

SECTION V **Techniques for Implementation of the Local Program**

This section of the LWRP sets out implementation strategies for the Town of Wheatfield LWRP. This section further considers existing laws and sections of Wheatfield Town Code that relate to the Policies. It also outlines new laws, amendments and other Town actions necessary to support the Policies. A management structure for implementation and consistency review is presented, along with an overview of financial resources that may be necessary to implement the LWRP.

5.1 Existing Laws

- **Chapter 75, Campgrounds and Recreational Vehicle Parks**

Chapter 75 regulates the occupancy and maintenances of recreational vehicle (RV) parks and campgrounds. Land in the Town cannot be used as an RV park or campground unless a permit and certificate of occupancy has been obtained from the Town. In accordance with Chapter 75, any new RV park or campground requires a minimum of 10 acres of land, shall only be located within a C-1 Commercial District, must be an accessory use to a hotel or motel, and must set aside a minimum of 25 percent of the land area as open space and recreation. No RV park or campground may be used for permanent occupancy, and there must be adequate facilities for the provision of public water, refuse disposal and the management of sanitary waste.

- **Chapter 82, Drainage**

The intent of Chapter 82 is to protect and preserve the natural beauty and value of property and to minimize public and private losses by regulating the design and implementation of drainage structures. Chapter 82 requires the issuance of a permit for the installation or alteration of drainage structures within the physical limits of existing drainageways.

- **Chapter 101, Flood Damage Prevention**

The purpose of Chapter 101 of the Town Code is to protect public health, safety, and welfare and minimize public and private losses due to flood conditions in specific areas. In conformance with the requirements of the National Flood Insurance Program, and to qualify for participation in this program, this law outlines the standards for construction in areas of special flood hazard and restrictions on encroachments and other activities in designated floodways. The law also sets forth a process for obtaining a permit for this development in the floodplain.

- **Chapter 114, Mobile Home Parks**

Chapter 114 of the Town Code regulates mobile homes in courts and requires that all mobile homes in courts be properly licensed by the Town. Per Chapter 114, no premises in the Town shall be used for the parking or locating of a mobile home without a license (not including the storage of unoccupied mobile homes). The law sets forth setback standards and other bulk regulations and requires the provision of public water and wastewater disposal services.

- **Chapter 123, Parks and Recreation Areas**

The intent of Chapter 123 regulates activities in public parks and recreation areas, including the distribution of advertising materials, loitering, soliciting for money, and other acts that may annoy others or interfere with, encumber, obstruct or render public areas dangerous for public use. Animals, including horses, cannot run free in public parks and recreation areas. Other uses, including ice skating, sledding, boating, camping, use of snow mobiles, etc. are either regulated or prohibited.

- **Chapter 134, Property Maintenance**

This law recognizes the fact that rubbish, refuse, litter, noxious growths, inoperable or abandoned vehicles, or other debris that is abandoned or stored on private property, can constitute both a public and private nuisance and depreciates property values and community character. Therefore, Chapter 134 establishes basic and uniform property maintenance standards and a legal procedure for the storage of materials and removal of litter, weeds, debris and other refuse, as required.

- **Chapter 138, Public Improvements**

The intent of Chapter 138 is to regulate the construction of public improvements in the Town. Any work to be performed in relation to the installation and/or construction of any public improvements requires a permit. Permits are not issued until an applicant posts a surety bond in a sum equal to 25 percent of the work to be performed. Chapter 138 also outlines the requirements for the acceptance of working easements, where required.

- **Chapter 146, Sewers**

Chapter 146 requires land owners to connect into the public sanitary sewer system, where available, and sets forth requirements for the installation of private sanitary sewers in the Town. It establishes a Sewer Board of Review to handle hardships and grievances and requires the inspection of newly installed systems. Chapter 146 includes provisions for the proper handling of liquid wastes and prohibits the discharge of certain materials into the public sewer system.

- **Chapter 161, Solid Waste**

This law protects public health, safety and welfare and helps to protect property values by controlling the disposal of refuse in the Town. Chapter 161 includes provisions for the

proper storage of refuse and for waste collection and recycling. The accumulation and burning of solid waste in the Town is prohibited.

- **Chapter 163, Storm Sewer System**

Chapter 163 regulates non-stormwater discharges to the Town of Wheatfield municipal storm sewer system (MS4) as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the system in order to comply with the requirements of the SPDES General Permit for MS4s. Chapter 163 prohibits illicit discharges and activities that would contaminate stormwater runoff, and requires the implementation of best management practices to control such discharges and activities.

- **Chapter 164, Stormwater Management**

The intent of Chapter 164 is to establish minimum stormwater management requirements and controls to safeguard the general public health, safety and welfare. This law seeks to meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for stormwater discharges from municipal separate stormwater sewer systems (MS4s, Permit No. GP-0-01-002). This law requires that land development activities conform to the substantive requirements of the SPDES General Permit for Construction Activities so as to minimize increases in stormwater runoff, reduce flooding and siltation, control stream temperature and stream bank erosion and maintain the integrity of stream channels. It is also aimed at controlling the volume of stormwater runoff that flows from any specific site during and following development to the maximum extent possible.

- **Chapter 169, Subdivision of Land**

Chapter 169 authorizes the Wheatfield Planning Board to review and recommend approval, by the Town Board, of plats for the subdivision of land in conformance with the Town of Wheatfield Zoning Code and Comprehensive Plan. The subdivision regulations set forth application/review procedures, plan specifications, design standards and required land improvements (road, drainage and utilities) for the minor and major subdivision of land in the Town. In addition to outlining the process for subdivision, Chapter 169 sets forth design standards for public improvements and requires the preservation of trees and other natural features that add value to residential development and to the community, such as large trees or groves, watercourses, scenic vistas, historic sites, beaches and similar irreplaceable features. It should also be noted that for any property where an interest has been issued by the New York State Office of General Services for the use of underwater lands, Section 334(5) of the Real Property Law requires that riparian (or littoral) lines be included on the survey that is prepared for the subdivision of waterfront properties situated on navigable waters.

- **Chapter 194, Water**

The purpose of Chapter 194 is to promote the general health, safety and welfare of the inhabitants of the Town through the regulation, supervision and control of the water supply furnished by the Wheatfield Water District. Receipt of water from or connection to the district requires approval from the Town Water Division. Chapter 196 regulates such things as fire hydrants, water meters, private service lines, tapping charges, and the installation and maintenance of water facilities.

- **Chapter 198, Wind Energy Conversion Systems**

The Town recognizes that wind energy is an abundant, renewable and non-polluting energy resource and that its conversion to electricity can reduce dependence on non-renewable energy resources. Chapter 198 promotes the effective and efficient use of wind energy conversion systems and regulates the design, placement, construction, installation and/or modification of such systems for the purpose of protecting the health and safety of neighboring property owners and the general public, as well as the natural resources and aesthetics of the community. Upon the issuance of a Special Use Permit from the Town Board, wind energy conversion systems are restricted for commercial and residential use in certain zoning districts. The only zoning district in the LWRA where such a system would be permitted is the Industrial 1 (M-1) district in Sub-Area 1.

- **Chapter 200 – Zoning**

Chapter 200 regulates and restricts (by district) the location, construction, and use of buildings and structures, and the use of land in the Town of Wheatfield. The Zoning Code establishes districts, as well as uses and dimensional requirements for each district. Chapter 200 regulates signs, home occupations and telecommunications towers, and sets forth the procedures for obtaining special use permits, site plan review and zoning amendments. Chapter 200 outlines the duties and procedures of the Code Enforcement Officer and Zoning Board of Appeals. Clustered development, Planned Unit Development and other Supplemental Regulations are also provided in the Zoning Code. Industrial performance and stormwater control standards are also included in the law. The zoning districts found in the LWRA, and their corresponding allowable uses, are listed in more detail in Section II.

5.2 New or Revised Local Laws Necessary to Implement the LWRP

5.2.1 LWRP Consistency Review Law

Actions to be directly undertaken, funded or permitted within the local waterfront revitalization area must be consistent with the policies set forth in the Town of Wheatfield LWRP. Through the adoption of the consistency review law, the Town has established the legal framework necessary to ensure that direct and indirect actions proposed within the waterfront area are in keeping with

the intent of the LWRP. The LWRP Consistency Review Law and Waterfront Assessment Form are included in the Appendix A.

5.2.2 Waterfront Residential (R-W) District

The residential areas on the north and south sides of River Road in Sub-Area 1 were developed many years ago, when the area accommodated a summer tourist trade. Over time, the small summer cottages have come into year-round use. These homes are situated on small lots that do not have sufficient area or width to meet the present day zoning requirements. This has led to continued requests for variances to enable structural improvements, making zoning enforcement a more difficult issue for the Town. To address this situation, the Town adopted a new waterfront residential zoning classification for this area, with reduced lot area and setback standards that bring the majority of the properties into compliance (see Appendix B). This eliminated the need for zoning relief, allowing property owners to improve their properties in a more streamlined fashion. Under this new zoning the minimum lot size for properties that do not meet the current 100-foot requirement is reduced to 50 feet. The subdivision of larger parcels, however, remains limited to 100-feet to prevent abuse of the regulations or the creation of additional new lots with sub-standard size or width.

5.2.3 Zoning

The Town of Wheatfield regularly reviews and updates Chapter 200 as part of the implementation efforts for the Town of Wheatfield Comprehensive Plan, and to keep the Code current and in line with local need and trends. To support the policies set forth in Section III and to implement the proposed actions presented in Section IV, the town has enacted the following zoning changes, including amendments to the zoning map ([Maps 9A](#) and [Map 9B](#)).

Sub-Area 1

The entire western end of Sub-Area 1, in the vicinity of Williams Road, was zoned C-1 Commercial. This zoning did not support the land use vision for this area. The area north of River Road will remain zoned for commercial use. However, most of the parcels located on the south side of the road have been rezoned to R-W Residential district, as this zoning designation makes the existing dwellings in this area conforming uses and it allows for passive recreational use of the area, which is consistent with the long range planning for this portion of the waterfront.

The area at the western end of Sub-Area 1, south of River Road, also encompasses two properties that comprise almost 25 acres combined (11.1 acres and 13.7 acres, respectively). The vision for these lands is for potential development and redevelopment with a mix of uses. This area will remain zoned for commercial use, but the goal is for application of the Planned Unit Development floating zone to enable future mixed use development. The existing commercial classification allows for the development of commercial and residential uses, including multi-family residential, but it is restrictive in terms setbacks and for allowing a combination of these

uses on one site. The Planned Unit Development zoning would more readily provide the flexibility to achieve broader range of uses (residential, commercial and open space) on this land.

There are four parcels located on the north side of River Road, in the vicinity of York Road, that were zoned M-1 Light Industrial. These parcels are developed with residential dwellings and therefore the zoning designation of these parcels was changed to the R-W Residential district to allow these existing uses to be conforming (along with the remainder of the area as shown on [Map 9A](#)).

The area on the north side of River Road, at the eastern end of Sub-Area 1, is presently zoned for R-3 Residential use, which would allow for multi-family development. Due to the traffic safety concerns that exist in this area, where River Road narrows from four lanes in North Tonawanda to two travel lanes in the Town of Wheatfield (Sub-Area 1), there is concern that such higher density residential development could increase traffic volumes and create further conflicts in this area. The proximity to the active rail corridor also makes higher density residential use of this site less appealing. This area was down-zoned to the R-W Residential classification, which is consistent with what is proposed for the other residential areas in Sub-Area 1.

Sub-Area 2

The waterfront area in Sub-Area 2 is developed with single-family residential dwellings. This is a stable residential area and the character of this neighborhood is not expected to change. Lands along both sides of Niagara Fall Blvd. are zoned C-1 Commercial, however, commercial land uses only exist on the immediate east side of this roadway. Land uses to the west are, and historically have been, single-family residences. Therefore, the zoning to the west has been changed to R-2 Residential to be consistent with the rest of the area and to bring the existing dwellings into conformance with the Code.

In addition, the Niagara Falls Blvd. Zoning Overlay (NFBO) district extends over the residential uses to the west and the commercial and residential uses to the east. The NFBO was designed to better manage and accommodate increasing commercial growth along the Niagara Falls Blvd. corridor and applies guidelines to regulate traffic, signage and construction design. As much of the area that falls within the NFBO in Sub-Area 2 is residentially developed, and commercial development is not recommended or anticipated in the future, the extent of the NFBO coverage has been reduced in this area to only apply to the existing commercial development on the east side of Niagara Falls Blvd., which is currently zoned C-1.

5.3 Other Public and Private Actions Necessary to Implement the LWRP

- Niagara County owns a small property adjacent to Willow Lane and York Road, which is utilized to route the outfall for the wastewater treatment plant to the Niagara River. This one-acre property has the potential to be used as an informal pocket park to provide public access to the river. This area could be improved on a small scale for limited public access, including

the addition of some benches and/or a gazebo for viewing and a few picnic tables. Parking would be required and would be limited in nature to primarily service local residents in the area.

- Work with the NYSDOT to study existing traffic conditions on River Road and investigate potential traffic calming measures. Local residents feel that River Road needs to be “tamed” through the study area because traffic conditions create hazards for motorists entering and exiting the residential neighborhoods and businesses along this stretch, as well as for pedestrians and others who use this roadway. This could include measures such as narrowing of the existing travel lanes within the existing paved area of right-of-way to allow for the creation of a center turn lane and six foot shoulders for pedestrian and bicycle traffic (which could be as simple as restriping the roadway). This type of “context sensitive” improvement would create a safer environment for local motorists, who could utilize the center lane as a stacking or waiting area for turns, and it would force vehicles traveling on River Road to slow down when the sense of a wider road is removed (reducing the comfort zone for travel). The speed limit in this area could also be reduced to 40 miles per hour. Whether 40 or 45, the speed limit needs to be more diligently enforced to improve traffic and pedestrian safety.
- Work with the Greater Buffalo Niagara Regional Transportation Council (GBNRTC) and the NYSDOT to develop and advance plans, and secure funding, for the construction of a multi-use pathway on the Town and County-owned lands and abandoned railway right-of-way located north of River Road. This pathway would provide safe access through the Town and provide a connection with trails systems in Niagara Falls and North Tonawanda. Such a trail would enable the Town to become a more visible part of the Niagara River Greenway.

5.4 Management Structure for Implementing the LWRP

All State and Federal actions proposed within the Town of Wheatfield LWRA will be reviewed in accordance with the guidelines established by the New York State Department of State. The Procedural Guidelines for Coordinating NYSDOS and LWRP Consistency Review of Federal Agency Actions, Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect, LWRP Consistency Review Law and Waterfront Assessment Form are included in the Appendices C and D.

Various local officials and boards are responsible for management and coordination of the LWRP and are directly involved in ensuring that consistency reviews are completed for projects within the LWRA. These include:

- Town Board – the Town Board, or their designee, will prioritize and advance LWRP projects and direct the appropriate Town agency or a grants writing consultant to prepare applications for funding from State, federal and other sources to finance LWRP projects.

- Planning Board – the Planning Board will be responsible for the determination of consistency for site plan review and land subdivision within the LWRA.
- Zoning Board of Appeals – the Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to Town LWRP Consistency Review Law. The Zoning Board of Appeals will hear and render decisions on variance applications and appeals involving properties or activities within the LWRA.
- Code Enforcement Officer – the Code Enforcement Officer will be responsible for coordinating review of actions in the LWRA for consistency with the LWRP. The Code Enforcement Office will advise, assist and make consistency recommendations to other Town agencies in the implementation of the LWRP, its policies and projects, and will coordinate with the New York State Department of State and other State agencies and/or federal agencies regarding their respective consistency review of actions in the LWRA.
- Town Clerk – the Town Clerk will maintain, and make available to the public, a copy of the LWRP for use during normal business hours. The Clerk will, as necessary, distribute copies of the Waterfront Assessment Form (WAF) to applicants proposing actions in the LWRA.

5.5 Financial Resources Necessary to Implement the LWRP

It is recognized that the implementation of the proposed projects identified under Section IV will require funding from a combination of public and private sources. These costs may include capital outlays, maintenance costs and, in some cases, property acquisition. The costs for these projects are undetermined at this time. Where applicable, the Town will work diligently to secure funding through grants available through State and Federal program funds to support the implementation of the identified LWRP projects.

Private commercial and residential revitalization efforts are expected to occur in the future in areas along the north side of River Road and in the small residential enclaves south of River Road. The Town endorses these efforts and will ensure that they are undertaken in a manner that is consistent with the policies of the LWRP.

5.6 Local Regulatory Changes

Zoning and local law changes will be the responsibility of the Town of Wheatfield, the majority of which would be included in the budget of the Town Attorney's Office.