revitalization Program (1986) for the purposes of promoting the public health, safety, convenience, order, prosperity and general welfare of the community and protecting and enhancing the coastal resources of the community.

(Code 1978, app. B, § 1; L.L. No. 1-1973; L.L. No. 9-1989, § 1)

Sec. 2. Administration and enforcement.**A. Zoning officer.**

1. This ordinance shall be enforced by the zoning officer who shall be appointed by the board of trustees.
2. The zoning officer shall issue no zoning permits until all the provisions of this ordinance have been complied with.

B. Building permits.

1. No building, structure, or use thereof shall be erected, added to, or structurally altered until a permit therefor has been issued by the building inspector.
2. For the purpose of this ordinance, the excavating for a building or the moving of any building from one site to another site shall be deemed construction and a permit therefor required.

3. Application for building permits shall include three copies of a layout or plot plan drawn to scale and showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and such other information as may be necessary to determine and provide for the enforcement of this ordinance, the building code, and provisions of the Education Law of the State of New York as applicable to plans for construction. A certified copy of the layout or plot plan shall be submitted to the zoning officer and leave the corner posts in for final issuance of permit.
4. One copy of such layout or plot plan, together with the permit, shall be returned to the applicant when approved by the building inspector, upon payment of such building permit fee as shall be established from time to time by the board of trustees.
5. Applications for building permits shall be made to the building inspector by the property owner or his duly authorized agent, on forms provided by the building inspector.
6. Any permit hereafter issued for the construction of a building shall be invalid if construction thereof is not commenced within six months of the date of issuance of the permit, or if said construction is commenced but has been abandoned for a period of six months, or if the entire construction authorized by said permit is not completed according to plans within one year of the date of issuance of said permit.
7. The following measures shall be followed within zone A of the flood hazard boundary map issued by the flood insurance administration for the Village of Lewiston:
 - a. Permit requirements. No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the designated responsible person. No manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the designated responsible person for each change. No mobile home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each mobile home from the designated responsible person.
 - b. Application. To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the designated responsible person with a fee as determined by the board of trustees before the issuance of a permit will be considered. The applicant shall also submit a stormwater pollution prevention plan (SWPPP), if required by chapter 16, stormwater management, of the village Code, together with the recommendation of the stormwater management officer to approve, approve with modifications, or disapprove the SWPPP pursuant to section 16-4(b) of the village Code. Any SWPPP submitted pursuant to this subparagraph shall comply with the requirements of chapter 16, stormwater management, of the village Code.

- c. Review of applications. The building inspector is appointed as the "person" responsible for receiving applications and examining the plans and specifications for the proposed construction or development. After reviewing the application, the building inspector shall require any additional measures which are necessary to meet the minimum requirements of this document.
- d. The building inspector shall review proposed development to ensure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334[1344].
- e. The building inspector shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall:
 - (i) Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
 - (ii) Be constructed with materials and utility equipment resistant to flood damage; and
 - (iii) Be constructed by methods and practices that minimize flood damage, consistent with any stormwater pollution prevention plan (SWPPP) submitted pursuant to chapter 16, stormwater management, of the village Code.
- f. The building inspector shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:
 - (i) All such proposals are consistent with the need to minimize flood damage within the flood-prone area;
 - (ii) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - (iii) Adequate drainage is provided to reduce exposure to flood hazards, consistent with any stormwater pollution prevention plan (SWPPP) approved by the village in accordance with chapter 16 of the village Code.
- g. The responsible person shall require within flood-prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and
- h. The responsible person shall require within flood-prone areas:
 - (i) New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and

- (ii) On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.
- i. The responsible person shall require that all subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is the lesser, include within such proposals base flood elevation data.
- j. The responsible person shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state, or other source, until such other data has been provided by the administrator, as criteria for requiring that:
 - (i) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level; and
 - (ii) All new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or floodproofed to or above the base flood level.
- k. For the purpose of the determination of applicable flood insurance risk premium rates within zone A on a community's FHBM, the responsible person shall:
 - (i) Obtain, or require the applicant to furnish, the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement;
 - (ii) Obtain, or require the applicant to furnish, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was flood-proofed; and
 - (iii) Maintain a record of all such information.
- l. The building inspector shall notify, in riverine situations, adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.
- m. The building inspector shall ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- n. The building inspector shall require that all mobile homes to be placed within zone A on the community's flood hazard boundary map shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - (i) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;
 - (ii) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;

- (iii) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- (iv) Any additions to the mobile home be similarly anchored.
- o. The flood hazard boundary map issued by the Federal Insurance Administration for this community, dated February 15, 1974, with panel numbers 36063322001, and any officially published revisions to this map, is adopted as the official map for the enforcement of this document. Zone A on this map delineates the area within which the requirements of this document will be enforced, said zone A being the special flood hazard area thereon.
- p. Definitions. Unless specifically defined below, words or phrases used in this document shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this document its most reasonable application.

C. Definitions.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from water of any source (see definition of flood).

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate of improved real property, water and sanitary facilities, structures and their contents.

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

Mobile home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. The term includes but it is not limited to, the definition of "mobile home" as set forth in regulations governing the mobile home safety and construction standards program (24 CFR 3282.7(a)).

Person includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places.

Variance means a grant of relief by a community from the terms of a floodplain management regulation.

D. Building Code.

1. The New York State Uniform Fire Prevention and Building Code, as amended from time to time, is hereby declared to be the Building Code of the Village of Lewiston.
2. Compliance with the New York State Uniform Fire Prevention and Building Code shall be enforced by the Building Inspector who shall be appointed by the Board of Trustees.

E. Certificates of Occupancy.

1. No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the building inspector, stating that the building or proposed use thereof complies with the provisions of this ordinance and the building code. This certificate must be posted in all business establishments.
2. No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy (certificate of existing use, therefor) having first been issued by the building inspector.
3. Said certificates shall be issued to the applicant therefor within ten days after the erection or alteration shall have been approved as complying with the provisions of this ordinance and the building code, and the payment of such fee therefor as shall from time to time be established by the board of trustees.

4. The building inspector shall maintain a record of all certificates and copies thereof shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected upon payment of the established fee therefor.
5. Under such rules and regulations as may be established by the zoning board of appeals, a temporary certificate of occupancy for not more than 30 days for a part of a building may be issued by the building inspector.

F. Zoning board of appeals.

1. *Creation and appointment.* The zoning board of appeals is created consisting of five members.
2. *Organization.* The zoning board of appeals may prescribe such rules it deems necessary for the conduct of its affairs.
3. *Powers and duties.* The zoning board of appeals shall have all the powers and duties as set forth in Village Law §§ 712, 712-a and 712-b, as the same may be amended from time to time.
 - a. *Additional powers and duties.* In addition to the said powers and duties, the zoning board of appeals shall also hear and decide, or review and report, on all matters referred to it on which it is requested to pass under any provision of the village Code.
 - b. *Appeals.* All appeals and applications made to the zoning board of appeals shall be in writing and shall contain such information as is required by the Village Law and by this village Code.
 - c. *Fees.*
 - (i) In every matter brought before the zoning board of appeals for determination or action under the provisions of Village Law § 712-b, the applicant or appellant shall pay a filing fee, as established by the board of trustees, to the village at the time of submission of the application or appeal.
 - (ii) In the event an applicant or appellant requests a special meeting of the zoning board of appeals before its next regularly scheduled meeting date, the chairperson of said board shall cause a special meeting to be held, upon payment by the applicant or appellant of an additional fee, as established by the board of trustees, to the village.
 - (iii) In addition to the foregoing fees, in any matter brought before the zoning board of appeals which involves the sending or publishing of any notices, the actual costs shall be borne by the applicant or appealing party and shall be paid to the village prior to the hearing of such appeal.

(Code 1978, app. B, § 2; L.L. No. 1-1973; L.L. No. 4-1977, § 2; L.L. No. 3-1992, § 4; L.L. No. 04-2006; L.L. No. 04-2007, §§ 3—5)

Sec. 3. Establishment of districts.

The Village of Lewiston is hereby divided into the following types of zoning districts:

R-1 Districts: Low Density Residential Single-Family Districts

R-1a Districts: Medium Density Residential Single-Family Districts

R-2 Districts: Residential Two-Family Districts

R-3 Districts: Residential Multifamily Districts

R-4 Districts: Residential Multi-Family-Professional Office Districts

R-5 Districts: Residential Townhouse Districts

RB Districts: Restricted Business Districts

RB-2 District: Retail Business District

B-1 District: General Business District

O-P District: Open and Public District

W-D District: Waterfront Development District

(Code 1978, app. B, § 3; L.L. No. 1-1973; L.L. No. 6-1979, § 1; L.L. No. 9-1989, § 2)

Sec. 4. Zoning map.

Said zoning districts are bounded as shown on a map entitled "Zoning Map of the Village of Lewiston" adopted as part of this ordinance and certified by the village clerk-treasurer which accompanies and which, with all explanatory matter thereon, is hereby made a part of this ordinance.

(Code 1978, app. B, § 4; L.L. No. 1-1973)

Sec. 5. Interpretation of the district boundaries.

A. Where uncertainty exists with respect to the boundaries of any of the aforementioned districts as shown on this zoning map, the following rules shall apply:

1. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries.
2. Where district boundaries are indicated as being approximately parallel to the center lines or right-of-way lines of streets or highways, such district boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
3. Where the boundary of a district follows a body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the village unless otherwise indicated.
4. Where the boundary line of the district follows a railroad line, such boundary shall be deemed to be the boundary line of the railroad right-of-way nearest the district bounded.

5. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
6. Distances shown on the zoning map are perpendicular or radial distances from street lines measured back to the zone boundary line, which lines, in all cases where distances are given, are parallel to the street line.

(Code 1978, app. B, § 5; L.L. No. 1-1973)

Sec. 6. Application of regulations.

A. The provisions of this ordinance shall be deemed to be specific. Those matters for which there are no specific provisions in this ordinance shall be deemed to be prohibited.

B. Except as herein provided:

1. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the requirements set forth in the zoning schedule, section 8, and all other regulations herein specified for the district in which it is located.
2. No building shall hereafter be erected or altered:
 - a. To exceed the height;
 - b. To accommodate or house a greater number of families;
 - c. To occupy a greater percentage of lot areas; or
 - d. To have narrower or smaller rear yards, front yards, side yards, inner courts or outer courts;

than specified herein for the district in which such building is located.

(Code 1978, app. B, § 6; L.L. No. 1-1973)

Sec. 7. Definitions.

A. Except where specifically defined herein, all words used in this ordinance shall carry their customary meanings. For the purpose of interpreting, construing, and applying the provisions of this ordinance, the following definitions shall be observed.

1. *Accessory building*: A supplemental or subordinate building, the use of which is incidental to that of a main or principal building and located on the same lot therewith.
2. *Accessory use*: A subordinate use, building, or structure customarily incidental to and located on the same lot occupied by the main use, building or structure.

2a. *Adult use business*: Is a commercial establishment where a "substantial portion" of the business includes an adult bookstore, adult eating or drinking establishment, adult theater, or other adult commercial establishment, or any combination thereof, as defined below:

- (a) An adult bookstore is a bookstore which has as a "substantial portion" of its stock-in-trade any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (2) Photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (b) An adult eating or drinking establishment is an eating or drinking establishment which regularly features any one or more of the following:
 - (1) Live performances which are characterized by an emphasis on "specified anatomical areas" or "specified sexual activities"; or
 - (2) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (3) Employees who, as part of their employment, regularly expose to patrons "specified anatomical areas"; and which is not customarily open to the general public during such features because it excludes minors by reason of age.
- (c) An adult theater is a theater which regularly features one or more of the following:
 - (1) Films, motion pictures, video cassettes, slides or similar photographic reproductions characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (2) Live performances characterized by an emphasis on "specified anatomical areas" or "specified sexual activities"; and which is not customarily open the general public during such features because it excludes minors by reason of age.

An adult theater shall include commercial establishments where such materials or performances are viewed from individual enclosures.

- (d) An other adult commercial establishment is a facility-other than an adult bookstore, adult eating and drinking establishment, adult theater, commercial studio, or business or trade school-which features employees who, as part of their employment, regularly expose to patrons "specified anatomical areas" and which is not customarily open to the general public during such features because it excludes minors by reason of age.

For the purpose of defining adult-oriented establishments, "specified sexual activities" are: (i) human genitals in a state of sexual stimulation or arousal; (ii)

actual or simulated acts of human masturbation, sexual intercourse or sodomy, or (iii) fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast. "Specified anatomical areas" are (i) less than completely and opaquely concealed: (a) human genitals, pubic region, (b) human buttock, anus, or (c) female breast below a point immediately above the top of the areola, or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely concealed.

For the purpose of determining whether a "substantial portion" of a business includes an adult bookstore, adult eating or drinking business, adult theater, or other adult commercial establishment, or combination thereof, the following factors shall be considered: (1) the amount of floor area and cellar space accessible to customers and allocated to such uses, and (2) the amount of floor area and cellar space accessible to customers and allocated to such uses compared with the total floor area and cellar space accessible to customers in the establishment.

For the purpose of determining whether a bookstore has a "substantial portion" of its stock in materials defined in paragraphs (a) (1) or (a) (2) hereof, the following factors shall be considered: (1) the amount of such stock accessible to customers compared with the total stock accessible to customers in the business, and (2) the amount of floor area and cellar space accessible to customers containing such stock, and (3) the amount of floor area and cellar space accessible to customers containing such stock compared with the total floor area and cellar space accessible to customers in the establishment.

3. *Alley*: A narrow service-way providing a secondary public access to abutting properties.
4. *Alterations*: As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending a side or by increasing in height, or the moving from one location or position to another.
5. *Apartment building*: A building arranged, intended, or designed to be occupied by three or more families living independently of each other.
6. *Apartment, garden*: Any apartment building of three or less stories or floors above average finished grade.
7. *Apartment, high rise*: Any apartment building of four or more stories or floors above average finished grade.
8. *Apartment, town house*: An apartment building which is so designed and erected that no family or housekeeping unit is located above, below, attached and to the rear of, or attached and to the front of any other family or housekeeping unit and not over three stories above average finished grade.
9. *Architectural review commission*: A commission, established by the board of trustees of the Village of Lewiston, and empowered to review and make recommendations upon the appropriateness of exterior architectural, landscape and related features of buildings and sites.

10. *Area building*: The total area measured in a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.
11. *Auto court*: A building or group of buildings, whether detached or connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "auto court" includes buildings designated as tourist courts, motor lodges, motels and by similar applications.
12. *Basement*: A story partly underground and having more than one-half of its height above the average level of the finished grade at the front of the building.
- 12a. *Bed and breakfast residence*: Bed and breakfast residence means living quarters within a principal building for the temporary use of guests of the occupants of the premises, which living quarters shall not be a dwelling unit as herein defined and which are not rented or otherwise leased as separate dwelling units.
13. *Board of appeals*: The officially established Zoning Board of Appeals of the Village of Lewiston.
14. *Board of Trustees*: The Board of Trustees of the Village of Lewiston.
15. *Boat livery or marinas*: Riverside operation and premises for mooring, docking, renting, storing or servicing of boats; servicing shall include such supplies and accessories related to such operation as permitted by the board of trustees.
16. *Building*: Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.
17. *Building, detached*: A building surrounded by open space on the same lot.
18. *Building height*: The vertical distance measured from the average elevation of the proposed finished grade of the roof for flat roofs, to the deckline of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.
19. *Building inspector*: The officer of the Village of Lewiston charged with issuance of building permits and certificates of occupancy and with ensuring compliance with all building codes.
20. *Building line*: A line formed by the intersection of the ground surface and a vertical plane coinciding with the furthest projection of any eave, roof or rooflike portion of the structure. Yard requirements are measured from the building line.
21. *Building, principal*: A building in which is conducted the main or principal use of the lot on which it is situated.
22. *Cellar*: A story partly underground and having more than one-half of its clear height below the average level of the finished grade at the front of the building.

23. *Certificate of occupancy*: A certificate issued by the building inspector upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this ordinance and such adjustments thereto granted by the board of appeals.
24. *Church*: A building, institution or establishment defined as a church by the Internal Revenue Service.
25. *Club, private*: A nonprofit social organization whose premises are restricted to its members and their guests.
26. *Cluster development*: A development of residential lots for detached single-family dwellings, each of which may contain less area than the minimum lot area required for the zone within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of open space as a part of the subdivision plan.
27. *Commercial or business*: Means and includes the purchase, sale or transaction involving the disposition of any article, substance, commodity or service, the maintenance or conduct of offices, professions or recreational or amusement enterprises conducted for profit and also includes business offices, sales display rooms and premises, motels and hotels.
28. *Court*: An unoccupied open space, other than a yard, which is bounded on at least three sides by the walls of a building situated on the same lot.
29. *Court, closed*: A court enclosed on all sides by exterior walls of a building, or by exterior walls and lot lines on which walls are allowable.
30. *Court, open*: A court extending to a street line or opening upon any front, side or rear yard.
- 30a. *Duplex*: (See Dwelling, two-family, condominium, town house and building.)
31. *Dwelling*: A building designed or used as the living quarters for one or more families. The terms "dwelling," "single-family dwelling," "two-family dwelling," "duplex," or "dwelling group" shall not be deemed to include auto court, rooming house, tourist home or motel.
32. *Dwelling, single-family*: A detached building designed for or occupied exclusively by one family.
33. *Dwelling, two-family*: A building designed for or occupied exclusively by two families living independently of each other.
34. *Dwelling, multi-family*: A dwelling or group of dwellings on one plot containing separate living units for three or more families, but which may have joint services or facilities or both.

35. *Dwelling, multiple:* A building used or designed as a residence for three or more families living independently of each other and doing their own cooking therein, including apartment houses, apartment flats, apartment hotels and group houses.
36. *Dwelling group:* A group of two or more single-family, two-family or multiple-family dwellings occupying a lot in one ownership and having any yard in common.
- 36a. *Dwelling, townhouse:* An attached building designed for, owned and occupied exclusively by one family, which building constitutes a group of dwellings on adjacent lots containing separate living units and having separate services or facilities.
37. *Dwelling unit:* A dwelling or portion thereof providing complete living facilities for one family.
38. *Family:* Two or more related persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel.
39. *Fence:* An artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials erected for the enclosure of yard areas.
40. *Flammable liquids:* Liquids having a flash point below 200 degrees Fahrenheit, closed cup tester. Class 1 flammable liquids (e.g., gasoline, ether, liquid petroleum gas) are those having a flash point below 25 degrees Fahrenheit. Class II flammable liquids are those having a flash point below 70 degrees Fahrenheit but not below 25 degrees Fahrenheit.
41. *Floor area of a building:* The sum of the gross horizontal areas of the several floors of a building; in residential districts only, cellar and basement floor areas not devoted to residential use are excluded. All dimensions shall be measured between exterior faces of walls.
42. *Funeral home:* Every place or premises devoted to or used in the care and preparation for burial of the body of a deceased person or maintained or held out to the public by advertising or otherwise as the office or place for the practice and/or the transaction of business by a funeral director or undertaker.
43. *Garage, private:* A garage used for storage purposes only and having a capacity of not more than four automobiles or not more than two automobiles per family housed in the building to which the garage is accessory, whichever is greater.
44. *Garage, public:* Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.
45. *Gasoline station or filling station:* Any area of land, including structures thereon, that is exclusively used for the sale of gasoline or any other motor vehicle fuel and oil and

other lubricating substances, but which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles as the only permitted accessory uses.

46. *Grade, established:* The elevation of the center line of the streets as officially established by the village.
47. *Grade, finished:* The completed surfaces of lawns, walks, drives, and roads brought to grades as shown on official plans, plots, or designs relating thereto.
48. *Hedge:* A natural barrier erected or planted for the enclosure of yard areas.
49. *Home occupation:* An occupation or profession which is customarily carried on in a dwelling unit by a member of the family residing therein, is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and which conforms to the following additional conditions:
 - a. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
 - b. Not more than one person outside the family shall be employed in the home occupation.
 - c. No offensive noise, vibration, smoke, dust, odors, heat, glare, radiation or other objectionable substances or conditions shall be produced.
 - d. There shall be no exterior display, no exterior sign except as permitted for residences, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

In particular, a home occupation includes dressmaking, professional office of a physician, dentist, lawyer, engineer, architect, realtor, accountant, or the like, and teaching limited to a single pupil at a time. Day care centers, nursery schools, beauty salons or barber shops are not included as home occupations.

50. *Hospital:* Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.
51. *Reserved.*
52. *Junkyard:* A lot, land or structure, or part thereof, used for the collecting, storage or sale of waste, scrap or discarded material; or for the collecting, dismantling, storing or salvaging of machinery or vehicles and for the sale of parts thereof.
53. *Kennel, dog:* A structure or area used for the harboring of more than three dogs that are more than two months old.

- 54. *Launderette*: A business premises equipped with individual clothes washing, clothes drying and/or dry cleaning machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or apartment hotel or auto court.
- 55. *Lot*: Land occupied or capable of being occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this ordinance, having not less than the minimum area and width required by this ordinance for a lot in the district in which land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition for the issuance of a building permit for a building on such land.
- 56. *Lot, corner*: A parcel of land at the junction of and fronting on two or more intersecting streets.
- 57. *Lot, depth of*: A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.
- 58. *Lot, interior*: A lot other than a corner lot.
- 59. *Lot, through*: An interior lot having frontage on two parallel or near parallel streets.
- 60. *Lot, width of*: The mean width measured at right angles to its depth.
- 61. *Lots, back-to-back*: Lots or portions of lots which are on opposite sides of the same rear line common to both.
- 62. *Reserved*.
- 63. *Motel*: A building or group of buildings, whether detached or connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, motor lodges, auto courts and by similar appellations.
- 64. *Reserved*.
- 65. *Nonconforming use*: Use of a building or land that does not conform to the regulations as to use for the district in which it is situated.
- 66. *Open space*: An unoccupied space open to the sky on the same lot with the building.
- 67. *Parking space*: The area required for parking one automobile, which in this ordinance is held to be an area nine feet wide by 20 feet long, not including passageways.
- 67a. *Permit*: (See Zoning Permit).
- 68. *Planned unit development*: A primarily residential development consisting of several types of dwelling structures, open space, and commercial area planned and developed as a single neighborhood project. This ordinance does not establish any regulations for this type of development. No development of this type shall be approved and/or

constructed unless an ordinance governing the approval, planning, design, construction, use and other regulations for such development shall have been adopted by the board of trustees subsequent to required public hearings.

69. *Planning commission:* The Village of Lewiston Planning Commission.

70. *Recreational equipment:*

- a. "Boats" and "boat trailers" shall include boats, floats and rafts plus the normal equipment necessary to transport same on the highway. The size and weight of such boat and/or boat trailer shall not be such as to require special highway movement permits when drawn by a stock passenger automobile.
- b. To be used to describe vehicles such as snowmobiles, all-terrain vehicles, air cushion vehicles, and other similar recreational equipment.

70a. *Recreational vehicle:* A recreational vehicle is a vehicular-type structure, primarily designed as temporary living quarters for recreation, camping, or travel use which either has its own motive power or is mounted on or drawn by another vehicle which is self powered. With allowances for engineering variations the basic entities are:

- a. A "travel trailer" is a vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a stock passenger automobile; primarily designed and constructed to provide temporary living quarters for recreation, camping, or travel use.
- b. A "camping trailer" is a vehicular portable structure mounted on wheels, constructed with collapsible partial side walls of fabric, plastic, or other pliable material for folding compactly while being drawn by another vehicle, and when unfolded at the site or location, providing temporary living quarters; and whose primary design is for recreation, camping, or travel use.
- c. A "truck camper" is a portable structure, designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreation, camping, or travel use.
- d. A "motor home" is a structure built on and made an integral part of a self-propelled motor vehicle chassis other than a passenger car chassis, and primarily designed to provide temporary living quarters for recreation, camping, and travel use.

71. *Residential hotel:* A dwelling occupied by permanent guests only and not by transients. It may include restaurants, newsstands and other accessory services primarily for servicing its occupants and only incidentally the public.

72. *Sign:* Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public. Further definitions related to signs are included herein, in section 13, sign regulations.

73. *Site plan*: A plan of a lot or subdivision on which is shown topography, location of buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and hearings, any tree over four-inch caliper or 20 feet in height, and any other information deemed necessary by the planning commission.
74. *Story, half*: A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite walls are not more than two feet above the floor of such story.
75. *Story, height of*: The vertical distance from the top surface of a floor to the top surface of the floor next above. The height of the topmost story, or in the case of a single-story building, is the distance from the top surface of the floor to the top surface of the ceiling joists or trusses.
76. *Street*: A public or private right-of-way which affords the principal means of access to abutting properties.
77. *Street line*: The dividing line between the street right-of-way and the lot.
78. *Structure*: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
79. *Structural alterations*: Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, rafters or joists.
80. *Subdivision, submittal of*: See Land Subdivision Regulations of the Village of Lewiston.
81. *Swimming pool*: Any body of water or receptacle for water having a depth at any point greater than three feet and constructed in or above ground on private or public property for swimming or bathing.
82. *Temporary use*: An activity conducted for a specific limited period of time which may not otherwise be permitted by the provisions of the ordinance. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.
83. *Theater*: A building especially adapted to present drama, operas, motion pictures, lectures, etc.
84. *Tourist home*: A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.
85. *Use*: The specific purposes for which land or building is designed, arranged, intended or for which it is or may be occupied or maintained.
86. *Valuation, full*: The value for which the building would have been expected to sell on the real estate market.
87. *Variance*: A modification of the regulations of this ordinance, granted by the zoning board of appeals, pursuant to the provisions of this ordinance.
88. *Veterinary hospital*: Unless otherwise specified, the term "veterinary hospital" shall be deemed to include animal hospital, animal clinic and any other place for the diagnosis,

treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment and other care of animal ailments. The term "veterinary hospital" does not include boarding kennels or similar facilities.

89. *Village board*: The Board of Trustees of the Village of Lewiston.
90. *Yard*: An unoccupied space open to the sky, on the same lot with a building or structure.
91. *Yard, front*: An open space on the same lot with a building between the front building line of the building and the front line of the lot and extending the full width of the lot. The depth of the front yard shall be measured between the front building line closest to the street and the street line, at right angles to the street line.
92. *Yard, rear*: An open space on the same lot with a building between the rear line of the building and the rear line of the lot and extending the full width of the lot. The depth of the rear lot shall be measured between the rear line of the lot and the rear line of the building, at right angles to the rear lot line.
93. *Yard, side*: An open space on the same lot with a building situated between the building and the side line of the lot and extending from the front yard to the rear yard. The width of the side yard shall be measured between the side line of the lot and the side of the building, at right angles to the side lot line.
94. *Zoning board*: The officially established Zoning Board of Appeals of the Village of Lewiston.
95. *Zoning officer*: The officer of the Village of Lewiston charged with the issuance of zoning permits and with ensuring the conformity of the uses permitted and all other requirements under this ordinance for the zone in which a building or land is located or to be located.
96. *Zoning permit*: A permit issued by the zoning officer stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this ordinance for the zone in which it is located or is to be located.

B. Scope and meaning of certain words and terms:

1. Unless the context clearly indicates the contrary, words used in the present tense include the future, the singular number includes the plural and the plural the singular.
2. The word "person" includes a profit or nonprofit corporation, company, partnership, association, cooperative, organization or individual.
3. The word "shall" is mandatory and not discretionary; the word "may" is permissive.
4. The word "use" and the word "used" refer to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made

available or offered for use or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design of using the same. The term "permitted use" shall not be deemed to include any nonconforming use.

(Code 1978, app. B, § 7; L.L. No. 1-1973; L.L. No. 2-1973, §§ 1, 3; L.L. No. 2-1979, § 1; L.L. No. 6-1979, § 3; L.L. No. 3-1984, § 1; L.L. No. 11-1984, § 2; L.L. No. 13-1984, § 2; L.L. No. 02-2000)

Sec. 8. Zoning schedule.

The schedule of area, lot and bulk requirements enclosed herein is made part of this ordinance. The regulations included in said schedule are hereby established as minimum regulations of this ordinance. Municipal facilities deemed necessary and appropriate by the village board are hereby exempted from such area and bulk requirements.

Zone District	Use	Minimum Lot Size		Yards, Principal Building			Yards Accessory Building		Maximum Building Height		Maximum Building Coverage	
		Area (sq. ft. or acres)	Width (feet)	Front and Side Front (feet)	Each Side (feet)	Rear (feet)	Side (feet)	Rear (feet)	Principal (feet)	Accessory (feet)	Principal % of Lot	Accessory % of Rear Yard
R-1	Single-family dwellings	22,000 sq. ft.	125	40	27	40	15	20	30	15	30	20
	***Cluster residential	5 acres		—	—	—	—	—	—	—	—	
	Religious, public and quasi public	22,000 sq. ft.	125									
	*Public utility uses	22,000 sq. ft.	125	40	27	40	15	20	—	—	—	
R-1a	Single-family dwellings	6,500 sq. ft.	66	20	10	20	5	10	30	15	30	20
	***Cluster residential	5 acres		—	—	—	—	—	—	—	—	
	Religious, public and quasi public	22,000 sq. ft.	125									
	Public utility uses	22,000 sq. ft.	125	40	27	40	15	20	—	—	—	
R-2	Single-family dwellings	6,500 sq. ft.	66	20	10	20	5	10	30	15	30	20
	Two-family dwellings	8,500 sq. ft.	66	20	10	20	5	10	30	15	30	20
	***Cluster residential	5 acres		—	—	—	—	—	—	—	—	
	Religious, public and quasi public	10,000 sq. ft.	80	30	10	30	5	10	35	30	30	20
	*Public utility uses	10,000 sq. ft.	80	30	10	30	5	10	—	—	—	
	*Private clubs	10,000 sq. ft.	80	30	10	30	5	10	30	15	30	20
	Hospitals, philanthropic, charitable	2 acres	200	40	40	40	15	20	35	30	20	20
RB-2	Retail and service establishments	—	—	—	—	15	10	10	35	20	50	—
R-3	Single-family dwellings	6,000 sq. ft.	66	20	10	20	5	10	30	15	30	20
	Two-family dwellings	8,000 sq. ft.	66	20	10	20	5	10	30	15	30	20
	***Apartment or townhouse developments	1 ac/2,000 dwellings	150	40	40	40	15	20	35	15	30	20

		Minimum Lot Size		Yards, Principal Building			Yards Accessory Building		Maximum Building Height		Maximum Building Coverage	
Zone District	Use	Area (sq. ft. or acres)	Width (feet)	Front and Side Front (feet)	Each Side (feet)	Rear (feet)	Side (feet)	Rear (feet)	Principal (feet)	Accessory (feet)	Principal % of Lot	Accessory % of Rear Yard
	***Cluster residential	5 acres	60	20	10	20	5	10	30	15	30	20
	Religious, public and quasi public	10,000 sq. ft.	80	30	10	30	5	10	36	30	30	20
	*Public utility uses	10,000 sq. ft.	80	30	10	30	5	10	—	—	—	
	*Tourist homes	8,000 sq. ft.	66	20	10	20	5	10	30	15	30	20
	Hospital, Philanthropic, Charitable	2 acres	200	40	40	40	15	20	35	30	20	20
R-4	(All uses set forth in R-3 with same numerical restrictions in balance of schedule.)											
	*, ***Professional offices											
R-5	Single-family dwellings	22,000 sq. ft.	125	40	27	40	15	20	30	15	30	20
	*, ***Townhouse residential dwellings	½ ac/1,000 dwellings	150 parcel 20 lot	(As determined to be necessary by board of trustees upon issuance of permit)								
***RB	Retail and service establishments	—	—	—	—**	15	10	10	35	20	50	
	*Public utility uses	—	—	—	—**	15	10	10	—	—	50	
	Hospitals, philanthropic and charitable activity	—	—	—	—**	15	10	10	35	20	50	
	*Private clubs	—	—	—	15**	15	10	10	35	20	50	
	*Restaurants	—	—	—	—**	15	10	10	35	20	50	
	*Banks and funeral homes	—	—	—	—**	15	10	10	35	20	50	
	*Townhouses	—	—	—	15**	15	10	10	35	20		*
***B-1	Retail and service establishments	—	—	—	—**	15	10	10	35	20	50	
	*Public utility uses	—	—	—	—**	15	10	10	-	-	50	
	Hospitals, philanthropic and charitable activity						10	10	35	20	50	
	*Private clubs	—	—	—	15**	15	10	10	35	20	50	

Zone District	Use	Minimum Lot Size		Yards, Principal Building			Yards Accessory Building		Maximum Building Height		Maximum Building Coverage	
		Area (sq. ft. or acres)	Width (feet)	Front and Side Front (feet)	Each Side (feet)	Rear (feet)	Side (feet)	Rear (feet)	Principal (feet)	Accessory (feet)	Principal % of Lot	Accessory % of Rear Yard
	*Gasoline stations and motor vehicle repair shops	10,000 sq. ft.	100	—	15**	15	10	10	18	18	50	
	*Hotels and motels	—	—	—	—	—	—	—	—	—	—	
	*Townhouses	—	—	—	15**	15	10	10	35	20	50	
W-D	Uses dependent upon proximity, access or utilization of water	10,000 sq. ft.	75	10	15	15	15	15	35	20	50	(As determined by village board)
	Uses enhanced by waterfront location			(Waterside—40 ft.)			(Waterside—40 ft.)					

*Special use permit required.

**Where abutting any other district, side yards are required equal to the minimum required in the abutting district if greater.

***Development plan required.

Note: All parcels of land located in the above districts are subject to the restrictions and regulations of the Nondevelopment District [see Section 10A7] where a part or all of the parcel contains an area having a natural slope of 20 percent or greater. (Code 1978, app. B, § 8; L.L. No. 1-1973; L.L. No. 6-1979, § 9; L.L. No. 8-1983; L.L. No. 3-1984, § 3; L.L. No. 3-1987, § 3; L.L. No. 9-1987, § 1; L.L. No. 1-1991, § 1; L.L. No. 01-2005)

Sec. 9. District regulations.

A. *R-1 District: Low Density Residential Single-Family District.*

R-1a District: Medium Density Residential Single-Family District.

1. *Permitted principal uses.*
 - a. Single-family dwellings.
 - b. Single-family cluster residential developments subject to the requirements and procedures of section 10R.
 - c. Churches and other similar places of worship, parish houses, convents and other such facilities of recognized religious groups.
 - d. Municipal parks, playgrounds and recreation areas deemed necessary and appropriate by the village board.
 - e. Public buildings.
 2. *Permitted accessory uses.*
 - a. Private garages.
 - b. Home occupation and other customary accessory uses that are clearly incidental to the principal use and do not include any activity commonly conducted as a business. There shall be no external evidence of such use except an announcement or professional sign not over two square feet in area.
 - c. Other customary residential structures such as private swimming pools, fireplaces, trellises, lampposts and animal shelters for domestic pets of the household.
 - d. Signs in accordance with section 13.
 - e. Parking in accordance with section 12.
 3. *Uses permitted with a special use permit subject to the requirements of section 11.*
 - a. Public utility uses.
 - b. Certain limited personal service.
 - c. Private clubs.
 - d. Hospitals, philanthropic and charitable institutions and similar uses. No such use, however, shall be established or permitted on a parcel of land less than two acres in area, nor shall any part of such use be permitted within 20 feet of any street line or lot line.
 - e. In R-1a Districts only—Bed and breakfast residences.
- B. *R-2 District: Residential Two-Family District.*
1. *Permitted principal uses.*
 - a. All uses permitted in R-1 and R-1a Districts, section 9A, part 1, subject to all the restrictions specified therein.

- b. Two-family dwellings.
- c. Townhouses.
- 2. *Permitted accessory uses.*
 - a. All accessory uses permitted in R-1 and R-1a Districts, section 9A, Part 2, subject to all restrictions specified therein.
- 3. *Uses permitted with a special use permit subject to the regulations of section 11.*
 - a. Public utility uses.
 - b. Certain limited personal services.
 - c. Private clubs.
 - d. Hospitals, philanthropic and charitable institutions and similar uses. No such use, however, shall be established or permitted on a parcel of land less than two acres in area, nor shall any part of such use be permitted within 20 feet of any street line or lot line.
 - e. Reserved.
 - f. Bed and breakfast residences.

C. *R-3 District: Residential Multifamily District.*

- 1. *Permitted principal uses.*
 - a. All uses permitted in R-2 districts, section 9B, part 1, subject to all the restrictions specified therein.
 - b. Garden apartments and town house apartments, subject to the requirements and procedures of section 10R.
 - c. Clubs and lodges, excepting such clubs and lodges the chief activity of which is a service customarily carried on as a business or primarily for gain. In conjunction with such club or lodge, a dining room may be operated provided it is incidental to the activities of said club or lodge and is conducted for the benefit of the members thereof only, and further provided that no signs be displayed advertising such activity.
 - d. Fraternity and sorority houses.
 - e. Hospitals, philanthropic and charitable institutions and similar uses. No such use, however, shall be established or permitted on a parcel of land less than two acres in area, nor shall any part of such use be permitted within 20 feet of any street line or lot line.
- 2. *Permitted accessory uses.*
 - a. All accessory uses permitted in R-1a districts, section 9A, part 2, subject to all restrictions specified therein.

3. *Uses permitted with a special use permit subject to the regulations of section 11.*
 - a. Public utility uses.
 - b. Tourist homes.

D. B District: General Business District.

1. *Permitted principal uses subject to the requirements of section 10R.*
 - a. Retail business establishments which are clearly of a community service character, such as, but not limited to the following:
 - i. Stores selling groceries, meats, baked goods and other such food items.
 - ii. Drugstores.
 - iii. Stationery, tobacco and newspaper stores, luncheonettes, and confectionery stores.
 - iv. Hardware, radio and television stores.
 - v. Clothing, accessory and jewelry stores.
 - vi. Restaurants and drinking places provided all service and on-premises consumption take place within an enclosed building except, that after notification by registered or certified mail of all owners of abutting property and subsequent acceptance in writing by said property owners, and subject to the recommendation by the planning commission and subject to all conditions imposed by said commission, service and consumption may also take place in completely defined outdoor cafe areas.
 - vii. Churches, libraries and other public and quasi-public buildings.
 - b. Personal service establishments which are clearly of a community character, such as, but not limited to the following:
 - i. Barber[shops] and beauty shops.
 - ii. Professional and craft studios.
 - iii. Tailor shops, dry cleaning pickup stations and self-service laundries.
 - iv. Business and professional offices, banks and financial institutions.
 - v. Funeral homes.
 - vi. Establishments servicing goods such as those permitted under part 1.a. of section 9D.
 - vii. Public utility offices and substations.
 - c. Equipment sales and service.
 - d. Commercial recreation uses such as bowling alleys.
 - e. Theaters and places of public assembly.
 - f. Wholesale businesses such as wholesale tobacconists, candy stores and the like, which, within the opinion of the board of trustees, will not be detrimental to or endanger public safety.

- g. Other business uses which, in the opinion of the board of appeals, are similar in nature and scale to those permitted above.
 - h. Combined uses of single bedroom apartments with the permitted uses set forth above in paragraph 1. a. and b.
2. *Permitted accessory uses.*
- a. Private garage space for the storage of commercial vehicles used in conjunction with a permitted business use.
 - b. Dwelling units, accessory to the principal business use, provided said units are:
 - i. Located in the principal building.
 - ii. In compliance with the area and yard requirements of the R-3 district, except side yard requirements which shall be waived when the dwelling units are above the first floor and the first floor is used commercially.
3. *Uses permitted with a special use permit subject to the regulations of section 11.*
- a. Public utility uses.
 - b. Hospitals, philanthropic and charitable institutions.
 - c. Automobile sales and service.
 - d. Shops for custom work or making articles or products to be sold at retail on the premises.
 - e. Private clubs.
 - f. Hotels and motels.
 - g. Gasoline stations.
 - h. Motor vehicle repair shops.
 - i. Combined uses of gasoline stations with convenience food stores which use is permitted only in that portion of the B-1 district bounded on the north by Cayuga Street; on the south by Seneca Street; on the west by 8th Street and on the west side of Portage Road and excluding any portion of the bowling alley property TM#101.15-1-06 which lies within the boundary area.
 - j. Bed and breakfast residences.
 - k. Reserved.

E. *RB District: Restricted Business District.*

1. *Permitted principal uses subject to the requirements of section 10R.*
- a. Personal service and retail establishments which are of a community character such as, but not limited to, the following:
 - 1. Barber[shops] and beauty shops.
 - 2. Professional and craft studios.
 - 3. Tailor and dressmaking shops.

4. Business and professional offices.
5. Public utility offices.
6. Florists, galleries, clothing and accessory shops; stores selling gifts, stationery, books and jewelry.
- b. Other business uses which, in the opinion of the zoning board of appeals, are similar in nature and scale to those permitted above.
2. *Permitted accessory uses and substations.*
 - a. All accessory uses permitted in the B district, section 9D, part 2.
3. *Uses permitted with a special use permit subject to the regulations of section 11.*
 - a. Public utility uses.
 - b. Hospitals, philanthropic and charitable institutions.
 - c. Private clubs.
 - d. Restaurants.
 - e. Banks and funeral homes.
 - f. Bed and breakfast residences.

F. O-P District: Open and Public District.

1. The intent of the district is to delineate publicly owned and/or open areas.
2. Lands owned by the village may, at the discretion of the village, be leased for the purpose of establishing senior citizen community facilities. At such time, the height and bulk of buildings to be erected, the area of yards and other open spaces and the population density limitations will be determined by the board of trustees together with such other regulations deemed necessary. As a procedural matter, the board of trustees will treat any consideration as if it were a special use permit and follow such procedures as outlined in the law.
3. 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 adopted local waterfront revitalization program for the Village of Lewiston.

G. R-4 District: Residential Multi-Family-Professional Office District.

1. *Permitted principal uses.*
 - a. All uses permitted in R-3 districts, section 9C, part 1, subject to all the restrictions specified therein.
2. *Permitted accessory uses.*
 - a. All accessory uses permitted in R-3 districts, section 9C, part 2, subject to all restrictions specified therein.

3. *Uses permitted with a special use permit subject to the procedures and regulations of section 10R and section 11.*

- a. All uses set forth in R-3 districts, section 9C, part 3, subject to all restrictions specified therein.
- b. Professional offices or the combined use of professional offices with dwelling units.

H. *R-5 District: Residential Townhouse District.*

1. *Permitted principal uses.*

- a. All uses permitted in R-1 districts, section 9A, part 1, subject to all the restrictions specified therein.

2. *Permitted accessory uses.*

- a. All accessory uses permitted in R-1a districts, section 9A, part 2, subject to all restrictions specified therein.

3. *Uses permitted with a special use permit subject to the procedures and regulations of section 10R and section 11.*

- a. Townhouse dwellings.

I. *W-D District: Waterfront Development District.*

1. *Permitted principal uses subject to the requirements of section 10R.*

- a. Uses which depend on proximity, access and/or utilization of the water including, but not limited to, the following:
 1. Boat liveries and marinas.
 2. Boat and boating accessories service, repair, sales and rental.
 3. Fishing and tackle equipment and supplies sales.
 4. Flood and erosion protection structures.
- b. Uses which are enhanced by a waterfront location and proximity to water-dependent uses including, but not limited to, the following:
 1. Tourist facilities (restrooms, snackbars, information areas, cultural and recreation facilities).
 2. Restaurants and eating establishments.
 3. Hotels and motels.
 4. Bed and breakfast residences, tourist homes.
 5. Retail and service facilities complementary to the above uses.
- c. Other water-related uses which, in the opinion of the zoning board of appeals, are similar in nature to those permitted above and are consistent with the adopted Village of Lewiston Local Waterfront Revitalization Program.

2. *Permitted accessory uses.*

- a. Parking areas in accordance with section 12.
- b. Temporary boat and boating equipment storage.
- c. Signs in accordance with section 13.
- d. Other accessory uses incidental to those permitted above.

J. *RB-2 District: Retail Business District.*

1. *Permitted principal use is subject to the requirements of section 10R.*

- a. Retail business and personal service establishments as follows provided that such uses promote or enhance the continuity of use as a retail shopping area, promotion of pedestrian traffic and enhancement of aesthetic qualities of the area:
 1. Stores selling groceries, meats, baked goods and other foods.
 2. Drug stores.
 3. Stationary, tobacco, newspaper stores, luncheonettes and confectionery stores.
 4. Hardware, radio and television stores.
 5. Clothing, accessory and jewelry stores.
 6. Restaurants and drinking places.
 7. Barber and beauty shops.
 8. Professional and craft studios.
 9. Professional offices which provide legal, medical, architectural, accounting or real estate services.
 10. Tailor shops, and dry cleaning pick-up stations.
- b. Other retail business and personal services establishments which, in the opinion of the board of trustees, are similar in nature to those permitted above and are consistent with the promotion of pedestrian traffic and enhancement of the aesthetic quality of the district.

2. *Permitted accessory uses.* All accessory uses as are permitted in B districts, provided that they do not adversely affect the purpose set forth in paragraph 1.a.

3. *Uses permitted with a special use permit subject to the regulations of section 11.*

- a. Apartments when such use is combined with retail and personal service establishments as set forth in paragraph 1.
- b. Repair and service when such use is auxiliary to a retail use as set forth in paragraph 1.
- c. Business offices when such use is combined with retail business and personal service establishments as described in paragraph 1.

- d. Banks and financial institutions.
- e. Hotels and inns when such use will provide enhancement of pedestrian traffic.
- f. Bed and breakfast style establishments when such use is a secondary use of the premises.
- g. Theaters and places of public assembly.
- h. Public buildings.
- i. Private clubs when such use is a secondary use to the principal types of uses as set forth in paragraph 1.
- j. Shops for custom work or making of articles or products to be sold at retail on the premises.
- k. Other uses which, in the opinion of the board of trustees are similar in nature to those permitted above and are consistent with the promotion or enhancement of the district uses as a shopping area, promotion of pedestrian traffic and enhancement of aesthetic quality of the district.

(Code 1978, app. B, § 9; L.L. No. 9-1973, §§ 1—3; L.L. No. 3-1977, § 2; L.L. No. 6-1979, § 1; L.L. No. 7-1983, §§ 1, 2; L.L. No. 8-1983, §§ 1, 2; L.L. No. 3-1984, § 2; L.L. No. 11-1984, § 1; L.L. No. 13-1984, §§ 3—6; L.L. No. 5-1986, § 1; L.L. No. 3-1987, §§ 1, 2; Ord. No. 3-1987, §§ 4, 5; L.L. No. 4-1987, § 1; L.L. No. 9-1989, §§ 3—5; L.L. No. 2-1991, § 1; L.L. No. 6-1991, §§ 2—5; L.L. No. 11-1991, § 1)

Sec. 10. General provisions and permitted modifications.

A. Preservation of natural features.

- 1. No structure other than bridges shall be built within 50 feet of a stream carrying water on an average of six months of the year except in the case of the Niagara River nor on land subject to periodic overflow.
- 2. Structures on parcels abutting on the Niagara River must be in conformity with the requirements of federal and state laws and international treaties.
- 3. No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale, or for use other than on the premises from which the topsoil shall be taken except in connection with the construction or alteration of a building in such premises and excavation or grading incidental thereto, provided such stripping, excavation or otherwise removal of topsoil complies with chapter 16, stormwater management, of the village Code.
- 4. As to any area of land having an area of more than one acre from which topsoil has been removed or covered over by fill, such area shall be seeded to provide an effective cover crop within the first growing season following the start of said operation, provided that any such seeding and topsoil removal or coverage over by fill shall comply with chapter 16, stormwater management, of the village Code.

5. Existing natural features such as trees, brooks, drainage channels and view/vistas shall be retained. Whenever such features interfere with the proposed uses of such property, retention of the maximum amount of such features consistent with the use of the property shall be required. No use shall be undertaken which eliminates or substantially reduces the view/vista of an existing property due to height, bulk or orientation of structure.
6. The existing Niagara escarpment shall not be breached, excavated, blasted or otherwise altered or damaged.
7. For the purpose of preserving the natural features in all areas in the Village of Lewiston having natural slopes of not less than 20 percent, i.e., a vertical rise in ground elevation of 20 feet within a horizontal distance of 100 feet, no development permitted by the district within which such slope occurs shall be permitted on such slope until the requirements and procedures set forth in this local law and section 10R have been complied with.

B. Lot and yard regulations and modifications.

1. No lot shall have erected upon it more than one principal building.
2. No yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be considered to provide a yard or open space for any other building.
3. All yards, open space, off-street parking, and required landscaping must be contained within the zone in which the use is permitted.
4. Where a district boundary line divides a lot which is in single or joint ownership of record at the time such line is adopted, the regulations of the less restricted district shall apply to the portion of such lot lying within the less restricted district and the regulations of the more restricted district shall apply to that portion of the lot lying within the more restricted district.
5. When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this ordinance either with respect to any existing structures or use and any proposed structures or use.
6. No lot shall be so reduced in area that any required open space will be smaller than prescribed in the regulations for the district in which said lot is located. Whenever such reduction in lot area occurs, any building located on said lot shall not thereafter be used until such building is altered, reconstructed, or relocated, so as to comply with the area and yard requirements applicable thereto.
7. Any lot separately owned and recorded on the tax map of the Village of Lewiston at the time of enactment of this ordinance which has a width of less than the prescribed

number of feet permitted in an applicable district may be used as a building lot if it shall have sufficient area to permit the required front and rear yard setbacks within such district and in accordance with section 10, subsection B 10.

8. Any lot in a subdivision heretofore approved by the planning commission at the time of enactment of this ordinance which contains lots having a width of less than the prescribed number of feet permitted by this ordinance may be sold and a residence constructed thereon, notwithstanding the provisions of the ordinance.
9. Notwithstanding the limitations imposed by the foregoing or any other provisions of this ordinance, the board of appeals may permit erection of a dwelling on any lot, separately owned or under contract of sale and containing at the time of passage of this ordinance an area, width or depth smaller than that required for a one-family dwelling provided the lot and proposed dwelling comply with the pre-existing ordinance.
10. In the case of lots which comply with the provisions for modification of size under paragraph 9, the combined total side yard requirements as specified in the schedule shall be reduced by six inches for each foot by which a lot is less than the minimum lot width requirement specified in the schedule for the zone in which located. In any case, the side yard area shall be reduced to not less than 50 percent of the requirement of the schedule.
11. Terraces: A paved surface shall not be considered a part of the building in the determination of yard sizes, provided, however, that such surface is unroofed and without walls, parapets, or other form of enclosure. Such surface, however, may have an open guard railing not over three feet high, and shall not project into any yard to a point closer than four feet from any lot line.
12. Corner lots: On every corner lot in a residential district there shall be provided on the side street a side yard equal in depth to that required for the front yard depth of the side street.

C. Accessory building.

1. An accessory building attached to a principal building shall comply in all respects with the yard requirements of this ordinance for the principal building.
2. Detached accessory buildings shall comply in all respects with the yard requirements for accessory buildings specified in the zoning schedule, section 8.
3. For the purpose of regulating the locations of accessory buildings on corner lots and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which fronts on a public street shall be subject to the front yard requirements of the zone district in which said corner lot or through lot is located.
4. Accessory buildings, including but not limited to, private garage and house trailer, shall not be placed within a required front yard. Undue hardship cases shall be treated by the zoning board of appeals as a variance request.

D. Street frontage.

1. Every principal building shall be built upon a lot with frontage upon a public street improved to meet the village's requirements.
2. Where a building lot has frontage on a street which is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.

E. Height modifications and exceptions.

1. In any district any principal building may be erected to a height in excess of that specified for the district provided such front, side, and rear yard is increased one foot for each one foot of such additional height and with the approval of the zoning board of appeals. Prior to such approval, the building plan shall be submitted to the fire chief for his recommendation as regards fire prevention, safety, alarms and fighting.
2. The height limitation of this ordinance shall not apply to church spires, belfries, cupolas, penthouses and domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads and similar features and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve and shall not exceed in cross-sectional area 20 percent of the ground floor area of the building.
3. The provisions of this ordinance shall not apply to prevent the erection above the building height limit of parapet wall or cornice for ornament (and without windows) extending above such height limit not more than five feet.

F. Visibility at intersections.

1. At all street intersections, no obstructions to vision such as a wall, fence or hedge exceeding 30 inches in height above the established grade of the street or the property line, except a single post or tree, shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines 30 feet distant from their point of intersection.
2. At such intersections, no tree shall be planted or allowed to remain between the said pavement or roadbed and the street lines of adjoining lots, whose lower or lowest limbs shall be within eight feet of the ground; and no signs of greater area than four square feet shall be erected, maintained or used within 200 feet of such intersections, measured on the street or lot line.

G. Fences, walls or hedges.

1. *Permit required.* It shall be unlawful for any person to erect, construct, relocate, or maintain a fence or hedge in any district without first having obtained a permit from the zoning board of appeals if said fence is in excess of the following specifications:
 - a. On a front lot —four feet in height;

- b. On a side lot line in a front yard—four feet in height;
 - c. On a side lot line in a side or rear yard—six feet in height;
 - d. On a rear lot line—six feet in height.
2. *Application.* Applicant shall file an application for a building permit accompanied by a drawing or sketch showing location and detail of general construction. The applicant shall also furnish a signed statement by all abutting property owners saying that they agree to the construction and have no objections.
 3. *Refusal.* In the event the applicant cannot secure the consent of all abutting property owners, then he shall have the right to call for a public hearing before the zoning board of appeals in the usual manner. The board shall have the power to approve the application, basing their decision on the merits of the case.
 4. *Measure.* The height of a fence, wall or hedge shall be measured from the ground level at the base of the fence, wall or hedge.
 5. *Appearance.* All support portions of a fence, including vertical supports, if visible, shall be placed on and face the interior of the property upon which the fence is erected.

These restrictions shall not be applied so as to restrict the erection, alteration, or reconstruction of fences used in connection with farms except insofar as such fences might affect the public safety.

These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.

H. *Swimming pools.*

1. No swimming pool shall be constructed, installed or maintained on any premises within the village except in compliance with all the provisions contained in the Code.
2. The term "swimming pool" or "pool" as used in this article shall mean any body of water or receptacle for water, having a depth at any point greater than two feet, constructed, installed, or maintained in or above ground for swimming, bathing or immersion therein.
3. No person shall construct, install, enlarge or alter a swimming pool without having first applied for and secured approval of the issuance of a permit from the building inspector on such form as he may prescribe. Such application shall be accompanied by plans and specifications with sufficient detail to establish that it will be constructed in accordance with the requirements of the Code and shall include the following:
 - a. Pool dimensions, depths, volume in gallons, the distance of the pool from all lot lines, existing and proposed structures, if any.
 - b. Location and type of pool fencing and means used to prevent unauthorized access to the pool.

4. Fencing of swimming pools.
 - a. All swimming pools shall be completely enclosed by a fence. All fence openings, or points of entry into the pool area enclosure shall be equipped with gates. The fence and gates shall be a minimum of four feet in height above the grade level and shall be permanent construction of suitable quality, strength and durability to prevent entry into the swimming pool area. All gates shall be equipped with self-closing and self-latching devices for keeping the gate securely closed and locked at all times, when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.
 - b. In the case of aboveground swimming pools which have fencing or other suitable barriers as a part of their construction which would prevent access, additional fencing will not be required provided that the ladder or gates have a means of preventing access to the pool (i.e., a foldup affair or some means of preventing the use of the ladder to gain access to the pool).
5. Location of swimming pools filters and other mechanical devices.
 - a. No swimming pool shall be located within the required front yard.
 - b. No portion of the swimming pool shall be located at a distance less than five feet from any property line.
 - c. Filter pumps and other mechanical devices used in connection with a swimming pool shall be located at least five feet away from the property line and be so constructed as to not interfere with comfort, repose, health, peace or safety of occupants of adjoining premises.
6. If not otherwise provided for in the building code, the electrical installation providing power to the recirculation system shall be circuited through a ground-fault connector in operating condition.
7. If the use of any swimming pool shall be abandoned or permanently discontinued, the owner, in the case of an in ground pool, shall completely fill the pool and return the surface of the ground to its original grade and approximately to the same condition as existed before the pool was constructed, and in the case of an aboveground pool, the owner shall disassemble and remove the pool and return the surface of the ground to its original grade and approximately the same condition as existed before the pool was constructed.
8. The building inspector may inspect all swimming pools to determine whether or not the provisions of this Code regarding health, sanitation and safety applicable thereto are being met and may enter the premises for the purposes of determining compliance therewith.

I. *Moving of buildings.* The moving of any building from any place to a new site within any use district shall be deemed to be an erection or construction and as such, shall be subject to all provisions of the building code and zoning ordinance. Permits shall be granted only by the

zoning board of appeals, after public hearing. A surety bond in an amount satisfactory to the village board of trustees or the superintendent of public works shall be furnished by the applicant to indemnify and save harmless the said Village of Lewiston from damages.

J. *Surface waters and grading.* No improvement on any plot or lot shall be made in such a way as to cause or permit surface water to overflow onto any public highway or abutting property in such manner as to interfere with the natural drainage of the land. A drain, ditch or swale of sufficient size where required shall be provided between abutting properties to carry surface water in the direction of natural drainage of the land.

K. *Storage of flammable liquids.* The storage of flammable liquids shall be entirely underground in storage tanks approved by the New York State Board of Fire Underwriters and having a pipe layout satisfactory to the building inspector. Safety containers shall be used within any building or structure in which flammable liquids are handled.

L. *Clean-up requirements.* No person shall permit uncut grass, weeds, brush, rubble, trees, etc., abandoned scrap of any nature, machinery, building material or other such debris on real property.

- (a) The property owner shall be responsible to have grass, bushes, shrubs, trees, cut and trimmed to conform to the character of the surrounding homes and businesses.

M. *Dumping.* Dumping of refuse, waste material and other substances is prohibited in all districts in the village except for the purpose of filling to establish grades for which a permit must be obtained from the village board, provided that any such filling is consistent with the provisions of article IV, storm sewers, of chapter 20 of the village Code, and chapter 16, stormwater management, of the village Code.

N. *Nonoperating motor vehicles.* The dismantling, storage, or salvaging of motor vehicles not in legally operable condition shall not be permitted except within an enclosed building or within a licensed junkyard, and shall in no case be permitted within a required front yard.

O. *Unsafe buildings.*

1. A building or structure or any part thereof that may be or shall at any time hereafter become dangerous or unsafe shall, unless made safe and secure, be taken down and removed.
2. No building damaged by fire or any other cause to the extent of more than 50 percent of its full valuation shall be repaired or rebuilt except in conformity with the regulations of this ordinance.
3. If the building inspector shall determine that any building or other structure shall be unsafe or dangerous to person or property, he shall serve or cause to be served a written notice upon the owners and occupants thereof or such of them whose identity and whereabouts can be determined, and if such person shall within 30 days of a written notice fail to comply with the requirements of the notice, the village board shall be advised of the facts in the case and shall have the power to take appropriate action to compel compliance, including demolition in compliance with the Local Law of the

Village of Lewiston thereof, the cost of which shall be a lien on the property superior to any other lien and which shall be recovered in the same manner and at the same time as village and county taxes.

4. Except so far as may be necessary for the safety of life or property, nothing in this ordinance shall require the removal, alteration or abandonment of, nor prevent the continuance of, the use and occupancy of a lawfully existing building.

P. Special regulations applicable to all residential districts.

1. No use which is noxious or offensive by reason of refuse, matter, dust, odor, smoke, gas, fumes, noise, vibrations, unreasonable use of lights or nighttime operations shall be permitted.
2. No accessory structure exceeding 15 feet in height, except when specifically stated in the schedule, shall be permitted.
3. Any owner of camping and recreational equipment may park or store such equipment on private residential property subject to the following conditions:

- a. At no time shall such parked or stored camping and recreational equipment be occupied or used for living, sleeping, or housekeeping purposes.
- b. If the camping and recreational equipment is parked or stored outside of a garage, it shall be parked or stored to the rear of the front building line of the lot. The requirements of this sub-paragraph may be waived by action of the village board who may issue a conditional parking permit provided, however, a request for such conditional permit is supported by evidence presented to the board by the owner of the property upon which said exception is requested showing that, because of topography, or some other physical condition, enforcement of this section would create an unusual and undue hardship.
- c. Notwithstanding the provisions of sub-paragraph b., camping and recreational equipment may be parked anywhere on the premises for loading and unloading purposes, for a period of not more than 48 hours, so long as such parking for loading or unloading purposes does not obstruct the view of driveway vehicular and pedestrian traffic of adjoining or abutting properties.
- d. All recreational equipment must be kept in good repair and be licensed during some portion of the current year.
- e. The parking or storage of an unoccupied mobile home, being a movable or portable dwelling, constructed to be towed on its own chassis and connected to utilities and designed without a permanent foundation for year round living is specifically prohibited.
- f. The board of trustees by resolution adopted at a stated meeting shall fix the time and place of an information meeting on the proposed conditional parking permit and cause notice thereof to be given by publication.

- g. Fee for conditional parking permit shall be as established by the board of trustees.
 - h. If conditions under which the conditional parking permit was issued are not adhered to, the board of trustees shall notify the permit holder of such noncompliance by registered letter. If the permit holder fails to correct the noncompliance within ten days, the board of trustees may rescind the permit.
 - i. No front yard shall be used for the storage of boats, camping trailers, utility trailers, motorized camping vans or similar vehicles except as provided by this ordinance.
- 4. Not more than one commercial vehicle shall be parked out-of-doors overnight or on Sunday in conjunction with a dwelling unit in any residential district. No vehicle for commercial display purposes shall be stored in any residential district at any time.
 - 5. In any residential district, no accessory building shall be erected in any required yard, except that accessory buildings may occupy in the aggregate up to 20 percent of a required rear yard.
 - 6. The servicing, maintenance, experimentation, adjustment, or other such manner of work upon a motor vehicle or other such noise-producing activity conducted in connection with or through the use of motor vehicles shall not be permitted except for such activity conducted by the owner or his employees upon the owner's premises in cases of emergency.
 - 7. In a residential district, there shall be no outside storage of any unregistered and/or unlicensed motor vehicle for a period longer than 30 days in any calendar year providing that such unregistered and/or unlicensed motor vehicle, notwithstanding the year in which the same shall have been manufactured, is at all times while being so stored kept in such condition and maintained with such equipment that it will meet the minimum requirements to pass the New York State Motor Vehicle Inspection standards as provided by the Vehicle and Traffic Law of the State of New York and all rules and regulations promulgated by the commissioner of motor vehicles for the periodic inspection of motor vehicles in the State of New York and as the same may be amended from time to time. This section shall not apply to an owner of such unregistered and/or unlicensed motor vehicle who is a member of the armed forces while serving on active duty.

There shall be no outside storage in a residence district of motor vehicle parts at any time.
 - 8. Kennels for the keeping of and breeding of dogs or other animals as an accessory use shall not be in any front yard and shall be set back from all property lines a minimum distance of 50 feet.
 - 9. In residential districts, the number of motor vehicles for which parking space may be provided as accessory to an authorized use shall not exceed the following:
 - a. In R-1 and R-2 districts, two motor vehicles, and for each 5,000 square feet by which the lot exceeds 5,000 square feet, space for one additional motor vehicle may be provided.

b. In an R-3 District, two motor vehicles for a one-family or two-family dwelling.

Q. Special regulations applicable to all business and industrial districts.

1. *Business district manufacture or repair.* The number of persons engaged in the manufacture of articles or the fabrication of goods or articles shall not exceed two in any establishment in a B district. The individual and total horsepower of machinery used for such purposes in any such establishment shall not exceed ten h.p. and 20 h.p., respectively. Manufacture shall be limited to that incidental to retail sale on the premises. Motors operated by other than electrical power will require review and recommendation of the village planning commission.
2. *Automobile service equipment.* All garage and filling station pumps, lubricating or other automobile devices shall be located at least 20 feet from any street line or highway right-of-way. All fuel, oil or other flammable substances shall be stored at least 35 feet distant from any street line or lot line. No public garage for more than five motor vehicles shall have any entrance or exit for such vehicles within 50 feet of a residential district, any school, any church, or any institution for the residence, training or treatment of children or handicapped persons.
3. *Outdoor display.* Business structures or uses shall not display goods for sale purposes or coin-operated vending machines of any type in any location which would infringe upon the required yard areas specified in this ordinance.
4. *Side yard and rear yard transition.* Where a lot in a business or industrial district abuts a lot in a residential district, there shall be provided along such abutting line a yard equal in width and depth to that required in the residential district, which yard shall be maintained by the owner as a landscaped buffer area.
5. *Front yard transition.* Where the frontage on one side of a street between two intersecting streets is zoned partly as residential and partly as business or industrial, the front yard depth in the business or industrial district shall be equal to the required front yard depth of the residential district for a distance of 50 feet into the business or industrial district.
6. *Business entrances on residential streets.* Where a residential district is bounded by a portion of a B-1 district, or a B-2 district, any side street extending through such residential district into such B-1 or B-2 district shall not be used for any business purposes, except as herein set forth. The business structures erected in either of such business districts shall face and open upon the street set aside for that particular business district, except that show windows in such business structure may be built and exposed upon said street within the area set aside as part of either of said business district and an entrance may be made at the corner. Other entrances thereto must face the business street, except that entrances may be made from such residential street to the upper stories of such business structure.

7. *Adult use businesses.*

- a. No adult use business shall be located within 1,000 feet of a park, school, day care center, library or religious or cultural activity.
- b. No adult business shall be located within 1,000 feet of any other business, agricultural or residential zone boundary.
- c. Such distances shall be measured in a straight line without regard to intervening structures, topography and zoning.
- d. Said business shall not be permitted as a home occupation, and a special-use permit shall be obtained for all adult use businesses.
- e. A special use permit shall be obtained for all adult use businesses subject to the regulations of section 11.

R. *Development plan procedures and regulations.*

1. *Purpose.* The purpose of the development plan regulations is to encourage flexibility in the design and the development of land in order to promote its most appropriate use; to facilitate the adequate and economical provisions of streets, utilities and public spaces and to preserve the natural and scenic qualities of open areas. The procedure is intended to permit regulation of the location of structures and improve circulation facilities and other site qualities and to ensure the application of adequate standards relating to public health, safety and welfare and convenience both in the use and occupancy in buildings and facilities.
2. *Applicability.*
 - a. No single-family cluster residential development or garden apartment or town house apartment nor any other building constituting a part thereof shall be erected, altered, restored or have its exterior architectural features changed without first having followed the procedures contained in this section and had its development plan approved as provided for herein.
 - b. No building located in the business or restricted business district or in an area defined in section 10A7 shall be erected, altered, restored or have its exterior architectural features changed without first having followed the procedures contained in this section and having had its development plan approved as provided herein.
 - i. A change in color of the building, or trim as the case may be, shall not be considered a change in architectural feature, provided that the change in color shall be of a singular color and uniformly applied to the surface of the building.
3. *Application.*
 - a. *Preliminary development plan—First submission.* The owner shall submit a preliminary development plan to the planning commission for review, which shall include the following information:
 - i. Proposed site plan, showing building locations, land use areas, traffic circulation, parking, pedestrian walks, and landscaping.

- ii. Proposed construction sequence for buildings, parking and landscaping.
- iii. A stormwater pollution prevention plan (SWPPP), if required by chapter 16, stormwater management, of the village Code, together with the recommendation of the stormwater management officer to approve, approve with modifications, or disapprove the SWPPP pursuant to section 16-4(b) of the village Code.

The planning commission shall review the preliminary development plan with the owner and shall prepare general recommendations with regard to the plan. The planning commission shall then send a copy of its recommendations to the owner indicating its approval in principle and any specific changes required, or its disapproval.

- b. *Development plan—Second submission.* The owner shall submit a plan to the planning commission which plan shall be prepared by an architect, landscape architect, engineer, land surveyor or planner, and shall include the following information:
 - i. Survey showing exterior features of the property including contours, buildings, structures, large tree trunk diameter, trees, utilities, rights-of-way and land-use.
 - ii. Site plan showing building locations, land use areas, traffic circulation, parking, pedestrian walks, landscaping and trading.
 - iii. Preliminary drawings for buildings delineated to be constructed in the current phase, including floor plans, exterior elevations in sections and architectural renderings as required for proper review.
 - iv. Preliminary engineering plans, including street improvements, drainage systems, public utility extensions, and feasibility studies of any anticipated problems which might arise due to the proposed development as required by the planning commission.
 - v. Construction sequence and time schedule for completion of each phase of the development plan.
 - vi. Such other information as may be required or requested to indicate that the plan complies with the regulations and standards contained herein.
 - vii. A stormwater pollution prevention plan (SWPPP), if required by chapter 16, stormwater management, of the village Code together with the recommendation of the stormwater management officer to approve, approve with modifications, or disapprove the SWPPP pursuant to section 16-4(b) of the village Code.
- 4. *Standards for review.* In making a determination, the following standards shall be utilized:
 - a. *General standards.*
 - i. The development plan shall be consistent with the regulations in paragraph 5.

- ii. The uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under another use.
 - iii. The proposed development is in conformance with the general intent of the comprehensive master plan and consistent with the policies and purpose of the Village of Lewiston Local Waterfront Revitalization Program.
 - iv. The planned development shall provide for an effective and unified treatment of the development possibilities on the project site making appropriate provisions for the preservation of scenic features and amenities of the site and the surrounding areas.
 - v. The planned development shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site.
 - vi. Existing and proposed utility services are adequate for the proposed development.
 - vii. Each phase of the proposed development, as it is proposed to be completed, complies with the standard necessary for creating and sustaining a desirable and stable environment; and all phases can be completed within three years of approval of the development.
- b. *Design standards.*
- i. All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses and blocks.
 - ii. Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide a visually and physically integrated development.
 - iii. Treatment of the sides and rear of all buildings within the planned development group shall be comparable in amenity and appearance to the treatment given to street frontage of these same buildings.
 - iv. The design of buildings and the parking facilities shall take advantage of the topography of the project site where appropriate to provide separate levels of access.
 - v. All buildings and walls shall be so oriented as to ensure adequate light and air exposure to the rooms within.
 - vi. All buildings shall be so arranged as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
 - vii. All buildings shall be arranged as to be accessible to emergency vehicles.

c. *Landscape design standards.*

- i. Landscape treatment for plazas, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project area.
- ii. Primary landscape treatment shall consist of shrubs, ground cover, and street trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected shall be appropriate to the growing conditions of the village's environment.
- iii. Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
- iv. All streets bordering the project areas shall be planted at appropriate intervals with street trees.

d. *Circulation system design standards.*

- i. Existing and proposed streets are suitable and adequate to carry anticipated traffic within, and in the vicinity of the proposed development.
- ii. There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.
- iii. Roads, pedestrian walks and open space shall be designed as integral parts of an overall site design. They shall be properly related to existing and proposed buildings, and appropriately landscaped.
- iv. Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- v. Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings.
- vi. Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained, and indicative of their function.

e. *Parking and loading design standards.*

- i. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
- ii. Pedestrian connections between parking areas and buildings shall be via special pedestrian walkways.
- iii. Parking facilities shall be designed with careful regard to orderly arrangement, topography, landscaping, ease of access, and shall be developed as an integral part of an overall site design.

- iv. Any loading facility shall be screened from public view to the extent necessary to eliminate unsightliness.

f. *Stormwater standards.*

- i. All development shall be designed in accordance with the design standards in section 16-6 of the village Code.
- ii. If the development plan is accompanied by a stormwater pollution prevention plan (SWPPP) pursuant to section 10(R)(3) of this Ordinance, then such development plan and SWPPP shall comply with the requirements of chapter 16, stormwater management, of the village Code.

5. *Regulations.*

a. *Specific regulations for cluster residential development.*

- i. The provision for cluster residential developments is intended and designed to provide a means for the development of large tracts of land on a unit basis, by allowing greater flexibility and overall residential site design and building location than the conventional single lot method provided in other sections of this law.
- ii. Permitted uses: Single-family residences.
- iii. Minimum site size: Five acres with a 30 percent green space requirement.

b. *Specific regulations for garden apartments and town house apartment developments.*

- i. Apartment structures shall not exceed a density of 16 dwelling units per net acre of lot area, street area not included.
- ii. Driveways for ingress and egress for apartment developments shall connect with other than minor streets wherever possible; shall not be located within 200 feet or within one-half the length of the block, whichever is the lesser distance, of an existing street intersection and shall have a pavement width of at least 22 feet except where they are within a parking area, in which case they shall be not less than 25 feet in width.
- iii. The minimum yard requirements of the schedule (section 8) apply only to the entire tract, and no buildings shall be located within such yard areas.
- iv. The minimum distance between buildings in an apartment development shall be 25 feet except that no wall containing an entrance to an apartment shall be closer to another apartment building than 50 feet.
- v. The width of any outer court upon which windows from a living room, bedroom, or dining room open shall be not less than the height of any opposing wall forming said court. The depth of an outer court formed by walls on three sides shall be not greater than 1½ times the width.

- vi. The width of any outer court shall be not less than two-thirds the height of any opposing wall forming said court, and the depth shall not be greater than $1\frac{1}{2}$ times the width.
 - vii. The least dimension of an inner court shall be not less than the full height of the walls enclosing such court, but not less than 50 feet.
 - viii. An open and unobstructed passageway shall be provided at the grade level of each inner court. Such passageway shall have a cross-section area and sufficient headroom to permit the passage of firefighting equipment and shall be continuous from the inner court to a yard or an unobstructed open area between buildings.
 - ix. Parking areas may be located in any yard other than the required front yard but not closer than ten feet to any property line and shall comply with all other requirements of the regulations applicable to all zones in this ordinance.
 - x. Every apartment building shall have a minimum setback of 15 feet from all interior roads, driveways, and parking areas.
 - xi. Every apartment development shall be provided with garbage and refuse storage and collection areas screened from view, and away from the fronts of apartment buildings.
 - xii. In addition to any storage area within individual apartment dwelling units, 200 cubic feet of storage area shall be provided for each dwelling unit in a convenient, centrally located area in the basement or ground floor or elsewhere, where personal belongings and effects may be stored under lock and separated from the belongings and effects of other occupants.
 - xiii. A wall of an apartment structure or parallel walls of adjacent apartment structures shall not continue in the same plane for a horizontal length of more than 75 feet without an offset of at least four feet.
 - xiv. Each apartment development shall provide a playground area or areas at a standard of 500 square feet for each ten dwelling units. Outdoor play equipment shall be installed in each playground in sufficient amount and variety to service the occupants of the development.
 - xv. The entire area of an apartment development not improved for driveways, parking area or covered by building or walkways shall be attractively landscaped and properly maintained at all times.
- c. *Special regulations applicable to the business and restricted business districts.*
- i. Business district manufacture or repair. The number of persons engaged in the manufacture of articles or the fabrication of goods or articles shall not exceed two in any establishment in a B district. The individual and total horsepower of machinery used for such purposes in any such establishment shall not exceed ten horsepower and 20 horsepower, respectively. Manufac-

ture shall be limited to that incidental to retail sale on the premises. Motors operated by other than electrical power will require review and recommendation of the village planning commission.

- ii. Automobile service equipment. All garage and filling station pumps, lubricating or other automobile devices shall be located at least 20 feet from any street line or highway right-of-way. All fuel, oil or other flammable substances shall be stored at least 35 feet distant from any street line or lot line. No public garage for more than five motor vehicles shall have any entrance or exit for such vehicles within 50 feet of a residential district, any school, any church, or any institution for the residence, training or treatment of children or handicapped persons.
- iii. Outdoor display. Business structures or uses shall not display goods for sale purposes or coin-operated vending machines of any type in any location which would infringe upon the required yard areas specified in this ordinance.
- iv. Side and rear yard transition. Where a lot in a business or restricted business district abuts a lot in a residential district, there shall be provided along such abutting line a yard equal in width and depth to that required in the residential district, which yard shall be maintained by the owner as a landscaped buffer area.
- v. Front yard transition. Where the frontage on one side of a street between two intersecting streets is zoned partly as residential and partly as business or restricted business district, the front yard depth in the business or restricted business district shall be equal to the required front yard depth of the residential district for a distance of 50 feet into the business or restricted business district.
- vi. Business entrances on residential streets. Where a residential district is bounded by a portion of a business or restricted business district, any side street extending through such residential district into such business or restricted business district shall not be used for any business purposes, except as herein set forth. The business structures erected in either of such business or restricted business districts shall face and open upon the street set aside for that particular district, except that show windows in such business structures may be built and exposed upon said street within the area set aside as part of either of said business or restricted business district and an entrance may be made at the corner. Entrances thereto must face the business street, except that entrances may be made from such residential street to the upper stories of such business structures.
- vii. A review of a development plan for land located in a restricted business district shall take into consideration that the intent of the district is to serve as a buffer zone between the business and residential zones but to be as compatible as possible with the residential zones on which it borders. In

addition to the general purposes concerning development plans, all activities occurring or to occur shall be restricted so as to reduce inconvenience to residential zones.

- d. *Special regulations for combined uses of single-bedroom apartments with principal uses set forth in paragraphs 1a and 1b of section 9d.*
 - i. Total maximum area coverage: Total principal building coverage shall not exceed 20 percent of the total parcel area.
 - ii. Buildings, number: The number of principal buildings may be more than one.
 - iii. Building area coverage: Each principal building shall have an area of ground coverage of not less than 2,000 square feet nor more than 5,000 square feet.
 - iv. Building height: The height of buildings shall not exceed two stories in height plus roof structure.
 - v. Apartment density: Not more than 8 apartments per acre or fraction thereof shall be permitted.
 - vi. The uses permitted in paragraph 1 of section 9D with the exception of offices shall be limited to the ground floor.
 - vii. Apartments:
 - (a) Area: Each apartment shall have not less than 600 nor more than 1,000 square feet of usable area.
 - (b) Shall be limited to the second story.
 - (c) Shall be limited to one-bedroom apartments.
 - (d) No apartment shall be permitted in any one building unless combined with commercial and/or offices in the use of the total building.
- e. *General regulations.*
 - i. Subground level: Only accessory uses such as heating, laundry and storage shall be permitted in areas below ground level.
 - ii. All other requirements of this law shall be applicable to the development plan.
 - iii. Land use: Proposed land uses shall not adversely affect surrounding development.
 - iv. Such regulations contained in the subdivision regulations of the village as the planning commission may find applicable to the development plan.
 - v. The proposed site or lot to be developed shall set aside 30 percent of the site or lot to be devoted to seeding, planting, retention of tree cover, or other landscaping; this area shall be used for no other purpose.

- vi. All processes shall take place within an enclosed building; storage out-of-doors, if permitted, shall be shielded from view from the street and adjacent off-street parking area by fencing, landscaping or other appropriate measures.
- vii. Truck loading and unloading areas shall be provided in sufficient amount to permit the transfer of goods and materials in other than a public street, off-street parking area, or front yard; a landscaping screen of no less than six feet in height shall be required where off-street loading and unloading areas abut residential uses, so that such operation shall be shielded from view from such residences.
- viii. If, in parking areas, dividing isles are proposed, there shall be provided for the planting of one tree of a type acceptable to the village for each ten vehicle spaces; the parking area shall be illuminated by nonglare lighting standards focused downward to avoid back light.
- ix. Any vibration, glare, heat or noises resulting from the use of the premises shall not be evident beyond the property line.
- x. Any use of the premises shall not result in the dissemination of noxious dust, smoke, gas, chemicals or odors into the air.

6. *Approvals.*

- a. The planning commission may, in its discretion, waive any of the requirements in paragraph 3 except that the application shall be in writing and shall provide information concerning the proposed development sufficient for the planning commission to make a determination, and the stormwater requirements of subparagraphs (a)(iii) and (b)(vii) of paragraph 3 shall not be waived.
- b. The planning commission shall recommend approval or disapproval of, or take alternative action relative to, the development plans within 45 days of their submission to the planning commission, unless the period is extended by mutual consent of the commission and the applicant.
- c. The planning commission may in its discretion hold a public hearing on the development plan.
- d. If the development plan is proposed to be completed in phases, separate approvals of each phase of development may be given.
- e. Any recommendation of the planning commission regarding a development plan shall be subject to review by the village board of trustees. The board of trustees, may in its discretion, at the next regular board of trustees meeting following the recommendation by the planning commission of a development plan and its filing with the board of trustees, confirm, reverse or modify said determination in part or whole. In taking any action to reverse or modify the recommendation of the

planning commission, the board of trustees may cause the public hearing to be held concerning the development plan and may make further determinations upon the plan thereafter.

- f. Any approval of the development plan shall be invalid if construction or activity contemplated thereunder is not commenced within six months of the date of approval, or if the entire development plan as approved, is not completed within one year of the date of approval, unless the same is extended by the planning commission or board of trustees as the case may be.
- g. No building permit may be issued until the plan with all supporting documentation has been filed and approved by resolution of the planning commission or the board of trustees as the case may be.
- h. No development plan shall be approved unless in compliance with the provisions of chapter 16, stormwater management, of the village Code.

7. *Miscellaneous provisions.*

- a. The planning commission or the village board may require that a performance bond to guarantee the completion of any one or more of the requirements set forth in the approval be furnished and filed with the village, said performance bond running to the benefit of the Village of Lewiston.
- b. From time to time the planning commission may review the development plan to ascertain that the requirements of these regulations are being complied with. If, in its determination, it finds that the development plan is not being complied with, the planning commission may order a recession of the plan approved. The recession shall become effective 20 days after written notice to the owner and posting upon the premises unless within that time the village board reaffirms its approval of the development plan by a three-fourths vote. The planning commission may in its discretion extend the effective date of the recession of approval and may also withdraw its order prior to the effective date of termination. The village board shall have the right at any time to rescind its approval should it find noncompliance with the development plan. On the effective date of an order rescinding a plan approval, any building permit and/or certificate of occupancy heretofore issued with respect to the plan shall be automatically revoked and terminated.
- c. In the event that the zoning officer finds that the construction is not in accordance with the approved building and site plans and the requirements of this law are not being substantially complied with, the building and/or certificate of occupancy permit shall be cancelled or terminated until the requirements are complied with.
- d. The planning commission shall refer the application to the historic preservation commission acting in its capacity as the architectural advisory board as set forth in section 15-103(h) of the village Code for its review and recommendations.

S. Special regulations applicable to the waterfront district.

1. Any yard in the waterfront district which faces the Niagara River shall have a minimum setback of 40 feet for nonwater dependent uses. Such setback shall apply to both principal and accessory buildings.
2. Any yard in the waterfront district which faces the Niagara River shall have a setback for water dependent uses as determined by the board of trustees based upon the intended water-dependent use and the provisions of the Village of Lewiston's Local Waterfront Revitalization Program. Water-dependent uses are those uses described in subparagraph a. of section 9.I.1.
3. A front yard setback may be reduced to a distance as approved by the board of trustees when the waterside setback of 40 feet applies.

(Code 1978, app. B, § 10; L.L. No. 1-1973; L.L. No. 1-1973; L.L. No. 2-1973, § 1; L.L. No. 6-1979, §§ 2, 10; L.L. No. 8-1979, § 4; L.L. No. 4-1980, § 1; L.L. No. 1-1981, § 1; L.L. No. 2-1983, §§ 1—3; L.L. No. 1-1984, § 1; L.L. No. 5-1984, § 1; L.L. No. 8-1984, § 1; L.L. No. 9-1984, § 1; L.L. No. 5-1989, § 3; L.L. No. 9-1989, §§ 6, 7; L.L. No. 7-1990, § 1; L.L. No. 1-1991, § 2; L.L. No. 14-1985, § 2; L.L. No. 1-2000; L.L. No. 02-2002; L.L. No. 01-2005; L.L. No. 04-2007, §§ 6—13)

Sec. 11. Uses requiring a special use permit.

A. General provisions.

1. The special uses for which conformance to standards are required shall be deemed to be permitted uses in their respective district, subject to the satisfaction of the requirements and standards as determined by the board of trustees in addition to all of the requirements of this ordinance.
2. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

B. Plan approval.

1. A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a special use permit and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed special use meets the requirements of this ordinance, and to enable the village engineer to ascertain the adequacy of the existing facilities, such as sewers, storm drains, roads, etc., for the use requested by the applicant.
2. The board of trustees shall submit such application to the planning commission and the zoning board of appeals for recommendation. The planning commission and the zoning board of appeals shall review the application and within 30 days after the receipt of such application, make a written report to the board of trustees setting forth its findings and recommendations concerning the application. In making its recommendations, the planning commission may suggest any revision to the site plan or

other plans as will, in its opinion, cause the proposed use to be in substantial conformance with the comprehensive plan and its principles of land use and development.

3. The board of trustees shall conduct a public hearing on all applications for a special use permit in accordance with the procedures and requirements established elsewhere in this ordinance and in the Village Law of the State of New York. The applicant or his duly authorized agent shall be present and be authorized to accept or reject such modifications to the application as may be proposed by the board of trustees.
4. Within a reasonable time from the date of such public hearing, the board of trustees shall either approve or disapprove the application so heard. No special use shall be permitted unless the plan submitted therefor shall have been first approved by a majority vote of the full board of trustees.
 - a. If an application is approved by the board of trustees, the building inspector shall be furnished with a copy of the approving resolution of the board and he shall issue the permit applied for in accordance with the conditions imposed by the board of trustees.
 - b. If any application is disapproved by the board of trustees, the reasons for such denial shall be set forth in the board's resolution and a copy of such resolution shall be transmitted to the building inspector. The building inspector shall deny the application accordingly by providing the applicant with a copy of the board's reasons for disapproval.
 - c. The building inspector shall transmit one copy of all approved and denied applications to the planning commission and one copy of all approved applications to the tax assessor.

C. Expiration.

1. A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than three months for any reason.
2. A special use permit shall expire on the December 31 of any calendar year where the special use has not been conducted for a period of eight months during such calendar year.
3. The determination as to whether a special use is being conducted shall be determined based upon the average intensity of operations of similar uses within the village or, if there be none, upon a comparison with similar uses in areas outside the village. Where such use is observed to fall below the average level of operations, such use shall be deemed to have ceased.

D. Standards applicable to all special uses.

1. The location and size of the use, the nature and intensity of the operation involved, the size of the site in relation to it, and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the

orderly development of the district, and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

E. Whereas the necessity for certain specific uses is recognized and at the same time appreciating the fact that they or any one of them may be, or become, inimical to the public health, safety, and general welfare of the community if located without consideration to the existing conditions and surroundings, the following standards and proceedings are hereby established which are intended to provide the board of trustees with a guide for the purpose of reviewing certain uses not otherwise permitted in this appendix.

F. The village board, the planning commission and the zoning board retains the right to inspect the site after start-up to ascertain that the conditions of the special use permit are adhered to. If the conditions are not adhered to, the board of trustees shall notify the permit holder of such noncompliance by registered or certified letter. If the permit holder fails to correct the noncompliance within ten days, the board of trustees may rescind the special use permit.

1. Public utilities. Public utility uses may be permitted in any district with a special use permit. No special use permit shall be issued unless the board of appeals shall determine that:
 - a. The proposed installation in a specific location is necessary and convenient for the efficiency of the public utility system or the satisfactory and convenient provision of service by the utility to the neighborhood or area in which the particular use is to be located.
 - b. The design of any building in connection with such facility conforms to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights of the zone in which it is located.
 - c. Adequate and attractive fences and other safety devices will be provided.
 - d. A buffer strip ten feet in width shall be provided around the perimeter of the property.
 - e. Adequate off-street parking shall be provided.
 - f. All of the area, yard and building coverage requirements of the respective zone will be met.
2. Gasoline stations and motor vehicle repair shops. Gasoline service stations may be permitted in such districts as specified in section 9 of this ordinance provided that the following standards are observed:
 - a. The existing four gasoline stations shall be permitted to continue to operate at their present locations but no further permits for construction of new gasoline stations will be issued except as follows:
 - i. In the event the owner of an existing gasoline station shall divest himself of the ownership of said station or in the event that a change in oil company or

brand takes place, but the station is intended to remain in business under new ownership and purveying products of the same or a different oil company or brand, the special use permit shall remain in force, except that the design for any change, alteration or modification to existing buildings, signs, pumps or other facilities shall be submitted to the planning commission and the zoning board for review and recommendation as to the conformance with the existing special use permit.

- ii. In the event a gasoline station goes out of business in that it does not conduct sales in the usual course of business for a period of three months, and the special use permit is deemed to have expired pursuant to paragraph C, a replacement gasoline station will be permitted, provided the new location is consented to by the board of trustees. The board of trustees shall first submit such application to the planning commission for its recommendations.
- b. In addition to the information required in the special permit application, the site plan submitted shall also show the number and location of fuel tanks to be installed, the dimensions, and capacity of each storage tank, the number and location of pumps to be installed and the type of structure and accessory buildings to be constructed.
- c. The area and yard specifications for motor vehicle service stations are identified in the schedule of this ordinance.
- d. The entire area of the site traveled by motor vehicles shall be hard surfaced.
- e. Any repair of motor vehicles shall be performed in a fully enclosed building and no motor vehicle shall be offered for sale on the site. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- f. No vehicles shall be permitted to be standing or parked on the premises of a motor vehicle service station other than those serviced or used by the employees in the indirect or direct operation of the establishment.
- g. Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products may be displayed on the respective island if provided for in a suitable stand or rack.
- h. No motor vehicle service station or public garage shall be located within 500 feet of any public entrance to a church, school, library, hospital, charitable institution, or place of public assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.
- i. Where a motor vehicle service station abuts a residential zone, it shall be screened by a buffer area no less than ten feet in depth composed of densely-

planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the board of appeals, will be adequate to prevent the transmission of headlight glare across the zone boundary line. Such buffer screen shall have a minimum height of six feet above finished grade at the highest point of the station. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery becomes decayed and fails to provide an adequate screen, the building inspector may direct the property owner to replace said shrubs.

- j. All fuel pumps shall be located at least 20 feet from any street or property line and shall be adequately maintained and properly supervised.
 - k. In addition to the sign requirements for business uses in the business district, each motor vehicle service station shall be permitted to have one stationary, nonmoving, free-standing or pylon sign setting forth the name of the station and for the principal products sold on the premises, including special company or brand name, insignia or emblem, provided that such sign shall not exceed 20 square feet in area on either of two sides and shall be hung within the property line and no less than ten feet nor more than 25 feet above the ground.
 - l. Service stations may also exhibit one temporary sign located no less than ten feet inside the property line and specifically setting forth special seasonal servicing of automobiles, provided that such sign does not exceed seven square feet in area.
- 3. Reserved.
 - 4. Reserved.
 - 5. Reserved.
- 5a. Bed and breakfast residences. Principal buildings may be used as a bed and breakfast residence in such districts as specified in section 9 of this Local Law provided that the additional following standards and requirements are met:
- a. The quarters to be utilized by the guests or the occupants of the premises shall not be permitted in any accessory structure.
 - b. The principal building in which the use is permitted shall be occupied by the owners as their principal residence.
 - c. The use by guests shall be temporary only.
 - d. Serving of meals to paying guests shall be limited to breakfast.
 - e. One off-street parking space shall be provided for each room or rooms designated a living quarter in addition to the parking spaces for the off-street parking spaces for the residence.
 - f. The standards for review as set forth in section 10R4 shall be considered as additional standards that may be considered by the board of trustees in considering the request for granting of the special use permit.

- g. The standards and regulations governing this permitted use shall not be construed to exclude the requirement of further conditions and standards as determined by the board of trustees to be necessary and to be met upon the granting of such permit.
- h. The permit issued hereunder shall be for a one-year period, from the date of its issuance, and may be renewed for one-year periods upon such conditions as determined by the board of trustees.
- i. Application for a permit or renewal of a permit shall be accompanied by the applicable fee and a certification to the board of trustees that the premises are in compliance with all applicable New York State health and building codes for the intended use.
- j. If not otherwise required by the Village Law, smoke detecting units as required by chapter 8 of the village Code shall be required.

(Code 1978, app. B, § 11; L.L. No. 1-1973; L.L. No. 9-1973, § 3; L.L. No. 6-1979, § 4; L.L. No. 2-1981, §§ 1, 2; L.L. No. 7-1983, § 3; L.L. No. 3-1984, § 4; L.L. No. 13-1984, § 7; L.L. No. 6-1991, § 1; L.L. No. 2-1993, §§ 1, 2)

Sec. 12. Parking requirements.

A. Requirements by usage.

- 1. In all districts every industrial, business, institutional, recreational, residential, or any other use shall provide at the time any building or structure is erected, enlarged, or increased in capacity, off-street parking for motor vehicles in accordance with the requirements of this and other applicable sections of this ordinance unless otherwise recommended by the village planning commission. All such space shall be deemed to be required space on the lot on which it is situated and shall not be encroached upon or reduced in any manner.
- 2. Whenever there is a change in use, or an increase in floor area, or other unit of measurement, and such change and such increase create a need for an increase of more than ten percent in the number of required off-street parking spaces, as determined by the requirements in this section, additional off-street parking spaces shall be provided in accordance with this section for that addition or change in use.
- 3. None of the off-street parking facilities as required in the ordinance shall be required for any existing building use, unless there is an increase in floor area exceeding 35 percent of the existing floor area on the effective date of this ordinance.
- 4. Access drives or walkways to any business or industrial district through any residential district shall not be permitted as this would constitute an illegal use of residential zoned land.
- 5. In stadiums, churches, and other places of assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for purposes of the parking standards.

6. The minimum number of off-street parking facilities required shall be as set forth in the following:
- a. Auditorium—One for each five seats.
 - b. Automobile or machine sales and service—One for each 300 square feet of floor area.
 - c. Banks, business and professional offices—One for each 200 square feet of floor area.
 - d. Bowling alleys—Five for each alley plus the necessary space as set forth in this section for affiliated uses such as bars, restaurants, or other commercial uses.
 - e. Churches—One for each five seats in places of worship.
 - f. Assembly halls without fixed seats; exhibition halls, except church assembly rooms in conjunction with auditorium— One for each 100 square feet of floor area used for assembly or dancing.
 - g. Dwellings—Two for each family or dwelling unit.
 - h. Funeral home, mortuaries—One for each four seats in the auditorium.
 - i. Hospitals—One for each three beds.
 - j. Roominghouses, lodginghouses—One for each two bedrooms.
 - k. Libraries, museums, or galleries—One for each 600 square feet of floor area.
 - l. Manufacturing plants, research or testing laboratories, bottling plants—One for each 300 square feet of floor area.
 - m. Medical and dental clinics or offices—One for each 200 square feet of floor area.
 - n. Motels and hotels—One for each living or sleeping unit.
 - o. Restaurants, cafe and nightclubs—One for each 200 square feet of floor area.
 - p. Retail stores, shops, etc.—One for each 150 square feet of floor area.
 - q. Sanitariums, convalescent homes, homes for the aged, children's homes—One for each three beds.
 - r. Theaters, assembly halls, other than schools—One for each five seats.
 - s. Wholesale establishments or warehouses—One for each 3,000 square feet of floor area.
 - t. In the case of a use not specifically mentioned above, the requirements for off-street facilities to which said use is similar shall be set forth by the building inspector.

B. Requirements of off-street parking.

1. The size of off-street parking space shall be nine feet wide by 20 feet long for all side parking or eight feet wide by 23 feet long for all parallel parking.

2. Off-street parking facilities shall be located as hereinafter specified. Where distance is specified, such distance shall be measured from the nearest point of the parking facility to the nearest point of the building or use such facility is required to serve. Off-street parking spaces shall be allowed in required yards except where specifically prohibited by this ordinance.
 - a. Multi-unit dwellings, not more than 200 feet from the building they are required to serve.
 - b. For uses located in the business and restricted business district and for hospitals, sanitariums, convalescent, nursing, and rest homes; homes for the aged, retirement homes, private clubs, lodges, and offices; not more than 100 feet from the building they are required to serve.
 - c. For uses other than those specified above, not more than 300 feet from the building they are intended to serve.
3. Necessary passageways and driveways for entrance and exits to parking spaces shall be provided.
4. All parking areas, passageways, and driveways (except where provided in connection with one-family residences) shall be surfaced with a dustless, durable, all-weather pavement, clearly marked for car spaces, and shall be adequately drained, all subject to the approval of the building inspector.
5. The collective provision of off-street parking areas by two or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately and further provided that the land upon which the collective facilities are located is owned or leased by one or more of the collective users.
6. All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided by commercial users to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.
7. Off-street parking areas located in commercial zones and which provide parking for 20 or more vehicles shall be provided with shade trees of a type approved by the building inspector and located not greater than 60 feet on center.
8. Such parking areas shall not be used for any purpose other than the accessory parking of vehicles. In no case shall the storage, service or dismantling of vehicles be permitted in such areas.

C. Loading spaces.

1. Loading spaces shall be provided and maintained on the same premises with every building, structure, or part thereof, erected, occupied, enlarged or intended to be used, involving the receipt or distribution by vehicles, of material or merchandise.

2. Such space shall be adequate for standing, loading, and unloading services, in order to avoid undue interference with use of public transportation.
3. Loading and unloading space shall not be occupied or considered as any part of the required off-street parking.
4. All business districts shall include a ten-foot by 25-foot loading space with a 14-foot height clearance, for every 20,000 square feet or fraction thereof of building floor or land use for the above-mentioned purposes.

(Code 1978, app. B, § 12; L.L. No. 1-1973; L.L. No. 3-1977, § 1; L.L. No. 6-1979, § 5)

Sec. 13. Sign regulations.

A. Intent and applicability.

1. The purpose of this section is to protect the public health, welfare and safety by regulating existing and proposed outdoor advertising and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, and protect the physical appearance of the community. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents and to reduce the adverse effects of signage on natural beauty and on the general environment of the community as a whole.
2. No sign shall be erected, placed or altered at any place in the Village of Lewiston except as provided by this chapter and only after a permit has been issued in compliance with the provisions of this chapter, unless expressly stated otherwise.
3. No sign for which a permit has been issued hereunder shall be moved, altered, changed, enlarged or reconstructed without a new permit having first been issued therefor in accordance with the provisions of this chapter.

B. Definitions.

1. The term "sign" shall mean any material, structure or device, or part thereof, composed of lettered, or pictorial matter, or upon which lettered or pictorial matter is placed when used or located out-of-doors or outside or on the exterior of any building including window display area, for display of an advertisement, announcement, notice, directional matter or name, and includes frames, billboards, sign boards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs, and shall also include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business when the same is placed in view of the general public.
2. The "face area" of a sign shall be the surface devoted to the conveying of the message exclusive of the structure to support it properly, trim and framing device and any appurtenances required by building codes. In the case of open sign structures not having a solid surface or a sign not otherwise inscribed in a definitive area, the area

of the sign shall be taken as the area required to circumscribe all letters and devices exclusive of supports using the product of the greatest horizontal dimensions and the greatest vertical dimension required to fully enclose the sign.

Free-standing signs shall have parallel faces and only one display face shall be measured in determining total sign area.

3. The term "erect" shall mean to build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any sign, and shall also include the painting of exterior wall signs.
4. The term "front" or "face" of a building shall mean the outer surface of a building, which is visible from any private or public street or highway.
5. The term "illuminated sign" shall mean any sign illuminated by electricity, gas or other artificial light, including reflective or phosphorescent light.
6. The term "lighting device" shall mean any light, string of lights, or group of lights located or arranged so as to cast illumination on a sign.
7. The term "projecting sign" shall mean any sign which is wholly dependent upon a building for support and which projects more than eight inches from such building.
8. The term "free-standing sign" shall mean any sign resting upon or attached to the ground by means of an integral base or one or more poles or standards. Free-standing signs include both pole signs and ground signs.
9. The term "wall sign" shall mean any sign which is wholly dependent upon a building for support and which projects less than eight inches from such building.

Additional definitions:

The term "window sign" shall mean any sign in, on or near a window surface designed to be viewed from the exterior of the premises.

- (a) Temporary window sign - A window sign designed to advertise a special event.
- (b) Permanent window sign - A window sign designed to advertise the enterprise therein.

Directional sign—A sign commonly associated with and limited to information and directions necessary and convenient for persons coming on the property; including signs marking entrances, parking areas, one-way driveways, rest rooms, pickup and delivery areas, and handicap areas.

Flashing sign—A moving, animated or illuminated sign on which any artificial or reflected light is not maintained stationary and constant in intensity or color at all times when in use. A revolving illuminated sign shall be considered a flashing sign.

Private sale sign—A temporary sign advertising the sale of personal property at house sales, garage sales, rummage sales and the like.

Real estate sign—A temporary sign pertaining to the sale or lease of the premises, or a portion of the premises on which the sign is located.

Temporary sign—A sign which is designed to announce a special event or activity, erected on any premises which is intended to be removed upon the conclusion of the special event or activity.

Warning sign—Signs limited to message of warning, danger or caution.

Awning/Canopy sign—A drawing, printing or other configuration, printed on or attached to an awning or canopy, which purports to indicate the nature or name of, or to publicize, any service, any organization or any commercial enterprises.

Roof sign—A sign that is mounted upon the roof or extending above the roofline of a building.

Awning—A roof-like covering of canvas or other flexible materials, which extends from the wall of a building.

Business establishment—A mercantile building or portion thereof, in which a business operation is conducted.

Canopy—A roof-like covering of metal or other rigid material, which extends from the wall of a building.

Enterprise—Any activity having an address located within the Village of Lewiston.

Finished ground level—The natural surface of the ground, or surface of the ground after completion of any change in contour.

Window glass area—The total glass area of all windows located on the same building side and floor as a window sign, excluding any windows within a door frame.

C. Prohibited signs. The following prohibitions shall apply to all districts in the Village of Lewiston:

1. No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity.
2. No illuminated sign or lighting device shall be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
3. No sign shall attempt or appear to attempt to direct the movement of traffic or imitate or resemble any official sign, signal or device.
4. No sign shall be erected in such a manner as to prevent the driver of a vehicle from having a clear and unobstructed view of any official sign or entrance or exit roadway or intersection or approaching or merging traffic.

5. No sign shall be attached to a vehicle parking either in the right-of-way or on private property so as to be visible from the street, which sign is designed to advertise or otherwise direct attention to a business establishment.
6. No signs shall be placed on the roof of any building.
7. Except as permitted and regulated under section 13F of appendix B, no sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving, fluttering or revolving devices, except a business premises, during business hours only, shall be permitted to have such a device for decorative or informational purposes only, and not for advertising or attracting attention, and shall be limited to one in number and shall not exceed 3 × 5 feet. The said devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign.
8. No combination of window signs in a window of a building shall occupy more than 30 percent of the area of said window.
9. No off-premises signs shall be permitted.
10. No sign which is obsolete or not in a good state of repair or not securely affixed to a building or substantial structure shall be permitted.
11. No exterior sign using neon gas as a means of illumination and/or decoration shall be permitted.
12. No sign shall be erected in such manner as to obstruct free egress from a window, door or fire escape or so to become a menace to life, health or property.
13. No sign, banner or material of any sort shall be suspended across any public street, sidewalk or parking lot or any driveway without a special permit issued by resolution of the board of trustees.
14. No sign shall be erected in the Village of Lewiston unless it is specifically permitted under this section. If a sign is not specifically permitted in this section it shall constitute a prohibited sign.

D. Permitted signs.

1. *Permitted in all districts; no sign permit required.* The following signs are permitted in all districts and no sign permit shall be required to erect such sign:
 - a. Signs advertising the sale, lease or rental of the premises upon which the sign is located, which sign shall not exceed six square feet in area, provided such sign is erected or displayed not less than five feet inside the property line. This sign must be removed from the premises within seven days after the property is sold or leased. Not more than one sign shall be permitted for each street contiguous to the premises, but in no case shall there be more than two signs on the premises.
 - b. Official signs, notices or direction devices erected or maintained by federal, state, county or local government or an agency thereof.

- c. In residential districts, signs denoting the name and address of the occupants of the premises, which shall not exceed two square feet in area on any one side.
- 2. *Permitted in all districts; sign permit required.* The following signs are permitted in all districts and a sign permit shall be required prior to erecting such sign:
 - a. Professional nameplates that shall not exceed two square feet in area on either of two sides.
 - b. In all districts, except residential districts, signs denoting the name and address of the occupants of the premises, which shall not exceed two square feet in area on any one side.
 - c. Signs denoting the architect, engineer, or contractor placed on the premises where construction, repair, or renovation is in progress, which signs shall not exceed 32 square feet in area. This sign must be removed from the premises within seven days after such construction, repair, or renovation is completed.
 - d. Parking lot markers, directional signs, entrances and exit signs and other such signs which are erected on the premises which shall not exceed two square feet in area on any one side and shall not contain any advertising of the use on the premises.
 - e. Signs or bulletin boards customarily incidental to places of worship, libraries, museums, social clubs or societies, which signs or bulletin boards shall not exceed a total of 16 square feet in area, measuring one face of each sign and shall be located on the premises of such institutions, provided such signs or bulletin boards are erected or displayed not less than five feet from inside the property line.
 - f. One sign not larger than six square feet as advertising for a real estate apartment or townhouse development on the premises.
 - g. Where a commercial enterprise is located in a business or R-4 district, any signs permitted in those districts shall be reduced in square footage by the square footage of signs erected under this section.
- 3. *Permitted in business districts; sign permit required.* The following signs are permitted in all Business districts and a sign permit shall be required prior to erecting such sign:
 - a. Each separate enterprise shall be permitted to erect any two of the following four types of signs, but not two of the same type:
 - 1. A wall sign.
 - 2. A projecting sign.
 - 3. An awning/canopy sign.
 - 4. Permanent window signs.
 - 1. *Wall signs.* The size of the wall sign, or in the case of more than one enterprise in one building, the total combined size of each wall sign, shall be no greater than one square foot for each one lineal foot of wall

space upon which the surface of the sign is to be erected, provided that no wall sign, or total combined size of each wall sign, shall exceed 40 square feet in area and shall not be placed closer than two feet to the ends of the building.

Where two or more enterprises occupy the same physical space or are located in such proximity, one to the other, that it is necessary to pass through one enterprise to reach the other, the combined total wall signage shall not be greater than that permitted for a single enterprise.

Where two or more enterprises occupy the same building but not the same area, the size of sign permitted for each enterprise shall be proportional based upon their respective portion of the total lineal frontage to the total lineal frontage.

Where a building fronts on two public streets, one additional sign of any category, except freestanding, may be erected, subject to the following provisions:

- (a) The total area of the combination of signs shall be not greater than 1½ times the maximum area otherwise permitted.
 - (b) No individual sign shall be larger in dimension than otherwise permitted in this chapter.
2. *Projecting signs.* A projecting sign shall not exceed two square feet in face area for a single face and shall be subject to the following:
- (a) No part of the sign shall be less than eight feet above finish grade.
 - (b) It shall have no more than two faces, and in no case shall the largest dimension exceed three feet.
 - (c) The edge of the sign farthest from the building wall shall be not more than 36 inches distant from said wall.
 - (d) It shall not project into a public right-of-way without prior written consent.
3. *Awning / canopy signs.* The size of an awning/canopy sign, if a wall sign is not also used, shall be limited in the same manner as a wall sign. If a wall sign is also used, the awning/canopy sign shall not exceed 12 square feet.

An enterprise may place signage upon only one awning/canopy if the building contains more than one awning/canopy. Where an awning/canopy covers more than one enterprise, each separate enterprise shall be entitled to identify itself thereon.

All awnings/canopies, if artificial illumination is present, shall be opaque.

4. *Window signs.* The total area of all permanent window signs shall not exceed 20 percent of the window glass area of the affected window. In calculating the amount of window coverage, the actual area of each

sign shall be used so long as any such sign is located within four feet of the window. In no event however, shall any combination of permanent and temporary window signs cover more than 30 percent of any given window nor exceed 12 square feet.

If the sign is a neon sign it shall not exceed ten percent of the window glass area and shall be informational only, such as "open," "closed," "entrance," "office," etc. In no event shall any window contain therein more than one neon sign.

- b. Each property, regardless of the number of enterprises located thereon, shall be limited to one free-standing sign having not more than two faces. Such sign shall not exceed 40 square feet in area on any one side. The height of a ground sign shall not exceed eight feet. The maximum height of a pole sign shall not exceed 15 feet above ground, nor shall the lowest portion be closer than eight feet to the ground except for the pole supporting the sign. No free-standing sign shall be placed nearer any street right-of-way or lot line than ten feet. As an alternative to a free-standing sign, a sandwich sign may be erected provided it is placed upon private property only and is not higher than three feet nor wider than three feet.

The sign shall be square or rectangular with the longer side of the sign parallel to finished grade level, and its length shall not be more than twice that of the shorter side.

No free-standing sign shall be erected or maintained nearer the building facade than three feet, or nearer the sidewalk surface than eight feet, and must be placed so as not to obstruct pedestrian passage on the sidewalk.

- c. Said signs are to be used solely for the purpose of identifying the business, occupants and address of the premises on which the sign is erected. Such sign may use generic words when identifying the type of establishment. In addition to the proprietary name and address, each sign may not have more than five words. Any awning/canopy sign shall contain only the name of the enterprise and street number of the enterprise.

4. *Permitted in nondevelopment (N) district.*

- a. No signs shall be erected in any N district except monuments, historic markers, or other public information or directory devices erected by a public agency, unless approval of the board of trustees is obtained after recommendations of the planning commission.

5. *Permitted in R-4 districts; sign permit required.* The following signs are permitted in all R-4 districts and a sign permit shall be required prior to erecting such sign:
- a. Each property, regardless of the number of enterprises located thereon, shall be permitted to erect one wall sign. In addition thereto, each property may have either one projecting sign, one awning/canopy sign or one free-standing sign. No window signs shall be permitted.
 1. The size of the wall sign shall be no greater than 12 square feet.

Where a property fronts on two public streets, one additional wall sign may be erected, subject to the following provisions:

 - (a) The total area of any combination of signs shall be not greater than 1½ times the maximum area otherwise permitted.
 - (b) No individual sign shall be larger in dimension than otherwise permitted in this chapter.
 2. A projecting sign shall not exceed two square feet in face area for a single face and shall be subject to the following:
 - (a) No part of a sign shall be less than eight feet above finish grade.
 - (b) It shall have no more than two faces, and in no case shall the largest dimension exceed three feet.
 - (c) The edge of the sign farthest from the building wall shall be not more than 36 inches distant from said wall.
 - (d) It shall not project into a public right-of-way without prior written consent.
 3. An awning/canopy sign shall not exceed six square feet. All awnings/canopies, if artificial illumination is present, shall be opaque.
 4. A free-standing sign, having not more than two faces, shall not exceed 12 square feet in area on any one side. The height of the ground sign shall not exceed eight feet. The maximum height of a pole sign shall not exceed 15 feet above ground, nor shall the lowest portion be closer than eight feet to the ground except for the pole supporting the sign. No free-standing sign shall be placed nearer any street right-of-way or lot line than ten feet.

The sign shall be square or rectangular with the longer side of the sign parallel to finished grade level, and its length shall not be more than twice that of the shorter side.

No free-standing sign shall be erected or maintained nearer the building facade than three feet, or nearer the sidewalk surface than eight feet, and must be placed so as not to obstruct pedestrian passage on the sidewalk.
 - b. Said signs are to be used solely for the purpose of identifying the business(es), occupants and address of the premises on which the sign is erected. Such sign may use generic words when identifying the type of establishment. In addition to

the proprietary name and address, each sign may have not more than five words. An awning/canopy sign shall contain only the name of the enterprise(s) and street number of the enterprise.

E. Temporary signs.

1. The dimensions of any temporary sign, its placement and the message or wording thereon shall be regulated, unless otherwise noted, by the provisions of this section 13.
2. The following signs shall be permitted in all districts on a temporary basis without the necessity for obtaining a permit:
 - (a) One nonilluminated construction sign not exceeding 30 square feet in area per face, located at least 15 feet from any property line, may be erected on the construction site of any dwelling or other development. Any such sign shall be removed within six months of its erection, 14 days of completion of the construction or upon total occupancy, whichever comes first.
 - (b) One nonilluminated home improvement or remodeling contractor sign not exceeding six square feet per face, located at least 15 feet from any property line, may be erected on the project site. Any such sign shall be removed within two months of its erection or within seven days of completion of the project, whichever comes first.
 - (c) One nonilluminated real estate sign not exceeding six square feet in area per face, located at least five feet from all property lines and not more than four feet in height. Such sign shall be removed within five days after the time of the contract of sale or lease.
 - (d) Private sale signs not exceeding four square feet may be displayed for a period not to exceed three days.
 - (e) Warning signs. If intended to remain in place more than five days, placement shall require a permit from the building inspector.
3. The following signs shall be permitted in all business districts on a temporary basis without the necessity for obtaining a permit:

Signs designed to advertise a special event or nonprofit activities may be displayed for a period of not more than 21 days prior to and seven days after the advertised event and shall be limited in size to 30 percent of the window glass area. In no event shall the combined window coverage of permanent and temporary window signs be more than 30 percent of any given window.
4. The following signs may be permitted on a temporary basis after obtaining a temporary sign permit:
 - (a) A charitable or not-for-profit educational, professional or service organization. The sign shall be no greater in dimension than 20 square feet and shall be located only on the premises where the event advertised is located.

- (b) A newly established or located business establishment awaiting the approval of a permanent sign permit.
 - (c) An existing business which has lost the use of an earlier, legal, existing sign by reason of accident or other unanticipated event beyond the control of the owner of the business.
 - (d) A newly constructed multiple residence or commercial development, announcing the availability of leases or sales.
5. Each application for a temporary sign permit shall be made on the form provided and describe the manner in which the proposed sign is to be erected. Such permit may be granted by the building inspector only to the proprietor of the enterprise where the proposed sign is to be erected.
6. A temporary sign permit, if granted, shall be effective for period not to exceed 30 days from the date of issue. The permit may be extended once for an added period not to exceed 30 days upon written application setting forth the special circumstances requiring the extension.
7. Each applicant except those excluded by this chapter shall be required to pay a fee as established by the board of trustees. An additional fee shall be charged if an extension is granted.

F. Permit procedures. Except for such signs as are specified in section 13D.1, no sign shall be erected without first obtaining a permit in accordance with the provisions of this law.

1. *Application.* Application for a sign permit shall be made to the building inspector through the village clerk-treasurer upon prescribed forms and shall contain the following information:
- a. Name, address and telephone number of the applicant.
 - b. Location of the building, structure, or land to which, or upon which, the sign is to be erected.
 - c. Scale drawings including dimensions showing: Lettering and/or pictorial content of sign; construction details; position of lighting or other extraneous devices; a location plan showing the position of the sign on any building or land, and its position in relation to nearby building, structures, or existing signs, and to any private or public street or highway.
 - d. Written consent of the owner of the building, structure or land to which or upon the sign is to be erected, in the event the applicant is not the owner thereof.
 - e. A copy of any required or necessary electrical permit issued for said sign or a copy of the application thereof.
2. *Building inspector's review.* Upon receipt of a properly completed application, the building inspector shall review said application and, if he deems necessary, the

premises upon which the proposed sign is to be erected. Upon making such review the building inspector shall forward the application together with any comments or recommendations he may find appropriate to the planning commission.

3. *Planning commission review.* Upon receipt of the application from the building inspector, the planning commission shall review said application not later than its next regularly scheduled meeting. The applicant shall attend such meeting but the failure to attend shall not prevent the commission from approving or disapproving the application. If the commission determines that additional information is required to make its determination, the applicant shall submit same. The commission, upon receiving the required information shall make a determination approving or disapproving the application and notify the building inspector of its determination.

In determining the acceptability of any proposed sign, the village planning commission shall apply the following criteria:

- (a) The sign, as proposed, will not be detrimental to the subject premises and other property in the immediate area.
 - (b) The sign, as proposed, will not create a hazard.
 - (c) The sign, as proposed, will not interfere with the use of public lands or highways.
 - (d) The sign, as proposed, is in harmony with the purpose of this section and the zoning district in which the sign will be located.
 - (e) The sign, as proposed, shall be in aesthetic and architectural harmony with the subject premise and other signs and buildings in the immediate area.
4. *Issuance of permit.* Upon receiving notice of the determination of the commission approving an application, the building inspector shall cause to be issued a sign permit. If the sign authorized under such permit has not been completed within six months from the date of issuance of the permit, the permit shall become null and void but may be reviewed within ten days from the expiration thereof upon a showing of good cause and upon payment of an additional fee as required.
 5. *Disapproval of permit.* Upon receiving notice of the determination of the commission disapproving an application, the building inspector shall cause to be issued a notice to the applicant of the disapproval and that the applicant has the right to appeal the planning commission's determination and/or apply for a variance to the zoning board of appeals.
 7. *Fee.* A fee established by the board of trustees shall be paid upon issuance of a permit for such sign to the village clerk-treasurer.

G. *Revocation of permit and removal of certain signs.*

1. *General conditions.*
 - a. All signs must be kept clean, neatly painted, and free from all hazards, such as but not limited to faulty wiring, loose fastenings and must be maintained at all times in such tidy and safe condition so as not to be detrimental to the public

health and safety. Any sign found unsafe or insecure, or a menace to the public shall be suitably repaired or removed. Any illuminated sign shall bear the Underwriters' label and shall be designed so as to protect adjoining or nearby property and/or street from direct glare, nuisance or hazardous interference of any kind.

- b. Any sign existing on or after the effective date of these regulations which no longer advertises a business, product or service no longer conducted or available, on the premises upon which the sign is located or the purpose for which the sign was designed is no longer effective, shall be removed by the owner of the premises upon which such sign is located after written notice as provided herein.
2. *Enforcement.* In the event of a violation of any of the foregoing general conditions, the zoning officer shall give written notice to the named owner of the sign and/or the named owner of the land on which the sign is located, either to conform or to remove such sign within 30 days of such notice. Upon failure to comply with such notice the zoning officer shall revoke the sign permit and may remove or repair such sign, assessing all incurred costs and expenses against the owner and add the expense of removal to the next taxes assessed to the property. The zoning officer may cause any sign which is a source of immediate peril to persons or property to be removed summarily and without notice. The remedies herein shall not be considered exclusive but in addition to any other remedy available to the village.

H. *Nonconforming signs.*

1. *[Discontinuance and removal].* Any nonconforming sign existing at the time of the adoption of this section shall be discontinued, and the sign and the structural components shall be removed as follows:
 - (1) If such sign is in violation of this section in effect prior to February 21, 1994, within 90 days.
 - (2) If such sign is in conformity with this section in effect prior to February 21, 1994, on February 21, 1999.
2. *Replacement.* A nonconforming sign which is destroyed or which is damaged to an extent in excess of 50 percent of its original construction cost shall not be replaced except by a sign which conforms to the regulations of this Local Law.
3. *Alteration.* Any sign which existed on the effective date of this local law shall not be enlarged, structurally altered or relocated, except in accordance with the provisions of this part. A sign will lose its legal nonconforming status if the sign is altered in any way in structure, size or verbiage, relocated or replaced.
4. *Maintenance and repair.* Nothing in this section shall relieve the owner or user of a legal nonconforming sign or the owner of the property upon which the sign is located from complying with the provisions of this section regarding safety, maintenance and

repair of signs, provided that any repainting, cleaning or other routine maintenance or repair of the sign or sign structure shall not be deemed to modify the sign in any way. (Code 1978, app. B, § 13; L.L. No. 1-1973; L.L. No. 2-1978, § 1; L.L. No. 2-1994, § 1; L.L. No. 3-1994, §§ 1—4, 3-21-1994)

Sec. 14. Nonconforming uses and buildings.

A. Continuance. Except as otherwise provided in this ordinance, the lawful use of land or buildings existing at the date of the adoption of this ordinance may be continued although such use or building does not conform to the regulations specified by this ordinance for the zone in which such land or building is located; provided, however:

1. That no nonconforming lot shall be further reduced in size.
2. That no nonconforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance.
3. That no nonconforming use may be expanded.

B. Unsafe structures. Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

C. Alterations. A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost 50 percent of the full valuation of the building unless said building is changed to a conforming use.

D. Construction approved prior to adoption of this ordinance. Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within eight months of the date of such permit, and which entire building shall be completed according to such plans as filed within one year from date of this ordinance.

E. Extension. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this ordinance shall not be deemed the extension of such nonconforming use. No nonconforming use shall be extended to displace a conforming use.

F. Temporary buildings for construction purposes. A temporary building for construction purposes incidental to residential development may be erected and maintained in a residential district for a period not exceeding one year.

G. Restoration. No building damaged by fire or other cause to the extent of more than 50 percent of its full valuation shall be repaired or rebuilt except in conformity with the regulations of this ordinance.

H. Discontinuance. Whenever a nonconforming use has been discontinued for a period of six months, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this ordinance.

I. Changes. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same or higher classification, and such use thereafter shall not be changed to a lower classification.

J. District changes. Whenever the boundaries of a district shall become changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

K. Notwithstanding any other provisions of this ordinance, any automobile wrecking yard or other junkyard and any billboard, advertising structure or nonconforming sign in existence in any residential district at the date of enactment of this ordinance shall, at the expiration of three years from such date, become a prohibited and unlawful use and shall be discontinued. Provided, however, that lawfully existing signs accessory to a nonconforming business or industrial building shall not be subject to this subdivision.

L. Those uses existing at the date of the adoption of this ordinance which would otherwise be permitted only with a special use permit may be required to meet certain regulations as set forth in section 11, "Uses requiring special use permits," for the particular use.

M. Any building which is nonconforming due to insufficient yard distances or lot area shall not be considered a nonconforming use. Any alterations or structural changes may be accomplished within the existing frame of said building, but any additions shall conform to the specific setback and yard distance requirements of this ordinance. The use of any such nonconforming building may be changed to any other permitted use so long as the yard or lot area requirements are no greater.

(Code 1978, app. B, § 14; L.L. No. 1-1973)

Sec. 15. Violations; penalties for offenses; remedies.

A. Upon his own investigation or receipt of information or complaint, and where a violation of this law is determined to exist, the zoning officer/building inspector shall serve notice by certified mail, return receipt requested, on the owner, agent or contractor of the building, structure or lot where such violation has been committed or shall exist, and on the lessee or tenant of the part of or of the entire building, structure or lot where such violation has been committed or shall exist, and on the agent, architect, contractor or any other such person who takes part or assists in such violation or who maintains any building, structure or lot in which any such violation shall exist.

B. Such notice, in form approved by the village attorney, shall direct the removal or correction of such violation within ten days after service of the notice.

C. In such cases where the removal of the violation within ten days would be manifestly impossible, in the determination of the building inspector, the building inspector shall apply to the board of trustees for a determination as to a reasonable period of time within which such violation shall be removed.

D. Notice of violation.

1. A person who fails to comply with a notice of violation shall be guilty of a separate and distinct violation from the violations contained in the notice.
2. Upon the failure to comply with a violation notice the building inspector/zoning officer shall be authorized to commence a civil proceeding against the person so notified and seek the civil penalty hereinafter set forth.
3. Notwithstanding any provision to the contrary contained in this section 15, upon the building inspector/zoning officer's determination that a violation of this law exists, he is authorized, in his discretion, and prior to sending a notice of violation set forth in paragraph A, prepare and serve, or cause to be served, upon said person, an appearance ticket charging an offense of this law before an appropriate court of law.

E. Any owner, contractor, lessee, tenant, agent of other person who uses or maintains, or causes to be used or maintained, any building, structure or lot or any part thereof in the village for any purpose other than the uses permitted therefor in this law, or who erects, enlarges, alters or maintains, or causes to be erected, enlarged, altered or maintained, any building, or any part thereof in the village except in conformity with the provisions of this law, or who uses or maintains, or causes to be used or maintained, any building or any part thereof in the village which has been erected, enlarged or altered other than in conformity with the provisions of this law, or who otherwise violates, or causes to be violated, any provision of this law shall thereby be guilty of a violation pursuant to the penal law, and, upon conviction shall be subject to a fine not less than \$10.00 nor more than \$250.00 for each such violation. Each day that a violation of or failure to comply with any provision of this enactment or any regulation promulgated hereunder by the board of trustees occurs shall constitute a separate and distinct violation.

F. If any person fails to abate any said violation of this law within ten days after service of the notice set forth in paragraph A, said person shall be subject to a civil penalty of \$50.00 for each and every day that said violation continues, recoverable by a suit brought by the village, and to be retained by it.

G. The remedies provided for herein shall be cumulative, and shall be in addition to any other remedies provided for by law, whether by legal process or otherwise, which may be instituted or taken to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or lot, or to prevent any illegal acts, conduct, business or use in or about such premises.

H. In addition, and not in substitution for, the remedies provided for herein, the building inspector may refer an incident of noncompliance with the notice of violation to the village board for further action. Upon failure of a responsible person to comply with the notice of violation, the village board may direct correction of the violation at the expense of the village and may appropriate funds therefor and all costs for such corrections shall constitute a lien upon the subject property and shall draw interest equal to interest on delinquent taxes, and may be collected in the same manner as delinquent taxes.

I. The building inspector shall submit a written report to the village board, not later than 12:00 noon of the day on which the first monthly meeting is held covering the calendar month preceding the report, containing not less than: The address of and date of each investigation or inspection initiated by him; address of each alleged violation concerning which information or complaints have been received by him; date of such receipt; nature of each violation found or complained of, if any; date of correction notice issued; dates of each reinspection; date of filing of request for arrest warrant with prosecutor having jurisdiction; disposition of each case closed; and status report of each case referred under paragraphs C and G. Such report shall include cumulative annual totals of inspections and investigations initiated, information or complaints received, violation notices for correction with breakdown of such violation by appropriate category, corrections confirmed upon reinspection warrant requests filed and convictions obtained.

(Code 1978, app. B, § 15; L.L. No. 1-1973; L.L. No. 7-1973, § 1; L.L. No. 5-1992, § 1; L.L. No. 6-1992)

Sec. 16. Amendments.

A. The board of trustees may from time to time on its own motion, or on petition, or on recommendation of the planning commission or the board of appeals, amend, supplement or repeal the regulations and provisions of this ordinance, attached schedules, or official zoning maps after public notice and hearing in accordance with the Laws of the State of New York applicable thereto.

B. Whenever the board of trustees amends, supplements or repeals any regulations or provisions of this ordinance, it shall first submit such proposed change to the planning commission for recommendation.

C. The board of trustees by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as required by law.

D. In case of a protest against such change signed by the owners of 20 percent or more, either of the area of the land included in such proposed change, or of that immediately adjacent extending 300 feet from the street frontage of such opposite land, such amendment or change shall not become effective except by the favorable vote of at least three-quarters of all members of the board of trustees.

E. Whenever any petition for an amendment, supplement or change of the zoning or regulations herein contained or subsequently established shall have been denied by the board of trustees, then no new petition including the text and/or map covering the same property or the same property and additional property shall be filed with or considered by the board of trustees until one year shall have elapsed from the date of the filing of the first petition.

A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the regional state park

commission having jurisdiction over such state park or parkway, the Niagara County Development and Planning Board and Erie and Niagara County Regional Planning Board at least ten days prior to the date of such public hearing.

(Code 1978, app. B, § 16; L.L. No. 1-1973)

Sec. 17. Validity.

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

(Code 1978, app. B, § 17; L.L. No. 1-1973)

Sec. 18. Repealer.

A. All prior zoning ordinances of the Village of Lewiston, New York, regulating or restricting buildings, the use of lands, yards, and bulk particularly "Ordinance 81—zoning ordinance," adopted on October 3, 1966, and all amendments thereto, are hereby repealed and declared to be of no effect.

(Code 1978, app. B, § 18; L.L. No. 1-1973)

Sec. 19. Effective date.

This ordinance shall take effect ten days after publication and posting as required by law, except that it shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the village clerk-treasurer.

(Code 1978, app. B, § 19; L.L. No. 1-1973)

Appendix C Guidelines for Notification and Review

Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs Are in Effect

I. Purposes of Guidelines

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government (City of Little Falls) whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. Definitions

- A. Action means:
 - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
 - 2. Occurring within the boundaries of an approved LWRP; and
 - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.
- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
 2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
 3. That will result in an overriding regional or statewide public benefit.
- C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. Notification Procedure

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
1. Shall fully describe the nature and location of the action;
 2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
 3. Should be provided to the local official identified in the LWRP of the City 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 Waterfront 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 City of Little Falls 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 City with whatever additional information is available which will assist the City to evaluate the proposed action.
- B. If the City 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 City 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 City 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 City 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 City shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. Resolution of Conflicts

- A. The following procedure applies whenever the City has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
 - 1. Upon receipt of notification from the City 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 City 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 City and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the City 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 City 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 City 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 the City.
 - 5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
 - 6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

**PROCEDURAL GUIDELINES FOR COORDINATING
NYS DEPARTMENT OF STATE (DOS) & LWRP
CONSISTENCY REVIEW OF FEDERAL AGENCY
ACTIONS**

DIRECT ACTIONS

1. After acknowledging the receipt, of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.
2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
3. The review period will be .about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.
4. If DOS does not fully .concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any .differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action
5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator 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 Dc>S of the reasons why a proposed action may be. inconsistent or consistent With local coastal policies. .

- 5 After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.
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- 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.
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- 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.
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