

City of Lackawanna Local Waterfront Revitalization Program

Preliminary Draft

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GLOSSARY

AADT -	Average Annual Daily Traffic
ACOE -	Army Corps of Engineers
ECL -	Environmental Conservation Law
FEMA -	Federal Emergency Management Agency
FIRM -	Flood Insurance Rate Map
GBNRTC -	Greater Buffalo Niagara Regional Transportation Council
LWRA -	Local Waterfront Revitalization Area
LWRP -	Local Waterfront Revitalization Program
MGD -	Million gallons per day
NFIP -	National Flood Insurance Program
NYCRR -	New York Code of Rules and Regulations
NYS -	New York State
NYSDEC -	New York State Department of Environmental Conservation
OGS -	Office of General Services
SEQR -	State Environmental Quality Review
SPDES -	State Pollution Discharge Elimination System

SECTION I Waterfront Revitalization Area Boundary

1.1 Existing City of Lackawanna Waterfront Revitalization Area Boundary

The City of Lackawanna Waterfront Revitalization Area (WRA), was originally established under the New York State Coastal Management Program and was amended in 1989 to include all lands and waters as follows:

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

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

1.2 Proposed City of Lackawanna Waterfront Revitalization Area Boundary

The boundary for the City of Lackawanna WRA shall encompass all of the land area and water area lying within the following boundary, as shown on Map 1 and described below.

1.2.1 Upland Boundary of the WRA

Beginning at the mean low water mark on the shoreline of Lake Erie, at the municipal boundary between the City of Buffalo and the City of Lackawanna, and proceeding in an easterly direction along the municipal boundary to the eastern right-of-way of Hamburg Turnpike (NYS Route 5); then proceeding in a southeasterly direction along the eastern right-of-way of Hamburg Turnpike/NYS Route 5 to the intersection with the Smokes Creek corridor; then proceeding to the east along the north side of the creek corridor, at a measured setback distance of 25 feet from the top of the bank, to the point where Smokes Creek bifurcates into a north and south branch.

Then following the north side of the north branch of Smokes Creek in a northeasterly direction, at a measured setback distance of 25 feet from the top of the bank, to the municipal boundary between the City of Lackawanna and the Town of West Seneca; then proceeding south along this municipal boundary line to a point located 25 feet from the top of the south bank of the north branch of Smokes Creek; then following the south side of the north branch of Smokes Creek in a southwesterly direction, at a measured distance of 25 feet from the top of the bank, to the point of intersection with the eastern property line of a City-owned parcel that runs parallel with the creek (SBL 142.14-1-5.112); then following the boundary for this property to the south for approximately 75 feet and then to the west for approximately 125 feet to the point of intersection with the eastern property line of a City-owned parcel that encompasses Galanti Park and the Lackawanna Senior Center; then following the boundary of Galanti Park south, then west, and then north, to the point of intersection with the City-owned property that parallels the creek; then following the boundary of this property to the west and then north to a point located 25 feet from the top of the bank of the south side of the north branch of Smokes Creek; then following this setback line to the westerly and then southwesterly direction to the place where the creek splits into two branches.

Then proceeding in an easterly direction along the north side of the south branch of Smokes Creek, at a measured distance of 25 feet from the top of the bank to the point of intersection with the western boundary of lands owned by the Lackawanna School District (SBL 142.18-1-17.2); then proceeding along the western property boundary for this parcel to the northwest, then generally west, and then to the north, to the point of intersection with the southern property line for a parcel owned by Baker Victory (which is located just north of the terminus of Verel Avenue); then following this property boundary to the east to the north side of a tributary to the south branch of Smokes Creek, which extends behind the Baker Victory property and behind Martin Road Elementary School; then following along the north side of this tributary stream, at a measured distance of 25 feet from the top of the bank, to the point of intersection with the northern property boundary of a City-owned parcel (SBL 142.19-7-21), which is located immediately south of the terminus of Michelle Drive; then following the property boundary for this parcel to the east, then south, and then east again to the point of intersection with the western property boundary for a parcel owned by the Lackawanna School District (SBL 142.19-4-35); then following the property boundary for this parcel to the north and then to the southeast to the point of intersection with the southeastern property boundary for a parcel owned by the City of Lackawanna (SBL 142.19-4-34); then continuing in a southeastern direction along this property boundary to the point where it intersects with lands owned by the Consolidated Railway Corporation; then proceeding to the east and then southeast, along the boundary of the Consolidated Railway Corporation property, to the point of intersection with eastern boundary of another parcel owned by the City of Lackawanna (SBL 151.07-1-2.11); then proceeding to the southeast to a point located 25 feet from the east side of Smokes Creek; then generally following this 25-foot setback line to the south-southeast, to the municipal boundary between the City of Lackawanna and the Town of Hamburg.

Then proceeding west along this municipal boundary to a point located 25 feet from the top of the western bank of the south branch of Smokes Creek; then generally proceeding in a north-northwesterly direction along the west side of the south branch of Smokes Creek to the intersection with the southern property boundary of the City-owned property (SBL 151.07-1-2.11); then proceeding to the southwest and then north, along the boundary for the City-owned property, back to the lands owned by the Consolidated Railway Corporation; then proceeding due north, crossing the Consolidated Railway Corporation land, to the point of intersection with western boundary of the City-owned property (SBL 142.19-4-34) and continuing due north along this property boundary to a point located 25 feet from the top of the bank of the south side of the south branch of Smokes Creek; then proceeding in a westerly direction along the south side of the south branch of the creek, at a measured distance of 25 feet from the top of the bank, to the point of bifurcation, continuing west to the western side of the railroad corridor and the eastern property boundary of lands owned by the City of Lackawanna (SBL 141.20-1-5.1 and SBL 141.84-1-30); then proceeding south, then west and then north, following the boundaries of these City-owned lands back to a point located 25 feet from the top of the bank along the south side of Smokes Creek; then continuing west along the south side of the main stem of Smokes Creek, at a measured distance of 25 feet from the top of the bank, to the intersection with the eastern right-of-way of NYS Route 5; then proceeding south along the eastern right-of-way of NYS Route 5 to the municipal boundary between the City of Lackawanna and the Town of Hamburg; then proceeding in a westerly direction along this municipal boundary to the mean low water mark on

the shoreline of Lake Erie; then proceeding north along the mean low waterline of the Lake Erie shoreline to the point of beginning.

1.2.2 Waterside Boundary of the WRA

The waterside boundary for the City of Lackawanna WRA begins at the intersection of the municipal boundary between the City of Lackawanna and the Town of Hamburg, at the mean low water line of Lake Erie, and extends out over the surface waters of Lake Erie, following the municipal boundary in a westerly direction for a distance of 1,500 feet. The boundary then turns to the northwest, proceeding in this direction at a measured distance of 1,500 feet from the mean low water line to the intersection with the municipal boundary between the City of Lackawanna and the City of Buffalo. The WRA waterside boundary then heads east, following the municipal boundary line to the intersection with the mean low water line of Lake Erie; then following the mean low waterline along the Lake Erie shoreline in a southeastern direction to the point of intersection with the northern shoreline of Smokes Creek; then proceeding to the east along the northern shoreline of Smokes Creek, following the length of the creek corridor that is located within the City of Lackawanna boundaries, including the northern and southern shorelines of the north and south branches of Smokes Creek, and back to the point of intersection with the mean low water mark of Lake Erie; then turning to the southeast to follow along the mean low waterline of the Lake to the point of beginning.

The waterside boundary of the WRA also included the surface waters located at the northern end of the former Bethlehem Steel site. This includes the waters of the Lackawanna Canal and the southernmost portion of the Buffalo Inner Harbor, in the vicinity of the south entrance channel to the Buffalo Outer Harbor and Lake Erie.

1.3 Sub-Area Boundaries

The Lackawanna waterfront includes two distinct areas: the Lake Erie shorefront, which encompasses the former Bethlehem Steel Plant property; and the Smokes Creek corridor. To more effectively manage and plan for the diverse conditions in these portions of the waterfront revitalization area, it has been divided into Sub-Areas. The Sub Areas are identified on Map 1 and are described as follows (specific land uses found in these sub-areas are described in Section II of the LWRP).

1.3.1 Sub-Area 1: Lake Erie Shoreline

Sub-Area 1 includes the entire length of the Lake Erie shoreline that falls within the City of Lackawanna WRA. The inland boundary for this Sub-Area is the eastern right-of-way of Fuhrman Boulevard/Hamburg Turnpike (NYS Route 5). Sub-Area 1 encompasses all the lands that were formerly owned and utilized by the Bethlehem Steel Corporation. The portion of the Smokes Creek corridor that extends east from the Lake Erie shoreline to NYS Route 5 is included within this area.

1.3.2 Sub-Area 2: Smokes Creek Corridor

Sub-Area 2 includes the entire length of the Smokes Creek corridor, extending east from NYS Route 5 to the City of Lackawanna eastern municipal boundary with the Town of West Seneca (along the north branch of the creek) and southern municipal boundary with the Town of Hamburg (along the south branch of the creek). This area encompasses both sides of the creek, including the north and south branches, to a measured distance of 25 feet from the top of the bank. Sub-Area 2 incorporates the City-owned Galante Park, which is located along the north

branch of Smokes Creek, a large area of wetlands located along the south branch of the creek, and the City-owned lands located on the south side of the main stem of Smokes Creek, immediately east of Madison Avenue at its intersection with Birch Street.

1.4 Description and Rationale for Modifications to the WRA

The Waterfront Revitalization Area upland boundary has been revised to encompass the entire Smokes Creek corridor to more effectively plan for and protect City-owned lands located along of the Smokes Creek corridor, including two City-owned parks and a large area of freshwater wetlands, as follows.

1.4.1 Modifications to the Upland Boundary of the WRA

The existing WRA boundary follows the north and south branches of Smokes Creek to the east, to Electric Avenue. The WRA boundary has been revised to follow each branch of Smokes Creek to the eastern City boundary, encompassing the full extent of both branches of the waterway through the City.

Along the main stem of Smokes Creek, the boundary has been extended to the south to include two parcels of City-owned property that are currently utilized as parkland. This land, known as Foundry Park, is the site of the former Lackawanna Foundry that was remediated and is now utilized as a neighborhood recreational space. This site has frontage along the southside of the creek that could provide public access.

Along the northern branch of Smokes Creek, the boundary has been extended to the south to include two parcels of City-owned property that currently are developed with a public walkway and Galanti Park (which is located behind the Lackawanna Senior Center). The inclusion of these two properties will enable the City to better plan for the future use of the trail and parklands to improve the passive recreational connection with the Smokes Creek.

Along the southern branch of Smokes Creek, the boundary has been extended and expanded to include a large area of wetlands and tributary streams that are a part of the creek's hydrologic system. This area provides significant habitat for a variety of wildlife species and should be more effectively protected from encroachment by development. It also is beneficial for flood control. The inclusion of this area provides added resource protection, strengthening the provisions of the City of Lackawanna Comprehensive Plan for this area.

SECTION II Inventory and Analysis

The City of Lackawanna is located along the shoreline of Lake Erie (see Map 2), in the central portion of Erie County, New York, with the City of Buffalo to the north, the Town of West Seneca to the east, and the Village of Blasdell and Town of Hamburg to the south. The City of Lackawanna Waterfront Revitalization Area (WRA) is broken into two sub-areas: Sub-Area 1 includes the Lake Erie shoreline, which extends for over two miles along Lake Erie and into Buffalo Harbor; Sub-Area 2 encompasses the Smokes Creek corridor, east of NYS Route 5, including the north and south branches and a large area of wetlands in the eastern portion of the City. The WRA in Sub-Area 1 consists of property that is the former location of the Bethlehem Steel Corporation plant. This land has a long history of heavy industrial use, but significant portions have been or are being remediated for redevelopment. Sub-Area 1 of the WRA also includes the Gateway Trade Center (also known as the Port of Buffalo) and surrounding area, which is an active location for waterborne commerce and shipping. The Lake Erie lakefront supports wind turbines that generate clean energy. The City of Lackawanna waterfront provides opportunities for future reuse and development, and for limited public access, that can provide significant benefits to the City and the region.

2.1 Summary of Issues and Opportunities in the Lackawanna Waterfront Revitalization Area –

2.1.1 Assets and Opportunities

- The Port of Buffalo, which has water access to Buffalo Harbor and Lake Erie, provides opportunities for expansion of water-dependent uses.
- Continued remediation of the former Bethlehem Steel Plant site provides opportunities for redevelopment with new manufacturing and commercial uses in Sub-Area 1.
- The potential exists for development of additional clean energy uses (wind and solar) in appropriate locations in Sub-Area 1.
- Revised zoning could incentivize redevelopment in Sub-Area 1.
- There is potential for habitat restoration in a portion of Sub-Area 1, which could offer limited public access opportunities along Lake Erie.
- Historic interpretation of the former Bethlehem Steel Plant site.
- Protection of abundant wetlands and wildlife habitat in Sub-Area 2
- Public access opportunities in Sub-Area 2 for shoreline fishing and wildlife interpretation.

2.1.2 Issues and Concerns

- Environmental and rail line restrictions on the lands in Sub-Area 1 that restrict public access to the Lake Erie shorefront.
- Lack of public infrastructure to support new development in Sub-Area 1.
- Limited potential for visual access to Lake Erie in Sub-Area 1.
- The filled shoreline is not typical for Lake Erie, presenting physical hazards and prohibiting public access to the lake shore.
- There is a need for habitat restoration at the mouth of Smokes Creek.
- Water quality in Smokes Creek.
- Lack of public access along Smokes Creek for local shoreline fishing.
- Shoreline erosion along the portions of the south branch of Smokes Creek.

2.2 Region Setting, Historic Context and Community Characteristics

The City of Lackawanna is part of the Buffalo-Niagara Falls metropolitan area (Map 2). It encompasses approximately 6.6 square miles in total area. Formerly a part of the Town of West Seneca, the City was incorporated in 1909. It has a population of approximately 18,000 persons, and a population density of about 2,730 persons per square mile.

The City derives its name from the former Lackawanna Steel Company, the predecessor to the Bethlehem Steel Corporation, which held a prominent place in the City's history as a center of steel manufacturing through most of the 20th century. Lackawanna has a long and varied history, with a strong tradition of manufacturing. Today, a multitude of influences have combined to make the City a diverse community of culture and ethnicity. As the City moves forward, it is working to redefine its past, from a City that was virtually synonymous with the steel industry to a healthy, multi-cultural community with revitalized industry and quality of life.

The City of Lackawanna lies in the Erie-Ontario lake plain province. The City is generally flat or gently sloping (generally 0-8%), with little significant relief. Smokes Creek (named after the Seneca Indian Chief Sayenqueragha, who was nicknamed "Old Smoke") runs through the City before it discharges into Lake Erie. The only areas with slopes greater than 8% are found along the banks of Smokes Creek.

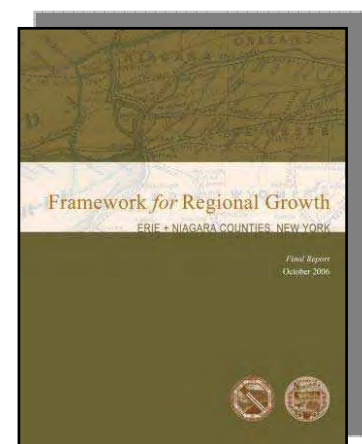
The City is currently governed by a City Council, which includes the Mayor, the Council President and four Council District members. A councilman is elected for each of the four wards in the City. The Mayor and Council President are elected at large. The Council meets the first and third Monday of each month. The City has a Planning and Development Board, a Zoning Board of Appeals and an Assessment Review Board that are advisory to the Council. Fire and police services are provided by City-run departments.

2.3 Overview of Coastal Resources Planning Efforts

2.3.1 Regional Planning

There are a number of regional plans that are available to help guide land use and other activities in the City of Lackawanna and Erie County, as a whole.

- *Framework for Regional Growth for Erie and Niagara Counties*
The Framework for Regional Growth for Erie and Niagara Counties (FRG), New York is the regional planning document. The Framework was finalized in October of 2006 and establishes basic policies and principles to guide future growth and development in the region. Specifically, the Framework provides:
 - A vision for how the region should grow over the next 15 years.
 - Direction regarding growth and redevelopment matters for County decision makers and other regional organizations that are linked to the two counties by way of funding, membership



or other relationships.

- Information on the ways local governments, private sector and non-profit actions and initiatives can reinforce the overall regional vision.
- Mechanisms to ensure that the goals, concepts and recommendations of the FRG are implemented in an efficient and accountable manner.

The Framework’s recommendations build on the recognition that the region’s communities cannot effectively plan in isolation or independently address important issues, as almost every challenge faced by a locality has a regional dimension. The Framework is not a conventional zoning or land use plan or capital improvement program. It is designed to help County and regional leaders make better policy and investment decisions, more effectively leverage limited resources and provide more consistent direction and useful support to municipalities.

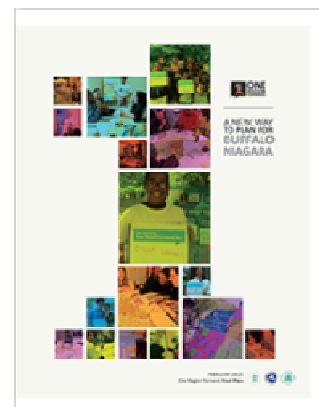
The Framework for Regional Growth establishes planning policy areas that define, in broad terms, where County policies encourage development and public investment (“Developed Areas”), where development and public investment may be appropriate subject to careful evaluation (“Developing Areas”) and where conservation strategies generally take precedence over plans for development and public investment (“Rural Areas”). The City of Lackawanna WRA falls into the Developed Areas category. The policies and strategies for the Developed Areas include:

- spark investment, attracting new households and businesses,
- support the conservation and stabilization of existing neighborhoods,
- support new compact, pedestrian oriented, mixed-use development on vacant and underutilized sites, and
- improve livability and economic vitality.

Many of these policies and strategies can be accomplished through the redevelopment of the former Bethlehem Steel property in Sub-Area 1, as part of the LWRP efforts and through the implementation of the City of Lackawanna Comprehensive Plan.

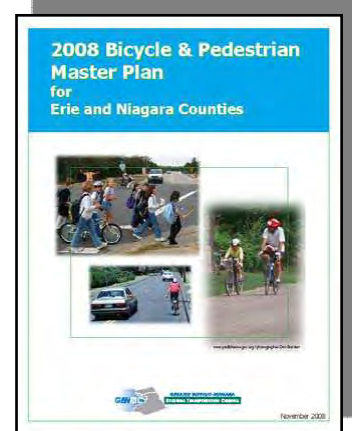
■ *One Region Forward – Regional Plan for Sustainable Development*

One Region Forward’s Plan for Sustainable Development, entitled “A New Way to Plan for Buffalo Niagara”, builds upon the Framework for Regional Growth. It weaves together nearly three years of research, community engagement, partnership building and planning by over 5,000 citizens and more than 700 local organizations. The plan explores potential strategies to align values, providing a basic framework for moving the region towards a more sustainable, resilient, prosperous and opportunity-rich future. It offers insights on the future impacts of various approaches to regional development and provides guidance on how the region can work together to create a sustainable, livable Buffalo-Niagara for the 21st Century.



■ *2008 Bicycle and Pedestrian Master Plan for Erie and Niagara Counties*

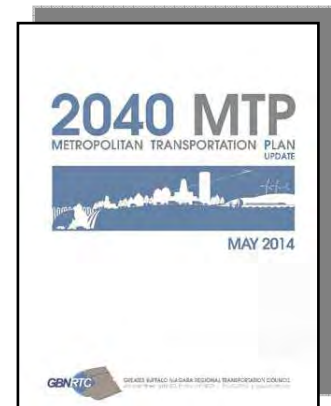
The 2008 Bicycle and Pedestrian Master Plan sets forth the vision for making bicycling and walking an integral part of daily life in the Buffalo and Erie/Niagara region. This plan recommends projects, programs and policies for the next ten years to encourage use of these practical, non-polluting and affordable modes of transportation. The plan looks at streets for cycling and walking, parking, transit connections, education and marketing (health promotion), law enforcement and implementation. The plan contains goals and objectives, with over 100 suggested actions that detail how to implement the objectives in realistic, meaningful and cost-effective ways.



The Master Plan provides guidance for the implementation of a safe, efficient and accessible transportation system designed for walking and bicycling. It reaffirms a regional vision regarding bicycling and pedestrian activities and promotes the establishment of interconnected bicycle and pedestrian networks, adding a critical multi-modal element to the transportation system. It reflects federal goals to increase the amount of local bicycling and walking, and to increase safety by reducing the number of accidents. The Master Plan serves as a framework for facility investments and assists in promoting mobility options, healthier lifestyles, reducing air pollutants, and decreasing traffic congestion. The goals of the 2008 Bicycle and Pedestrian Master Plan align with the plans to construct a multi-use pathway along Route 5 (part of the NY Great Lake Seaway Trail) in Sub-Area 1.

■ *2040 Long Range Metropolitan Transportation Plan for the Erie and Niagara County Region*

Adopted in 2014, The 2040 MTP Update is primarily based on the 2035 Long-Range Transportation Plan Update (2010) and reaffirms key elements of that plan. The 2035 Plan acted as the multimodal blueprint for transportation systems and services for the region and was aimed at meeting the transportation demands of existing and future development in Erie and Niagara Counties. The plan provided forecasts for the year 2035 for both population and employment. This update extends the planning horizon to the year 2040, which keeps our region in compliance with federal legislation and eligible for federal transportation dollars.



While much of the 2035 Plan is unchanged, the 2040 MTP Update incorporates work accomplished to date, thus improving the consistency of the plans and evolving visions for the region. Some key changes to the 2040 MTP are as follows:

- Integration of the goals and objectives from One Region Forward, which guide the development and implementation of the Metropolitan Transportation Plan;
- 2040 demographic projections for population, households, and employment based on 2010 US Census data;
- Update of financial resources available to the region to implement the Metropolitan Transportation Plan projects based on new federal transportation legislation (MAP-21) and current NYSDOT forecasted apportionments;
- Updated status of significant planning studies and projects that could impact future transportation investments in the region;
- Update on resource agency consultation and potential mitigation activities; and
- Revised Congestion Management and Systems Operations section.

- 2016-2018 Unified Planning Work Program*

The 2016-2018 Unified Planning Work Program (UPWP) describes the planning activities of the Greater Buffalo-Niagara Regional Transportation Council (GBNRTC) in Erie and Niagara Counties. Developed biannually in cooperation with federal, state and local agencies, the UPWP provides a comprehensive view of short and long-range transportation planning activities, identifying the transportation planning activities that are to be undertaken in support of the vision, goals, objectives, and policies identified in the Metropolitan Transportation Plan 2040 adopted in May 2014.



- Transportation Improvement Program, 2017-2021*

The Transportation Improvement Program (TIP) is a priority listing of all federally funded transportation projects programmed for implementation during a five-year period and is consistent with the long-range Metropolitan Transportation Plan. The currently approved TIP covers the period from October 1, 2016 through September 30, 2021 and includes highway, transit, bicycle, pedestrian, and demand management and air quality projects, as well as studies and programs within the Greater Buffalo-Niagara Region. The GBNRTC, in cooperation with the New York State Department of Transportation, is responsible for selecting projects to be included in the TIP. The TIP is updated every other year to reflect those projects of highest priority based on need, local desires, long-range plan conformity and funding availability.



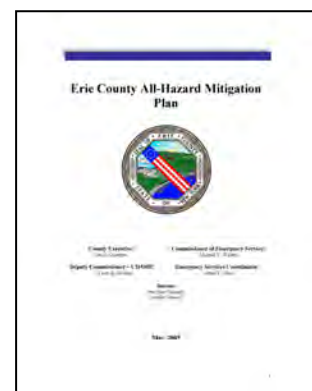
- Buffalo Niagara - Moving Forward 2050*

The GBNRTC, in conjunction with community partners and regional stakeholders, is developing the Buffalo Niagara 2050 Metropolitan Transportation Plan, the region's next long-range transportation plan. Buffalo Niagara 2050 will determine the way we commute, travel to work, connect to shopping and schools, and move throughout the region. It will take a fresh approach to solving present and future transportation challenges and will focus on ways to create a more efficient, greener, smarter and sustainable transportation system for future generations. The Plan builds off where we are today and looks at where we are headed. It is a regional vision for Buffalo Niagara, to promote a better way to be Moving Forward to 2050.



- Erie County All-Hazards Mitigation Plan*

This plan was developed to enhance Erie County's ability to manage natural, technical and human caused disaster situations that may result in disaster declarations. Its focus is maximizing and adequately responding to such situations to minimize injury, speed recovery and protect public health and welfare. It consists of three components: multi-hazard disaster prevention and mitigation; disaster response; and disaster recovery. The All-Hazards Plan defines roles and responsibilities in prevention, response, and recovery, including a detailed chain of command during an emergency. The plan places an emphasis on the role of local jurisdictions as first-line responders but

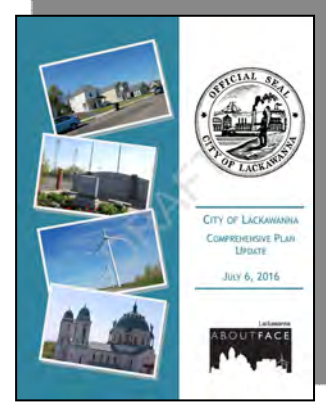


identifies the key role that County departments play in the process. The Plan points out the importance of land use controls and development regulations in hazard-prone areas (e.g., floodplain development) for disaster avoidance and minimization.

2.3.2 Local Planning

- *City of Lackawanna Comprehensive Plan*

Local planning plays a big part in how the waterfront in the City is used and developed. The City has been pro-active in planning for growth in the community and adopted a Comprehensive Plan in 2017. The Plan provides guidance for managing land use along the waterfront. The Comprehensive Plan recognizes that the waterfront area, formerly used for heavy industry, is being remediated and offers opportunities for future redevelopment with light manufacturing and commercial uses. To increase public access to the waterfront, the plan suggests recreational uses in appropriate locations, as well as multi-use trails to tie into the waterfront.



- *Stormwater Management Planning*

The City of Lackawanna is a member of the Western New York Stormwater Coalition. The Coalition developed a Stormwater Management Plan as a shared resource to help local municipalities comply with the NYSDEC General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4). This Plan provides policy and management guidance, including minimum control measures and best management practices for Public Education and Outreach, Public Involvement and Participation, Illicit Discharge Detection and Elimination, Construction Site Runoff Control, Post-Construction Stormwater management, and Pollution Prevention / Good Housekeeping for Municipal Operations. The City of Lackawanna has a designated Stormwater Management Officer, and a local law that regulates stormwater management and erosion and sediment control.



2.4 Demographics and Economic Considerations

2.4.1 Population and Household Characteristics

The population of the City of Lackawanna is currently estimated at approximately 18,000 persons. The City's population has been declining since 1960, although the rate of decline is slowing. Based on population projections prepared by GBNRTC, the City is expected to experience modest growth over the next few decades, reaching an estimated 19,000 by 2025.¹

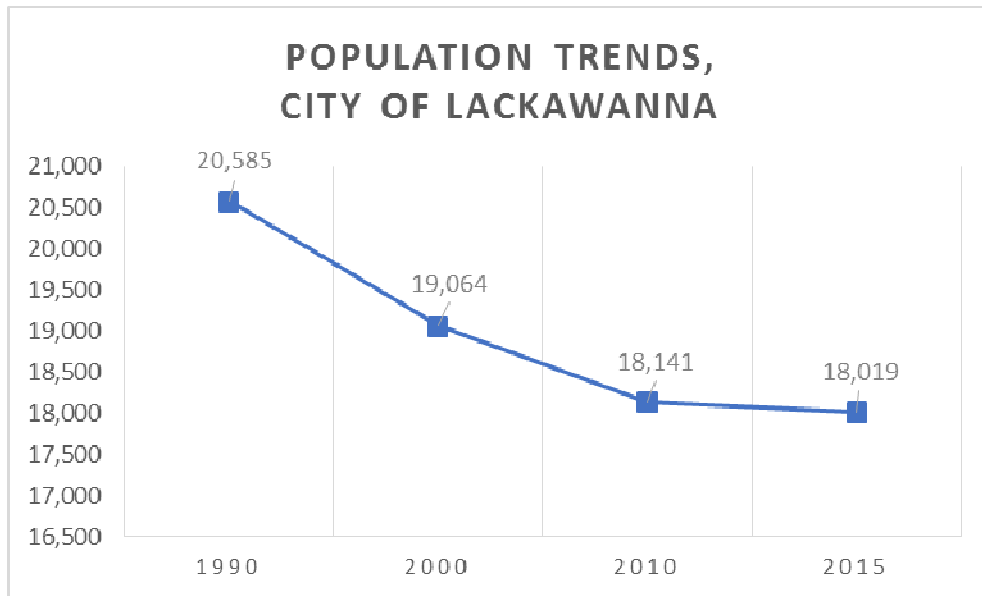
The median age of residents in Lackawanna is 41.6 years, compared to 40.4 in the County. Percentages of persons under the age of 35 are similar for the City and the County, but Lackawanna has a higher proportion of residents who are age 60 years or older (19.2 percent) compared to Erie County (15.9 percent), and fewer persons aged 25 to 59 (see Figure 2).

¹ GBNRTC figures are based on regional trends disaggregated to the municipal level. They are generated in order to project future transportation needs for the region.

There are currently an estimated 7,865 households in the City of Lackawanna. Family households make up 58 percent of households, with about 30 percent married couples and 28 percent other types of families (Figure 3). An estimated 37 percent of households in the City are one-person households. The number of persons per household in 2015 was estimated to be 2.26, a slight decrease from the 2000 figure of 2.30 persons. In comparison, the average household size in Erie County is 2.33 persons.

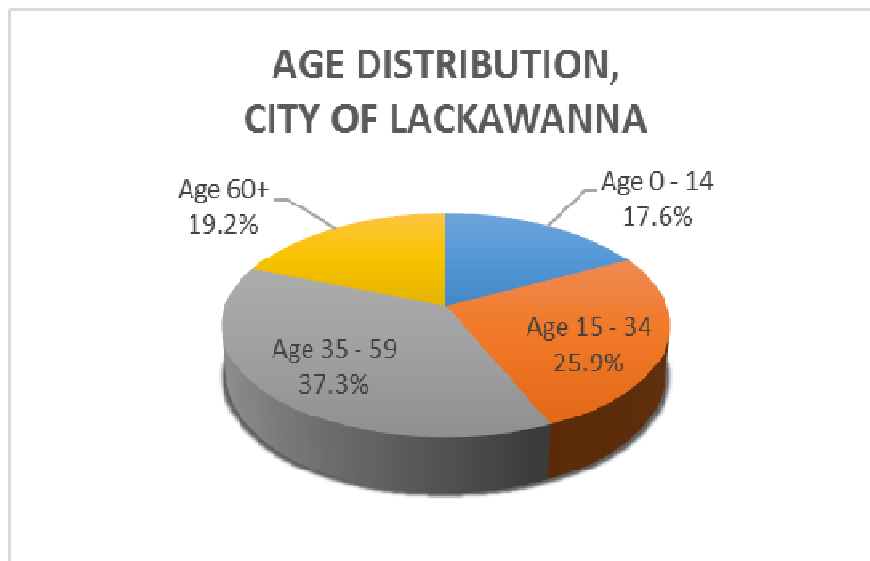
The following figure depicts population trends for the City of Lackawanna between 1990 and 2015.

Figure 1:



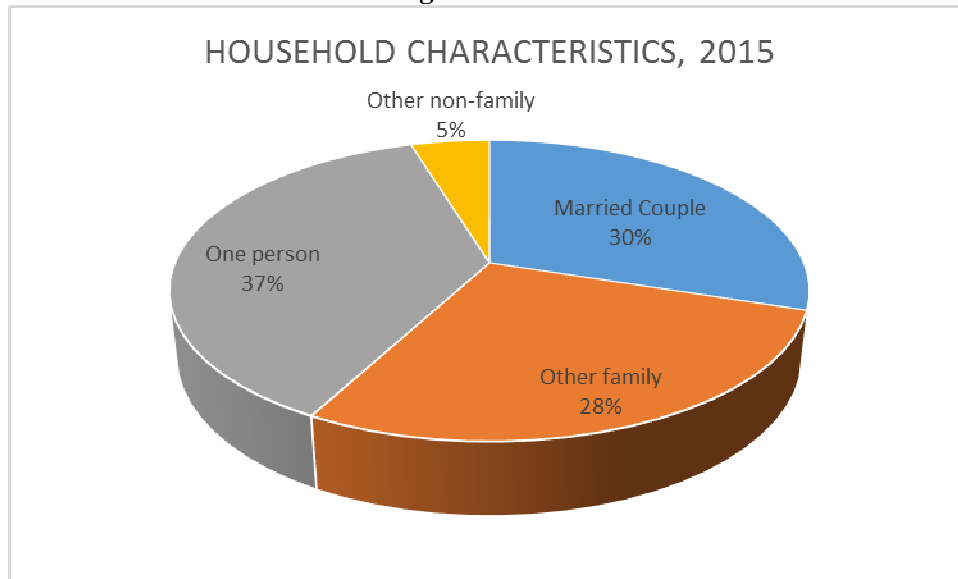
Source: U.S. Census Bureau; American Community Survey, 2015.

Figure 2:



Source: U.S. Census Bureau; American Community Survey, 2015.

Figure 3:



Source: U.S. Census Bureau; American Community Survey, 2015

2.4.2 Housing

According to the American Community Survey, there are approximately 8,820 housing units in the City of Lackawanna, a decrease of 131 units, or 1.5%, from 2000 (there are no residences within the WRA). As the City’s Comprehensive Plan notes, the decrease is consistent with other first ring communities of the City of Buffalo. Approximately 12 percent of housing units in Lackawanna are vacant, which is higher than what is typical for Buffalo’s first ring suburbs,² but lower than the City of Buffalo, which has a 17 percent vacancy rate.

The City has a fairly diverse mix of housing types, with a higher proportion of units in multi-unit structures. Approximately 49 percent of all units are single-family homes, compared to Erie County, where 61 percent of the housing stock is one-family units.

	Lackawanna	Erie County
One unit*	49.3%	60.8%
Two units	23.1%	19.4%
Three or four units	14.7%	6.2%
Five to nine units	4.4%	4.6%
Ten or more units	8.5%	9.1%

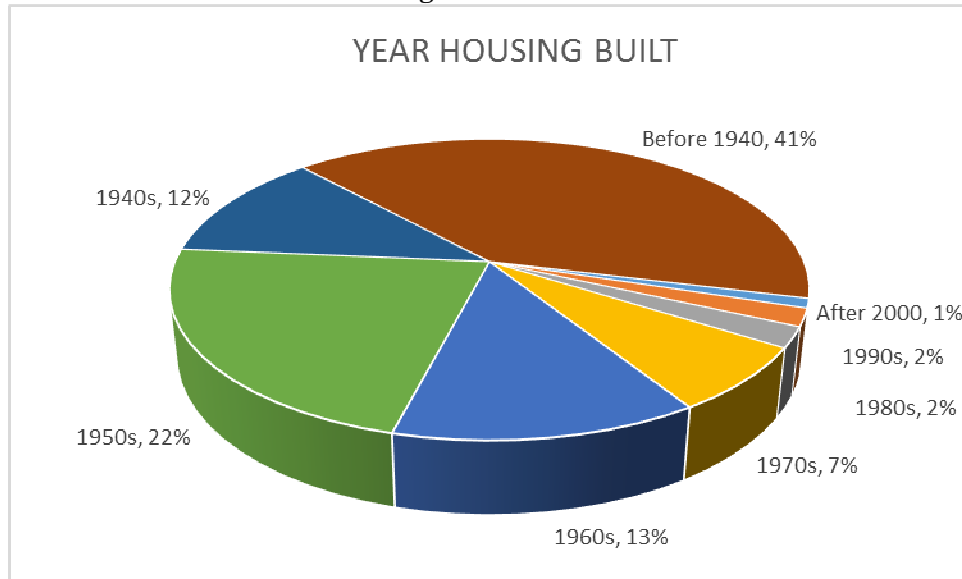
* includes single-unit attached, detached and mobile homes

Source: U.S. Census Bureau; American Community Survey, 2013

Housing in Lackawanna tends to be old. Two-fifths of the city’s housing stock was built before 1940. Only 5 percent was built since 1980 (Figure 4). The median year built for residences in Lackawanna is 1949, compared to 1954 for the County.

² Vacancy in the Town of Cheektowaga and City of Tonawanda is 7 percent; and 5 percent in the Town of Tonawanda.

Figure 4:



Source: U.S. Census Bureau; American Community Survey

2.4.3 Income, Employment and Education

The most current estimated median household income in the City of Lackawanna was \$35,352, representing a modest increase over 2000, when the median household income was \$29,534. In comparison to Erie County, the City of Lackawanna has much more modest figures: in 2015, median household income in Erie County was \$51,247, or nearly 45 percent higher than in Lackawanna. Almost 38 percent of households in Lackawanna have incomes of less than \$25,000 per year, and only about 9 percent of households earn \$100,000 or more. In comparison, 25 percent of Erie County households fall in the lowest category of income, while nearly 20 percent earn \$100,000 or more.

TABLE 2 - Income Distribution, 2013

	Lackawanna	Erie County
Less than \$25,000	37.6%	25.9%
\$25,000 - 34,999	12.3%	10.3%
\$35,000 - 49,999	15.7%	13.2%
\$50,000 - 74,999	17.3%	18.4%
\$75,000 - 99,999	8.1%	12.5%
\$100,000 +	8.9%	19.6%

Source: U.S. Census Bureau; American Community Survey

The issue of employment in the City of Lackawanna has been the loss of manufacturing jobs. Historically, a large proportion of the labor force was employed in manufacturing, with jobs at Bethlehem Steel and other industries. The loss of those jobs has had a huge impact on employment levels and where residents in the City are employed.

In Lackawanna, labor force participation lags that of Erie County. Approximately 58 percent of residents aged 16 and older were in the labor force, and approximately 51 percent were employed. In comparison, 64 percent of Erie County residents participate in the labor force, and 58 percent were

employed. The percentage of labor force participants who are unemployed in the City of Lackawanna was 7 percent, compared to 5.5 percent in Erie County.

**TABLE 3 - Employment by Sector, 2013
City of Lackawanna**

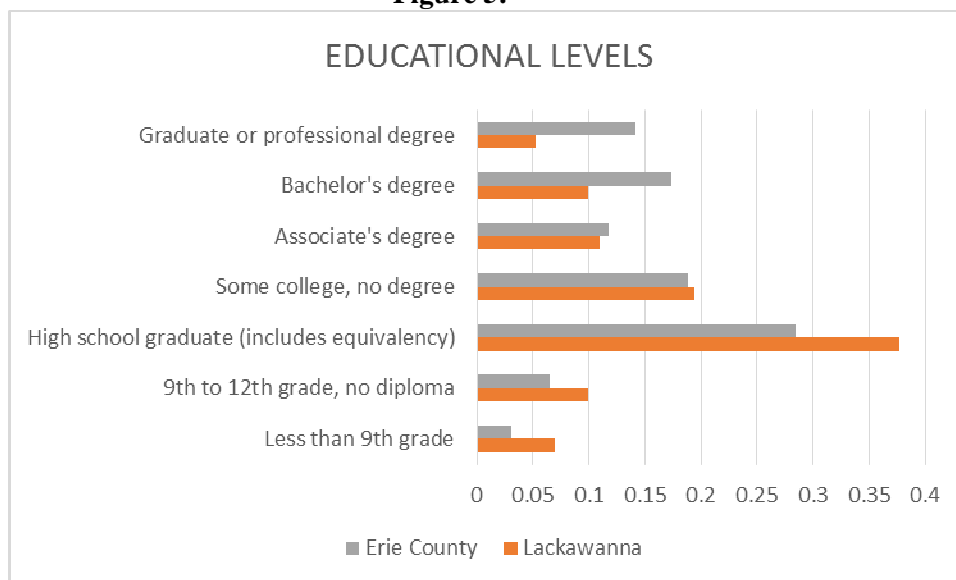
Construction	3.7%
Manufacturing	11.7%
Wholesale Trade	2.4%
Retail Trade	14.2%
Transportation, warehousing, utilities	6.9%
Information services	1.2%
Finance, insurance, real estate	6.0%
Professional, management services	8.6%
Education, health care, social work	25.7%
Arts, entertainment, recreation, food service	8.8%
Other services	4.6%
Public administration	6.2%

Source: U.S. Census Bureau; American Community Survey

By sector, residents of Lackawanna who are employed primarily work in education/health care or social work (26 percent), retail trade (14 percent), or manufacturing (12 percent). All other sectors employ less than 9 percent of the workforce.

In terms of education, the City of Lackawanna lags Erie County. Approximately 83 percent of Lackawanna residents aged 25 or older are High School graduates, compared to 90 percent of Erie County residents. Approximately 15 percent have a bachelor's degree, compared to 32 percent at the County level.

Figure 5:



Source: U.S. Census Bureau; American Community Survey

2.4 Existing Land and Water Uses (Map 3)

2.5.1 Existing Land Use

The City of Lackawanna is divided into four distinct political wards. Much of the WRA (Sub-Area 1) occupies the western portion of the First Ward. The predominant land use in the First Ward was traditionally industrial, and nearly the entire WRA was in industrial use, occupied by the former Bethlehem Steel Corporation facilities. With the closure of the Bethlehem Steel plant, the site (now known as the Bethlehem Redevelopment Area) has been subject to extensive remedial activities to demolish defunct structures and address environmental issues. A portion of the site is participating in the State's Brownfield Cleanup Program. Currently, most of the site is vacant. Most of the former structures have been demolished. An extensive network of access roads and parking lots remain on the site. Some areas are covered with scrub brush and trees, particularly along the Route 5 frontage and in the southwestern corner of the site, near the lake shore.

Tecumseh Redevelopment, Inc. owns most of the land within Sub-Area 1 and is redeveloping it for a mix of light industrial and commercial uses. The Buffalo and Erie County Industrial Development Corporation (ILDC) is finalizing the purchase of 147 acres of the property for redevelopment into an advanced manufacturing industrial park. A portion of the property, which has frontage on NYS Route 5, is operated as the Gateway Trade Center (also known as the Port of Buffalo). Rail lines that are operated by the South Buffalo Railroad serve the Sub-Area 1 waterfront area. With access to highway, rail and water transportation, the property represents valuable industrial lands suitable for redevelopment and the growth of waterborne commerce.

While most of the former Bethlehem Steel site is vacant, there is some new development. The Steel Winds wind energy project occupies about 30 acres along the shoreline (see Section 2.9.6). A large solar farm occupies another 23+/- acres in another brownfield area. Welded Tube, a producer of steel pipes and tubes for the oil and gas industry, also operates an 110,000 square-foot facility on the site.

In Sub-Area 2, the Smokes Creek corridor (east of NYS Route 5) comprises most of the land area, which includes the main stem of the creek and the north and south branches extending to the City boundary. The creek corridors traverse through areas that are predominantly residential, with the WRA boundary extending a measured distance of 25 feet from the top of the bank on each side of the creek throughout much of this sub-area; no residential uses or structures fall within this area. The banks of Smokes Creek include narrow wooded areas, particularly along the north branch. The City-owned Galanti Park is located on the south shore of the north branch of Smokes Creek; the south branch includes extensive areas of wetlands that provide wildlife habitat. Foundry Park, another City-owned park, is situated on the south side of the main stem of the creek, just east of the Bethlehem Village residential community. The New York State DEC has a permanent easement that extends along the main stem of the creek and both branches for flood control purposes. This easement coincides with the boundary.

2.5.2 Water Dependent and Water-Enhanced Uses

The Gateway Trade Center (the Port of Buffalo), located on the Lackawanna Canal in Sub-Area 1, is a major bulk cargo storage and transfer facility with approximately 20 acres of bulk storage space and 10 acres of paved, open storage area. It is located within a New York State Economic Development Zone and a U.S. Foreign Trade Zone, offering benefits and incentives to patron businesses. It handles a variety of commodities, with a multiplicity of trading partners. While the volume is relatively small, the port handles domestic and international freight, for both import and export.

Gateway Trade Center is equipped with approximately 9,000 linear feet of dock space along the east and west sides of the Lackawanna Canal, and on the south side of the mouth of the Union Ship Canal. It can accommodate up to eight large vessels. The full seaway depth of the port provides easy access, eliminating the need for tug service (Seaway standard depths at the docks are 27 feet).

2.5.3 Abandoned, Underutilized and Deteriorated Sites and Structures

The Lackawanna waterfront in Sub-Area 1 has a long history of heavy industrial use. At present, a majority of the WRA in this sub-area would be characterized as underutilized, although there are active plans to redevelop portions of the property. Remedial activities are on-going and must be completed before full redevelopment can occur (see Section 2.7.5). As noted above, the ILDC is purchasing 147 acres of the site and intends to invest nearly eight million dollars in public infrastructure to establish an industrial park that focuses on advanced manufacturing. Part of the redevelopment plans involve relocating existing rail lines to improve access to the site and building a new access road into the site from NYS Route 5. The County also plans to extend the Shoreline Trail along NYS Route 5 to connect with existing trails in the City of Buffalo to the north and (eventually) to the Town of Hamburg to the south. To date, the County has leased property for the construction of a net-zero energy manufacturing facility that is occupied by Welded Tube, the first tenant of the industrial park. It is the intension of the County and City of Lackawanna to revitalize the former Bethlehem Steel property, offering investment opportunities to strengthen the tax base and provide jobs for residents in the City and region.

2.5.4 Public Access and Recreation

While Lackawanna is a waterfront community, its primary waterfront in Sub-Area 1 (the Lake Erie shorefront) has traditionally been used exclusively for industrial activity. There has been no public access to the Lake Erie shoreline in the City of Lackawanna for over a century, and there are currently no public parks, swimming areas or areas for waterfront access within this portion of the WRA.

There is one public park along the north branch of Smokes Creek, and a few informal locations for shoreline fishing in Sub-Area 2. In addition, the City of Lackawanna owns two parcels at the end of Madison Avenue in Sub-Area 2. These lands are the location of the former Lackawanna Foundry and are currently utilized as a small park for residents, known as Foundry Park.

Prior use of the Bethlehem Steel Corporation site for industrial activity and existing environmental hazards limit the feasibility of offering public use and recreation in most areas of Sub-Area 1. The shoreline is not a natural shoreline and is primarily man-made land consisting of slag mixed with other industrial components, such as steel, brick and other types of remnant fill. The fill areas tend to be physically unstable and, due to their material makeup, unsafe. Other constraints to public access include the physical layout of the site, which includes active rail lines and land uses that restrict access to the shoreline. However, redevelopment of portions of the Sub-Area lend consideration to the restoration of habitat and passive open space, and the incorporation of visual access to Lake Erie, in the southwestern portion of the site, which is consistent with remedial plans and physical and safety limitations associated with reuse of this area.

2.5.5 Zoning (Map 4)

Sub-area 1 of the WRA falls within a zoning category known as the Bethlehem Redevelopment Area (BRA), which was adopted in 2009 under Section 230-17 of the City's Zoning Ordinance. The BRA establishes six subzones. Residential, schools and day care uses are prohibited throughout the BRA, in conformance with deed restrictions. The BRA zoning regulations establish minimum lot sizes, yards, coverage and landscaping standards.

The BRA-Business Park area (BRA-BP) is the portion of the site that runs along Route 5. Permitted uses include office, commercial and research-related facilities. The intent is to promote an attractive image for the City along Route 5, and as such, the zoning includes more restrictive use regulations and design standards.

The BRA-Light Industrial District (BRA-LI) encourages the development of offices, research and development, large retail, wholesale, warehousing, distribution and light manufacturing, with the intent of promoting employment and tax base for the City. It is conceived of as a transitional area between the higher-end business park uses along Route 5 and the more conventional industrial use of the properties along the rail corridor. A portion of the BRA-LI that is visible from Route 5 is subject to the “Business Park Site Review Overlay District” that establishes more restrictive use regulations and design standards.

The BRA-Medium Industry District (BRA-MI) encourages ‘non-smokestack’ manufacturing. Allowed uses include enclosed bulk cargo storage and light manufacturing. The BRA-Heavy Industry District (BRA-HI) was designed to allow for the redevelopment of the site with clean energy, heavy industry and general manufacturing uses. As stated in the zoning provisions “The intent is to utilize the site’s size, history, environmental limitations, and existing infrastructure to take advantage of one of the region’s best-suited sites for developing new heavy industry.” It also provides for open space and public access along the Lake Erie shoreline.

The BRA-Intermodal District (BRA-INT) is intended to encourage continued use and expansion of port and rail infrastructure. It consists primarily of the lands occupied by the Gateway Trade Center along the Lackawanna Canal and the adjacent rail lines.

An area on the lakefront south of Smokes Creek is zoned as Open Space. This area has been reserved for the permanent disposal of on-site environmental remediation materials and is restricted from future development. The Open Space zoning district allows no uses by right, although recreation and open space facilities, such as playing fields, are allowed with Site Plan review.

Three overlay districts apply to the WRA. The Lakefront Buffer Overlay District (LBO) is intended to maintain a physical and visual buffer between the BRA-HI and the shoreline, and to create a vegetated buffer along the bluff to improve the visual character of the lakefront in Sub-Area 1. It encourages development of a “multi-use recreation trail with scenic overlooks” to improve public access. Permitted uses are recreational-related: trails, open space, overlooks, fishing areas, picnic shelters and parking areas in support of these uses. Due to use restrictions on the site, the establishment of such recreational amenities must be evaluated. Wind turbines are also allowed in the LBO with a special use permit.

The Smokes Creek Overlay (SCO), which applies along the length of Smokes Creek in both sub-areas, establishes a buffer along the waterway to protect its ecological quality while allowing public recreation access. No development is allowed within 15 of the mean water line of the creek; this area is to be an undisturbed vegetative buffer. The Overlay also establishes restrictions on uses within 50 feet of the mean water line. Permitted uses are passive recreation uses, such as trails, overlooks, and picnic shelters; access for water-related activities; and stormwater detention/retention. The overlay also prohibits certain uses that could harm water quality within 50 feet of the mean water line. Prohibited uses include excavation of sand or gravel, dumping of snow, bulk storage of salt or parking lots.

The Seaway Trail Overlay (STO) applies to properties abutting the Seaway Trail (Route 5) in Sub-Area 1. The overlay establishes design standards intended to maintain views of Lake Erie and enhance the visual character of the Seaway Trail.

As noted above, in Sub-area 2, the WRA boundary extends along the Smokes Creek corridor and is limited to 25 feet from the top of the creek bank in most areas. While it traverses a range of zoning districts, it generally falls within the Smokes Creek Corridor Overlay District, as described above. The areas where the WRA extends beyond the immediate vicinity of the Creek in Sub-Area 2 are comprised of city-owned lands, which are zoned Open Space.

▪ *Other Land Use Regulations*

Several other sections of the City Code address land use issues that impact the construction, operation or maintenance of property in the City of Lackawanna WRA. These include the following.

- Chapter 57: Air Pollution - Prohibits the emission of soot, cinders, noxious acids, fumes or gases, which are determined to be a nuisance;
- Chapter 75: Building Code Administration - Chapter 75 established the Office of Code Enforcement Officer for the receipt, review, and approval or disapproval of applications for building permits, certificates of occupancy, temporary certificates and operating permits for compliance with building codes, zoning regulations, and property maintenance;
- Chapter 83: Buildings Unsafe - The Unsafe Buildings Ordinance authorizes the Code Enforcement Officer to determine if buildings are unsafe based on a prescribed definition, and to require necessary repairs or authorize demolition of the structure in the event that repair is impractical;
- Chapter 110: Empire Zones – This chapter establishes Empire Zones within the City of Lackawanna;
- Chapter 114: Environmental Review - Chapter 114 requires environmental review pursuant to the State Environmental Quality Review Act (Part 617) before approving or funding any Type I or Unlisted action;
- Chapter 119: Fire Prevention - The Fire Prevention Law requires a permit for operations that handle or store materials that could potentially present a fire hazard and enables the Fire Chief, as the enforcement officer of this law, to inspect facilities from time to time to make sure they are in compliance with the State Fire Code and to establish rules for fire safety as may be necessary;
- Chapter 144: Land Subdivision – Chapter 144 sets forth procedures for the division of real property into two or more lots;
- Chapter 159: Noise - Chapter 159 makes it unlawful to produce noise at a level that would constitute a nuisance and set standards for determining what constitutes a nuisance;
- Chapter 185: Sewers - The Sewers Law requires connection to the public sewer system and provides specifications for connection, maintenance, and use of the sewer system;
- Chapter 190: Solid Waste Management - The Solid Waste Law provides regulations for the disposal and removal of solid waste;
- Chapter 194: Streets and Sidewalks - The Streets and Sidewalks Law establishes regulations regarding the use of the public right-of-way; and
- Chapter 223: Waterfront Revitalization - The Waterfront Revitalization Program (LWRP) Law requires that all Type I, Unlisted actions and development proposals affecting the LWRP area be reviewed by City Council for consistency with the LWRP as part of State Environmental Quality Review (SEQR).

2.5.6 Public and Underwater Land Ownership

There are a number of properties in the WRA that are publicly-owned. This includes a portion of the 107-acre Buffalo Harbor Confined Disposal Facility #4. This dredge spoil disposal site, also known as Stony Point is located at the north end of Sub-Area 1 and owned by Erie County. Another 147 acres of land in Sub-Area 1 is owned by the Buffalo and Erie County Industrial Land Development Corporation (ILDC). These lands are part of the former Bethlehem Steel Corporation property and are proposed for redevelopment.

The City of Lackawanna owns properties in Sub-Area 2 that include two public parks and approximately 100 acres of freshwater wetlands along the south branch of Smokes Creek. This is an approximately 1.78-acre brownfield property, which is located on the east side of the Lackawanna Ship Canal and owned by the Erie County Industrial Development Agency. As noted above, Erie County is also purchasing 147 acres along Route 5 for redevelopment as a high-tech industrial park. The City of Lackawanna does not own any property in Sub-area 1 of the WRA.

Publicly-owned lands in Sub-Area 2 include o
, located along the south side of the north branch of Smokes Creek, which are situated behind the Lackawanna Senior Center and encompass Galante Park and the public pathway along the creek. Additional public lands are found along the south branch of Smokes Creek, south of Martin Road, where a large area of wetlands exist. These lands are owned by the City of Lackawanna (approximately 176 acres) and the Lackawanna School District (approximately 54 acres). In addition, the City of Lackawanna owns two parcels at the end of Madison Avenue inside Sub-Area 2. These parcels are currently developed and utilized as parkland by residents.

- *Public Trust Doctrine*

New York, upon attaining Statehood, succeeded the King of England in ownership of all lands within the State for which ownership was not already granted away, including all rights and title to the navigable waters and the soil under them (Public Lands Law, Section 4; People v. Trinity Church, 22 N.Y. 44, 1860; Langdon v. Mayor, 93 N.Y. 129, 1883). Broadly speaking, the State holds title to all underwater lands not otherwise conveyed away by land patents or grants. The State holds title to these tidelands and submerged lands in its sovereign capacity in trust for the use and enjoyment of the public under the *Public Trust Doctrine* (People v. Steeplechase Park Co., 218 N.Y. 459, 1916; Appleby v. City of New York, 271 US364, 1926; Coxe v. State, 144 N.Y. 396, 1895). This legal doctrine emerged from the ancient concept that the sovereign had the right of way, an "incorporeal hereditament", to all navigable streams and waterways; the underlying theory being the protection of the public interest in fisheries and navigation.

State title to the public foreshore and submerged lands, and the power of disposition, is incident and part of its sovereignty, which cannot be surrendered, alienated or delegated, except for some public purpose or some reasonable use for the public benefit, and without impairing public rights in the remaining lands and water. Inherent in the nature of public trust lands is the fact that they support diversified and important ecosystems without which many public rights, including fishing, swimming and the like, would be impossible to enjoy. The public interest demands the preservation and conservation of this vital natural resource against pollution, overuse, destruction and infringement by others, whether public or private.

It is in the public interest that State and other governmental ownership of public trust lands be maintained and, when possible, recovered from private ownership. Where full public ownership

no longer exists, the application of the Public Trust Doctrine requires that any remaining rights of the public to use such lands should be preserved and protected for present and future enjoyment. Occupation of public trust lands by riparian owners for purposes of gaining access to navigable waters should be undertaken in a reasonable manner that does not unnecessarily interfere with the public's right of passage upon, the use of the waters overlying such lands, and other public trust purposes. Considerations of public safety, resource protection and the need for access at a given location may be utilized as factors in determining the level and types of access to be provided. Public use of publicly-owned underwater lands and lands immediately adjacent to the shore shall be discouraged only where such use would be inappropriate for reasons of public safety, military security, or the protection of coastal resources.

- *Underwater Land Ownership*

Ownership of Lakes Erie and Ontario, within the territorial limits of New York State, and all submerged lands, including the subsurface lying under the lakes and the Niagara River, is held by the State of New York, unless ownership has been granted to any other person or entity. The beds of the Great Lakes and the River are susceptible to private ownership only for special purposes. The boundary line between State ownership of the lakebed or riverbed and ownership of the adjacent upland is the low water mark. The New York State Canal Corporation has jurisdiction of the Erie Canal and its underwater lands.

State-owned underwater lands, including those in Lake Erie, are managed by the New York State Office of General Services (OGS). The OGS issues grants, leases, easements and other interests for these underwater lands. They also investigate encroachments on littoral rights (the right of an upland owner to access the navigable waters of the lakes or river) and make sure there is no interference with navigable channels. The OGS reviews NYSDEC and Army Corps of Engineers comments for proposed projects that affect State-owned bottom lands to ensure that the benefits of the public will not be deprived, and that the environment will not be adversely impacted. The OGS strives to achieve satisfaction on the part of all parties involved prior to the issuance of an interest (grant, lease or easement).

The State Office of General Services is the agency responsible for issuing grants, leases and easements for the use of underwater lands, and for other interests for docks and associated marine-related structures, that are placed on State-owned underwater lands. In the case of the City of Lackawanna, the OGS is an authorizing agency for the use of underwater lands for docks or other purposes along Lake Erie. The construction of any commercial dock or any private, non-commercial dock that exceeds 4,000 square feet in area size (including the perimeter) would require the granting of an interest (a grant or easement) from the OGS. Non-commercial structures that are less than 4,000 square feet in size (as measured from the outermost perimeter and including the surface area of the water contained within), less than 15 feet in height, and have a capacity of five or fewer boats, would not need an interest. Additionally, the filling of underwater lands also required the issuance of an interest from the OGS.

- *Underwater Land Grants and Leases*

Over the years, a number of underwater land grants have been issued by the State along the shoreline of Lake Erie near the City of Lackawanna. These grants were issued for the express purpose of either *commerce* or *beneficial enjoyment*. Grants issued for commerce were given to shorefront businesses for more restricted activities and were usually written with conditions. If the conditions were not followed, the State could bring an action to declare the grant void and

thereby recover ownership, per Section 78 of the Public Lands Law. Beneficial enjoyment grants were given to shorefront property owners without restriction and provided more complete title to the underwater lands. In either case, the grantee was given full ownership rights to the bottom lands. Grants for commerce were issued in the early to mid-1800's, and then the issuance of grants for beneficial enjoyment became more commonplace. Around 1890, the State began to restrict the grants issued for beneficial enjoyment, as well. Furthermore, in making grants of underwater lands, the State could also impose conditions on the use of these lands.

Water grant index maps for the Lackawanna shoreline were acquired from the NYS Office of General Services (OGS) Bureau of Land Management (see Appendix A). These maps indicate that a number of underwater land grants were issued along the shoreline in Sub-Area 1, primarily during the early 1900's by the Bethlehem Steel Company and its former entities. Underwater land grants and grant extensions were issued along the shoreline between 1900 and 1968; many for beneficial enjoyment. These underwater grant lands consisted of offshore areas in Lake Erie that were filled and likely used for the expansion of upland uses and (waterborne transportation, as well as the installation of docks or other offshore structures.

When the Lackawanna Steel Company (the predecessor of Bethlehem Steel Company) decided to locate along the Lake Erie shoreline, John J. Albright purchased all the land along the shore on their behalf. This included securing an interest in underwater lands in 1899, as shown on the water grant index mapping. In the early 20th century the Lackawanna Steel Company and its successors secured a number of underwater land grants, allowing fill, bulkheading and other activity along the Lake Erie shoreline. The configuration of the current day shoreline represents extensive fill with slag, a by-product of smelting, along with other fill materials, that were deposited along the shoreline starting in 1912. There are approximately 440 acres of man-made land on the former Bethlehem Steel site. As underwater lands were filled, and the shoreline was extended to the west, new underwater land grants were issued, and older interests were released and surrendered back to the State.

The placement of slag-fill by Bethlehem Steel preceded the placement of dredge spoils by the U.S. Army Corps of Engineers (USACE) at the north end of the property. Erie County secured an easement from the NY SOGS in March of 1974 for the area known as Stony Point, a portion of which lies within Sub-Area 1 of the WRA. The Army Corps of Engineers utilizes this area as a dredge spoil disposal site, known as Confined Disposal Area #4.

Based on discussions with Kaleb Winters from the NY SOGS Bureau of Land Management in May 2017, the interest in underwater lands is attached to either the new upland property that is created through fill activity or to the coterminous upland property. As ownership of the land changes hands, the interest in the underwater land moves with the title to that land. For private property, because the interest in the underwater lands is attached to the title, there is no need for the State to convey the lands to the new landowner. Therefore, underwater land ownership has been transferred, over the years, to the present-day owners of the upland properties. In the future, if shoreline property owners in Sub-Area 1 should propose the installation of off shore docking facilities or other structures requiring use of bottom lands, confirmation of the land grants must be cleared with the OGS.

2.6 Surface Water Resources, Navigation and Harbor Management

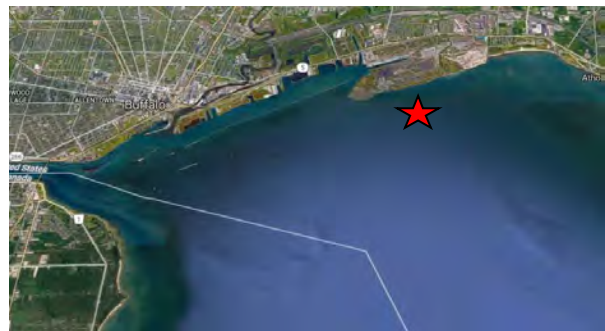
2.6.1 Surface Water Resources

The City of Lackawanna is a part of the Buffalo-Eighteen Mile sub-basin of the Niagara River/Lake Erie Basin watershed. The Niagara River/ Lake Erie basin drains an area covering 2,300 square miles, incorporating all of Erie County, and significant portions of the entire Western New York region. It includes 92 miles of Lake Erie shoreline.

Three waterbody segments in this sub-basin are located within the City, including Lake Erie, the North Branch of Smokes Creek and the South Branch of Smokes Creek. All discharges from the City flow into Lake Erie, either directly or via conveyances or runoff to Smokes Creek.

- *Lake Erie*

The City is situated on the eastern shore of Lake Erie. Lake Erie is the fourth largest of the five Great Lakes. Lake Erie's primary inlet is the Detroit River; natural outflow is to the Niagara River. It is also the shallowest and smallest of the lakes by volume, with a water replacement rate of three years. As a result, the lake warms relatively quickly in the spring and summer and cools quickly in the fall. During winter, a large percentage of the lake is typically covered with ice and occasionally freezes over completely. The lake is naturally divided into three basins. The eastern basin is the deepest, with an average depth of 82 feet and a maximum depth of 210 feet. The eastern basin thermally stratifies every year impacting the internal dynamics of the lake physically, biochemically, and chemically.



Lake Erie is home to one of the world's largest freshwater commercial fisheries and supports a strong sport fishing industry. Lake Erie's fish populations are the most abundant of all the Great Lakes, partially because of the lake's relatively mild temperatures and plentiful supply of plankton.

Lake Erie is used for several purposes (e.g. drinking water supply, recreation and industrial use). The lake surface is used for public recreation and commercial transportation. Water is withdrawn and returned to the lake, either as treated wastewater or untreated stormwater discharges (i.e., runoff). The NYS Department of Environmental Conservation (NYSDEC) requires State Pollutant Discharge Elimination System (SPDES) permits for all discharges into Lake Erie and other local water bodies.

- *Lackawanna Canal*

The Lackawanna Canal is located in Sub-Area 1, in the northwest corner of the City, on the northern portion of the former Bethlehem Steel property. It is an integral part of the Port of Buffalo (Gateway Trade Center). This canal formerly serviced steel production



activities that occurred on this site. The canal channel measures approximately 4,000 feet in length and 250 feet wide, with an average depth of 26 feet. The Lackawanna Canal has open access to the south end of the Buffalo Inner Harbor and the South Entrance Channel to the Outer Harbor and Lake Erie. The Inner Harbor complex includes a series of authorized federal navigation channels designed and maintained so that deep draft commercial vessels can safely move through the harbor.

- *Smokes Creek*

Smokes Creek flows through the City of Lackawanna, across the former Bethlehem Steel property and into Lake Erie (see Map 1). Smokes Creek splits into two stream corridors approximately 1.5 miles upstream of its mouth, on the east side of the railroad corridor complex. The main branch (or north branch) of Smokes Creek continues in a northeastern direction and then easterly, into the Town of West Seneca and beyond. The south branch flows east-southeast into the Town of Hamburg. Smokes Creek provides spawning ground for steelhead trout and other fish species that are part of the Lake Erie fishery resources.



A flood control project was undertaken by the United States Army Corps of Engineers (USACE) and the NYSDEC on Smokes Creek in 1970 (in the Sub-Area 1 portion of the WRA). The USACE is completing a “modifications for improvement of the environment” (Section 1135) project. They are currently in the feasibility phase of the Section 1135 project and are working on a Preliminary Site Assessment, more extensive H&H modeling and wetland delineation. USACE is looking at a possible jetty at the mouth of the creek and improving environmental cleanups throughout the Smokes Creek Corridor (P. McKenna, USACE, June 13, 2017).

Sections of Smokes Creek have been polluted over the years by industrial operations. The lower reach of the creek, nearest Lake Erie in Sub-Area 1, was dredged of sediment in 2009. Approximately 40,000 cubic yards of material was removed under this action as part of the NYSDEC cleanup of the adjacent former Bethlehem Steel Site. In 2015, Smokes Creek was dredged from the lower reach, east to Wood Street, restoring this area to its former hydraulic capacity.

Although it flows through the center of the City (in Sub-Area 2), Smokes Creek does not provide any formal recreational opportunities for area residents. However, the Smokes Creek Shoals area in Sub-Area 1 (described in Section 2.7.3) is a known spawning site for many species of sport fish (walleye, yellow perch and smallmouth bass); the creek itself could provide for both fishing and recreational boating if sufficiently restored.

A City-wide trail could be established along the creek banks, providing an additional recreational opportunity for Lackawanna residents. New York State maintains a permanent easement along both branches of the creek for flood control purposes (25 feet from the top of the creek along both sides) and use of these lands for a public trail could be negotiated with the State.

- *South Branch of Smokes Creek*

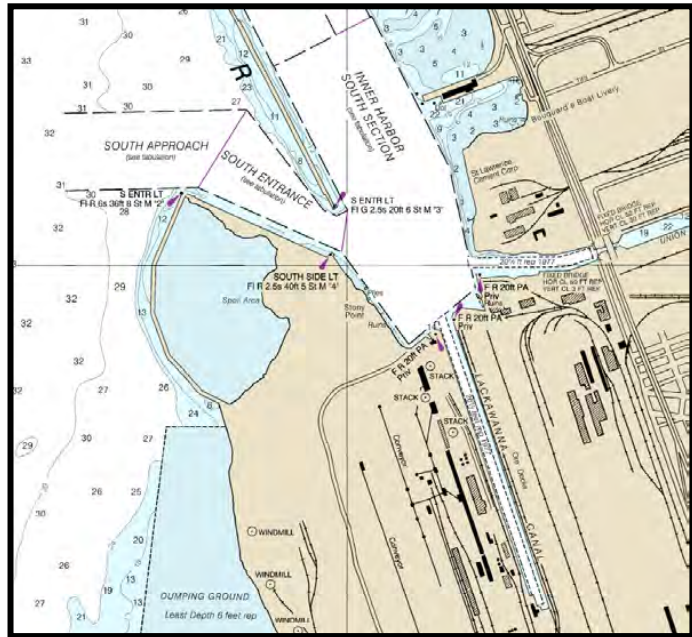
As noted above, the South Branch of Smokes Creek splits from main branch of the creek approximately 1.5 miles upstream of the mouth of the creek, on the east side of the railroad

corridor. The South Branch flows through Sub-Area 2 in a southeastern direction then southerly direction into the Town of Hamburg and beyond. There is a large area of wetlands located in the southeastern part of the City, immediately east of the Highview Circle subdivision, which are associated with the Creek (Map 1). The South Branch of Smokes Creek provides spawning ground for steelhead trout and other fish species that are part of the Lake Erie fishery resources.

2.6.2 Vessel Use and Navigation

Vessel use along the Lackawanna waterfront is primarily comprised of small pleasure craft, which are used for recreation and fishing. There are no docking or mooring facilities for recreational or commercial fishing vessels, and no commercial fishing industry or support facilities in the WRA.

The Port of Buffalo (Gateway Trade Center), is situated on the Lackawanna Canal in Sub-Area 1, at the southern end of the Buffalo Inner Harbor. The canal has water access to Lake Erie through the southern entrance channel to the Buffalo Outer Harbor. According to the National Oceanic and Atmospheric Administration (NOAA) navigation charts, channel depths in the Lackawanna Canal measure up to 27 ½ feet; depths in the south section of the Buffalo Inner Harbor are maintained at 26 feet to support commercial navigation.



Once into Lake Erie, surface water depths increase beyond 30 feet, with the exception of shoal areas. Vessel traffic moving to and from the Port of Buffalo and through the South Entrance to the Buffalo Outer Harbor is guided by navigation lights that are located at the channel entrances, as outlined in Table 4.

Table 4: Navigational Aids

Location	Characteristics	Height	Visibility Range	Remarks
Inner Harbor South Entrance Break Wall	Flashing Green – 2.5 seconds	20 feet	2.5 miles / 4 kilometers	Square green dayboard on post
Inner Harbor South Entrance at Stony Point	Flashing Red – 2.5 seconds	40 feet	13 miles / 20 kilometers	Red Triangular dayboard on post
Buffalo Harbor South Approach	Flashing Red – 6 seconds	36 feet	1 mile / 2 kilometers	Square green dayboard on post
Lackawanna Canal Entrance -West	Flashing - Red	20 feet	-	Private aid
Lackawanna Canal Entrance - East	Flashing - Red	20 feet	-	Private aid
Union Ship Canal	Flashing - Red	20 feet	-	Private aid

U.S.C.G. Light List, Volume VII – Great Lakes, 2017.

- *Waterborne Transport*

Buffalo is part of the Great Lakes St. Lawrence Seaway system. The Port of Buffalo (the Gateway Trade Center) is located at the northern end of the former Bethlehem Steel property in Sub-Area 1. The port includes the Lackawanna Canal and the western end of the Union Ship Canal at the south end of the Buffalo Inner Harbor. The Port of Buffalo is located directly on the lakefront with an unrestricted approach from Lake Erie. The Gateway Trade Center within the Port is located in a New York State Economic Development Zone and a U.S. Foreign Trade Zone (#23), offering benefits and incentives to patron businesses.

The Port of Buffalo and Gateway Trade Center is not a large port by comparison with other Great Lakes ports. It is ranked the seventh busiest port on the Great Lakes. Unlike many Great Lakes ports, which are focused on one commodity, the Port is highly diverse. It handles a variety of commodities, with a multiplicity of trading partners. While the volume is relatively small, with both roadway and rail service, the Port handles the import and export of domestic and international freight.

The Port of Buffalo and Gateway Trade Center provides access to markets in southern Ontario and the northeast U.S., as well as world markets via the St. Lawrence Seaway. This port is a major bulk cargo storage and transfer facility with approximately 20 acres of bulk storage space and 10 acres of paved, open storage area. The Port is equipped with approximately 9,000 linear feet of dock space along the east and west sides of the Lackawanna Canal and on the south side of the mouth of the Union Ship Canal. It can accommodate up to eight large vessels. The channels in the Buffalo Harbor area are maintained at a minimum depth of 26 feet to support waterborne commerce. The full seaway depth of the Port provides easy access, eliminating the need for tug service. The Port offers a range of cargo handling equipment, including two heavy lift movable cranes and a 230-ton gantry crane, a heavy duty front end loader, portable conveyors and forklifts. The Port is open for navigation from early April through late December.

Gateway Trade Center includes a 40,000 square-foot terminal building that provides heated space for warehousing and distribution. This building has ready access to local truck, water and rail routes (multi-modal capability). As noted above, it is adjacent to an active railway corridor that has track connections into the Port. The South Buffalo Railroad serves the Port area and maintains switching rights with all other major trunk line railroads in the area.

- *Navigational Safety*

The US Coast Guard and the Erie County Sheriff's Marine Division are responsible for enforcing navigation laws and vessel regulations within the WRA. In the event of an underwater rescue, the Buffalo Police Department Underwater Recovery Team assists the Erie County Sheriff's Office.

The US Coast Guard maintains a fleet of three boats at its base on the Outer Harbor. These consist of a 47-foot motor lifeboat, a 24-foot RHI inflatable, and a 14-foot ice skiff used for ice rescues. There are 19 full-time personnel stationed at this location. The Coast Guard enforces a six-mile per hour speed limit through the Black Rock Canal and the Buffalo River, and a 10-mile per hour speed limit in the Buffalo Harbor area. This harbor speed limit is currently not posted. The Coast Guard is on duty year-round to conduct emergency rescue and law enforcement activities. The Buffalo Sector has a Rescue 21 system that offers advanced command, control and direction-finding communications for search and rescue missions. Since the system went into operation, it has been used for more than 600 search and rescue cases, contributing to the rescue of over 130 boaters.

The Erie County Sheriff's office maintains a fleet of three patrol boats that are utilized for the enforcement of navigation law, for search and rescue efforts and accident investigations. The Sheriff's Marine Unit patrols Lake Erie, Buffalo Harbor, the Buffalo River and Black Rock Canal. The Sheriff's use a 40-foot Twin-Screw Munsen and a Twin 424 patrol boat, which are docked at the Harbour Place Marina near the Black Rock Canal, and a Grady White with an outboard motor that is docked at the Erie Basin Marina. The Sheriff's Marine Division has five to six deputies assigned to these vessels annually. In addition, there are 15 reserve officers who use their own boats to assist the regular patrol boats during special details. Usually only two reserve boats are active at any time. The Erie County Sheriff's Marine Division enforces State maritime laws within 100 feet of the shoreline. Vessels within 100 feet of the shore, any dock or pier, or any other anchored vessel may not exceed five miles per hour or exceed a reasonable and prudent operating speed, depending upon weather and traffic conditions. The Division maintains regular patrols from mid-April through mid-November, or whenever vessel traffic becomes minimal. They also conduct a dock watch program.

When required, the Buffalo Police Department Underwater Recovery Team can lend assistance for emergency situations. This team consists of more than a dozen professional divers trained in swift water and ice rescues. The Team maintains a 21-foot Boston Whaler patrol boat that is docked at the Erie Basin Marina. The primary responsibility of this team is to assist the Erie County Sheriff's Marine Division with rescue operations.

2.6.3 Marinas, Docks and Bulkheads

There are no public or private marinas, boat launch ramps or docking facilities for recreational vessels within the WRA. The only docking that exists is located at the Port of Buffalo, along the Lackawanna Canal in Sub-Area 1, and is utilized by commercial vessels on a transient basis.

The installation of docks and pilings on Lake Erie is regulated by the Army Corps of Engineers and requires the issuance of a Regional Permit, pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Structures that do not meet the conditions of the Regional Permit can be considered for approval under an Individual Permit. NYSDEC approval may also be required depending on the circumstances.



The WRA has limited areas of shoreline protection. Erosion protection structures are found primarily around the perimeter of the Lackawanna Canal, which is fortified with corrugated steel walls, and

around the Stony Point dredge spoil waterfront where stone revetment and riprap has been installed. No erosion protection exists along the Lake Erie shoreline, from the dredge spoil area south to the City boundary with the Town of Hamburg. The shoreline along the lake throughout this area consists of steep bluff and some beach area. It is comprised of fill and slag materials, a by-product of prior industrial activity, that were deposited along the shoreline and presents limitations for public access.

▪ *Dredging / Channel Maintenance*

The US Army Corps of Engineers (USACE) conducts an annual survey of federal navigation channels to determine which areas require dredging. Routine operation and maintenance dredging is typically conducted every two to three years. Due to funding limitations, only portions of these channels can be dredged in areas where shoals substantially impede commercial navigation, due to a buildup of sediment in the channels.

Dredged sediment that is removed from local waters is placed in Confined Disposal Facility (CDF) #4, which is a 107-acre site that is located at Stony Point, adjacent to the former Bethlehem Steel property in Sub-Area 1. Owned by Erie County, it was constructed by the USACE in 1972 for the placement of dredge spoil material that is unsuitable for open-lake disposal in Lake Erie. Material dredged by non-USACE entities from other areas is periodically placed in CDF #4 with USACE approval.



The USACE reports that the Buffalo Outer Harbor requires no regular dredging or other maintenance. It was last dredged in 2008 and there are no plans for dredging in the near future. The South entrance channel for Buffalo Harbor is deep enough to handle current commercial and recreational boating traffic.

2.6.4 Recreational Fishing

Although there are no formally designated locations for recreational boat docking or shoreline fishing in the WRA, the offshore waters of Lake Erie and the Buffalo (Outer and Inner) Harbor areas are popular locations for recreational fishing. Lake Erie supports a renowned sports and recreational fishing industry that attracts anglers throughout the year. It is, in fact, one of the most valuable freshwater commercial fisheries in the world. Within the region, Lake Erie supports several sport fishing charter businesses, regional fishing clubs and fishing derbies, bait shops, and numerous shoreline fishing sites. However, they operate outside of the Lackawanna WRA. Boat launching and boat access to Lake Erie is available at the Small Boat Harbor and the Erie Basin Marina, which are located in the Buffalo Harbor, north of Sub-Area 1.

There is an abundance of fishery resources in the WRA waters, including both native and non-native species. Native species found in Lake Erie include largemouth and smallmouth bass, yellow perch, walleye, northern pike, muskellunge, rock bass, sheepshead, smelt, emerald shiners, steelhead trout and lake sturgeon. In general, the potential for overfishing is not considered to be a problem; however, catches of certain highly-sought species, such as

muskellunge, walleye or steelhead, under certain conditions, may pose concerns for anglers and fisheries managers.

NYSDEC’s management of Lake Erie fishery resources includes a component focused on providing steelhead trout fishing opportunities, particularly in the major tributaries to Lake Erie. Approximately 250,000 steelhead are stocked annually in selected New York tributaries of the lake, including about 45,000 in the Buffalo River system (north of the WRA). Steelhead are stocked in early spring, usually April, in order to imprint the young so they will return to these streams when they mature. Since 2005, a portion of steelhead have been stocked into holding pens in the Buffalo River at the Bison City Rod and Gun Club to improve survival and imprinting. The fish are held for about three weeks, fed, monitored, measured and released by volunteers. The NYSDEC has initiated a similar program for walleye restoration in the Buffalo River to establish a self-sustaining, riverine walleye population in the Buffalo River that would diversify walleye reproduction in Lake Erie. This is important, as the Seneca Shoals area at the mouth of Smokes Creek is a popular location for walleye fishing.

2.7 Natural Resources (Map 5)

2.7.2 Water Quality

The surface waters in the Lackawanna WRA, including the waters of Lake Erie and southern portion of Buffalo Harbor, are the receiving waters for the Buffalo River and Smokes Creek watersheds. Together these areas drain approximately 145,000 acres of land area. Activities that occur in the upland areas of these watersheds impact water quality in the lake and harbor areas.

Article 15 of the New York State Environmental Conservation Law (ECL) requires that all waters of the State, including lakes, ponds, streams, and rivers, are provided a water quality classification and standard designation that is based on a determination of their existing or expected best usage for each water or waterway segment. This classification is based upon the characteristics of bordering lands, stream flow, water quality, present and past uses, and potential future uses. Surface waters with classifications A, B, and C may also include a standard of (T), indicating that they may support a trout population, or (TS), indicating that it may support trout spawning. Waterbodies that are designated as C (T) or higher (i.e., C (TS), B or A) are collectively referred to as “protected streams” and are subject to the stream protection provisions of the New York State Protection of Waters regulations.

<u>Class</u>	<u>Best Use of Surface Waters</u>
A, AA, A-Special	Drinking/potable water supply
B	Primary and secondary contact recreation
C	Fishing and fish propagation and survival
D	Fishing

There are four NYSDEC-classified waterbodies located in the WRA, including portions of Lake Erie and the Buffalo Inner Harbor, Lackawanna Canal and Smokes Creek, as noted below

- Lake Erie (Outer Harbor, South) – The Lake Erie shoreline within the southern end of the Outer Harbor, south of a line extending west of Tiffit Street and north of the Outer Harbor breakwater at Stony Point, including the Lackawanna Canal.
- Lake Erie (Northeast shoreline) - The lake shoreline, south of the southern end (base) of the Outer Harbor breakwater at Stony Point, and north of a line extending west from First Street (in Woodlawn, south of the WRA).

- Smokes Creek (main stem and north branch) - The portion of the creek and selected/smaller tributaries, from the mouth of the creek on Lake Erie in Lackawanna to Route 20 near Webster Corners (outside of the WRA).
- South Branch of Smokes Creek - This segment includes the portion of the Creek and all tributaries, from the mouth of the Creek in Lackawanna to Green Lake in Orchard Park.

All four of these waterbodies are classified C. The best usage of Class C waters is fishing, as well as fish, shellfish, and wildlife propagation and survival. The water quality in the lake and creeks is also considered to be suitable for primary and secondary contact recreation, although other factors may limit their use for these purposes.

The water quality classifications assigned to waterbodies do not necessarily reflect all existing water quality issues. Therefore, the Federal Clean Water Act requires states to periodically assess and report on the actual quality of waters in their jurisdiction. The NYSDEC has developed a State-wide inventory of specific waterbodies. This inventory is based on monitoring and information drawn from other programs and sources, which characterizes general water quality to the degree to which water uses are supported, and considers progress being made toward the identification of quality problems and improvements.

The NYSDEC Division of Water periodically publishes a list of the surface waters that cannot be fully used as a resource or have problems that can damage their environmental integrity. This “Waterbody Inventory/Priority Waterbodies List” (Table 5) is used as a base resource for NYSDEC Division of Water program management. Separate Waterbody Inventory/Priority Waterbodies List Reports are prepared and maintained for each of the major drainage basins in the State. The list includes an assessment of water quality for waterbodies under six categories, which include:

- *Waters with No Known Impacts* – waterbody segments where monitoring data and information indicate no use restrictions or other water quality impacts or issues.
- *Threatened Waterbody Segments* – waterbody segments for which uses are not restricted and no water quality problems exist, but where specific land use or other changes in the surrounding watershed are known or strongly suspected of threatening water quality; or waterbodies where the support of a specific and/or distinctive use makes the waterbody susceptible to water quality threats.
- *Waters with Minor Impacts* – waterbody segments where less severe water quality impacts are apparent but uses are still considered fully supported (these waters correspond with waters that are listed as having “stressed” uses).
- *Waterbodies with Impacts Needing Verification* – these are segments that are thought to have water quality problems or impacts, but where there is insufficient or indefinite documentation. These segments require additional monitoring to determine whether uses should be restricted.
- *Impaired Segments* – these are waterbodies with well documented water quality problems that result in precluded or impaired uses.
- *UnAssessed Waterbodies* – waterbody segments where there is insufficient water quality information available to assess the support of designated uses.

Impaired waterbodies are deemed waters that frequently do not support appropriate uses. Impaired segments, waters with Minor Impacts and Threatened Waterbody segments are the focus of remedial/corrective and resource protection activities by the NYSDEC.

Table 5 outlines the use impairments, types of pollutants and sources for each listed waterbody in the City. As indicated by a New York State Department of Health advisory and discussed below, fish consumption has been impaired in certain segments of Lake Erie. This advisory recommends restricted consumption of some fish species due to elevated PCB levels.

Section 303(d) of the Federal Clean Water Act also requires states to identify *Impaired Waters*, wherein specific designated or appropriate uses are not supported, requiring the development of a *Total Maximum Daily Load (TMDL)* or other restoration strategy to reduce the input of the specific pollutant(s) that restrict waterbody uses to restore and protect such uses. The 2016 Section 303(d) List of Impaired Waters identifies Lake Erie as surface waters in the WRA that require attention.

Table 5: Waterbody Inventory/Priority Waterbodies List Water Quality Assessment Information					
Water Body	Category	Impaired Use	Severity	Type of Pollutant	Causes/Source
Lake Erie (Outer Harbor, South)	Impaired Segment	¹ FISH CONSUMPTION	Impaired (<i>known</i>)	<i>Known:</i> PRIORITY ORGANICS (PCBs)	<i>Suspected:</i> CONTAMINATED/ TOXIC SEDIMENTS
Lake Erie (Northeast shoreline)	Impaired Segment	¹ FISH CONSUMPTION	Impaired (<i>known</i>)	<i>Known:</i> PRIORITY ORGANICS (PCBs)	<i>Known:</i> CONTAMINATED/ TOXIC SEDIMENTS
Smokes Creek, Lower and minor tributaries	Minor Impacts	Aquatic Life	Stressed (<i>known</i>)	<i>Known:</i> Aesthetic (slag banks)	<i>Known:</i> ¹ URBAN/ STORM RUNOFF
		Recreation	Stressed (<i>known</i>)		
		Aesthetics	Stressed (<i>known</i>)	<i>Suspected:</i> ¹ NUTRIENTS (phosphorus), SILT/SEDIMENT Pathogens <i>Possible:</i> <i>Dissolved Oxygen /Oxygen Demand, Metals</i>	<i>Suspected:</i> ¹ INDUSTRIAL <i>Possible:</i> Municipal, Combined Sewer Overflow, Other Sanitary Discharges, Toxic/ Contaminated Sediment
South Branch of Smokes Creek	Impaired Segment	¹ AQUATIC LIFE	Impaired (<i>known</i>)	<i>Known:</i> ¹ NUTRIENTS (phosphorus), ¹ SILT/ SEDIMENT, Aesthetics (sludge, debris)	<i>Known:</i> STREAMBANK EROSION/ URBAN AND STORM RUNOFF
		¹ RECREATION	Impaired (<i>known</i>)		
		Aesthetics	Stressed (<i>known</i>)	<i>Possible:</i> Pathogens	<i>Possible:</i> Industrial, Other Sanitary Discharges

Source: NYSDEC, 2010. ¹ Capital letters indicate MAJOR Use Impacts/Pollutants/Sources

Development of a waterbody specific TMDL, pollutant/source specific TMDL or other appropriate strategy is required for Lake Erie to achieve water quality standards. This is due to fish consumption advisories related to the known presence of priority organic contaminants, primarily PCBs. The south branch of Smokes Creek is considered a surface waterbody for which TDML development may be deferred due to the need to verify the source pollutant.

In 2014, based on petitions by the NYSDEC, the Environmental Facilities Corporation (EFC) and NYSDOS, the EPA designated the New York portion of Lake Erie and the St. Lawrence River as a “Vessel Waste No Discharge Zone.” This designation means that boaters and shippers are not allowed to discharge their on-board sewage into local surface waters. Instead, they are required to dispose of their sewage at established pump-out stations that are available for recreational boater use.

New York State’s Clean Vessel Assistance Program, which is recognized as one of the nation’s best clean vessel programs, has helped establish and annually supports 37 pump-out facilities on Lake Erie and the St. Lawrence Seaway, providing recreational boaters with convenient access to pump-out stations for the safe disposal of septic waste. The closest vessel pump-out facilities are located at the Buffalo Small Boat Harbor, Erie Basin Marina and Rich Marine, all of which are located north of the boundaries of the WRA.

- *Fish Consumption Advisories*

While commercial fisheries do not exist in the Lackawanna WRA, many people, including many members of the City’s growing immigrant community, rely upon fish consumed from local waterways as a primary protein source. Unfortunately, fish from fresh waters are more likely to be contaminated than fish from remote marine waters because many fresh waters are close to human activities and contamination sources. When those fishing locations contain fish with higher contaminant levels, the people who eat them will have higher contaminant exposures.

The New York State Department of Health (NYSDOH) has posted a number of health advisories for contaminants in sport and game fish, primarily PCBs, for the Buffalo River and Buffalo Harbor, Upper Niagara River and Lake Erie. The warnings are designed to protect public health until the contamination is removed from the food chain and fish are safe to eat. The Buffalo Niagara Waterkeeper is working in partnership with Jericho Road Ministries and the NYSDOH to educate residents on the risks of eating polluted fish. The program has produced innovative and simplified public health materials in numerous languages and has conducted extensive outreach to at-risk communities who depend on local fish as a food source.

2.7.3 Wetlands and Habitats

- *Wetlands*

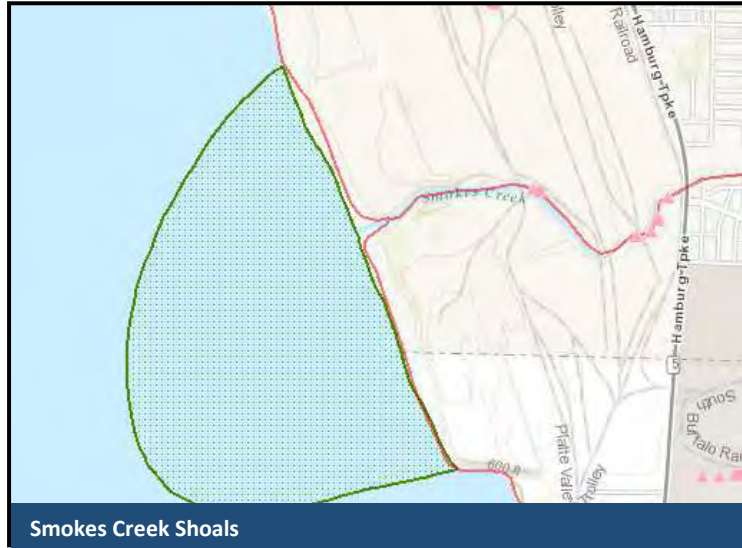
Wetlands (swamps, marshes and similar areas) are low-lying areas saturated by surface or ground water for extended periods of time sufficient to support distinctive vegetation adapted for life in saturated soil conditions. Wetlands serve as natural habitat for many species of plants and animals and absorb the forces of flood and tidal erosion to prevent loss of upland soils. In New York, wetlands are divided into two categories, those regulated by the NYSDEC, and those designated and regulated by the US Army Corps of Engineers (USACE) and the US Fish and Wildlife Service. A wetland can also be regulated by New York State and the federal government concurrently. Regulating authority is determined individually based upon the specific regulations that define the criteria by which a wetland is identified. The definition of what is classified as a wetland differs between these two entities.

- *Federal Wetlands* – These wetlands are delineated based on the hydrologic condition of the land and the presence of hydric soils and wetland vegetation. Most of the federal wetlands in the City fall into this category. The federal government uses a broader definition of wetlands, regulating areas regardless of their size, in accordance with the Clean Water Act. These areas are mapped by the U.S. Fish and Wildlife Service as designated wetlands if they meet certain vegetation, hydrology and soils parameters. Federal policy is evolving regarding federal wetlands, particularly smaller isolated areas that are not associated with navigable waters of the United States.
 - o Any activity undertaken within Federal wetland areas requires a permit from the USACE. A Federal wetland does not need to be included on the National Wetland Inventory Map to be regulated by USACE; determinations of regulatory jurisdiction are typically made by the USACE through field investigations.
 - o There are scattered areas of federal wetlands in the City, primarily in areas that are not presently used by the general public. These wetland areas can be found on lands associated with the Stony Point dredge spoil facility and situated along the Lake Erie waterfront, south of Smokes Creek in Sub-Area 1; and small portions of Galante Park on the north branch of Smokes Creek and areas northwest of and along the NYS Thruway corridor (Interstate 90) in Sub-Area 2; and in areas adjacent to the railroad corridor complex that extends through the western portion of Sub-Area 2.
 - o Federal wetlands are likely associated with the South Branch of Smokes Creek, in the southeastern part of the City, south of Martin Road. This is where the Smokes Creek corridor meanders around a large area of open space. This section of the creek that is also associated with a large pond that lies between the active and abandoned rail lines of the Norfolk Southern Railroad, just east of the Highview Circle subdivision.
- *New York State Wetlands* – The NYSDEC identifies freshwater wetlands based upon a number of factors, primarily by the types of vegetation found in the area. Plants found in State-designated wetlands prefer wet soils or flooding conditions. Under State law, a State regulated freshwater wetland must be a minimum of 12.4 acres in size or greater, unless it has been determined by the NYSDEC Commissioner to have unusual local importance (See 6 NYCRR Part 663.2(p)). State regulations also apply to a 100-foot buffer area that is designated around the boundary of the wetland area. A permit from the NYSDEC is required, subject to their review and approval, prior to the disturbance of any State-designated wetland or the one hundred-foot area adjacent to the wetland. Activities subject to regulation include draining, dredging, excavation, filling, building construction, road construction or discharging sewage or other liquid waste. As shown on Map 5, there are no areas of State-designated freshwater wetlands identified in the WRA.
- *Significant Wildlife Habitats*

There is one designated Significant Coastal Fish and Wildlife Habitat (SCFWH) in the City (see Map 5) known as Smokes Creek Shoals. New York State designates these habitats based on the determined importance of the resource(s) to local ecology and the economy. For each designated SCFWH site, a habitat map and narrative are created to provide site-specific information. The habitat narrative constitutes a record of the basis for designation of the SCFWH and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on the characteristics of the habitat, which are essential to its ecological values.

- *Smokes Creek Shoals*

Smokes Creek Shoals is located along the shoreline of Lake Erie, extending beyond the boundary between the City of Lackawanna and the Town of Hamburg in Sub-Area 1. This habitat is comprised of an approximate 500-acre area of open water, generally located within a one-half mile radius of the mouth of Smokes Creek. This habitat area encompasses a broad, productive, littoral zone, where water depths are generally less than 20 feet below mean low water, and the bottom substrate is a mixture of sand, gravel, and rubble. The entire shoreline bordering Smokes Creek Shoals has been modified through filling or bulkheading in conjunction with former industrial development along the adjacent shoreline.



The Smokes Creek corridor drains approximately 33 square miles of industrial, residential and abandoned agricultural land, and much of the creek channel has been modified for flood control purposes (as discussed in Section 2.7.5). Much of the land located along the banks of the Smokes Creek corridor is comprised of forest or old field. In addition, the NYSDEC acquired a permanent easement along the main creek corridor, as well as the north and south branches of the creek, for administration of the flood control project. Smokes Creek is classified by the NYSDEC as a Class C stream, which is defined as being suitable for fish propagation and survival, with water quality expected to be suitable for primary and secondary contact recreation, although other factors, may limit the use for these purposes. Additionally, the main stem of Smokes Creek flows through the former Bethlehem Steel property, discharging into Lake Erie. This property formerly housed a large steel production facility that resulted in on-site disposal of contaminants. The contamination in and around the Smokes Creek corridor may impair the floral and faunal diversity of the creek.

Smokes Creek Shoals is one of only a few sizeable areas of relatively shallow, gravely shoals in the Erie County portion of Lake Erie. Apparently, wave action and inflows from Smokes Creek provide adequate water circulation in this area to prevent siltation of the bottom substrate. This extensive littoral zone likely serves as an important spawning area for a variety of warm water fish species, especially walleye, along with yellow perch and smallmouth bass. Evidence of walleye in and around the mouth of Smokes Creek during the spawning period (generally mid-March through early May) suggest that the adjacent shoals attract a major lake-spawning concentration. Concentration areas such as this are unusual in Erie County. Because of the abundant walleye population at Smokes Creek Shoals, this area attracts significant recreational fishing activity during late spring and summer. Reproduction of walleye at Smokes Creek Shoals may also contribute to the Lake Erie commercial fishery for this species, located farther offshore in Lake Erie waters greater than 55 feet deep.

Any activity that substantially degrades water quality, increases temperature or turbidity, alters water depths, or reduces physical diversity of bottom substrate at Smokes Creek Shoals could affect the fisheries resource of this area. Discharges of sewage, stormwater runoff, or industrial

wastewater, containing heavy sediment loads or chemical pollutants would result in adverse impacts on fish populations. Temporary habitat disturbances would be most detrimental during fish spawning and nursery periods (mid-March through May for most warm water species); any unavoidable human disturbance of the littoral zone should be scheduled during fall or winter to minimize potential impacts to this area.

The Army Corps of Engineers (USACE) is presently completing a “Project Modifications for Environmental Improvement” (Section 1135) project for habitat improvement at the mouth of Smokes Creek. This project would enhance fish and wildlife habitat along Smokes Creek and restore the suitability of this area for fish spawning activity. Current conditions include sediment fills at the creek mouth, as well as a sheet-piled channel configuration that restricts fish movement and creates unsuitable spawning habitat for walleye and other fish. Limiting conditions that have developed in this area include a lack of suitable substrate, unsuitable temperature regime, low stream velocity and low flow. These conditions are a consequence of the enlarged and channelized bed that was created by the flood control project. Changes in the area(s) near the flood control project, including constructing eddies and developing fish habitats, are necessary to support successful fish spawning in the lower reach of Smokes Creek. If improvements to this area are not pursued, the mouth of Smokes Creek will be devoid of suitable critical spawning habitat. Furthermore, it is essential that the USACE cease the practice of removing vegetation along the banks of the creek, which adversely impacts spawning habitat.

To remedy these problems, the USACE, in conjunction with the NYSDEC and the City of Lackawanna, has proposed mitigations under the Section 1135 project to restore the ecological functions that have been eliminated or degraded in this area. Proposed alternatives include a jetty at the creek mouth and improved environmental conditions throughout the entire length of the Smokes Creek Flood Control project area, from its upstream to downstream limits. A feasibility study and Detailed Project Report/Environmental Assessment, which presented the findings of the feasibility study, were prepared for this project. This project is awaiting final approval and construction; however, a lack of funding has stymied its implementation.

Since portions of Smokes Creek are located on the former Bethlehem Steel property, which is being remediated to address environmental hazards associated with former industrial uses, sediment sampling in the creek was completed by the U.S. Environmental Protection Agency in 2011. The results indicated that the overall sediment quality is not likely to cause chronic toxicity to sediment-dwelling organisms; however, some metals and organic substances were found to be present at elevated levels. Tecumseh Redevelopment, Inc. (Tecumseh), who is the present owner of the Bethlehem Steel property, is progressing with remedial activities in the area under a Resource Conservation and Recovery Act (RCRA) and a Corrective Measures Study. Therefore, the USACE project will need to be coordinated with these ongoing environmental remediation efforts. Both efforts will help to improve the degraded environmental conditions in the Smokes Creek corridor, thereby improving conditions in the Smokes Creek Shoals habitat area.

- *Invasive Species*

An invasive species is a plant or animal that is foreign to an ecosystem. During the past two centuries, invasive species have significantly changes the Great Lakes ecosystem. These changes have greatly affected the economy and health and well-being of people who rely on the system for food, water and recreation. Invasive species have been identified as second only to habitat destruction as a cause of the decline of global biodiversity. They cause or contribute to habitat degradation and loss; the disruption of natural ecological processes; the loss of native fish, wildlife and tree species; and the loss of

recreational opportunities and income. Common invasive species found in the Lake Erie watershed include:

- Zebra and quagga mussels (invertebrates)
- Round goby (fish)
- Spiny water flea (crustacean)
- Rusty crayfish (crustacean)
- Eurasian water milfoil (aquatic plant)
- Hydrilla (aquatic plant)
- Non-native cattails (plant)
- Common reed/phragmites australis (plant)
- Japanese knotweed (plant)
- Mugwort (plant)
- Shallow-wort (plant)
- Curly leaf pondweed (Aquatic plant)
- Water chestnut (aquatic plant)
- Purple loosestrife (Plant)
- Viral hemorrhagic septicemia (virus)

The movement of species occurs naturally through migration patterns, from climatic events and by other environmental factors. Natural movement of species outside of their natural range happens infrequently and occurs over the course of many years. Humans, however, have greatly contributed to the movement of species, primarily through economic and social activities. In recent years, technological advancements, accelerated participation in world trade and recreational activities have accelerated the pace of intentional and unintentional movement of species. Many species are introduced to new ecosystems, sometimes with disastrous results. Known pathways for the introduction and spread of invasive species include:

- *Shipping* – large ocean-going vessels (e.g., commercial, naval and cruise ships) that operate in the Great Lakes and St. Lawrence River basin. Organisms are carried and released in ballast water or attach to the hull of vessels.
- *Recreational and commercial boating* – includes all watercraft (e.g., powerboats, personal watercraft, canoes and associated trailers and fishing equipment). Organisms can become attached to vessels and equipment and be transported between waterbodies, such as vegetation tangled in boat motors, mussels attached to hulls or live wells, and bilge water that contains plants, animals and micro-organisms.
- *Movement of live bait* – the use of live or dead organisms, such as minnows, worms, leeches and insect larvae, to catch fish. Live baitfish and other organisms unintentionally harvested (parasites, plant fragments and other non-target creatures) that are illegally released from bait buckets into waters from which they did not originate.
- *Aquarium and water garden trade* – the intentional release or unintentional escape of organisms, such as fish, plants, invertebrates, amphibians and reptiles, which are used either indoors as aquarium pets or outdoors as elements of water gardens. These organisms can survive and reproduce; plants can spread to new areas through flood events or if discarded into a waterway at the end of the season.
- *Canals and other water diversions* – artificial connections are built for transport and for water diversion between or within watersheds. This provides an unnatural pathway for organisms to travel between waterbodies.

Monitoring aquatic ecosystems is critical to preventing, detecting, and reducing the spread and impact of aquatic invasive species that threaten waters in Lake Erie. Educating landowners as to the proper control and eradication of invasive plant species is a critical part of maintaining watershed health.

Identifying and removing invasive species is a vital aspect of restoring ecological health. Early detection and response is critical for their effective control.

Once established in a new environment, invasive species are often difficult and expensive to eradicate. Although control efforts may be ineffective and costly, they are sometimes necessary to minimize or eliminate the impact of invasive species on the environment. Complete eradication of invasive plants may be desirable; however, this is not always feasible. Controlling existing populations and preventing their spread in the WRA is a more practical and attainable goal. Control methods and timelines for treatment vary for each species. Therefore, consultation with the NYSDEC, the Western New York Partnership for Regional Invasive Species Management (PRISM – www.wnyprism.org), New York Sea Grant, or the Buffalo Niagara Waterkeeper is recommended.

2.7.4 Topography and Soils

The northern and western portions of Erie County lie in the Erie-Ontario lake plain province. These areas have little significant relief. Typical of the Erie-Ontario plain communities, the City of Lackawanna is generally flat, with most of the land nearly level (0-3% slope) or gently sloping (3-8% slope). The only areas with naturally-occurring greater slopes are those along the banks of Smokes Creek. The former Bethlehem Steel property has very steep slopes along several areas of the shoreline, which are the result of prior fill activity. These areas were created out of slag, with no natural soils included, and present significant limitations for public access along the shoreline.

Most of the information for this section was obtained from the Soil Survey of Erie County, New York, published by the U.S. Department of Agriculture's Soil Conservation Service in cooperation with Cornell University (December 1986). The majority of the land within the City is assigned an Urban Land classification. This classification applies where 80 percent or more of the soil surface is covered by asphalt, concrete, buildings or other impervious structures. This land includes parking lots, commercial areas and industrial sites. The largest expanse of undeveloped land in Lackawanna lies in the southeastern portion of the City, south of Martin Road, east of the South Park Avenue and northwest of the NYS Thruway (Interstate 90). Although this land is large enough to accommodate development, it presents several environmental obstacles associated with the wetness of the soils. The South Branch of Smokes Creek meanders through this area, making the surrounding soils too wet for many uses.

2.7.5 Flooding and Erosion (Map 5)

Regulated floodplains are areas that the Federal Emergency Management Agency (FEMA) has determined would experience a 0.1% chance of flooding during what is known as a 100-year storm event, when excessive precipitation would lead to creeks and rivers overflowing their banks. Floodplains, or Special Flood Hazard Areas, are areas that have been designated by FEMA. Since 1980, the City has been a participating community in the National Flood Insurance Program (NFIP) by adopting and enforcing a local floodplain management law to reduce future flood damage. In exchange, the NFIP provides federally backed flood insurance to homeowners, renters and business owners in these areas.

Flood zone mapping is available on Flood Insurance Rate Maps (FIRM). Flood zones in the City of Lackawanna are illustrated on Panel 360427-0001A and Panel 360247-0002B, which were last updated May 2, 2018. Zone A on these FIRM maps indicates the Flood Hazard Area boundary (100-year flood plain), which is the area likely to experience a flood once every 100 years. The maps show an extensive 100-year floodplain due to the presence of the two branches of Smokes Creek and the flatness of the land. As shown on Map 5, the 100-year floodplain generally covers a considerable area

in south central and central portions of the City, encompassing the Smokes Creek corridor and the area surrounding both the north and south branches of the creek. The floodplain also covers narrow portions of the shoreline area near the Stony Point dredge spoil disposal area and adjacent to the mouth of Smokes Creek.

Development in the floodplain in the City of Lackawanna is regulated under Section 230-68 – Flood Development Permits of the Zoning Law. This section of the law is designed to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Within the regulatory floodplain, Floodplain Development Permits are required for certain construction activities within the Regulated Floodway and Special Flood Hazard Area (Zones A and AE). Pursuant to Section 230-68, a development permit must be obtained from the Code Enforcement Officer (who is the designated Local Administrator of the Flood Development Permit regulations) prior to the start of construction or any other development.

The location of the 100-year floodplain in the City has not restricted development. Most of the land in the flood zone contains older established neighborhoods, with a mix of residential, commercial, institutional and transportation land uses. Most property owners recognize the need for flood insurance and have sufficient coverage, however, the residents have expressed a desire to have the City's FIRM maps updated to reflect current conditions.

- *Smokes Creek Flood Control Project*

A flood control project was built by the USACE on Smokes Creek in 1970. As noted above, the floodplain around the creek corridor in Sub-Area 1 (and its branches) is extensive and localized flooding impacted surrounding residential areas. Therefore, the flood control project was constructed to mitigate flood impacts. The USACE is completing a “modifications for improvement of the environment” (Section 1135) project. They are currently in the feasibility phase of the Section 1135 project and are working on a Preliminary Site Assessment, more extensive H&H model and wetland delineation. USACE is looking at a possible jetty at the mouth of the creek and improving environmental cleanup throughout the Smokes Creek Corridor.



Sheet-piling and sediment build up along Smokes Creek

The flood control characteristics and channel configuration of the lower reach of Smokes Creek, which includes sheet piling, have adversely affected attributes necessary for successful spawning of walleye and other fish species known to frequent this area. Currently, sediment fills at the mouth of the creek, restricting fish movement. Limiting conditions that have developed in this area include a lack of suitable substrate, unsuitable temperature regime, low stream velocity and low flow. These conditions are a consequence of the enlarged and channelized bed that was created by the flood control project. Changes in the area(s) near the flood control project, including constructing eddies and developing fish habitats, are necessary to support successful fish spawning in the lower reach of Smokes Creek. If improvements to this area are not pursued, the mouth of Smokes Creek will be devoid of suitable critical spawning habitat. To remedy these problems, the USACE, in conjunction with the NYSDEC and the City of Lackawanna, has proposed mitigations to restore the ecological functions that have been eliminated or degraded in this area. This project proposed by the USACE will enhance fish and wildlife habitat along Smokes Creek and restore the suitability of this area for fish spawning activity, which is

important as this area at the mouth of the creek is a State-designated Significant Coastal Fish and Wildlife Habitat (Smokes Creek Shoals), as discussed in Section 2.7.3.

As noted above, since portions of Smokes Creek are located on the former Bethlehem Steel property, sediment sampling was completed by the U.S. Environmental Protection Agency in 2011. The results indicate that the overall sediment quality is not likely to cause chronic toxicity to sediment-dwelling organisms; however, some metals and organic substances were found to be present at elevated levels. Tecumseh Redevelopment, Inc. (Tecumseh), who is the present owner of the Bethlehem Steel property, is progressing with remedial activities in the area under a Resource Conservation and Recovery Act (RCRA) Corrective Measures Study Consent Order. Therefore, the USACE project will need to be coordinated with the ongoing environmental remediation efforts. Both efforts will help to improve the degraded environmental conditions in the Smokes Creek corridor, thereby improving conditions in the Smokes Creek Shoals habitat area.

▪ *Shoreline Erosion*

Two areas were identified within the WRA that are experiencing shoreline erosion problems. The first is the Lake Erie shoreline in Sub-Area 1, south of the mouth of Smokes Creek near the Town of Hamburg boundary, where the bluff has become unstable due to storm impacts and changing shoreline conditions. The other area is the southern shoreline of the south branch of Smokes Creek in Sub-Area 2, near Creekside Drive and Sharon Parkway. A few residential properties along south shore are experiencing erosion as a result of the long-term effects of the prior flood control project that was undertaken in this area to straighten the creek corridor. Both areas require evaluation to determine potential remedies to combat continued erosion issues.

2.7.6 Environmental Hazards and Constraints

New York State Environmental Conservation Law defines a brownfield site as “...any real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant.” Remediating and reinvesting in these properties relieves development pressures on undeveloped open land, improves the City’s quality of life, and protects the environment. Like most cities in Western New York, the historical use of properties throughout the City has left a legacy of properties with the stigma of contamination, either real or perceived. Steel plants and heavy industry dominated Lackawanna’s economy for most of the 20th Century. The departure of the steel industry has had devastating impacts on the community as it redefines its economy and deals with the environmental conditions left behind by nearly 100 years of heavy industrial use and development.

The City understands that brownfield redevelopment is critical to its revitalization and has taken the steps necessary to realize a vision for a, once-again, thriving community, including the development of a brownfields clean-up program. To address the issues of brownfields, abandoned, underutilized and vacant sites, this program included the use of assessment funds from the U.S. Environmental Protection Agency (EPA) to begin to address some of the more problematic brownfield sites, and planning funds from the State under the Brownfield Opportunity Area (BOA) program.

In 2005, brownfield sites were identified and prioritized throughout the City. As a part of this effort, two key properties were investigated, including a group of six vacant lots on Ridge Road and the former City of Lackawanna incinerator on Reddon Street (both of these areas are outside of the WRA). Following these efforts, the City secured BOA funding from the NYSDOS for the preparation of a BOA Pre-Nomination Study for the First Ward (which includes the entirety of Sub-Area 1 in the WRA) to help plan for the reuse of stigmatized properties in this area. This study was submitted to the

NYSDEC and the NYSDOS and, in 2006, the City was awarded two new Brownfield Assessment grants from the EPA.

- *Lackawanna Brownfield Opportunity Area*

The Lackawanna First Ward BOA is located on the western edge of the City of Lackawanna, Erie County, New York. It borders with the City of Buffalo to the north and the Village of Blasdell to the south. The First Ward BOA encompasses 2,062 acres situated around Ridge Road and NYS Route 5. Historically, this portion of the City was the epicenter of Bethlehem Steel operations.



Lackawanna First Ward BOA Boundaries

In 2010, the City was awarded a grant for the preparation of a *Step 2 BOA Nomination Study*, which was completed in February of 2012. This study created a plan for community engagement to garner local support and create a vision for the future. It identified more specific information on the area that was utilized to analyze economic and market trends. The Step 2 process combined the community’s goals and vision with an analysis of physical characteristics and market conditions to develop a redevelopment strategy for revitalization of the First Ward study area.

In 2014, the City was awarded an additional grant from the NYSDOS to complete a *Step 3 BOA study*. This third and final step of the BOA program is the Implementation Strategy and/or Site Assessments phase. This phase includes strategic planning to define the specific activities necessary to achieve the successful redevelopment of high-priority sites and the area as a whole. Where appropriate, site assessments will be used to evaluate the environmental conditions of targeted brownfield sites and determine any necessary remedial efforts necessary to make those sites shovel-ready. This study was commenced in 2015 and primarily deals with areas along Ridge Road, outside of the former Bethlehem Steel Corporation site boundaries and the WRA. This is because much of the remediation and redevelopment planning for the Bethlehem Steel property is being handled by the NYSDEC and Erie County, as discussed below.

- *Bethlehem Steel Property Redevelopment*

Tecumseh Redevelopment, Inc. is the owner of the approximately 1,100-acre property located south of the City of Buffalo and west of NYS Route 5, which is the site of the former Bethlehem Steel Corporation Plant in Sub-Area 1. This site was used for the production of steel, coke and related industrial products. Steel production operations on the property were discontinued in 1983; the coke ovens ceased activity in 2000.

As a result of prior heavy industrial activity, portions of the Bethlehem Steel property were impacted by contaminants associated with the former steel and coke production. The steel plant property was the subject of an Administrative Order on Consent that was established between the Bethlehem Steel Corporation and the EPA in August 1990. Subsequent to the entry of the Order, Bethlehem Steel Corporation filed for bankruptcy protection. Tecumseh acquired the site in April 2003 and, thereafter, assumed all related remediation obligations.

In 1988, the EPA conducted a RCRA Facility Assessment of the site. This investigation identified 104 solid waste management units (SWMUs) and six surface water bodies (watercourses) that received or could have received solid wastes containing hazardous constituents. In 1990,

Bethlehem Steel agreed to perform a RCRA Facility Investigation (RFI) to identify the nature and extent of any releases of hazardous constituents from the SWMUs to the environment, and to mitigate any emergency situations that might be discovered during the course of this investigation. The RFI report provides the basis for identifying SWMUs, watercourses (Smokes Creek) and resources (e.g., groundwater, surface water, soils, sediments) that would be further studied in the Corrective Measures Study phase. In general, the source of chemical constituents found in groundwater, surface water and sediments at the site are attributed to waste materials historically discharged from or stored at the facility. Groundwater contaminants are primarily associated with historic coke making operations. The chemicals of concern include metals, chlorinated volatile organic compounds (VOCs), petroleum volatile organic compounds (VOCs), and semi-volatile organic compounds (SVOCs), including polycyclic aromatic hydrocarbons (PAHs).

Tecumseh completed and submitted the RFI report to the NYSDEC in 2006. The RFI identified approximately 40 discrete SWMUs on the property that exhibit soil/fill and/or groundwater contamination. At that time, the EPA and NYSDEC determined that these locations required further investigation and/or remediation to the site.

In response to the RFI, several interim remedial actions have been undertaken by Tecumseh to restrict the migration of contamination from the site, including:

- Installing and operating a groundwater collection and treatment system in the coke by-products yard, near the southeastern end of the coke batteries;
- Installing a slurry wall, interior groundwater collection system, leachate/groundwater treatment system, and an interim cover system at the acid tar pit;
- Collecting, treating and disposing or recycling residual wastewater and tar from various pipes, tanks, vessels and containment areas; and
- Dredging contaminated sediment and restoring flood water flow capacity from the lower reach of Smokes Creek to reduce the potential for upstream flooding.

The former Bethlehem Steel property is listed on the current registry of NYSDEC Superfund sites (site code 915009). To facilitate remediation and redevelopment, the property was divided into separate sites (NYSDEC site code numbers C915197, C915218, C915198, C915199, C915199G and C915205). Tecumseh signed a Memorandum of Understanding with Erie County and the City of Lackawanna to promote and implement redevelopment of the former Bethlehem Steel property, following cleanup.

Tecumseh has been working closely with the NYSDEC to remediate the property. In 2006 and 2007, approximately 30 acres on the western edge of the Tecumseh property was remediated and developed for a clean energy project (Steel Winds – see Section 2.9.6). In 2009, Tecumseh prepared a Redevelopment Master Plan that outlined planned development for the remainder of the property (see Figure 6). This Plan included an area for the development of a business park on the eastern portion of the property, along NYS Route 5. This area was divided into four phases; each phase was subsequently divided into sub-parcels for redevelopment. To date, significant progress has been made on this effort. According to the NYSDEC, eight of the ten sub-parcels in Phase III of the Tecumseh Business Park have been remediated and issued certificates of completion from the NYSDEC, indicating that cleanup requirements were achieved (M. Moore, NYSDEC, Division of Environmental Remediation, June 8, 2017). These sub-parcels have been redeveloped with manufacturing and clean energy uses, including a lumber transfer facility, the

Welded Tube USA manufacturing plant, and the Steel Sun solar project, which was constructed on sub-parcels 4 and 5, with the intent to add additional solar panels on sub-parcels 2, 3, 4 and probably sub-parcel 9 (see Figure 7). Sub-parcels 9 and 10 in the Phase III area both have approved Decision Documents; sub-parcel 9 is currently being remediated and sub-parcel 10 is awaiting remediation, including required groundwater extraction and soils excavation. All of the sub-parcels for Phases I, IA and II of the Tecumseh Business Park have been issued approved Decision Documents, which indicate that appropriate remedies for on-site cleanup have been selected and are awaiting remediation. Portions of the Phase I and Phase II areas have been purchased by the Erie County, is overseeing future redevelopment of these areas through the Erie County Industrial Land Development Corporation.

On June 30, 2009, Tecumseh signed a consent order with the NYSDEC to complete the Corrective Measures Study (CMS) for the portion of the former Bethlehem Steel property that lies between the Steel Winds site and the Gateway Trade Center Trade Center and Phase III of the business park (on both sides of Smokes Creek), as well as linear area of groundwater return trenching (see Figure 8). The purpose of this study is to develop and evaluate corrective action alternative(s) for this area of the property and to recommend corrective measures to be taken to clean up this area, which is the most contaminated portion of the entire Tecumseh property. The NYSDEC has held public meetings to gather comments on various elements of the proposed Corrective Measures program (S. Radon, NYSDEC, Division of Environmental Remediation, June 9, 2017). Final corrective measures statements have been issued that outlined the selected remedies for certain portions of the CMS area, including the site where the coke plant, blast furnace and by products facilities were located. Remediation for the entire CMS area is ongoing.

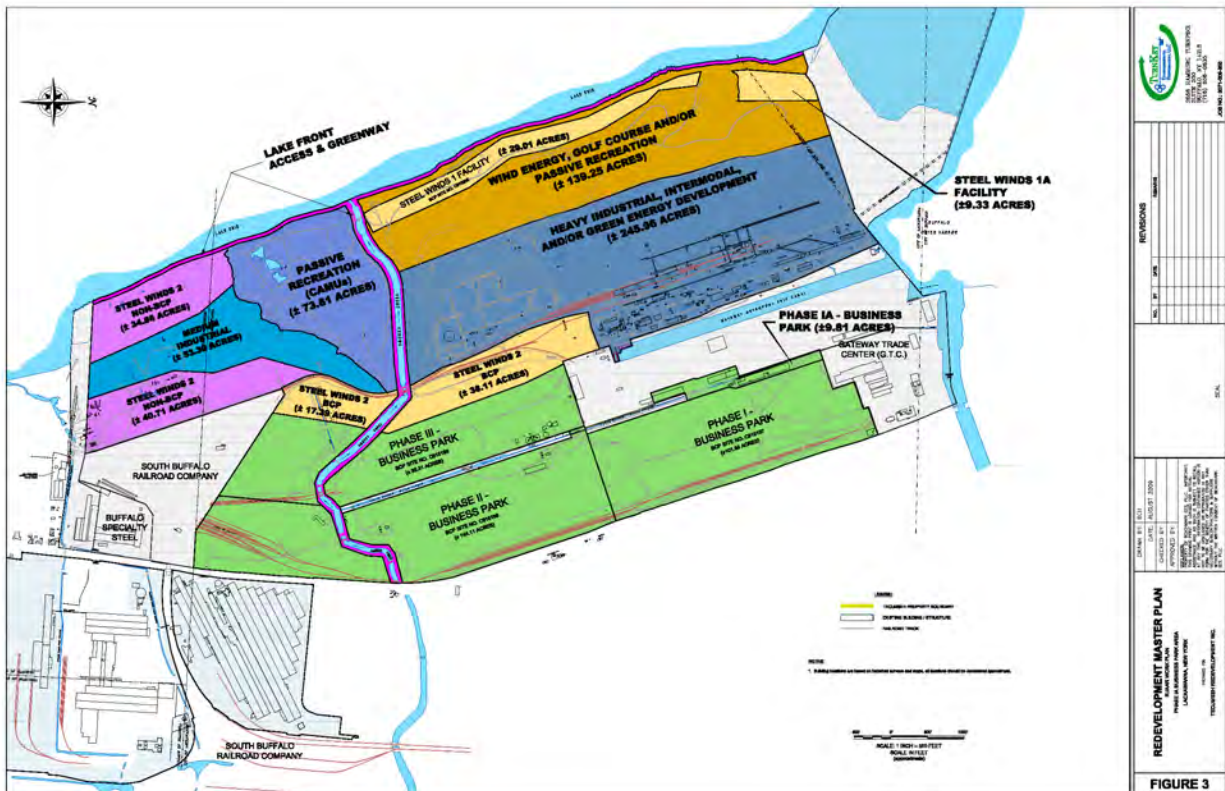


Figure 6: Tecumseh Redevelopment Master Plan

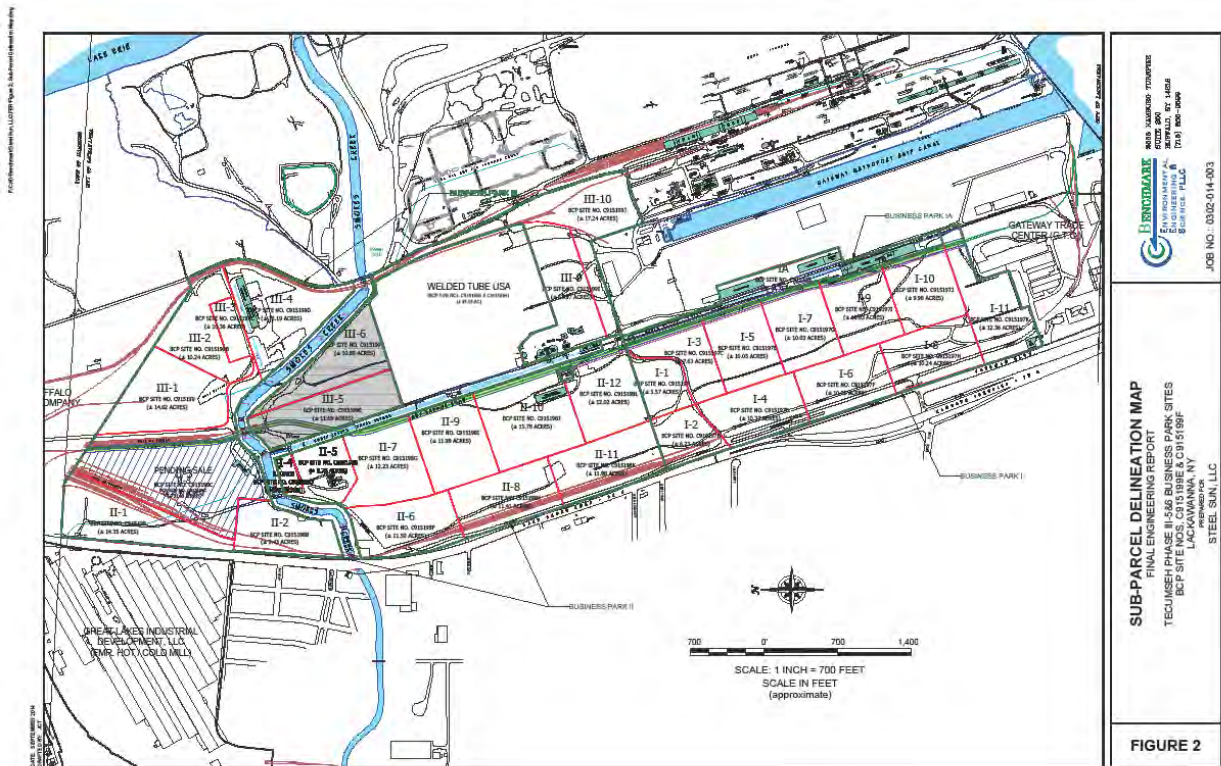


Figure 7: Tecumseh Business Park

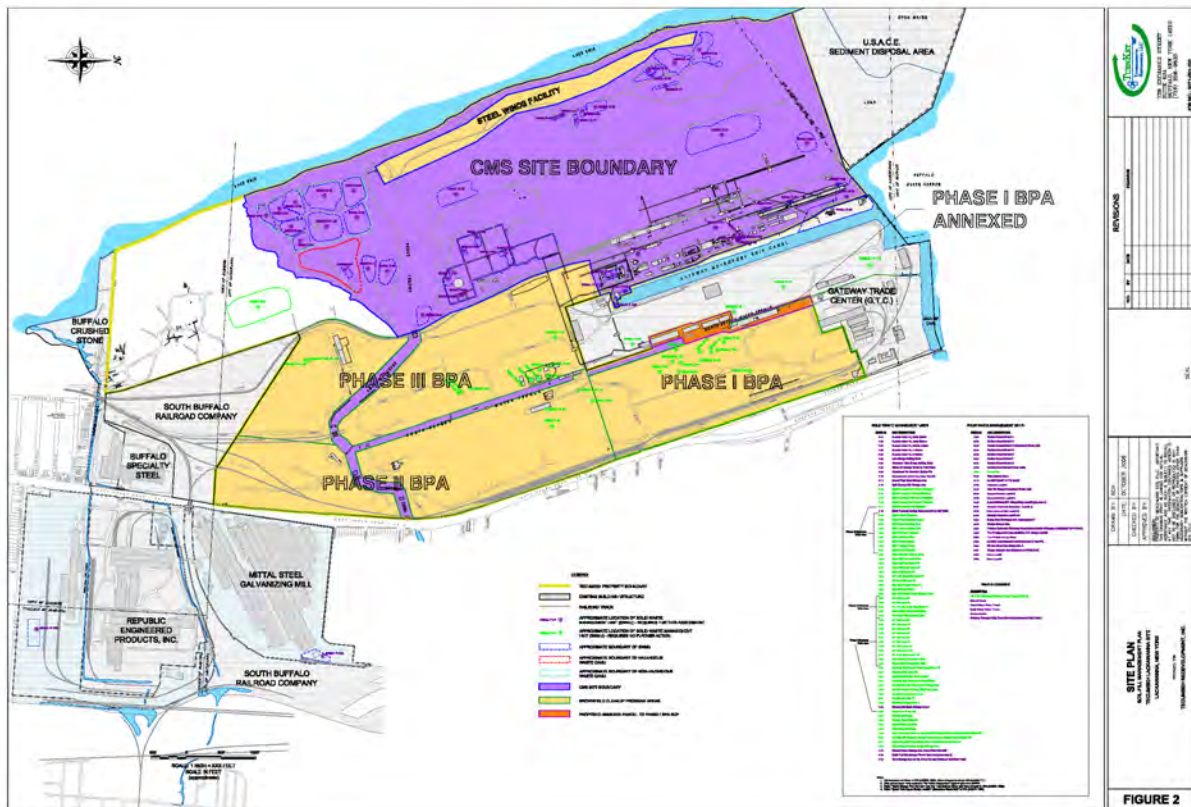


Figure 8: Corrective Measures Study Area

2.8 Historic, Cultural and Scenic Resources

2.8.1 Historic Sites and Structures

The City of Lackawanna has an interesting history, attested to by its wide variety of historic buildings and sites. The City contains numerous properties that played a significant role in the growth of western New York. Many of these sites continue to provide important reminders of the area's heritage. There are, however, no historic sites or structures located within the WRA.

To date, there is only one resource in the City of Lackawanna that is listed on the National and State Register of Historic Places. This includes:

- *McKinley Parkway*
McKinley Parkway, from McKinley Circle at Dorrance Avenue to South Park Avenue, is part of the historic Frederick Law Olmsted system of parks, landscaped circles, parkways and avenues that are found throughout the City of Buffalo. McKinley Parkway is recognized as an integral part of South Park. Olmsted designed McKinley Parkway as a main entrance to the Park; this roadway serves as an important physical and visual gateway to this significant historic and scenic resource. The entire Olmsted Park system was designated as a Local Historic District in the City of Buffalo and was listed on the National and State Register of Historic Places in 1982.

In addition to these resources, there are a number of other historic structures and sites in the City of Lackawanna, which fall outside the WRA boundary but are considered to be of local historic significance. Many, if not all, of these sites are eligible for listing on the Historic Registers. These sites include the following:

- Our Lady of Victory Basilica
- Our Lady of Victory Homes of Charity
- Our Lady of Victory Hospital

In addition to these resources, there are a number of other historic structures and sites in the vicinity of the WRA that warrant recognition, including:

- First Ward Fire House
- Lackawanna Public Library
- Lackawanna City Hall
- Dom Polski Association Building
- Hale Nursery House
- Lackawanna Firefighters and Historical Preservation Museum
- Marine Corps League Building (Bett-Toomey Post)
- Reed Cemetery
- Old Toll House
- Colonel John B. Weber House

2.8.6 Archaeological Resources

The location of the City of Lackawanna along the Lake Erie waterfront, and the presence of the Smoke Creek corridor indicates that these areas may have been attractive for Native American settlement. According to New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP) records, no known sites of archaeological significance have been identified or are known to exist along the Lake Erie shoreline or along the shorelines of both branches of Smokes Creek. Most of the Lake Erie waterfront, and extensive portions of the land along the corridors of

both branches of Smokes Creek, have been disturbed by clearing and development over the years. In particular, extensive fill and slag (between two and eight feet in depth) was deposited throughout the former Bethlehem Steel property, in Sub-Area 1, as a result of years of iron and steel production. There are some larger areas of undisturbed lands in the central portion of the City, which surround the creek corridors in Sub-Area 2. These areas include the southern and southeastern portion of Holy Cross Cemetery, which borders along the north branch of Smokes Creek, as well as the undeveloped land located behind the Lackawanna Senior Center, which extends along the south side of the creek (and includes Galante Park). There is also a large area of undeveloped land located south of Martin Road and the Martin Road Elementary School that surrounds the south branch of Smokes Creek and is comprised of extensive areas of wetlands. There is another large area of undeveloped land located between the Norfolk Southern railroad tracks and a residential area that is situated south of Ridge Road and east of Abbott Road. The archaeological sensitivity of these areas is unknown. The NYSOPRHP should be contacted prior to undertaking any development projects within the WRA, particularly in those areas that have not been previously disturbed or evaluated.

2.8.7 Scenic Resources

There are no Scenic Areas of Statewide Significance (SASS) within the Lackawanna WRA, as designated by the Secretary of State (SASS's are currently limited to 6 areas in the Hudson River Valley and on Long Island). Although not formally designated, the scenic resources along the waterfront areas in the City of Lackawanna are locally important. These scenic resources consist primarily of the dramatic vistas of Lake Erie and its shoreline. The Hamburg Turnpike in Sub-Area 1 (State Route 5) is a segment of the NYS Great Lakes Seaway Trail and a designated National and State Scenic By-Way. Efforts should be made to enhance and improve this corridor in recognition of this designation. Efforts should also be taken to protect, and where possible, improve the visual quality and visual accessibility of the waterfront areas in the WRA, although only limited views of the shoreline exist from most locations along NYS Route 5. Improved signage and the enhancement of gateway features should be considered, however, to improve aesthetics along Route 5. Furthermore, in accordance with federal regulations, the erection of new off-premise signs along State and National Scenic By-Ways is prohibited. City of Lackawanna sign regulations currently restrict off premises signs to directional signage for local businesses that cannot exceed three sq. ft. in size; billboards and other such off premises signage is prohibited. The City should work to phase out any existing billboard signage along the Route 5 corridor to improve and restore visual quality. Scenic views of the lake should also be protected and improved, wherever possible, through the Site Plan review process.

2.9 Public Infrastructure

Municipal infrastructure in the City of Lackawanna includes water supply and distribution, wastewater collection and treatment, stormwater management, and transportation facilities, along with public and private utility services that support residential, commercial and other land uses. Each of these services or systems are provided for the benefit and convenience of the public to reduce health risks and address essential needs for living and doing business in the City.

2.9.1 Public Water Supply

The City purchases water from the Erie County Water Authority (ECWA). Under their direct services agreement, the ECWA owns and operates the municipal water system. ECWA is responsible for customer service, billing, maintenance and capital improvements. Potable water is provided throughout the City. The residents and businesses purchase an average of 47,500 million gallons of water per month from the ECWA.

All water is pumped from the Sturgeon Point Water Treatment facility, which is located south of the City, in the Town of Evans. The water supply system requires no booster pumps, water storage towers or facilities to maintain adequate pressures throughout the system. Based on information received from the ECWA, the distribution system is in generally good condition. Piping is made of cast iron, ductile iron and reinforced concrete; pipe sizes range from 6 inches to 36 inches in diameter. As with any system, pipe breaks and leakage are common especially during winter months.

The ECWA does not perform regular pressure and flow tests on hydrants. When a request is received for information on a specific location for planned development, their standard practice is to check records and conduct testing if none has been performed in the past two years. There are isolated areas within the City that may have lower than desired water pressure and fire protection flow rates. In general, however, water pressure and flow rates are adequate. Backflow preventers are required for large commercial and all industrial development projects.

2.9.2 Wastewater Management

The City is located in Erie County Sewer District (ECSD) No. 6. The Wastewater Treatment Facility (WWTF), which is located at 260 Lehigh Avenue, provides treatment for wastewater flows from the City. The WWTF is owned and operated by Erie County; operation and maintenance of this facility, as well as the wastewater collection system, is provided by the County's Division of Sewerage Management. All wastewater flow collected through the system enters the WWTF through a 30-inch force main at the Willmuth Avenue pump station, which is located approximately ¼ mile from the WWTF. Following treatment, effluent is discharged through a 30-inch outfall to Smokes Creek. No other permitted discharge points exist within the system, aside from this outfall. Four pump stations aid wastewater flow from residential areas situated east of the WWTF; two pump stations convey flow from residential areas located west of the WWTF.

The WWTF has a design treatment capacity of 4.5 million gallons per day (mgd) and a peak capacity of 11.75 mgd. The present average daily flow rate is 3.37 mgd, which is within the limits of the State Pollution Discharge and Elimination System (SPDES) permit and indicates excess capacity for new development in WRA. The WWTF provides primary and secondary treatment, and phosphorus removal. A combination of on-site and off-site treatment processes are provided for wastewater generated in ECSD No.6. All wastewater flows are provided primary treatment (coarse screening) before being conveyed from the Willmuth Avenue pump station to the WWTF. In general, the on-site/off-site treatment process includes aeration of excess flow retention, screening and grit removal, primary settling, biological treatment, secondary clarification, chlorination, phosphorus removal, and sludge thickening, digestion and dewatering. The wastewater collection system was originally constructed as a combined system, conveying both sanitary and stormwater flows. A separate storm sewer system was constructed to separate the flows to address water quality issues.

An Overflow Retention Facility (ORF) is located on A Street, approximately one-half mile from the WWTF. During wet weather flows (heavy rain events), stormwater flows can exceed the treatment capacity of the WWTF due to inflow and infiltration (I&I) into the collection system. To mitigate this problem, the ORF stores wastewater until treatment capacity is available at the WWTF. Hence, this facility serves to equalize peak flows into the WWTF, enabling the treatment plant to operate within the limits of the NYSDEC SPDES permit for most wet weather events.

All structures in the City that are used for human occupancy, employment, recreation, or other purposes must be connected to the sanitary wastewater system. This wastewater collection system includes laterals, gravity sewer lines and force mains that range in size from 8 inches to 42 inches in

diameter. The wastewater collection piping is constructed of vitrified clay tile, brick, concrete, ductile iron and polyvinyl chloride (PVC). The general age of the sewer pipes is 80+/- years, with piping repaired or replaced as needed. Maintenance of the wastewater collection system is an ongoing process.

Due to their age, I&I is a problem throughout the City. Broken and leaking sewer pipes allow stormwater to infiltrate the system, increasing flow and capacity. Stormwater that enters into the system through manhole covers and/or illegal residential storm drain hook ups also contributes to the problem. ECSD No.6 does not have a long-term capital improvements plan in place to address system deficiencies. Therefore, the identification and correction of inflow and infiltration problems is a continuous effort. It is recommended that the County develop a long-term plan for improving the system, allowing them to more effectively schedule and budget for both critical and non-critical repairs to the system. This plan could also evaluate necessary improvements in the future that result from water quality classification upgrades to Smokes Creek.

As previously noted, the WWTF appears to have excess capacity for growth in the City. The plant currently processes approximately 3.37 mgd, which is below the design treatment capacity of 4.5 mgd. This is important as redevelopment of the Bethlehem Steel property will require wastewater collection and treatment service. It is expected that new uses in this area will be industrial and commercial in nature, generating a lower volume of wastewater than residential uses.

2.9.3 Stormwater Management

Stormwater runoff generated in the City is conveyed through a combination of closed pipes and open ditches. Although stormwater collection and conveyance infrastructure has been installed throughout much of the City, there are some areas with open ditches. A Stormwater Management Officer has been designated to oversee drainage in the City and enforce the provisions of Article IX of Chapter 185 of the City Code (discussed below). The storm sewer system discharges runoff into Smokes Creek through several outfalls that are regulated by the NYSDEC.

Article IX of Chapter 185 of the City of Lackawanna Code (Storm Drainage) specifically addresses stormwater runoff associated with developed properties and explains the requirements for stormwater management, such as:

- Requirements for the preparation of Stormwater Pollution Prevention Plans (SWPPPs);
- Prohibition of illicit discharges and connections to the storm sewer system;
- Prevention, control and reduction of stormwater pollutants by use of best management practices;
- Maintenance, inspection and repair of stormwater facilities;
- Notification of spills;
- Corrective measures, injunctive relief and alternative remedies for violations; and
- Administration and enforcement procedures.

Section 185-20 of Article V (Use of Public Sewers), prohibits the discharge of any stormwater, surface water, groundwater, roof runoff, subsurface drainage, contaminated cooling water, and unpolluted industrial process water to any public sanitary sewer. Additionally, Section 185-22 prohibits the discharge of any other liquids or solid waste products or materials into any public sewer, including wastewater containing toxic pollutants.

Forty-two communities in Erie and Niagara Counties, including the City of Lackawanna, have joined together to develop a stormwater management program to protect local waterways and enhance quality of life in local communities. The Western New York Stormwater Coalition (Coalition) is a

forum for these regulated communities to share resources and work in partnership toward compliance with the EPA Phase II Stormwater requirements.

The overall goals of the Coalition are to utilize regional collaboration to identify existing resources and develop programs to reduce the negative impacts of stormwater pollution. The Coalition prepared a Stormwater Management Program Plan (SWMPP), which was prepared to comply with the NYSDEC General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-0-10-002). This is a shared SWMPP, providing policy and management guidance to the regulated municipalities and agencies that are members of the Coalition.

The SWMPP is based on the Federal Stormwater Phase II rule, issued in 1999, which requires municipal separate storm sewer system (MS4) owners and operators, in U.S. Census-defined urbanized areas, to develop a SWMPP. There are six program elements designed to reduce the discharge of pollutants to the maximum extent practicable. These program elements include:

- Public Education and Outreach;
- Public Involvement / Participation;
- Illicit Discharge Detection and Elimination;
- Construction Site Runoff Control;
- Post-Construction Stormwater Management; and
- Pollution Prevention / Good Housekeeping for Municipal Operations.

Each minimum control measure, and the best management practices that have been implemented to maintain compliance with the NYSDEC GP-0-10-002 General Permit, are described in the plan. The responsibilities for achieving each best management practice are clearly defined in the Plan.

In response to and in addition to the SWMPP established by the Coalition, and in furtherance of Chapter 185, the City of Lackawanna adopted Article XII – Stormwater Management of the Zoning Law in 2008. Article XII establishes local minimum stormwater requirement and controls to protect and safeguard public health, safety and welfare and to ensure compliance with the State Pollution Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (GP-02-01) and State Pollution Discharge Elimination System General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (GP-02-02) requirements. Article XII requires the preparation of Stormwater Pollution Prevention Plans for all land development activities.

2.9.4 Solid Waste Management

The City of Lackawanna Department of Public Works collects all residential and some commercial municipal solid waste and recyclables. Solid waste collection and disposal is regulated under Chapters 190 and 191 of the City Code. The City Council establishes annual user fees for public waste collection; the 2014-15 rate for waste pick up and disposal is \$155 per user. All solid waste and recyclables collected by the City is disposed of at a transfer station in the Village of Blasdell that is operated by Modern Corporation.

All customers are provided totes for the collection of garbage and recyclables, which must be separated from regular solid waste. The City will collect a maximum of two totes of waste from residential and commercial businesses. Businesses that exceed 300 pounds of solid waste must utilize dumpsters and private waste collection services. The City also services multiple dwellings with six or less units, up to a maximum of four totes. Multi-family developments that exceed six dwelling units must use dumpsters and contract with private waste haulers. The City does not provide collection and disposal for churches, group homes, non-profit organizations, or private schools or clubs.

The City requires residents, and all others who place waste at curbside for pickup, to separate recyclable materials from regular garbage. The City collects commingled recyclables, including:

- Paper – office paper, newspaper (including inserts), junk mail, catalogs, magazines, telephone books, paper bags, non-metallic wrapping paper, books and file folders.
- Cardboard – paperboard (without liners), corrugated cardboard, lightly soiled pizza boxes, juice and milk cartons.
- Metal – cleaned steel and tin cans, cleaned aluminum food and beverage containers, empty aerosol cans, and kitchen cookware.
- Glass – glass jars and bottles.
- Plastic – plastic bottles and containers.

Unless there is a special collection for leaves during October and November or for Christmas trees in December and January, the City collects yard waste with its regular garbage pickup. Yards waste includes brush, tree parts and wood, which must be tied in bundles not exceeding 48 inches in length, 12 inches in diameter and weighing no more than 40 pounds, as well as grass clippings. Grass clippings and other landscape waste generated by commercial lawn care contractors, pool installers, fence contractors and other similar contractors must be removed by the contractor. Similarly, all construction and demolition debris produced by commercial contractors, builders, and private owners and occupants must be removed by the entity that generates it.

The City collects bulk items, including major appliances, small appliances, air conditioners and household furnishings. No more than five items may be placed at curbside for pickup. The City designates four weeks each year (spring, fall and two times during the summer) for the collection of bulk items. Customers who arrange with the DPW for the collection of bulk items outside of this time frame are charged a fee of \$50 per item. Electronic devices are also picked up by the City and disposed of with Sunnking Electronics Recycling.

The City will not collect vehicular tires, lead-acid batteries, waste oil used for mechanical purposes, or fencing, sheds or decks. Anything dangerous, including items with broken glass, protruding nails or jagged edges, is prohibited from being placed in a tote for collection. Any hazardous waste, including anything ignitable, corrosive, reactive, or toxic is prohibited and must be disposed of in accordance with NYSDEC rules and regulations. This also includes medical waste and paint (oil-based, latex or enamel-based, alkyd-based). Empty, dry paint containers can be thrown away with regular garbage.

2.9.5 Other Utilities

- *Electricity*
Electrical service is provided by National Grid. For the most part, adequate service is available to accommodate current and future development. It should be noted, however, that the southeast section of the City, which is served by the Lackawanna /Blasdell substation, has reached its capacity for the distribution of power. The areas of the City where new development could occur, however, have reserve capacity.
- *Natural Gas*
Natural Gas is provided by National Fuel Gas. Natural gas service is available to all residential, commercial and industrial properties in City. Large capacity lines are located in close proximity to existing and planned industrial properties, and there is capacity available for future

development projects. Additionally, energy deregulation now provides an opportunity for residential, commercial and industrial customers to purchase natural gas from several suppliers.

- *Telecommunications*

The City has access to an excellent telecommunications infrastructure. Telephone services are provided by Verizon and Spectrum Cable. Both companies also provide television and high-speed internet service. Additionally, wireless communication services are readily provided by a number of telecommunications companies.

2.9.6 Clean Energy Production

- *Wind Energy*

Steel Winds (Phases I and II) is a wind energy project located along the shoreline of Lake Erie in Sub-Area 1 of the WRA. The first phase of this wind farm, which included 8 Clipper Liberty 25 megawatt (MW) turbines, became operational in 2007; the second phase, which included 6 additional Clipper Liberty 2.5 MW turbines, came online in 2012, for a combined production capacity of 35 megawatts of power. This project can generate enough electricity to service the needs of approximately 6,000 average homes in Western New York. Steel Winds is one of the largest urban wind farms in the world, using turbines harness the power of the steady winds that blow across Lake Erie. The electricity generated at this site is being sold into the local grid for sale to retail customers and can power up to 16,000 homes. The project was developed by First Wind and is owned and operated by SunEdison.

Steel Winds was built on an approximately 30-acre brownfield site that is a portion of the former Bethlehem Steel property, which encompasses approximately 1,100 acres of brownfields and is owned by Tecumseh. Portions of this property are currently being remediated or have been remediated under the NYSDEC Brownfield Cleanup Program. By using much of the existing infrastructure, including roads and transmission lines, costs for this project were reduced. Where Bethlehem Steel once supported an earlier industrial revolution, the steel winds project is bringing new jobs and clean energy technology to the Western New York region.

- *Solar*

Steel Sun is a solar energy project that was constructed on approximately 23 acres of the Phase III portion of the Tecumseh Business Park on the former Bethlehem Steel site in Sub-Area 1. The project, which is located on the north side of Smokes Creek, east of the Steel Winds project, includes 13,000 solar panels, making it one of the largest solar farms in New York State. Steel Sun was developed by BQ Energy, a Poughkeepsie, New York based renewable energy development firm that was a partner in the building of Steel Winds. Steel Sun now makes the former Bethlehem Steel property one of the first projects in the world that has utility-scale solar and wind energy generation on the same site. Putting the large-scale solar panels on the site near Steel Winds further elevates the City of Lackawanna's status in the international power generation industry. Other sub-parcels in the Phase III area of the Tecumseh Business Park have been identified for the installation of additional solar panels, which will expand this use on property and result in the increased generation of electricity for local use.

Solar technology converts energy from solar radiation directly into electricity. The solar panels, which each measure three feet by five feet, will be capable of generating 4 megawatts a year, about the same amount as two wind turbines. One megawatt of solar energy can currently power a national average of 164 homes, according to the Solar Energy Industries Association. According to Lynda Schneekloth, a University at Buffalo professor emeritus and Chairwoman of

the Niagara Section of the Sierra Club, public utilities view the two sources of energy differently because each source provides energy at different times of the day. The wind is active late at night and the sun is active mostly during the day, so you can get a 24-hour cycle of energy, which makes the system it more reliable. This will enable the energy grid to be more reliable.

2.9.7 Transportation

▪ *Roadway Network*

The City has a roadway network system that includes State, County and City roadways. This roadway system provides good access and vehicular movement throughout the City, as well as excellent connectivity between the City, the wider Western New York region, the Interstate Highway System, and Canada.

Traffic operations, traffic safety and the needs of residents create different demands on roadways, which sometimes are in conflict with each other. For example, slower speeds may impede traffic flow, but may also improve safety. With a growing emphasis on accommodating other types of traffic in addition to motorized vehicles, these conflicts are becoming increasingly more common.

▪ *Roadway Classification*

In Erie and Niagara Counties, the Greater Buffalo Niagara Regional Transportation Planning Council (GBNRTC) has categorized roadways according to their primary function and classification. The functional roadway classifications and recent average annual daily traffic (AADT) counts are summarized in Table 6. Roadway classification is a hierarchical method for categorizing roads and assists in balancing these roadway management priorities. It is also a useful tool for planning and prioritization of issues such as traffic calming, access management and accommodations for non- motorized traffic.

Roadways are classified as expressways, principal arterials, minor arterials, collectors or local roads. Each street is given a designation, as defined by the Federal Highway Administration (FHWA), based on the type of service it is designed to provide. The higher the level of traffic, the more likely speed limits, lane widths and road widths will be increased. Also, the higher the level of traffic, the greater the potential for conflict between motorized traffic and other non-motorized modes of travel (parked cars, pedestrians and bicyclists). Traffic volumes on arterials and collectors vary greatly, depending on location. Minor arterials, collectors and local roadways are narrower, with lower travel speeds. Public transportation is usually located along arterials, as part of the regional transportation system.

There are several principal and minor arterials roadways that fall under the jurisdiction of New York State and Erie County. Arterial roadways accommodate relatively high traffic volumes and speeds, but also allow for access to properties along their routes. Principal arterials are generally higher volume roads that are important links between different areas of the community and region. Minor arterials are lesser important to the regional transportation network, but typically accommodate larger volumes of traffic in the local community.

New York State controls one principal arterials in the WRA. NYS Route 5 enters the City of Lackawanna from the north as an elevated expressway known as the Skyway. Where the Skyway (Route 5) meets grade at Ridge Road, it becomes known as the Hamburg Turnpike, extending south from Ridge Road to the City line. This portion of Route 5 has signalized intersections at Odell Street, Dona Street and Madison Avenue. It should be noted that Hamburg Turnpike starts at the Lackawanna boundary with the City of Buffalo and runs parallel to, and west of, the

Skyway (Route 5) to where it meets grade at Ridge Road. This portion of Hamburg Turnpike is under City of Lackawanna jurisdiction.

Table 6: Functional Roadway Classifications and Traffic Counts				
Route Name	Segment	Lanes	AADT	Year
EXPRESSWAYS				
NYS ROUTE 5 (Skyway)	Tifft Street to Ridge Road	4	42,497	2014
PRINCIPAL ARTERIALS				
HAMBURG TURNPIKE (Rte. 5)	Ridge Road to City of Lackawanna boundary	4	35,635	2013
RIDGE ROAD	NYS Route 5 to South Park Avenue	4/2	11,918	2013

Source: GBNRTC, 2015

Erie County has jurisdiction over one principal arterial (Ridge Road – CR 137) in the WRA. Ridge Road extends from west to east, cutting across the northern portion of the City. Ridge Road is a well-traveled route, providing access from NYS Route 5 to the New York State Thruway, to the east. As shown in the Table above, it carries a significant volume of traffic through the City. Although designed as a two-lane roadway, this road widens to four lanes between Center Street and NYS Route 5 (west of South Park Avenue).

▪ *Bicycle and Pedestrian Facilities*

According to GBNRTC data, existing bicycling facilities in the City of Lackawanna are limited. This would include on and off-road bike lanes, paths or trails. The Skyway section of NYS Route 5, Ridge Road (between NYS Route 5 and South Park Avenue), and South Park Avenue (south of Ridge Road) are all designated New York State Bike Routes. Bicyclists who travel along these routes, however, are advised to use caution (as discussed below). The GBNRTC Online Bicycle Route Guide shows an off-road trail that extends along NYS Route 5, from the City of Buffalo to a point just north of Smokes Creek. There are no other off-road facilities located within the City.

There are proposals, however, to improve certain areas with facilities for bicyclists and pedestrians. The most notable plan is for the construction of Phase I of the Bethlehem Steel section of the Erie County Shoreline Trail, which is supported by the Transportation Improvement Program (TIP) for 2014-2018 (GBNRTC, 2013). This project includes approximately 8,000 linear feet of 10-foot wide multi-use pathway that will enable Lackawanna residents the ability to safely access the Outer Harbor, Tifft Nature Preserve and Erie Canal Harbor, among other things. The project would be an extension of the Shoreline Trail that currently runs along the Buffalo Outer Harbor and would enable the County to move another step closer to connecting with the multi-use trail system in the Town of Hamburg. The Erie County Legislature (ECL) allocated funding for their share of the preliminary design phase of this project in February 2015; additional funding will come from the federal government. The County must approve additional funding prior to project construction.

The Erie County Regional Bikeway Network, as mapped in the GBNRTC 2008 Bicycle & Pedestrian Master Plan, includes a proposal for the development of a multi-use trail along the main branch of Smokes Creek. This is a proposal for an off-road trail that would extend along the creek corridor, from Ridge Road and on into the Town of West Seneca. In the City, this trail would be located within the boundaries of the Smokes Creek Overlay District that was

established to protect the ecological corridor of the Creek. The Overlay, which extends within the established flood control area, creates a 15-foot vegetative buffer and precludes development within 50 feet of the stream bank.

In addition to off-street multi-use trails, certain local streets have been selected for bicycle usage by the GBNRTC. To assist bicyclists to understand how comfortable they might feel riding along one of the suggested routes, the GBNRTC rates bicycle routes with a Bicycle LOS.

Table 7: Bicycle Level of Service

A	Suitable
B	Caution Advised
C	Caution Advised
D	Caution Advised
E	Extreme Caution - Experienced cyclists
F	Extreme Caution - Experienced cyclists

These ratings are based on a quantitative formula that takes into account a number of factors including the surface condition of the road, the width of the shoulder, posted speed, percentage trucks, existence of parked cars, frequently of sewer grates and the adjacent land use (e.g. commercial vs. residential). The formula generates an A to F rating system, where A indicates the extreme ease of movement along the route and F indicates that the route could be dangerous to the rider. These ratings are shown in Table 7.

Most of the roads in the City are narrow and/or carry a high volume of vehicular traffic. Therefore, bicyclists who utilize the main roadways in the City, including Abbott Road, Ridge Road, South Park Avenue and NYS Route 5, are advised to use caution. These roads have a poor level of service of D through E, as designated by the GBNRTC.

The GBNRTC considers roadway with poor levels of service (on-road routes not meeting the minimum performance measure ‘C’) as a high priority for the provision of quality on-street bicycle facilities. The goal of this agency, as described in the 2008 Bicycle & Pedestrian Master Plan, is to identify opportunities where bike lanes could be implemented by widening roadways or reconfiguring travel lanes, where feasible and appropriate. Roadways in the City of Lackawanna that are considered as high priority and potential locations for on-road improvements include NYS Route 5, Ridge Road, Abbott Road, McKinley Parkway and the eastern section of Dorrance Avenue, between McKinley Parkway and Abbott Road.

The majority of roadways in the City have sidewalks; therefore, residents have the ability to walk to local destinations. The condition of sidewalks varies, with sidewalk in the older neighborhoods, such as the First Ward, likely to be in poorer condition. The City repairs sidewalks on an as needed basis and is currently implementing a project to construct or upgrade sidewalks and curb ramps for handicapped accessibility on NYS Route 5 and South Park Avenue.

- **Public Transportation**

Public Transit services in the City of Lackawanna WRA are provided by the Niagara Frontier Transportation Authority (NFTA), which offers two bus lines that service the community. These routes, which are summarized below, also provide connections to two other public transit routes (Routes 14 and 16) that operate in the City of Lackawanna, outside of the WRA.

- **Route 36 – Hamburg**

This route operated on Monday through Friday between the Village of Hamburg and downtown Buffalo. Limited service is also provided on Saturday; there is no service on Sunday. Buses travel along South Park Avenue to the Victory Transit Center, on South Park

at Baker Alley, and then along Ridge Road to NYS Route 5 and on into the City of Buffalo via Ohio Street.

- **Route 42 - Lackawanna**

This route provides service between Southgate Plaza in West Seneca and Odell Street, at NYS Route 5 in Lackawanna. It runs along Ridge Road, following Steelawanna Avenue to Odell Street. Buses operate Monday through Friday, stopping at the Lackawanna Victory Transit Center, on South Park Avenue (at Baker Alley) in Lackawanna, as well as numerous other locations along Ridge Road and Steelawanna Avenue.

The bus routes that travel through the City provide strong service during the week. However, service on weekends is limited and travel to McKinley Mall, Southgate Plaza, and downtown Buffalo is complicated by long waits and/or long walks to bus stops.

- ***Current, Strategic and Long-Range Transportation Planning and Improvements***

At present, there is one NYSDOT project under construction in the City. NYSDOT Project 580829 involves the construction efforts for ADA compliance. This project involves the construction or upgrade of sidewalks and curb ramps to improve pedestrian mobility on NYS Routes 5 and 62 in the City of Buffalo and Lackawanna.

- ***2040 Long Range Plan Update***

The GBNRTC, as the Metropolitan Planning Organization (MPO), is responsible for developing a long-range Metropolitan Transportation Plan (MTP) for the region that reflects both regional needs and local concerns. The MTP serves a number of purposes. It provides a vision of the region's future growth and development; identifies regional transportation needs for future transportation improvements and services; and provides guidance and direction for infrastructure investments in the region. The plan sets the foundation and priorities for the distribution of federal transportation funds and serves as the framework for the development of the Transportation Improvement Plan (TIP), the capital program of all federally funded transportation projects in the region.

The GBNRTC approved a 2040 Long-Range Plan Update in May 2014. The GBNRTC 2040 MTP outlines major proposed transportation projects for the next 25 years. This document is primarily based on the 2035 Long-Range Transportation Plan Update that was adopted in May 2010, and thereby reaffirms key elements of that plan. While much of the 2035 Plan is unchanged, the 2040 MTP Update has allowed for the incorporation of 2050 work accomplished to-date, thus improving the consistency of the plans and evolving visions for the region. In addition to this, the demographics and traffic conditions outlined in the 2040 MTP reflect the most current data. Goals guiding long-term transportation planning by the GBNRTC focus on preserving the existing roadway network, improving mobility and accessibility, and supporting economic development. Overall, approximately 70% of funds will be dedicated to maintaining existing infrastructure in Erie and Niagara Counties.

- ***Transportation Improvements Program (TIP)***

As discussed above, the GBNRTC, in cooperation with the NYSDOT, uses the 2040 MTP to establish the TIP for all communities in the two-county region. As part of the GBNRTC's long-range planning mandate, the TIP includes all federally funded transportation projects being considered for implementation over a five-year period. The current TIP includes 260 transportation projects totaling \$680 million that are scheduled for implementation during Federal Fiscal Years 2014 through 2018. The only project listed on the TIP for Lackawanna is the

Bethlehem Steel section of the Erie County Shoreline Trail, which was awarded \$980,160 in Federal Transportation Alternatives Program funding. This project is expected to be commenced in the fall of 2018.

While the 2040 MTP Update must be fiscally constrained, the GBNRTC can include projects that have merit, but are beyond the constrained funding available to the area. These transit and highway projects and programs reflect desirable, but unmet transportation needs for the Buffalo-Niagara region. The projects listed below would be considered for implementation if additional funds became available to the region. These illustrative projects will be prioritized and advanced based on availability of future federal discretionary funds.

- Southtowns Access – infrastructure improvements along NYS Route 5, from Ridge Road to NYS Route 179 in Hamburg.

- *Waterborne Transport (see Section 2.6.1)*

Buffalo and Lackawanna are part of the Great Lakes St. Lawrence Seaway system. The Port of Buffalo, also known as the Gateway Trade Center, is located at the northern end of the former Bethlehem Steel property in Sub-Area 1. The port includes the Lackawanna Canal and the western end of the Union Ship Canal. Gateway Trade Center is located directly on the lakefront with an unrestricted approach from Lake Erie. The Port is located within a New York State Economic Development Zone and a U.S. Foreign Trade Zone (#23), offering benefits and incentives to patron businesses.

- *Rail Transport*

The Buffalo-Niagara region is currently served by four Class I railroads, one Class II (or Regional) railroad, and two Class III (or Short Line) railroads. Class I Railroads are line-haul railroads earning revenues of more than \$319.3 million. Four of the seven US Class I Railroads operate in the region, including CSX Transportation (CSX), Norfolk Southern (NS), Canadian Pacific Railway (CP), and Canadian National Railway (CN).

Regional railroads, often referred to as Class II railroads, as defined by the American Short Line and Regional Railroad Association, operate over at least 350 miles or earn revenue between \$40 million and the \$319.3 million (the Class I threshold). The Buffalo & Pittsburg Railroad (BPRR), a subsidiary of the Genesee & Wyoming Railroad (GWRR), is the only Regional/Class II Railroad in the area.

Short Line railroads, often referred to as Class III railroads, earn revenue below the Regional Railroad criteria of \$40 million. These railroads are comprised of local line-haul railroads or switching and terminal railroads that join two railroads for the purpose of transferring cars within a facility or group of facilities or between separate railroads. The short line or terminal railroads that operate in the City of Lackawanna include the Buffalo Southern Railroad (BSR) and the South Buffalo Railway (SBR).

There is also a major railroad corridor for commercial rail traffic (which is located on the east side of NYS Route 5) that bisects the western half of the City of Lackawanna, from north to south. The railroad companies that own track line and operate through this corridor include CSX and Norfolk Southern (Class I) and the Buffalo Southern Railroad (Class III).



The South Buffalo Railroad (Class III), which is owned by Erie County Industrial Development Agency (ECIDA), operates throughout the former Bethlehem Steel property in Sub-Area 1, servicing the Port of Buffalo. Erie County has plans to move certain rail lines in this area further away from NYS Route 5 to allow for development of the west side of the property.

According to a study prepared by the GBNRTC, rail traffic through the region (and the Lackawanna corridor) is expected to increase, particularly multi-modal traffic. Regional intermodal facility locations include the Gateway Trade Center (Port of Buffalo) and rail yards in Sub-Area 1 of the WRA, as well as the Buffalo-Niagara and Niagara Falls airports.

Amtrak is the sole provider of passenger service in the area. There are three rail passenger stations in the area located in Buffalo, Depew, and Niagara Falls with service to Toronto, the Northeast, and Midwest via their Maple Leaf, Empire, and Lake Shore Limited routes. Amtrak trains travel on the CSX line through Lackawanna, between the Buffalo and Erie, Pennsylvania.

- *Air Transportation*

There are no airports or other air transportation facilities located in the City of Lackawanna. Passenger and commercial air travel services are provided at the Buffalo-Niagara International Airport, which is located about 13 miles northeast of the City, in the Town of Cheektowaga.

2.9.8 Emergency Services

- *Fire Protection*

The City maintains a Fire Department with approximately 50 active firefighting employees who also respond to emergency medical service (EMS) calls. The Ridge Road station services the WRA, with back-up from the other companies. Fire calls are dispatched through the Central Dispatch office located at 2990 South Park Avenue. In extraordinary circumstances, the City of Buffalo Fire Department provides aid to the Lackawanna Fire Department. Lackawanna maintains three fire companies:

- Fire Station #1 - 55 Ridge Road, services the First Ward (and Sub-Area 1) for EMS calls. It is manned by a Lieutenant and two firefighters. A 1997 Spartan Pumper truck is based there. It has a 1,500 gallon per minute pump and carries 750 gallons of water for a quick attack.
- Fire Station #2 - 1630 Abbott Road, covers the Third and Fourth Wards for EMS calls. It is manned by a Lieutenant and two firefighters. A 2006 American LaFrance 100-foot aerial platform truck is based there. It has a 2,000 gallon per minute pump and a 300-gallon water tank. Due to the size of the truck and the many dead-end streets in the Third and Fourth Wards, a 2009 Ford F-350 is used to answer EMS calls in place of the ladder truck. The Fire Chief's Office is attached to this firehouse.
- Fire Station #3 - 2990 South Park Avenue, covers the Second Ward for EMS calls. It is manned by a Captain and two firefighters. A 1996 Spartan Pumper truck is based there. It has a 1,500 gallon per minute pump and a 750-gallon water tank. The dispatching center Alarm Room is manned by one firefighter.

- *Police Protection*

The Lackawanna City Police Department provides law enforcement services for the City of Lackawanna. The Department staff includes a chief, two captains, five lieutenants, forty-two patrolmen, five crossing guards, and seven civilian support staff. Ten marked police cars and eight unmarked cars are used by the Department, which responds to approximately 12,000 calls

annually. Calls are dispatched through the Police Department Dispatch System. In extraordinary circumstances, the City of Buffalo Police Department provides back-up support to the Department.

- *Disaster Response*

The Fire and Police Chiefs coordinate disaster response in the City of Lackawanna in accordance with the City's Disaster Response Plan. Fire and Police Department staff undergo comprehensive disaster readiness training to ensure they are capable and prepared to respond to a wide range of disaster situations.

The City of Lackawanna, Erie County and surrounding communities have joined together to update the 2005 Erie County Multi-Jurisdictional Hazard Mitigation Plan for continued compliance with the Disaster Mitigation Act of 2000 and its implementing regulations. To meet FEMA's requirements for plan approval, municipal staff members must participate in the plan update process through attending meetings, providing various types of information and feedback, identifying and assessing mitigation actions, and reviewing draft documents.

After the unprecedented November 2014 Snow Storm, the City implemented the CodeRed Community Notification System. This system provides an interface to quickly disseminate critical information to City residents via phone calls, texts and email notification.

SECTION III Local Waterfront Revitalization Program Policies

Section 3 of the LWRP document presents the local waterfront revitalization policies and their associated standards that are used in guiding development actions in the City of Lackawanna. These policies consider the physical, economic, environmental and cultural characteristics of the community. They are comprehensive and reflect existing laws and authority regarding development and environmental protection. Together, these policies and their standards are to be used to achieve an appropriate balance between economic growth and development and the preservation that will enable the beneficial use of waterfront resources in the City of Lackawanna without undue impacts. The City of Lackawanna local waterfront revitalization program policies include the following.

DEVELOPED WATERFRONT POLICIES – Policies 1 through 6

FISH AND WILDLIFE POLICIES – Policies 7 through 10

FLOODING AND EROSION HAZARD POLICIES – Policies 11 through 17

GENERAL POLICY – Policy 18

PUBLIC ACCESS POLICIES – Policies 19 and 20

RECREATION POLICIES – Policies 21 and 22

HISTORIC AND SCENIC RESOURCES POLICIES – Policies 23 through 25

AGRICULTURAL LANDS POLICY – Policy 26

ENERGY AND ICE MANAGEMENT POLICIES – Policies 27 through 29

WATER AND AIR RESOURCES POLICIES – Policies 30 through 43

WETLANDS POLICY – Policy 44

The Local Waterfront Revitalization Area in the City of Lackawanna is divided into two sub-areas due to the history of prior use and unique character. Sub-Area 1 includes the entire length of the Lake Erie shoreline that falls within the City of Lackawanna. The inland boundary for this Sub-Area is the eastern right-of-way of Fuhrman Boulevard and Hamburg Turnpike (NYS Route 5). The northern and southern boundaries are the municipal boundaries with the City of Buffalo and the Town of Hamburg. The portion of the Smokes Creek corridor that extends east from the Lake Erie shoreline to Hamburg Turnpike (NYS Route 5) is included within this area.

Sub-Area 1 encompasses the lands that were formerly owned and utilized by the Bethlehem Steel Corporation. Much of this area has undergone remediation to address contamination problems associated with the prior use of the land. Other areas are currently undergoing or are proposed for future remediation. This area has a number of natural and man-made barriers that preclude its use for public access and recreation. These include active rail lines, soil stability issues as a result of a long history of land fill with the by-products of steel production, and steep slopes. These conditions present potential safety hazards to the general public.

Sub-Area 2 includes the entire length of the Smokes Creek corridor, extending east from Hamburg Turnpike (NYS Route 5) to the City of Lackawanna municipal boundary. This area encompasses both sides of the creek along the main stem and the north and south branches to a measured distance of 25 feet from the top of the bank. Sub-Area 2 incorporates the City-owned Foundry Park, which is located on the south side of the main stem of Smokes Creek at the eastern end of Madison Avenue; City-owned Galanti Park, which is located behind the Lackawanna Senior Center, along the north branch of Smokes Creek; and a large area of freshwater wetlands that is located along the south branch of the creek. This wetlands area provides important habitat for wildlife and a spawning and nursery area for fish. It also includes a City-owned parcel at the foot of Madison Avenue currently used as a small park and bocce court.

The primary issue in Sub-Area 1 is revitalization of abandoned and underutilized lands, and economic development. The key issue in Sub-Area 2 is habitat protection and flooding and erosion protection. Public access is important in both areas, although land use restrictions in Sub-Area 1 make this a more challenging prospect. The following policies outline the City of Lackawanna's vision, recommendations and strategies for the LWRA.

DEVELOPMENT POLICIES

Policy 1 **Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses**

Policy 1A **Redevelop the former Bethlehem Steel Plant property for industrial, transportation, office and habitat restoration, where possible**

Explanation of Policy

State and federal agencies must ensure that their actions further the revitalization of urban waterfront areas. The transfer and purchase of property; the construction of a new building, highway or park; the provision of tax incentives to businesses; and establishment of enterprise zones, are all examples of governmental means for spurring economic growth. When any such action or similar action is proposed in the City of Lackawanna Local Waterfront Revitalization Area (LWRA), it must be analyzed to determine if the action would contribute to or adversely affect revitalization efforts in this area.

It must be recognized that revitalization of once dynamic waterfront areas is one of the most effective means of encouraging economic growth, without consuming valuable open space outside of these areas. Waterfront redevelopment and revitalization is also one of the most effective ways of rejuvenating, or at least stabilizing, residential and commercial districts adjacent to areas of revitalization activity.

In responding to this policy, several other policy principles must be considered:

1. Uses requiring a location abutting the waterfront must be given priority in any redevelopment effort (refer to Policy 2 for the means to effectuate this priority);
2. As explained in Policy 5, one reason for revitalizing previously dynamic waterfront areas is that the costs for providing basic services to such areas is frequently less than providing new services to areas not previously developed;
3. The likelihood for successfully simplifying permit procedures could increase the interest to invest in the LWRA.

As a local government, the City of Lackawanna has the primary responsibility for implementing this policy. Though implementation of the Lackawanna LWRP need not be limited to redevelopment, the City must identify areas in the LWRA that are suitable for redevelopment, and establish and enforce redevelopment programs accordingly.

The former Bethlehem Steel Plant property in Sub-Area 1, which is mostly owned by Tecumseh Redevelopment, Inc., has undergone substantial cleanup efforts to mitigate contamination associated with the industrial use of the site. There are remaining areas that have been characterized and require remediation. This property also supports energy generation in the form of wind and solar, providing a source of renewable energy resources. The approximately 1,100-acre property comprises the bulk of the LWRA and offers opportunities for reuse to revitalize the Lackawanna lakefront as a prosperous area for industrial, commercial and business use. The area has good highway access, water access for commercial shipping activities, as well as access to active rail lines, providing ample opportunities for expanding uses at the Port of Buffalo (Gateway Trade Center and Lackawanna Canal). Rail access will also provide

benefits for future commercial and industrial uses on the site. (See section 2.7.6 of the Inventory and Analysis).

In an effort to reactivate the former Bethlehem Steel Plant property for redevelopment, the City of Lackawanna, Erie County and various State and Federal agencies are encouraged to continue to work together to relocate active rail lines, as necessary, and open up the site for new development; add an internal roadway network to improve access to newly designated development sites; improve on-site water and sewer infrastructure; review the zoning for the property to make sure that it adequately supports redevelopment; and complete remediation of remaining portions of the property.

1. When an action is proposed to take place in a location within the LWRA that is regarded as suitable for redevelopment, the following guidelines will be used:
 - a. Priority should be given to uses that are dependent on a location adjacent to the water (see Policy 2).
 - b. The action should serve as a catalyst to private investment in the area.
 - c. The action should improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration. For example, a building could not be abandoned without protecting it against vandalism and/or structural decline.
 - d. The action must lead to development that is compatible with the character of the area, with consideration given to scale, architectural style, density, visual quality, and intensity of use.
 - e. The action should have the potential to improve the existing economic base of the community and, at a minimum, must not jeopardize this base. For example, waterfront development meant to serve consumer needs would be inappropriate in an area where no increased consumer demands were expected, and existing development was already meeting demand.
 - f. The action should improve adjacent and upland views of the water and, at a minimum, must not affect the availability or quality of existing views (see Policy 25).
 - g. The action should have the potential to enable multiple uses on the site.
2. If an action is proposed to take place outside of areas covered under this policy, and is within the City of Buffalo or Town of Hamburg, the agency proposing the action must first determine if it is feasible to undertake the action within the area in question. If such an action is deemed feasible, the agency should give strong consideration to undertaking 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 subject area.

Policy 2 Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters

Policy 2A Maintain water-dependent and port-related facilities within the Port of Buffalo (Lackawanna Canal) portion of the LWRA

Explanation of Policy

There is a finite amount of waterfront space suitable for development purposes. Consequently, while the demand for any given piece of property will fluctuate in response to varying economic and social conditions, on a State and City-wide basis, the only reasonable expectation is that long-term demand for waterfront space will intensify. The traditional method of land allocation, i.e., the real estate market, with or without local land use controls, offers little assurance that uses that require waterfront sites will, in fact, have access to the shoreline. To ensure that such "water-dependent" uses can continue to be

accommodated within the City of Lackawanna Local Waterfront Revitalization Area (LWRA), governmental agencies will avoid undertaking, funding, or approving non-water dependent uses when such uses would preempt the reasonably foreseeable development of water dependent uses. Furthermore, agencies will utilize appropriate existing programs to encourage the siting of water dependent activities, where feasible.

There is an abundance of available land along the Lake Erie waterfront in Sub-Area 1 that could be developed for industrial, commercial and office uses. The Gateway Trade Center, also known as the Port of Buffalo and includes uses and activities along the Lackawanna Canal, offers opportunities for the expansion of water-dependent uses that support waterborne shipping and commerce. The development of such uses is encouraged in this area as a means of revitalizing the area and strengthening port activities. (See Section 2.7.6 of the Inventory and Analysis).

A water dependent use is an activity that can only be conducted on, in, over or adjacent to a water body because such activity requires direct access to that water body, and involves use of the water as an integral part of such activity. The following uses and facilities are considered as water-dependent:

1. Uses that depend on the utilization of resources found in local surface waters, such as fishing;
2. Uses involved in the sea/land transfer of goods (for example: docks, loading areas, pipelines, short-term storage facilities).
3. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards).
4. Uses that rely heavily on the waterborne transportation of raw materials or products that are difficult to transport on land, thereby making it critical that a site near shipping facilities be obtained (for example: sand and gravel operations/quarries, cement plants).
5. Uses that require large quantities of water for processing and cooling purposes (for example, fish processing plants);
6. Recreational activities that depend on access to Lake Erie or Smokes Creek (e.g., fishing, boating, wildlife viewing, waterfowl hunting, and similar uses);
7. Flood and erosion protection structures, including bulkheads and seawalls;
8. Scientific/educational activities that, by their nature, require access to coastal waters (e.g., certain meteorological and oceanographic activities); and
9. Support facilities that are necessary for the successful functioning of permitted water-dependent uses (e.g., parking lots, storage facilities). Although these uses must be situated near the water-dependent use they support, they should be sited inland from the use rather than on the shore to the greatest extent possible.

In addition to water dependent uses, those uses that are enhanced by a waterfront location should be encouraged to locate along the shore, though not at the expense of water dependent uses. A water-enhanced use is defined as a use or activity that does not require a location adjacent to or over coastal waters, but having such a location adds to the public use and enjoyment of the water's edge. Water-enhanced uses are primarily recreational, cultural, retail/commercial, or entertainment uses. For example, a restaurant that uses good site design to take advantage of a waterfront view. Due to use restrictions on the former Bethlehem Steel property, water-enhanced uses on the property would be very limited and consist primarily of passive recreation on the south side of Smokes Creek that would be located away from the shoreline. Office and commercial uses located closer to Hamburg Turnpike could also easy access to the Shoreline Trail that would provide opportunities to enjoy local waterfront resources.

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

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

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

In promoting water-dependent and water-enhanced uses, the following kinds of actions will be considered:

1. Favored treatment to water dependent use areas with respect to capital programming. Priority should be given to the availability and maintenance of roads and public transportation within areas suitable for water dependent and water enhanced uses.
2. When areas suitable for water dependent or water-enhanced uses are publicly owned, favored leasing arrangements and/or tax abatements should be given to these uses, as appropriate.
3. State and local planning and economic development agencies should actively promote water dependent or water-enhanced uses. In addition, a list of sites available for non-water dependent

uses should be maintained to assist developers seeking alternative sites for their proposed projects.

4. Local, State and Federal agencies should work together to streamline permitting procedures that may be burdensome to water dependent and water enhanced uses.
5. Local land use controls, especially the use of zoning districts exclusively for waterfront uses, can be an effective tool for assuring adequate space for the development of water dependent and water enhanced uses, as well as the protection of significant coastal and ecological resources.

Policy 3 Further develop the state's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of state public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people

Policy 3A Further develop the Port of Buffalo (Lackawanna Canal and Gateway Trade Center) as a center of commerce, transshipment and industrial activity

Explanation of Policy

The aim of this policy is to support port development in New York, Buffalo, Ogdensburg, and Oswego. Policies 2, 5 and 6 in this Section, have significant implications for port development, namely: water dependency, concentration of development, and the expediting of permit reviews. In implementing this policy, governmental agencies will recognize the legally-established jurisdictional boundaries of the port authorities. If an action is proposed for a site within or abutting the Port of Buffalo (Gateway Trade Center), or if there is a reasonable expectation that a proposed action elsewhere would have an impact on a major port, then the following guidelines shall be used in determining consistency with this policy:

1. In assessing proposed projects within or abutting a major port, given that all other applicable policies are adhered to, the overriding consideration is the maintenance and enhancement of port activity, i.e., development related to waterborne transportation would have precedence over other non-port related activities.
2. Dredging to maintain the economic viability of the Port of Buffalo and outer harbor area will be regarded as an action of regional or statewide public benefit if:
 - a. a clear need is shown for maintaining or improving the established alignment, width, and depth of existing channels or for new channels essential to port activity; and,
 - b. it can be demonstrated that environmental impacts would be acceptable according to State regulations governing the activity.
3. Dredge spoil disposal projects in the near-shore areas will be regarded as an acceptable activity within major port areas, provided adverse environmental impacts are acceptable under all applicable environmental regulations and a strong economic justification is demonstrated.
4. If non-port related activities are proposed to be located in or near to a major port, these uses shall be sited so as not to interfere with normal port operations.
5. When not already restricted by existing laws or covenants, and when there is no other overriding regional or statewide public benefit for doing otherwise, surplus public land or facilities within or

adjacent to a major port shall be offered for sale, in the first instance, to the appropriate port authority.

6. In the programming of capital projects for port areas, highest priority will be given to projects that promote the development and use of the port. However, in determining such priorities, consideration must also be given to non-port related interests within or near the ports that have demonstrated critical capital programming needs.
7. No buildings, piers, wharves, or vessels shall be abandoned or otherwise left unused by a public agency or sold without making provisions for their maintenance in sound condition or for their demolition or removal.
8. In applying the above guidelines, the information in harbor management plans being developed by local governments pursuant to Article 42 of the Executive Law and local laws that would implement them shall be considered.

In Sub-Area 1, the Gateway Trade Center (also known as the Port of Buffalo) has helped to revitalize an underutilized area along the Lackawanna Canal and helped to strengthen the Port as a regional commercial center and destination for transshipment. This area and the surrounding lands along the Lackawanna Canal have the potential for further development and expansion for waterborne commerce. Such development and expansion is supported by this policy (as well as Policies 1, 1A, 2, 2A, 5 and 6) to strengthen the local tax base, create jobs and revitalize this portion of the LWRA.

Policy 4 Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities that have provided such areas with their unique maritime identity

Explanation of Policy

There are no small harbor areas located within the City of Lackawanna. Therefore, this policy is not applicable.

Policy 5 Encourage the location of development in areas where public services and facilities essential to such development are adequate

Explanation of Policy

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

The above policy is intended to accomplish the following:

- strengthen existing residential, industrial and commercial centers;
- foster an orderly pattern of growth where outward expansion may be occurring;
- increase the productivity of existing public services and moderate the need to provide new public services in outlying areas;
- preserve open space in sufficient amounts and where desirable; and

- foster energy conservation by encouraging mixed use and denser development activities in appropriate areas.

For any action that would result in large scale development or an action which would facilitate or serve future development, the following guidelines shall be considered:

1. The lakefront area in Sub-Area 1 is located in close proximity to areas of concentrated development where infrastructure and public services are adequate and available.
2. The following points shall be considered in assessing the adequacy of an area's infrastructure and public services:
 - a. Streets and highways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development;
 - b. The water needs of a development (consumptive and firefighting) can be met by the existing water supply system;
 - c. The wastewater management system can accommodate the sanitary wastes generated by development;
 - d. The energy needs of the proposed land development can be accommodated by existing utility systems; and
 - e. Stormwater runoff can be accommodated by on-site and/or off-site facilities.

The City of Lackawanna is an area of concentrated development where infrastructure and public services are generally adequate to support future land uses and development (as outlined in Sections IV and V). However, certain capital improvements may be needed for public sewer and water infrastructure servicing the waterfront area. In areas of the City of Lackawanna Local Waterfront Revitalization Area, where development is encouraged by this policy, the condition of existing public water, sewer and other public infrastructure must be assessed to determine the extent of required improvements. Those State and Federal agencies charged with allocating funds for investments in water, sewer facilities and roadway infrastructure should give high priority to the needs of City of Lackawanna for enabling lakefront revitalization in Sub-Area 1.

Policy 6 Expedite permit procedures in order to facilitate the siting of development activities at suitable locations

Explanation of Policy

The confusion, time delay and costs associated with the issuance of permits and approvals from all levels of government for development in the waterfront area is not always conducive to attracting investment in this area. For specific types of development activities, and in areas suitable for such development, state and local government agencies, including City of Lackawanna departments and agencies, will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, as long as the integrity of the regulatory objectives are not jeopardized. These procedures and programs will be coordinated within each agency. Also, efforts will be made to ensure that each agency's procedures are coordinated with the procedures of other agencies at each level of government. To achieve this goal, if necessary, legislative and/or programmatic changes will be recommended. Finally, when proposing new regulations, an agency will determine the feasibility of incorporating these regulations within existing procedures, if this can reduce the burden on a particular type of development and does not jeopardize the integrity of the regulatory objectives.

FISH AND WILDLIFE POLICIES

- Policy 7** **Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats**
- Policy 7A** **The Smokes Creek Shoals Significant Coastal Fish and Wildlife Habitat shall be protected, preserved and, where practicable, restored so as to maintain the viability of this habitat**
- Policy 7B** **The Smokes Creek corridor and associated wetlands should be protected, restored and maintained as viable habitat**

Explanation of Policy

Significant Coastal Fish and Wildlife Habitats are evaluated, designated and mapped pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). The NYSDEC evaluates the significance of coastal fish and wildlife habitats and, following a recommendation from this agency, the NYS Department of State designates and maps the specific areas. Habitat protection is recognized as fundamental to assuring the survival of fish and wildlife populations. Certain habitats are particularly critical to the maintenance of a given population and, therefore, merit special protection. Such habitats exhibit one or more of the following characteristics:

1. Are essential to the survival of a large portion of a particular fish or wildlife population (e.g. feeding grounds, nursery areas);
2. Support populations of rare and endangered species;
3. Are found at a very low frequency within a coastal region;
4. Support fish and wildlife populations having significant commercial and/or recreational value; and
5. Would be difficult or impossible to replace.

In order to protect and preserve wildlife habitats of State and local significance, land and water uses or development shall not be undertaken if such actions would destroy or significantly impair the viability of an area as a habitat. When the action significantly reduces a vital resource (e.g., food, shelter, living space) or changes environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism, then the action would be considered to "significantly impair" the habitat. Indicators of a significantly impaired habitat may include: reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The range of activities most likely to affect significant fish and wildlife habitats include, but are not limited to the following:

1. Draining wetlands or other water bodies that would cause changes in vegetation, or changes in groundwater and surface water hydrology;
2. Filling wetlands, shallow areas of streams, which could change the physical character of substrate (e.g., from sandy to muddy, smother vegetation, alter surface water hydrology);

3. Grading land can result in the removal of vegetation, increased surface runoff, or increased soil erosion and downstream sedimentation;
4. Clear cutting that results in the loss of vegetative cover, which can increase fluctuations in the amount of surface water runoff, or streambed scouring, soil erosion, and sediment deposition;
5. Dredging or excavation may cause changes in substrate composition, possible release of contaminants otherwise stored in sediments, removal of aquatic vegetation, or changes in circulation patterns and sediment transport mechanisms;
6. Physical alteration of shore areas through channelization or construction of shoreline structures can result in changes to the volume and rate of flow, or increased scouring and sedimentation; and
7. Introduction, storage or disposal of pollutants, such as chemicals or other toxic materials, petrochemicals, solid wastes, pesticides, sewage effluent, urban stormwater runoff, and/or leaching of hazardous and toxic substances stored in landfills can cause increased mortality or sublethal effects on organisms, alter their reproductive capabilities, or reduce their value as food organisms.

The Smokes Creek Shoals State-designated Significant Coastal Fish and Wildlife Habitat is located adjacent to the City within Lake Erie, near the boundary with the Town of Hamburg. This habitat is an approximate 500-acre area of open water, generally located within a one-half mile radius of the mouth of Smoke Creek. Smoke Creek Shoals is one of only a few sizeable areas of relatively shallow, gravelly shoals in the Erie County portion of Lake Erie. Smokes Creek Shoals serves as a likely spawning area for a variety of warm water fish species, especially walleye, along with yellow perch and smallmouth bass. A detailed description of this habitat is provided in the Appendix.

Habitat protection for Smokes Creek Shoals is essential to insuring the survival of fish and wildlife populations in this area of significance. Additionally, Lake Erie is locally important as home to numerous species of fish that are vital to a local and regional recreational fishing industry (including species that are nurtured in the Smokes Creek Shoals habitat area), and for providing habitat of over-wintering species of waterfowl.

A “habitat impairment test” must be met for any activity proposed within or immediately adjacent to a State-designated Coastal Fish and Wildlife Habitat that is subject to consistency review under Federal and State laws, or applicable local laws as contained in an approved LWRP. If the proposed action is subject to consistency review, then this habitat protection policy applies, whether the proposed action occurs within or outside of the designated area.

The specific habitat impairment test that must be met for a State-designated habitat (the Shoals) is as follows:

1. In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:
 - a. Destroy the habitat; or,
 - b. Significantly impair the viability of a habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or a change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alternations and may include, but are not limited to, reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The *tolerance range* of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters which should be considered in applying the habitat impairment test include, but are not limited to, the following:

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

When a proposed action is likely to alter any of these biological, physical or chemical parameters beyond the tolerance range of the organisms occupying the habitat, the viability of that habitat would be significantly impaired or destroyed. Such action, therefore, would be inconsistent with this policy.

Although not comprehensive, examples of activities and impacts that could destroy or significantly impair the Smokes Creek Shoals habitat are listed below to assist in applying the habitat impairment test to any proposed activity.

1. Any activity that substantially degrades water quality, increases temperature or turbidity, alters water depths or reduces physical diversity of bottom substrates at Smokes Creek Shoals would affect the fisheries resources of this area.
2. Discharges of sewage, stormwater runoff or industrial wastewater containing heavy sediment loads or chemical pollutants would result in adverse impacts on fish populations.
3. Activities such as dredging, oil or gas drilling, and solid waste disposal are all potential causes of permanent habitat degradation.
4. Construction of breakwalls or jetties in the area that would increase sedimentation, resulting in loss of suitable spawning habitat for walleye.

5. Temporary habitat disturbances would be most detrimental during fish spawning and nursery periods (mid-March to June for most warm water species); any unavoidable human disturbance of the littoral zone should be scheduled during fall or winter to minimize potential impacts on fisheries use of the area.
6. Thermal discharges, depending on the time of year, would have adverse effects on fish populations in the area, since spawning activities and survival are directly affected by water temperature.
7. Installation and operation of water intakes could have a significant impact on fish concentrations through impingement of juveniles and adults, or entrainment of eggs and larval stages.

While the Smokes Creek flood control project that was completed in 1970 was effective at conveying flood waters, the features of this project have contributed to poor stream and riparian habitat conditions in the creek. This project was accomplished by widening, reinforcing and, in some places, straightening various areas of the creek. This project requires periodic dredging of the channel and clearing of vegetation that grows along the channel side slopes, which has adversely impacted the Smokes Creek Shoals habitat. In response to these concerns, the City of Lackawanna established the Smokes Creek Overlay District to protect and enhance the ecological quality of the creek corridor. This overlay district encourages the development of a vegetative buffer to promote streambank stabilization and enhance water quality and requires the establishment of an undisturbed buffer of native or naturalized vegetation within 15 feet of the mean high-water line. Within this buffer area, no more than 10% of vegetation may be cleared to provide creek access. Future flood maintenance projects should be protective of vegetation along the creek banks to help sustain habitat and ecological balance.

The degraded aquatic habitat conditions along Smokes Creek, west of NYS Route 5, present an opportunity to enhance conditions for fish and wildlife along Smokes Creek. Implementation of the proposed Section 1135 modifications for improvement of the Smokes Creek environment is required to restore and enhance aquatic and riparian habitats and provide additional spawning and nursery habitat, as well as a more productive community for water-dependent wildlife.

There is a large area of freshwater wetlands that exists along the south branch of Smokes Creek in Sub-Area 2. The lands that comprise this wetlands complex are owned by the City of Lackawanna or the Lackawanna School District. This area includes the existing Smokes Creek corridor, as well as the remnants of the creek corridor that existed prior to the completion of the flood control project that straightened of the creek through this vicinity. This wetlands complex provides locally significant wildlife habitat, providing a suitable location for numerous species of mammals, amphibians and birds (including migratory birds), and spawning area for fish. This area also offers opportunities for wildlife education and interpretation, and passive recreation, such as bird watching and scenic viewing. This wetland complex should be protected in the same manner as any State-designated habitat to preserve, restore and maintain its integrity and viability. Such protection would not affect flow in the creek or stormwater drainage to the creek, which is regulated by the NYSDEC.

Invasive species of aquatic plants and animals are a threat to the ecological integrity of the Lake Erie. Invasive species cause or contribute to:

1. Habitat degradation and loss,
2. Disruption of natural ecological processes,
3. The loss of native fish, wildlife and tree species, and

4. The loss of recreational opportunities and income.

Monitoring aquatic ecosystems is critical to preventing, detecting, and reducing the spread and impact of aquatic invasive species that threaten waters in Lake Erie. Educating boaters and landowners as to the proper control and eradication of invasive plant species is a critical part of maintaining watershed health. Identifying and removing invasive species is a vital aspect of restoring ecological health. Early detection and response is critical for the effective control of invasive species. Another important, and often overlooked component, is the proper disposal of invasive plants. If not disposed of properly they will only contribute to the spread of new infestations.

Once established in a new environment, invasive species are often difficult and expensive to eradicate. Although control efforts may be ineffective and costly, they are sometimes necessary in order to minimize or eliminate the invasive species' impact on the environment. Complete eradication of invasive plants may be desirable; however, this is not always feasible. Controlling existing populations and preventing their spread in the City of Lackawanna LWRA is a more practical and attainable goal. There are three methods of control: mechanical, biological, and chemical. Control methods and timelines for treatment vary for each species. Therefore, consultation with the NYSDEC, the Western New York Partnership for Regional Invasive Species Management (WNYPRISM) or the Buffalo Niagara Waterkeeper is recommended prior to taking any action to control aquatic invasive species.

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 sub-lethal or lethal effects on those resources

Policy 8A Protect fish resources in the Smokes Creek Shoals and wetlands areas

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, hazardous waste is defined in Environmental Conservation Law [S27-0901(3)] as "waste or combination of wastes that because of its quantity, concentration, or physical, chemical or infectious characteristics may:

1. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or otherwise managed."

A list of hazardous wastes (NYCRR Part 366) will be adopted by DEC within 6 months after EPA formally adopts its list.

The handling (storage, transport, treatment and disposal) of the hazardous materials is 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 fish and wildlife populations at levels that cause mortality or create physiological and

behavioral disorders. Other pollutants are those conventional wastes generated from point and non-point sources and not identified as hazardous wastes but controlled through other State laws cited below¹.

Any activity that would substantially degrade water quality, increase temperature or turbidity, alter water depths, reduce the physical diversity of bottom substrate, or pose similar negative impacts on the Smokes Creek Shoals Significant Coastal Fish and Wildlife Habitat or the Smokes Creek wetland complex is of particular concern (see Policy 7, 7A and 7B).

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

Policy 9A Expand recreational use of fish resources at Smokes Creek Shoals and increased access along the Smokes Creek corridor

Explanation of Policy

The educational and recreational value of waterfront areas that have concentrations of fish and wildlife resources provides great benefit to the public. Due to the prior industrial use of the former Bethlehem Steel Plant property in Sub-Area 1, much of the LWRA (in particular, over 400 acres along the shoreline of Lake Erie) is comprised of slag materials that were deposited as a by-product of steel production. Ground surface materials in certain portions of the area and along the shoreline can be unstable and/or unsafe due to steep slopes, limiting the potential for public use of the site and lakeshore, including the construction of shoreline fishing or boating facilities. There are active rail lines that extend across the property that must also be taken into consideration. In addition, this property is privately owned and public access to the shoreline would require formal approval and the revision of deed restrictions. Although this policy supports expansion of the recreational use of fish and wildlife resources in Lake Erie, access to these resources for consumptive use (fishing) from the former Bethlehem Steel property may not be feasible from the most areas of Sub-Area 1. The potential exists for wildlife habitat restoration and limited non-consumptive public use (scenic viewing, wildlife photography, birdwatching, nature study) in the area adjacent to Smokes Creek, but public access to the shoreline below the bluff area would likely be restricted.

Active use of Lake Erie waters in the LWRA for recreational fishing is supported by this policy. Lake Erie sustains a significant recreational fishing industry and is a popular location for anglers throughout the year. Native species found in the lake include largemouth and smallmouth bass, yellow perch, walleye, northern pike, muskellunge, rock bass, sheepshead, smelt, emerald shiners, steelhead trout and lake sturgeon. Smokes Creek Shoals, at the mouth of the creek, is one of the more popular locations for walleye fishing in the region, attracting numerous fisherman to the area.

Additionally, recreational fishing along Smokes Creek in Sub-Area 2 is supported by this policy. The City should evaluate the potential for establishing formal locations for public fishing access, particularly along the creek shore at Galanti Park and Foundry Park, which is located at the eastern end of Madison Avenue. In addition, roadway bridge crossings and dead-end streets should also be evaluated for the development of formalized shoreline fishing access locations.

¹ http://www.dos.ny.gov/opd/programs/pdfs/NY_CMP.pdf , Part II Section 6, page 28

Any efforts to increase the recreational use of fish and wildlife resources will be undertaken in a manner that ensures the protection of the resources in local surface water areas and surrounding natural upland areas, and that takes into consideration other activities dependent on these resources. Additionally, such efforts must be conducted in accordance with existing State and Local laws and in keeping with sound habitat management practices and 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 Local, State and Federal agencies as they determine the consistency of their proposed actions with this policy:

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

Policy 10 Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the state's seafood products, maintaining adequate stocks, and expanding aquaculture facilities

Explanation of Policy

There is no commercial finfish, shellfish or crustacean industry in the City of Lackawanna local waterfront revitalization area, and no on-shore commercial fishing facilities. Therefore, this policy is not applicable.

FLOODING AND EROSION HAZARDS POLICIES

Policy 11 Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion

Explanation of Policy

This policy seeks to protect life, structures and natural resources from the hazards of flooding and erosion. The policy provides measures for the reduction of hazards and protection of resources. Flood zones in the City of Lackawanna waterfront have been designated by the Federal Emergency Management Agency and are depicted on Flood Insurance Rate Maps, which were updated in September 2008. The City has participated in the National Flood Insurance Program since 1980.

The provisions of this policy are applicable to the floodplain areas located at the south end of Buffalo Harbor, adjacent to the Port of Buffalo, and at the mouth and along the corridor of Smokes Creek in Sub-Area 1, where waterfront revitalization efforts could be undertaken. Flood prone areas in Sub-Area 2 are limited because, aside from the large wetlands complex that includes some areas of floodplain, the sub-area boundary extends inland only 25-feet from the top of the creek bank, on both sides of the creek along both branches, and does not encompass any residential or other structures.

The natural shoreline has an inherent natural, social and economic value that should be respected to ensure continuing benefits. Hardening of the shoreline should be avoided except when alternative means, such as soft engineering alternatives and revegetation, are impractical to protect principal structures or extensive public investment (land, infrastructure, and facilities). Therefore, those portions of the Lake Erie and Smokes Creek shorelines that are not fortified should, where practical and feasible, remain in a natural condition to respond to natural processes. Areas of the shoreline that have been hardened should be returned to a natural condition wherever feasible and appropriate. Necessary shoreline protection structures that are in disrepair should be renovated.

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

Explanation of Policy

There are no beaches, dunes, barrier islands, bluffs, or other natural protective features in the City of Lackawanna Local Waterfront Revitalization Area. The bluffs along the shoreline of Lake Erie are not natural features, they are comprised of slag and other by-products from years of steel production at the former Bethlehem Steel plant. Therefore, this policy is not applicable.

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

Explanation of Policy

As a result of improper design, construction, maintenance and age, many erosion protection structures fail to give the protection that they were originally intended to provide. Therefore, certain development may be sited in areas where it could be subject to damage or loss due to erosion. This policy is designed to ensure that erosion protection structures in the City of Lackawanna LWRA are constructed or reconstructed to provide effective, long-term protection in an effort to reduce such damage or loss. This is particularly important where public funds are used for the construction or reconstruction of these structures. Areas of concern, where erosion protection may be warranted in the future include the Lake Erie shoreline, south of the mouth of Smokes Creek, and the southern shoreline of the South branch of Smokes Creek, behind homes along Sharon Parkway to the east of Creekside Drive, where the creek bank is eroding.

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 that 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 (see Policy 11). Those actions include:

1. The use of erosion protection structures, such as seawalls or impermeable docks, that interfere with the littoral transport of sediment to adjacent shorelands, thus increasing their rate of erosion;
2. The failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of the shoreline; and
3. The placement of structures in identified floodways so that the base flood level is increased, causing damage to otherwise hazard-free areas.

No activity or development should be undertaken in the City of Lackawanna Local Waterfront Revitalization Area that would result in flooding or erosion, or any measurable increase of such.

Policy 15 **Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land**

Explanation of Policy

Coastal processes, including the movement of beach materials and shoreline sediment by water, and any mining, excavation or dredging in nearshore (area extending seaward of the mean low water line) or offshore waters that changes the supply and net flow of such materials, can deprive shorelands of their natural regenerative powers. Dredging activities in Lake Erie, the southern portion of Buffalo Harbor or in the Lackawanna Canal and at the mouth of Smokes Creek should be accomplished in a manner that does not cause a reduction of supply to downdrift areas and, thus, an increase in erosion to the adjacent shore lands and shoreline of Lake Erie. There are no offshore mining or excavation activities in the local waterfront revitalization area.

Policy 16 **Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features**

Explanation of Policy

Public funds are used for a variety of purposes along waterfronts throughout the State. This policy recognizes the public need for the protection of human life and existing development along the shoreline in the City of Lackawanna, as well as new development that desires a location adjacent to coastal waters.

However, the adverse impacts of such development activities on the rate of erosion and on natural protective features that guard against flooding and erosion is also recognized. Therefore, the construction of erosion protection structures in the City of Lackawanna Local Waterfront Revitalization Area requires that a thorough analysis of the long-term costs and benefits of such action be undertaken before any expenditure of public funds for this action.

Policy 17 Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible

Explanation of Policy

This policy recognizes both the potential adverse impacts of flooding and erosion upon development and natural protective features in the coastal area, as well as the costs of providing structural protection against those hazards. This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing development and resources against flooding and erosion in the City of Lackawanna Local Waterfront Revitalization Area. To ascertain consistency with this policy, it must be determined if any one, or a combination of, non-structural measures would afford the degree of protection appropriate to safeguard the character and purpose of the resources, activities or development to be protected. If non-structural measures are determined to offer sufficient protection, then consistency with the policy would require the use of such measures, whenever possible. Non-structural measures include, but not be limited to the avoidance of risk or damage from flooding by the siting of buildings outside the hazard area, and the flood-proofing of buildings or their elevation about the base flood level.

While shoreline hardening (use of stone rip rap and rubble) may provide temporary relief from erosion in areas subjected to intense storms and wave action or current, structural measures (concrete walls or sheet piling) are expensive to install, degrade shoreline habitat, interrupt natural shoreline processes and may act to transfer erosion problems to adjacent areas. Alternative shoreline management techniques exist and should be considered for use as a first or next step for erosion protection in problem area, whenever possible. Examples of alternative measures for protecting the shoreline include bioengineering techniques and planted buffers that utilize deep rooted vegetation. These alternative solutions can result in a more naturalized shoreline, which has ecological and aesthetic benefits. Hard structural erosion protection measures should only be uses as a last alternative, where there is a documented erosion problem and where alternative measures have been proven to be inadequate to protect the principal use.

In determining whether non-structural measures will afford the degree of protection appropriate to protect against flooding and erosion, an analysis of existing conditions should be prepared. Where necessary, this analysis should include plans or sketches of the site and the protection measures proposed as mitigation.

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 that the State has established to protect valuable coastal resource areas

Explanation of Policy

Proposed major actions may be undertaken in the City of Lackawanna Local Waterfront Revitalization Area if it is determined that they will not significantly impair valuable coastal waters and resources. This will ensure the achievement of the safeguards that the City and State have established to protect valuable waterfront resources. Proposed actions must take into full account the social, cultural, economic and environmental interests of the City and State, and their citizens, in such matters that would affect natural resources, water levels and flows in Lake Erie and Smokes Creek, shoreline conditions, historic and scenic resources, recreation opportunities, public access, and the prosperity of interests in the waterfront area.

PUBLIC ACCESS POLICIES

Policy 19 **Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities**

Policy 19A **Establish and maintain public access along Lake Erie in the vicinity of Smokes Creek, west of NYS Route 5, where feasible**

Policy 19B **Establish public access to Smokes Creek in Sub-Area 2, where feasible**

Explanation of Policy

This policy calls for achieving a balance among the following factors:

- Level of access to a water-related recreational resource or facility,
- Capacity of a resource or facility to sustain use, and
- Protection of natural resources.

An imbalance among these factors is typical in urban area and is often due to access-related problems.

At present, there are no recreational uses and no level of public access in Sub-Area 1 of the LWRA. As reuse and redevelopment of the majority of the former Bethlehem Steel property is deed restricted due to the lasting impacts of prior and current industrial use, public access to the shoreline in this area for active water-related recreation is not likely. However, the potential exists for habitat restoration and the provision of visual access to Lake Erie on the south side of Smokes Creek. Unlike neighboring communities, the Lackawanna lakefront has been historically closed off to the public. Therefore, the City should work with property owners and local, State and Federal agencies to reestablish areas as wildlife habitats. There is also opportunity to develop a trail system and locations at the top of the bluff for scenic viewing of the lakefront and open waters of Lake Erie. This could be achieved as a part of ongoing efforts for flood control and habitat protection at the mouth of Smokes Creek. Additional study needs to be undertaken to determine how public access in this area can actually be achieved, including the possibility of extending a trail from Woodlawn Beach State Park, which is located to the south in the Town of Hamburg. Additionally, the entity responsible for, and the means of, long-term maintenance of this area must be determined.

Where consideration is given to establishing public access in Sub-Area 1, such consideration must take into account:

- the former use of the area for industrial activities,
- the physical make-up, hazards, structural stability, and steep-slope issues of ground surface materials (particularly along the Lake Erie shoreline),
- the presence of active rail lines that extend across the property,
- remediation constraints that may not permit full public access to certain portions of the area,
- other on-site land use factors that warrant public access restrictions (such as areas utilized for renewable energy generation), and
- the fact that the former Bethlehem Steel Plant property is privately owned, and property owners would have to agree to the amendment of deed restriction to enable public access and use of the property.

Where it is deemed practical and feasible, opportunities for limited public access for passive uses, such as scenic views, should be explored.

The expansion or provision of access for passive, water-related recreation should be explored in certain areas of Smokes Creek. Galanti Park, which is located behind the Lackawanna Senior Center on the north branch of Smokes Creek, has the potential for increased recreation use associated with the creek. The City also owns 6.3 acres of land along the main stem of Smokes Creek in Sub-Area 2, on the former Lackawanna Foundry property. This property, which is situated at the eastern end of Madison Avenue, is currently used as a neighborhood park and provides an opportunity for the establishment of shoreline access for passive, water-related recreation along the southern shoreline of the creek. Additionally, the large wetlands complex that is located along the south branch of Smokes Creek, south of Martin Road, is another area where there are possible opportunities for passive recreation and education, as well as wildlife interpretation.

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

1. The existing access from adjacent or proximate public lands or facilities to public water-related 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 by the public body having jurisdiction over such access as the result of a reasonable justification of the need to meet system-wide objectives.
 - a. Access means the ability and right of the public to reach and use public lands and waters in the LWRA.
 - b. Public water-related recreation resources of facilities include all public lands or facilities that are suitable for passive or active recreation requiring either water or a waterfront location or are enhanced by a waterfront location.
 - c. Public lands or facilities are 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 and the lands between the mean low and mean high water lines.
 - d. A reduction in the existing level of public access includes, but is not limited to:

- (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; and
 - (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.
- e. An elimination of the possibility of increasing public access in the future includes, but is not limited to:
- (1) Construction of public facilities that 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; or
 - (3) Construction of private facilities that 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 evaluated according to the following factors:
- a. The level of access to be provided should be in accordance 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 that would exceed the physical capability of the resource or facility. If this is determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
3. The City and State will not undertake or fund any project that increases access to a water-related resource or facility that is not open to all members of the public.

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 shall be provided in a manner compatible with adjoining uses

Explanation of Policy

In coastal areas where there are limited or no recreation facilities that provide water-related recreational activities, access to the publicly-owned lands at large should be provided for activities and pursuits that require only minimal facilities. Such access could provide opportunities for scenic viewing or shoreline fishing, where feasible. Similar activities requiring access include bicycling, bird watching, photography, and nature study. For these types of activities, there are several methods for providing access that should receive priority attention. These include the development of a shoreline trail system, the provision of safe access across transportation facilities to the waterfront, the improvement of access to waterfront areas in urban centers, and the promotion of mixed and multi-use development that provides access to waterfront areas.

While publicly-owned lands referenced in the policy shall be retained in public ownership, the issuance of easements on underwater lands that are located adjacent to upland (onshore) property is consistent with this policy, provided such easements do not substantially interfere with continued public use of the public

foreshore on which the easement might be granted (foreshore is defined as the shoreline area situated between the mean low water line and the mean high water line). Also, the public use of publicly-owned underwater lands and lands immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety or the protection of fragile shoreline resources.

In Sub-Area 1, there are no foreshore lands or lands adjacent to the foreshore of Lake Erie that are in public ownership. However, as noted in Policy 19, the potential exists for the provision of a trail that could provide access for scenic viewing of Lake Erie on the south side of Smokes Creek. The City would need to work with the property owner and local, State and Federal agencies to develop such access. This could be achieved as a part of ongoing efforts for flood control and habitat protection at the mouth of Smokes Creek. The provision of such public access requires additional study to determine how it could actually be achieved.

Additionally, the extension of the Shoreline Trail system within the public right-of-way of Hamburg Turnpike., which is the inland boundary of the Bethlehem Steel property, is a means of improving public access through this area. This project is supported by this policy. Although it would not provide access to the Lake Erie shoreline or other publicly-owned lands, it could enable the public to gain views of the lake from Hamburg Turnpike. and Hamburg Turnpike (NYS Route 5), which are protected pursuant to the provisions of the City's Seaway Trail Zoning Overlay District.

In Sub-Area 2, the provision of access to the main stem of Smokes Creek for passive recreation should be explored on the City-owned property that is the former location of the Lackawanna Foundry. This property is presently used as a neighborhood park (Foundry Park) and has the potential for shoreline access along the southern shoreline of the creek.

Public access should also be explored at Galanti Park in Sub-Area 2, which is located on the north branch of Smokes Creek. This property is owned by the City and has the potential for increased passive recreational use associated with the creek. The large wetlands complex that is located along the south branch of Smokes Creek, south of Martin Road, should be explored for possible opportunities for passive recreation, educational opportunities, and wildlife interpretation. These lands are also under public ownership.

Where opportunities for physical or visual access to the lake front or the shoreline of Smokes Creek are pursued, the following guidelines will be used in determining the consistency of a proposed action with this policy:

1. Existing level of public 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 coastal lands and/or waters be eliminated, unless such actions are demonstrated to be of overriding local, 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. In addition, the existing level of public access within public coastal lands and/or waters shall not be reduced or eliminated.

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

- a. A reduction in the existing or anticipated level of public access includes, but is not limited, to:
 - (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.
- b. An elimination of the possibility of increasing public access in the future includes, but is not limited to:
 - (1) Construction of public facilities that physically prevent the provision, except at great expense, of convenient public access to public coastal lands and /or waters.
 - (2) Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters.
 - (3) Construction of private facilities that physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.
2. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated.
 - a. A reduction in existing or anticipated level of public access includes, but is not limited, to:
 - (1) Access is reduced or eliminated because of hazardous crossings required at new or altered transportation, electric, power transmission lines or similar linear facilities.
 - (2) Access is reduced or blocked completely by public development.
3. Public access from the nearest public roadway to the shoreline and along the waterfront shall be provided by new land uses 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 public 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 City and State will not undertake or directly fund any project that increases access to a water-related resource or facility that is not open to all members of the public.
5. Proposals for increased physical or visual access shall be evaluated according to the following factors:
 - a. The level of access to be provided should be in accordance 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 that would exceed the physical capability of the area where such access would be established. If this is determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

RECREATION POLICIES

Policy 21 Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related used along the coast

Policy 21A Water-dependent recreation shall be encouraged within and adjacent to Smokes Creek in Sub-Area 2

Explanation of Policy

Water-related recreation includes such activities as boating and fishing, as well as certain activities that are enhanced by a waterfront location and increase the general public's access to the shoreline, such as multi-use trails, picnic areas, scenic overlooks and passive recreation areas that take advantage of scenic resources. The development of water-related recreation in the City of Lackawanna Local Waterfront Revitalization Area shall be consistent with the preservation and enhancement of important coastal resources, such as fish and wildlife habitats. Water-related recreational development in the LWRA should be designed to meet demand and shall take preference over the development of non-water-related recreational uses. The siting or design of new development in Sub-Area 1 that would result in a visual barrier of Lake Erie shall be avoided.

At present, there are no formal recreational uses and level of public access in Sub-Area 1 of the LWRA. As reuse and redevelopment of the majority of the former Bethlehem Steel property is deed restricted due to the lasting impacts of prior and current industrial use, public access to the Lake Erie shoreline or the establishment of facilities for water-dependent or water-enhanced recreation is unlikely. Shoreline fishing does occur in certain areas along Smokes Creek, such as bridge abutments, but there are no formally established locations for this activity. Opportunities for such use exist along the north branch, behind Galante Park, and on the south bank of the main branch at the rear of Foundry Park, that should be further explored by the City. See Policies 19 and 20 as they relate to potential opportunities for recreational access to Smokes Creek in Sub-Area 2.

Policy 22 Development, when located adjacent to the shore, will provide for water-related recreation, whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development

Explanation of Policy

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

The types of development that can generally provide water-related recreation as a multiple use include, but are not limited to parks, highways, utility transmission rights-of-way, schools, nature preserves (restricted to passive activities), residential subdivisions, shopping centers and office buildings. Prior to taking action relative to any development proposal in the LWRA, the City should determine if water-related recreation is feasible as a companion use. Such use should be consistent with LWRP policies and help to increase public use of the waterfront. (See Policy 21).

HISTORIC AND SCENIC RESOURCES POLICIES

Policy 23 **Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the state, its communities, or the nation**

Policy 23A **Capitalize on opportunities for the interpretation of the history of the former Bethlehem Street property**

Policy 23B **Protect and restore the characteristics of any remaining structures that are deemed historically and architecturally significant on the former Bethlehem Steel property, where feasible**

Policy 23C **Protect archaeologically significant sites in the vicinity of Smokes Creek**

Explanation of Policy

The majority of the LWRA (Sub-Area 1) is comprised of the former Bethlehem Steel Plant property, which was widely filled and disturbed by industrial activities over the 80+ years that the plant was in operation. This plant played a prominent role in the history and development of the City of Lackawanna well into the 20th century. It once contained a number of structures of local historic significance, most of which have been removed. As the site continues to be redeveloped and revitalized, efforts should be made to protect and restore any remaining structures that have historic or architectural characteristic that are deemed significant to the history of the site.

The history of the Bethlehem Steel site should be recognized through interpretive signage and other means. Such features could be included as a part of the extension of the Shoreline Trail, or through the creation of a trailhead park at the intersection of the western terminus of Ridge Road and Hamburg Turnpike. that would be included along the Shoreline Trail extension. This park could include interpretive elements that highlight the important history of the site.

Although information provided by the NYS Office of Parks, Recreation and Historic Preservation Cultural Resources Information System indicates that a portion of the former Bethlehem Steel Plant site and portions of Smokes Creek are located in archaeologically sensitive areas (see Section 2.8.2 in Section II), there are no known sites that have been identified as significant within the LWRA. Potential areas of archaeological significance likely exist along areas of the Smokes Creek corridor that have not been disturbed by development. Any areas of this nature, if ever identified, should be protected and preserved.

Policy 24 **Prevent impairment of scenic resources of statewide significance**

Explanation of Policy

There are no Scenic Areas of Statewide Significance (SASS) within the Lackawanna LWRA, as designated by the Secretary of State (SASS's are currently limited to six areas in the Hudson River Valley and on Long Island). Therefore, this policy is not applicable.

Policy 25 **Protect, restore or enhance natural and man-made scenic resources that are not identified as being of statewide significance, but that contribute to the overall scenic quality of the coastal area**

Policy 25A **Improve the scenic quality of the New York State Route 5 corridor, which is a part of the Great Lakes Seaway Trail and a designated National Scenic Byway**

Explanation of Policy

Scenic resources along the Lake Erie shorefront and the Smokes Creek corridor in the City of Lackawanna are locally important. These scenic resources include vistas of Lake Erie and, where available, views of the creek. Hamburg Turnpike, and Hamburg Turnpike (NYS Route 5) constitute a segment of the New York State Great Lakes Seaway Trail and a designated National and State Scenic Byway. Efforts should be made to enhance and improve the visual character and quality of this corridor in recognition of this designation. Efforts should also be taken to protect, and where possible, improve the visual quality and visual accessibility of the Lake Erie waterfront areas in the LWRA, including enforcement of the provisions of the City’s Seaway Trail zoning overlay district. This overlay district regulates development along Hamburg Turnpike, and Hamburg Turnpike (NYS Route 5) to maintain views of Lake Erie and the visual character of the corridor. These regulations mandate minimum side yard setbacks of 100 feet and requires the views cannot be obstructed for more than 400 feet in any one place. New development that occurs on the former Bethlehem Steel property must comply with these regulations to ensure that views of Lake Erie are readily provided along the Hamburg Turnpike/NYS Route 5 corridor and Shoreline Trail extension that is proposed for this area.

In addition, the siting and design guidelines listed below should be considered for proposed actions in the local waterfront revitalization area. More emphasis may need to be placed on the removal of existing elements, especially those that degrade, and on the addition of new elements or other changes that could enhance visual quality. Removal of vegetation at key locations to improve visual access to coastal waters is one such change that might be expected to enhance scenic quality. However, discretion should be used to ensure that this action does not adversely affect other important resources in the waterfront area. The following siting and facility-related guidelines shall be used to achieve the intent of this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly.

1. Avoiding loss of existing visual access and protecting view corridors provided by streets and other public areas leading to the waterfront and using structural design and building siting techniques to preserve or retain visual access and minimize obstruction of views.
2. Siting structures and other development such as highways, power lines, and signs, back from shoreline or in other inconspicuous locations to maintain the attractive quality of the waterfront and to retain views to and from this area;
3. Clustering or orienting structures to retain views, save open space and provide visual organization to a development;
4. Providing view corridors to the waterfront in those locations where new structures would block views of the waterfront from inland public vantage points.
5. Carefully incorporating existing structures (especially historic buildings) into the overall development scheme of the waterfront;
6. Removing deteriorated and/or degrading elements from the view;

7. Maintaining or restoring original land forms, except when changes screen unattractive elements and/or add appropriate interest;
8. Maintaining or adding vegetation 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 when selective clearing appropriately creates views of coastal waters;
9. Using appropriate materials, in addition to vegetation, to screen unattractive features and elements;
10. Allowing the vegetative or structural screening of an industrial or commercial waterfront site if the resulting overall visual quality outweighs the loss of visual access.
11. Using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape, and do not block existing visual access.
12. Providing interpretative exhibits at appropriate locations for visual access to enhance public understanding and enjoyment of views of waterfront lands and waters.

AGRICULTURAL LANDS POLICY

Policy 26 Conserve and protect agricultural lands in the state's coastal area

Explanation of Policy

There are no agricultural lands in the City of Lackawanna. Therefore, this policy is not applicable.

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

New York's overall annual energy demand has begun to flatten over time, in part due to the success of State and utility energy efficiency programs. However, peak load (the highest amount of energy consumption in a given year) has continued to increase at a more rapid pace.² Renewable power sources—hydro, solar, wind, and other carbon-free solutions—also continue to grow as a share of the total energy produced in the State.³ Significant investments in the billions of dollars are needed to replace New York's aging electric transmission and distribution infrastructure just to meet currently projected energy demand.⁴ To respond to these significant shifts in the State's energy infrastructure, State energy policies are being designed to maintain energy system reliability during peak load in ways that improve the grid's overall system efficiency, from both energy transmission and capital investment perspectives.⁵

² 2015 New York State Energy Plan, Vol. 1, p. 27.

³ 2015 New York State Energy Plan, Vol. 1, p. 10.

⁴ 2015 New York State Energy Plan, Vol. 1, pp. 25-26.

⁵ 2015 New York State Energy Plan, Vol. 1, p. 27.

The New York State energy planning process provides a comprehensive framework for improving the State's energy system, addressing issues such as environmental impacts, resiliency, and affordability.⁶ Key areas of focus for New York's energy planning and implementation policies include integration of renewable energy generation; local energy generation that can foster both economic prosperity and environmental stewardship; seeking innovative energy solutions across the State's public facilities and operations; increasing energy efficiency; and decreasing greenhouse gas emissions.⁷ New York's energy policy is also central to how the State responds to the challenges presented by a changing climate. New York State's energy planning recognizes that extreme weather events demand more resilient energy infrastructure, and that climate change presents both challenges and opportunities to lead and innovate.⁸ 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 contained primarily in Article 6 of the New York State Energy Law. That Article requires the preparation of a State Energy Plan. With respect to transmission lines and the siting of major electric generating facilities, Articles 7 and 10 of the State's Public Service Law require additional forecasts and establish the basis for determining the compatibility of these facilities with the environment and the necessity for providing additional electric capacity. The policies derived from the siting regulations under these Articles 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 Law. That law is used for the purposes of ensuring consistency with the Coastal Management Program.

The NYS Department of State (DOS) will present testimony for the record during relevant certification proceedings under Articles 7 and 10 of the Public Service Law when appropriate, and use the State SEQR and DOS regulations to ensure that decisions regarding other proposed energy facilities (not subject to Articles 7 and 10 of the Public Service Law) that would affect the coastal area are consistent with coastal policies.

Portions of the former Bethlehem Steel property in Sub-Area 1 have been developed with wind and solar energy generation facilities that benefit the region. Any renewable energy facilities that are developed in the future should be located in areas that do not compromise the highest and best use of this property.

Policy 28 Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding

Explanation of Policy

Ice buildup on the Lake Erie is formally managed by the International Joint Commission. Ice management practices associated with the installation of the ice boom across the eastern end of Lake Erie shall be done in a manner that does not damage significant fish and wildlife habitats or increase shoreline erosion or flooding along the City of Lackawanna shoreline.

⁶ 2015 New York State Energy Plan, Vol. 1, p. 9.

⁷ 2015 New York State Energy Plan, Vol. 1, p. 7; 2015 New York State Energy Plan, Vol. 1, p. 11.

⁸ 2015 New York State Energy Plan, Vol. 1, p. 17.

Policy 29 **The development of offshore uses and resources, including renewable energy resources, shall accommodate New York’s long-standing ocean and Great Lakes industries, such as commercial and recreational fishing and maritime commerce, and the ecological functions of habitats important to New York**

Explanation of Policy

The science of ecosystem connections between the coastal zone and offshore areas is increasingly better understood. The offshore environment is an ongoing focus of policy development at national, regional, and state levels. Within this context, New York State seeks to accommodate longstanding offshore industries, such as commercial and recreational fishing and maritime commerce, while at the same time ensuring the ecological functioning of habitats important to the State, as it considers the need for new offshore resource development and uses to occur.

While New York State has jurisdiction in its offshore waters, matters pertaining to the Outer Continental Shelf (OCS) are under the jurisdiction of the federal government. However, offshore resource development and other uses on the OCS may affect coastal resources and uses important to New York State. Consequently, the Department of State actively participates in OCS planning and decision-making processes, pursuant to the federal Outer Continental Shelf Lands Act and the Deepwater Port Act, among other federal statutes, and reviews and voices the State’s concerns about federal OCS activities, licenses, permits, lease sales, plans, and other uses and activities. The federal government increasingly has invited State participation in offshore planning and decision-making processes. New York State will continue to review and analyze federal licensing and permitting activities for federal consistency, including activities in offshore areas outside New York’s coastal zone. Proponents of offshore activities should use available offshore data to identify and reduce the potential effects on coastal resources, activities and uses in the City of Lackawanna and New York State. Project proponents should consider the compatibility with, and seek to accommodate, the existing presence of resources, activities and uses that are important to the coastal areas of New York State and City of Lackawanna.

In addition to the development of energy resources and the siting of energy facilities, offshore uses of particular concern to New York State because of their potential effects on State coastal uses and resources include, but are not limited to:

- fisheries management;
- aquaculture;
- sand and gravel mining;
- military readiness training and related exercises;
- changes or upgrades to established navigation patterns and infrastructure, including the re-routing of existing navigation lanes and the location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation (ATON) program;
- permits for deep water ports;
- the identification of interim or permanent open-water dredged material disposal sites;
- the intentional submergence of vessels and other structures, including for the purpose of creating artificial reefs; the creation of human-made islands, tidal barriers, or the installation of other fixed structures;
- scientific research activities; and
- exploration and identification of potential resources for extraction, such as biopharmaceutical products.

In its review of proposed activities, licenses, permits, lease sales and plans in the Atlantic OCS and New York State coastal waters, the Department of State works with state and federal agencies to consider a number of factors, including but not limited to:

- the potential effects upon maritime traffic, including navigational safety leading into and from New York's ports;
- the potential for increased port development and economic activity;
- aspects of national security; the effects on important finfish, crustaceans, shellfish, seabirds, marine mammals, and other wildlife populations and their spawning, wintering, and foraging habitats and migrating corridors;
- impacts on biological communities and biodiversity;
- ecological functioning of ecosystems; economic and other effects upon commercial and recreational fishing activities;
- impacts upon tourism and public recreational resources and opportunities along the coasts and offshore; the potential for geo-hazards;
- water quality; and
- overall effects on the resilience of New York's coastal uses and resources.

Of special significance, New York State recognizes the need to develop energy resources, particularly those that contribute to achieving the State's energy goals, including greenhouse gas reduction. It also recognizes that any energy development may have reasonably foreseeable effects on existing coastal uses and resources. Among the various energy resources under consideration for development are those that may be found in offshore waters within the State's territorial limit (including Lake Erie) or the Atlantic OCS. There are currently no active licenses, permits, lease sales or plans for oil and gas exploration or production in the waters offshore New York State.

The State encourages the responsible development of renewable energy resources. Wind, wave, tidal, and water current resources located offshore New York are an increasing focus of development interest, which may continue to grow as projects become more technologically feasible. Offshore renewable wind energy development is a use that depends on the utilization of resources found in coastal waters. The State recognizes offshore projects directly interconnected to the New York electrical grid as qualifying for eligibility as a dependent use at the same level as though the facility were located within the State.

WATER AND AIR RESOURCES POLICIES

Policy 30 **Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards**

Policy 30A **Prohibit direct or indirect discharges that would cause or contribute to the contravention of water quality standards and targets**

Explanation of Policy

Municipal, industrial and commercial discharges include not only "end-of-the pipe" discharges into surface and groundwater, but also plant site runoff, leachate, spillages, sludge and other waste disposal,

and drainage from raw material storage sites. Regulated industrial discharges are both those that directly empty into receiving coastal waters and those that pass through the municipal treatment systems before reaching the local waterways. The discharge of any and all pollutants from municipal, industrial and commercial uses into Lake Erie or Smokes Creek shall conform to all State and Federal water quality standards and be in full compliance with all applicable regulations that govern such discharges.

Prevent point source discharges into surface waters and manage or avoid land and water uses that would:

1. Exceed discharge limits specified by State Pollution Discharge Elimination System (SPDES) permits for municipal discharges.
2. Exceed applicable effluent limitations, or cause or contribute to the contravention of water quality classification and use standards; or
3. Materially or adversely affect the quality of receiving waters.

Policy 31 State coastal area policies and management objectives 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

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217) the State has classified its coastal and other surface waters in accordance with the consideration of the best usage of these waters, with full regard to the interest of the public, and has adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment. The policies and objectives of the City of Lackawanna Local Waterfront Revitalization Program shall be factored into the review process for the waters of Lake Erie and Smokes Creek. However, such consideration shall not affect any water pollution control requirements established by the State pursuant to the Federal Clean Water Act.

Policy 32 Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities

Explanation of Policy

All lands located within the City of Lackawanna Local Waterfront Revitalization Area are fully serviced by public sanitary sewer service. There are no facilities that utilize alternative or innovative sanitary waste systems in this area. Therefore, this policy is not applicable.

Policy 33 Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters

Explanation of Policy

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and combined sewer overflows. At present, structural approaches to controlling stormwater runoff (e.g., construction of retention basins) and combined sewer overflows (e.g., replacement of combined system with separate sanitary and stormwater collection systems) are not economically feasible. Proposed amendments to the Clean Water Act, however, will authorize funding to address combined sewer overflows in areas where they create severe water quality impacts. Until funding for such projects becomes available, non-structural approaches (e.g., improved street cleaning, reduced use of road salt) will be encouraged.

Stormwater runoff generated in the City' LWRA is conveyed through a combination of closed pipes and open ditches. Although stormwater collection and conveyance infrastructure has been installed throughout much of the City, there are some areas with open ditches. The storm sewer system discharges runoff into Smokes Creek through a number of outfalls that are regulated by the NYSDEC.

City land development activities can result in flooding, stream channel erosion, and sediment transport and deposition in local waterways that impacts aquatic life and habitat. The City of Lackawanna is a member of the Western New York Stormwater Coalition and adopted a shared Stormwater Management Plan that was prepared by the Coalition, as a compliment to the law. This Plan addresses public education and outreach, public participation, illicit discharge detection and elimination, control of runoff from construction sites, post-construction stormwater management and pollution prevention, and other best management practices to address other sources of non-point source pollution that are conveyed by stormwater runoff. This plan should be followed and kept up to date.

Additionally, in 2008 the City adopted stormwater management regulations to address the impacts of stormwater runoff that are associated with land development activities. Article IX of Chapter 185 of the City of Lackawanna Code (Storm Drainage) specifically addresses stormwater runoff associated with developed properties, the requirements of which should be followed, including:

- Requirements for the preparation of Stormwater Pollution Prevention Plans (SWPPPs);
- Prohibition of illicit discharges and connections to the storm sewer system;
- Prevention, control and reduction of stormwater pollutants by use of best management practices;
- Maintenance, inspection and repair of stormwater facilities;
- Notification of spills;
- Corrective measures, injunctive relief and alternative remedies for violations; and
- Administration and enforcement procedures.

Policy 34 Discharge of waste materials into coastal waters from vessels subject to state jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas

Explanation of Policy

All untreated sanitary waste from vessels is prohibited from being discharged into the surface waters in the City of Lackawanna Local Waterfront Revitalization Area. The waters of Lake Erie are a State-designated Vessel Waste No Discharge Zone. Boaters using these waterways are prohibited from discharging sanitary or other wastes from their vessels into the water. All vessels using the surface waters within the City of Lackawanna Local Waterfront Revitalization Area are required to utilize any available vessel waste pump-out facility for proper disposal of vessel waste.

Policy 35 **Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands**

Explanation of Policy

Dredging, filling, and dredge material disposal are activities that are typically necessary in waterfront communities. Activities such as the maintenance of navigation channels at sufficient depths or pollutant removal, are necessary to support recreation and commercial boating activity and protect environmental resources. Such projects, however, can adversely affect water quality, fish and wildlife habitats, wetlands, and other important coastal resources. These adverse effects can be minimized through the careful design and timing of the dredging or filling activities, proper siting of dredged material disposal sites, and the beneficial use of dredged material. Such projects shall only be permitted in the City of Lackawanna Local Waterfront Revitalization Area if they satisfactorily demonstrate that any potential and anticipated adverse effects will be reduced to levels that satisfy State permit standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15 – Water Resources and 24 – Freshwater Wetlands), and are consistent with other local policies pertaining to the protection and use of coastal resources (LWRP policies 8, 15, 19, 20, 25 and 44).

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

There are no major facilities in the City of Lackawanna that store or ship petroleum or other hazardous materials (see Policy 39 for a definition of hazardous materials). Any uses, such as gas stations or industrial uses, that store these materials are regulated by the New York State Department of Environmental Conservation pursuant to 6 NYCRR Part 370 Series and Parts 596 through 599, and are required to operate in full compliance of all State (and Federal) regulations.

Policy 37 **Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters**

Policy 37A **Green infrastructure will be utilized, where appropriate, to improve stormwater discharges to local waterbodies**

Explanation of Policy

Best management practices should be used to reduce non-point sources of pollution that degrade local surface water quality. The City of Lackawanna is a member of the Western New York Stormwater Coalition and has adopted stormwater management regulations (see Policy 33). All development activities that are undertaken in the City’s Local Waterfront Revitalization Area shall conform these regulations and employ all necessary best management practices to prevent and address non-point source pollution.

In general, non-point pollution of surface waters should be minimized using the following best management practices and approaches, which are presented in order of priority.

1. Limit non-point source pollution by:
 - a. Reducing or eliminating the introduction of materials that may contribute to nonpoint pollution;
 - b. Minimizing the disturbance of creeks and streams, including their bed and banks, in order to prevent erosion of soil, increased turbidity, and irregular variation in velocity, temperature, and level of water;
 - c. Avoiding activities that would increase off-site stormwater runoff and transport of pollutants;
 - d. Controlling and managing stormwater runoff to minimize transport of pollutants, restore degraded stormwater natural stormwater runoff conditions and achieve no-net increase of runoff where unimpaired stormwater runoff conditions exist;
 - e. Retaining or establishing vegetation to maintain and provide soil stabilization, and filtering capacity;
 - f. Preserve natural hydrologic conditions to maintain natural surface water flow characteristics and retain natural watercourses and drainage systems where present; and
 - g. Where natural drainage systems are absent or incapable of handling the anticipated runoff demands, developing open vegetated drainage systems as the preferred approach and designing these systems to include long and indirect flow paths to decrease peak runoff flows; and using closed drainage systems only where site constraints and stormwater flow demands make the use of open water systems infeasible.
2. Reduce pollutant loads to surface waters by managing unavoidable nonpoint sources and use appropriate best management practices as determined by site characteristics, design standards, operational conditions, and maintenance programs.
3. Reduce nonpoint source pollution using specific management measures appropriate to specific land use or pollution source categories.

This policy presents summary management measures to apply to specific land use or pollution sources. These management measures are to be applied within the context of the prioritized approach of avoidance, reduction, and management presented in the previous policy section. Further information on specific management measures is contained in Guidance Specifying Management Measures for Sources of Non-point Pollution in Coastal Waters (U.S. EPA, 840-B-92-002).

1. Urban
 - a. For new development, manage total suspended solids in runoff to remain at predevelopment loadings.
 - b. For site development, limit activities that increase erosion or the amount or velocity of stormwater runoff.
 - c. For construction sites, reduce erosion and retain sedimentation on site, and limit and control use of chemicals and nutrients.
 - d. Plan, site, and design roads and highways to manage erosion and sediment loss, and limit disturbance of land and vegetation.
 - e. Plan, site, and design bridges to protect ecosystems and mitigation corridors.
 - f. For roads, highways, and bridges, minimize to the extent practical the runoff of contaminants to surface waters.

2. Hydromodifications
 - a. Maintain the physical and chemical characteristics of surface waters, reduce adverse impacts, and, where possible improve the physical and chemical characteristics of surface waters in Lake Erie and Smokes Creek.
 - b. Use vegetative means, wherever possible, to protect stream banks and shorelines from erosion.
3. Floatables and litter
 - a. Discourage discharges of refuse or litter into surface waters of Lake Erie and Smokes Creek, or upon public lands.
 - b. Limit entry of floatables to surface waters through containment and prevention of litter.
 - c. Remove and dispose of floatables and litter from surface waters and along shorelines of local surface waters.
 - d. Implement pollution prevention and education programs to reduce the discharge of floatables and litter into roadside ditches, creek corridors and other local surface waters.

In addition, where appropriate, the City should invest in, and require, the utilization of green infrastructure to manage stormwater runoff. Green infrastructure is a sustainable means of preventing pollution while simultaneously bringing nature back to urban environments. Green infrastructure practices include techniques such as green roofs, roadside plantings, bioswales and enhanced tree pits, rain gardens, permeable pavement and the minimization of impervious surfaces, downspout disconnections and rainwater harvesting. These techniques improve water quality and transform rainwater from a source of pollution into a valuable community resource.

Green infrastructure practices should be incorporated into City regulations, where applicable. The City of Lackawanna will encourage all private development and redevelopment projects to utilize green infrastructure in their designs to the greatest extent possible. Furthermore, private owners of existing properties in the LWRA are encouraged to retrofit their properties and businesses with green infrastructure, whether it is the simple use of rain barrels or more substantial improvements to manage stormwater runoff.

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 principal sources of drinking water in the State, and therefore must be protected. Public water supply in the City of Lackawanna is provided by the Erie County Water Authority (ECWA). Potable water is pumped from the Sturgeon Point Water Treatment Plant in the Town of Evans, which draws water from Lake Erie, for distribution to municipal customers in Lackawanna. There are no primary or sole sources of water supply in the City of Lackawanna Local Waterfront Revitalization Area. (See Policies 30, 31, 33, 34, 36, and 37).

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 land, and scenic resources

Explanation of Policy

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 and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Section 27-0901[3]), as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, disposed, transported or otherwise managed." Examples of solid waste management facilities include resource recovery facilities, sanitary landfills and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

Solid waste and hazardous substances and materials that are transported through the City's Local Waterfront Revitalization Area should be done so using routes and methods that protect the safety, well-being, and general welfare of the public; the environmental resources of the City and State; and the transportation corridors and highways that may be used for such transport.

Policy 40 Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards

Explanation of Policy

There are no major steam electric generating or industrial facilities that discharge into coastal waters in the City of Lackawanna local waterfront revitalization area. Therefore, this policy is not applicable.

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

New York's Coastal Management Program 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 coastal area. To the extent possible, the State Implementation Plan will be consistent with coastal lands and water use policies. Conversely, coastal management guidelines and program decisions with regard to land and water use and any recommendations with regard to specific sites for major new or expanded industrial, 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 State and local coastal management programs 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 coastal regions or adjacent areas. In addition, the Department of State will provide the Department of Environmental Conservation with recommendations for proposed prevention of significant deterioration land classification designations based upon State and local coastal management programs.

Policy 43 Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates

Explanation of Policy

There are no land uses or activities located or undertaken in the City's Local Waterfront Revitalization Area (LWRA) that generate air pollutants that contribute to the generation of acid rain. Furthermore, there are no areas in LWRA where such industrial development could occur. Energy generating and transmission facilities that utilize non-renewable resources are considered inappropriate uses that would not provide significant public benefit in the City of Lackawanna LWRA. Therefore, this policy is not applicable.

WETLANDS POLICY

Policy 44 Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas

Policy 44A Preserve and protect the large area of freshwater wetlands located along the south branch of Smokes Creek in Sub-Area 2

Explanation of Policy

Freshwater wetlands include marshes, swamps, bogs, and flats that support aquatic and semi-aquatic vegetation and other wetlands so defined in the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act. There are no tidal wetlands in the City's Local Waterfront Revitalization Area.

The benefits derived from the preservation of freshwater wetlands include, but are not limited to, the following:

- habitat for wildlife and fish, including a substantial portion of the State's recreational fish species; and contribution to associated aquatic food chains;
- erosion, flood and storm control;
- natural point and non-point source pollution treatment;
- protection of groundwater supplies;
- recreational opportunities;
- educational and scientific opportunities; and
- value as aesthetic open space in otherwise densely developed areas.

Wetlands in the City of Lackawanna Local Waterfront Revitalization Area include an area at the north end of the LWRA (in the vicinity of the dredge spoil disposal area), portions of the shoreline along the

Smokes Creek corridor, and a larger wetlands complex located along the south branch of Smokes Creek near the municipal boundary with the Town of Hamburg. These areas provide valuable habitat and should be protected and preserved in accordance with State and Federal requirements, and enhanced where possible to improve their habitat value.

SECTION IV Proposed Land and Water Uses and Proposed Projects

This section of the LWRP describes the proposed land and water uses for the City of Lackawanna waterfront area. Proposed projects are also briefly described in this section. The Proposed Land Use Map illustrates the proposed land use patterns and identifies the general location of proposed projects within the Lackawanna Waterfront Revitalization Area (WRA).

4.1 Proposed Land Use (Map 6)

Land use and revitalization in the City of Lackawanna WRA is proposed to bring about change in Sub-Area 1 and maintain existing conditions in Sub-Area 2. Proposed land use changes are recommended to revitalize abandoned and underutilized lands in the lakefront, increase public access where feasible and protect/enhance environmental resources. Proposed land use changes take into account the vision set forth in the City of Lackawanna's Comprehensive Plan. The generalized land use recommendations shown on Map 6 and the proposed projects outlined below are intended to support the Coastal Management Policies contained in Section III. Recommendations have been included to improve opportunities for future public access to the lakefront and Smokes Creek, wherever possible.

The City's long-range goal is to promote redevelopment in Sub-Area 1 to revitalize the long abandoned and underutilized waterfront and improve the overall visual quality of this area. The goal is to also make necessary improvements throughout the waterfront that will maintain and improve quality of life for residents.

Sub-Area 1

Sub-Area 1 is primarily comprised of abandoned and underutilized property that is the site of the former Bethlehem Steel Corporation production plant. This site, known as the Bethlehem Steel Redevelopment Area (BRA), includes lands that have undergone or will be undergoing remediation to protect human health and the environment and enable reuse of the property. For the past 30 years, the former Bethlehem Street property has symbolized the region's heavy industrial decline and has been a blighting influence on the City of Lackawanna and the Buffalo Niagara region in general.

A majority of the BRA property is owned and being revitalized by Tecumseh Redevelopment, Inc. Land use activity on the site is currently limited to Steel Winds (a series of 14 industrial-grade wind turbines that line the top of the bluff along Lake Erie, north of Smokes Creek), the Steel Sun solar farm, an active lumber yard, the Welded Tube light manufacturing facility and the active uses at the Port of Buffalo, which includes the Gateway Trade Center. This property still includes a considerable amount of acreage that lies vacant.

The City of Lackawanna envisions the former Bethlehem Steel Corporation property to be redeveloped with a mix of commercial and industrial uses in accordance with the revised zoning and redevelopment master plan for site. This property has been vacant and underutilized for many years and the City welcomes the economic development efforts that will generate jobs and boost the local tax base, which in turn will benefit the City and the region. The Buffalo and Erie County

Tecumseh Business Park Sub-Parcel Map



Industrial Land Development Corporation (ILDC) has purchased 147 acres of land for redevelopment that has frontage along Hamburg Turnpike (which runs parallel with NYS Route 5). The property is delineated by the brown shading on the map above, which generally indicates the parcels that were purchased by the ILDC. The County is investing in new public infrastructure to establish an industrial park in this area, with a focus on advanced manufacturing uses. Part of this redevelopment plan involves the relocation of existing rail lines on the property and installation of a new access roadway. This action by the County is a huge step forward toward achieving proposed revitalization for this area.

Sub-Area 2

Sub-Area 2 encompasses the main stem and north and south branches of Smokes Creek. The boundary extends inland for a distance of 25 feet from the top of the bank on each side of the creek and does not include any residential or other structures. The boundary deviates in two locations to include Galante Park, along the south side of the north branch of Smokes Creek, and Foundry Park, along the south side of the main stem of the creek. Land use in Sub-Area 2 is proposed to remain the same. As discussed below, enhancements to the two existing park properties are proposed that would not alter the recreational use of these sites.

4.2 Proposed Water Uses/Harbor Management

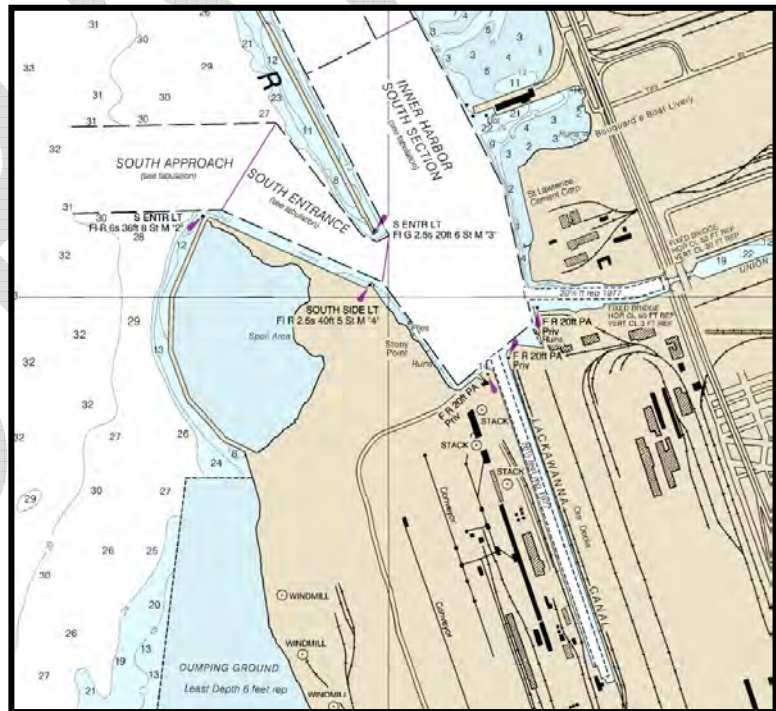
Waterside uses in the Lackawanna WRA are limited to activities occurring in the Port of Buffalo in Sub-Area 1. The Smokes Creek corridor in Sub-Area 2 is not navigable and is not proposed to support active water uses. As described in the Inventory and Analysis section (Section II), due to shoreline conditions along Lake Erie, and use restrictions resulting from prior industrial activity on the upland area in Sub-Area 1, there is no suitable location for establishment of a marina on the City's waterfront. There are no boat clubs, public docking or boat launch facilities for recreational boating in Sub-Area 1. Recreational boating activity on Lake Erie originates from marina and docking facilities in Buffalo Harbor and other areas along the lake, outside of the Lackawanna WRA.

The Port of Buffalo is a bulk cargo storage and transfer facility located at the south end of the Buffalo Inner Harbor with access to the south entrance channel to the Outer Harbor and Lake Erie. This area is located in a New York State Economic Development Zone and a U.S. Foreign Trade Zone, which offer benefits and incentives to patron businesses. The Port of Buffalo, which includes the Gateway Trade Center, handles a range of commodities with a number of trading partners. While the volume is relatively small, the port handles domestic and foreign freight, for both import and export. In addition, a portion of the north end of Sub-Area 1 is part of an active dredge spoil disposal site.

There is no harbormaster at the Port of Buffalo; the U.S. Coast Guard is charged with regulating and managing surface water activity on local surface waters. This includes oversight of the federally-designated navigation channel that extends through the Buffalo Inner and Outer Harbors, which is delineated by navigational lights and buoys (see Section 2.6.2 of the Inventory and Analysis).

It is the City's desire to see transshipment activity at the Port of Buffalo strengthened and expanded. The provisions in the Section III Policies that apply to harbor management planning, support growth of the port and promote improvements to waterfront parks in Sub-Area 2 include the following:

- Policy 1 promotes the restoration and revitalization of waterfront lands, which could result in the development of new uses and marine infrastructure at the Port of Buffalo in Sub-Area 1;



- Policy 2 encourages the maintenance of existing and development of new water-dependent and water-enhanced uses in the WRA;
- Policy 9 promotes increased opportunities for the recreational use of surface water resources;
- Policy 19 calls for the protection, maintenance and provision of public water-related recreational resources and facilities;
- Policy 21 supports water-dependent and water-enhanced recreational uses and facilities along the shoreline;
- Policy 28 calls for the implementation of proper ice management practices to protect waterfront resources and facilities;
- Policy 34 warrants property regulation of vessel waste discharges to protect water quality;
- Policy 35 promotes proper dredging practices and the protection of marine resources;
- Policy 36 requires the shipment and/or storage of petroleum products to be undertaken in a manner that prevents or minimizes spills to coastal waters; and
- Policy 39 requires the shipment and/or storage of solid and hazardous wastes to be undertaken in a manner that protects significant waterfront resources.

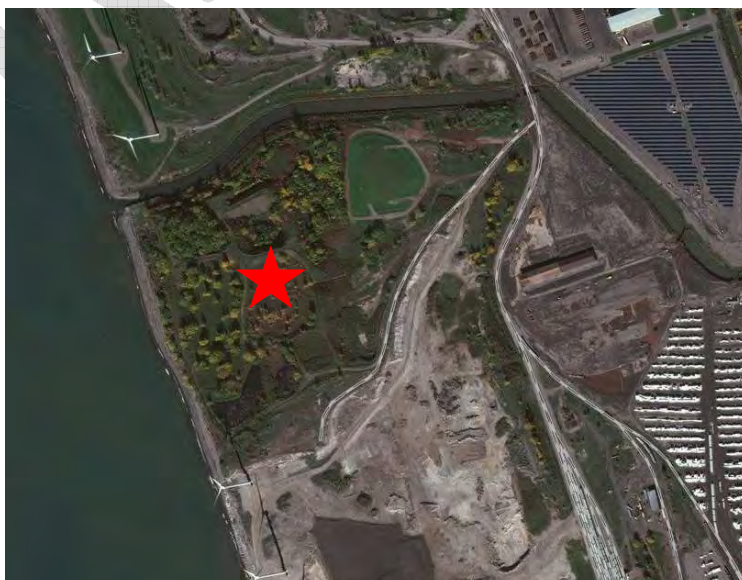
4.3 Proposed City Projects and Studies (Map 6)

There are a number of projects proposed within the City of Lackawanna WRA to improve opportunities for public access and recreation. As noted in the previous discussion, all of the shoreline in Sub-Area 1 is restricted for public access, but there is limited potential for the general public to enjoy the waterfront. Projects proposed Lackawanna WRA include the following.

- Passive Access to Smokes Creek

The Redevelopment Master Plan for the Bethlehem Redevelopment Area includes an area designated as passive open space. Although deed restrictions on the former Bethlehem Steel plant property prohibit active recreational use on this site, the potential exists for wildlife habitat restoration and limited non-consumptive public use (scenic viewing, wildlife photography, birdwatching, nature study) in the area south of Smokes Creek.

This area already supports a variety of wildlife species; therefore, habitat restoration would be beneficial to sustaining and improving the ecology of this area. The addition of amenities for limited passive recreation in



Area designated for passive open space on the BRA property

this area would provide public benefit and allow access that has been cut off from the public for many years. Ideas for this area include a walking trail and gazebo to provide quality views of Lake Erie. However, for public safety purposes, access to the shoreline below the bluff area would likely be restricted. However, this area of the site requires remediation and slope stabilization prior to any allowing any access.

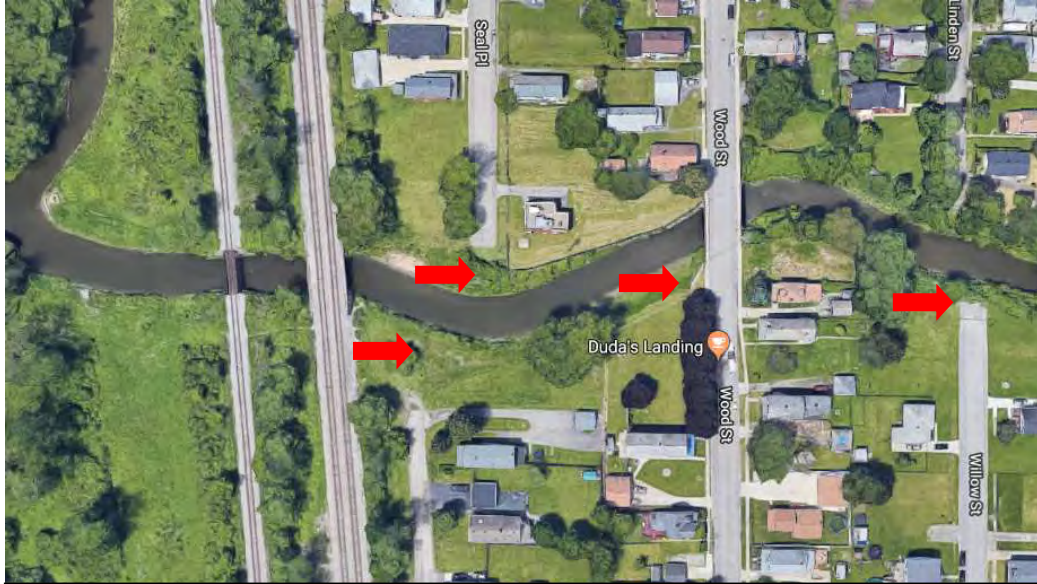
Further study is required to determine exactly how public access could be provided to the area south of the creek. The re-establishment of industrial uses north of Smokes Creek, including the operation of active rail lines would likely preclude any public access or public trail extensions along the north side of Smokes Creek. Therefore, options for gaining access from NYS Route 5 or from the Woodlawn Beach State Park facility to the south, in the Town of Hamburg, need to be explored. A study of this nature should be undertaken, followed by the eventual development of design plans and future acquisition of funding to make this project a reality.

- Shoreline Trail/Gateway Park – A small park area should be created west of the intersection of Hamburg Turnpike and Ridge Road, as a stopping point along the Shoreline Trail, that would be devoted to celebrating the history of the Bethlehem Steel site. Employing thousands over its long period of operation, Bethlehem Steel represents a mainstay in the Lackawanna community. There is much to share through interpretive signage about the industrial heritage and other features of this site.
- Improved Great Lakes Seaway Trail Recognition – NYS State Route 5 in Sub-Area 1 is a segment of the New York State Great Lakes Seaway Trail and Nationally and State-designated Scenic By-Way. Because NYS Route 5 enters the City of Lackawanna as an elevated highway, meeting grade and transitioning to the Hamburg Turnpike south of Ridge Road near Kane Street, recognition of the importance of this roadway is lost. Therefore, Hamburg Turnpike should reflect these designations, especially because it will be the location for the proposed Shoreline Trail extension. Appropriate signage and gateway features should be installed at the municipal boundaries to the City, along Hamburg Turnpike and at the intersection of Hamburg Turnpike and Ridge Road to recognize and celebrate the scenic distinction. The City should also prohibit signage along Hamburg Turnpike (NYS Route 5) that is not in keeping with the scenic by-way designation, which includes the prohibition of billboard structures and other advertising that would impact the visual quality of this roadway corridor.
- Shoreline Improvements at Galante Park
Galante Park is located along the south bank of the north branch of Smokes Creek, behind the Lackawanna Senior Center. This park is located adjacent to a public pathway that extends 600 feet along the creek, from Galante Park to Veteran’s Stadium, which is located to the west on South Park Avenue. Being located along Smokes Creek provides an opportunity to establish public access to the creek for fishing or scenic viewing. The addition of benches and/or a small dock along the creekbank would help to accomplish this. This project would be beneficial since the City has no formal locations where residents can access local waterways.



- Shoreline Improvements at Foundry Park
The City of Lackawanna owns two parcels at the eastern end of Madison Avenue that comprise Foundry Park. This approximately 6.5-acre property is the site of the former Lackawanna foundry and is now used informally by residents in the adjoining neighborhood to play bocce ball. The park lacks design and amenities; it is little more than a large mowed field. Being situated along the south bank of the main stem of Smokes Creek, this park also offers the opportunity to establish access to the creek for fishing and scenic viewing.
- Evaluation of Potential Shoreline Fishing Sites along Smokes Creek – Smokes Creek is a known to be a popular location for local fishing and there are a number of informal areas, such as bridge abutments and street ends, where residents come to drop a line. As the City does not have formal locations for waterfront access, and any future access to Lake Erie would likely not include opportunities for shoreline fishing, the establishment of shoreline

fishing locations along Smokes Creek would be beneficial. Therefore, a study of the Smokes Creek corridor (including the north and south branches should be undertaken to identify potential locations where more formalized fishing access could be established.



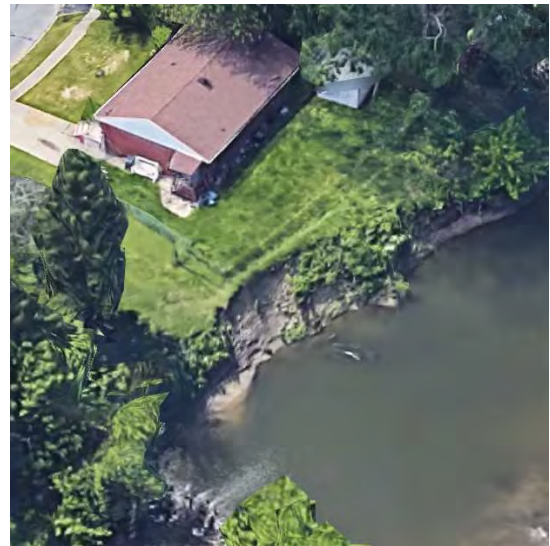
Example locations for potential fishing access to Smokes Creek

- Shoreline Erosion Study

There are two locations where shoreline erosion was considered an issue that requires further evaluation and possible remedial action. The first location is the lakeshore, south of the mouth of Smokes Creek near the Town of Hamburg boundary, where the bluff has become



Erosion along the Lake Erie shoreline



Erosion along Smokes Creek

unstable due to storm impacts and changing shoreline conditions. This is an area where the shoreline was filled over the years. The other location is the south bank of the south branch of Smokes Creek, near Creekside Drive and Sharon Parkway. A few residential properties along south shore are experiencing erosion due to the long-term effects of the prior flood control project that was undertaken in this area to straighten the creek corridor. Both areas require evaluation to determine potential remedies to combat continued erosion issues.

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Section V Implementation

This section of the LWRP sets out implementation strategies for the City of Lackawanna LWRP. This section further considers existing laws and sections of Lackawanna City Code that relate to the Coastal Management Policies. It also outlines proposed laws, amendments and other City actions that are necessary to support the policies. A management structure for LWRP 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 57 – Air Pollution**
Article 57 prohibits emissions that could cause injury, detriment or nuisance or endanger the comfort, health and safety of the public; or cause or tend to cause injury or damage to businesses or property.
- **Chapter 75 – Building Code Administration**
Chapter 75 provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code). It establishes the Office of Code Enforcement and Code Enforcement Officer for the receipt, review and approval or disapproval of applications for building permits, certificates of occupancy, temporary certificates and operating permits; and to ensure compliance with building and energy codes, zoning regulations and property maintenance requirements. It further authorizes the Code Enforcement Officer to conduct building and property maintenance inspections to ensure compliance with Code requirements.
- **Chapter 83 – Buildings Unsafe**
Chapter 83 authorizes the Code Enforcement Officer to determine if buildings are unsafe based on Building and Energy Code requirements, and to authorize necessary repairs or demolition of any structure in the event that repair is impractical.
- **Chapter 110 – Empire Zones**
This chapter establishes Empire Zones within the City of Lackawanna, wherein tax incentives were offered by New York State to bring new businesses to the area and create jobs. There are still a few companies receiving benefits/incentives under the Empire Zones Program because their ten years have not yet been exhausted or expired. This program was terminated although Chapter 110 still exists in the City Code.
- **Chapter 114 – Environmental Review**
Chapter 114 implements the provisions of the State Environmental Quality Review Act (Part 617) and incorporates environmental factors and considerations into planning and decision-making processes. It requires the environmental review of any Type I or Unlisted action prior to approval, permitting or funding.

- **Chapter 119 – Fire Prevention**

The Fire Prevention Law requires a permit for operations that handle or store materials that could potentially present a fire hazard and enables the Fire Chief, as the enforcement officer of this law, to inspect facilities from time to time to make sure they are in compliance with the State Fire Code and to establish rules for fire safety as may be necessary.
- **Chapter 144 – Land Subdivisions**

Chapter 144 sets forth procedures for the division of real property into two or more lots to promote public health, safety, convenience and general welfare. These regulations are designed to ensure orderly growth and development, conservation, protection and proper use of land, and fire protection; and to ensure that adequate provisions are made for circulation, air and light, recreation, utilities and other services necessary to prevent danger and peril to the public.
- **Chapter 159 – Noise**

Chapter 159 makes it unlawful to produce noise at a level that would constitute a nuisance and set standards for determining what constitutes a nuisance. This chapter further regulates noise and provides for adequate notice to the residents within the City with regard to their activity and the activities of others.
- **Chapter 185 - Sewers**

The Sewers Law regulates waste disposal and requires connection to the public sewer system. It further provides specifications for connection, maintenance, and use of the sewer system.
- **Chapter 190 – Solid Waste**

The Solid Waste Law provides regulations for the disposal and collection of municipal solid waste. It further establishes requirements for the separation and collection of recyclable materials, bulk items and yard waste.
- **Chapter 194 – Streets and Sidewalks**

Chapter 194 regulates the construction of streets, sidewalks and public rights-of-way. Construction shall be conducted under the direct supervision of the City Department of Public Works and Chief Engineer. It also regulates the depositing of any materials, debris, rubbish or goods and wares on streets and sidewalks; projections into streets and sidewalks; parking on sidewalks and street names.
- **Chapter 223 – Waterfront Revitalization**

The Waterfront Revitalization Program (LWRP) Law requires that all Type I, Unlisted actions and development proposals affecting the LWRP area be reviewed by City Council for consistency with the LWRP as part of State Environmental Quality Review (SEQR).
- **Chapter 230 - Zoning**

Chapter 230 regulates and restricts the location, construction, and use of buildings and structures, and the use of land in the City of Lackawanna. The Zoning Code establishes use districts and specifies the types of uses and dimensional requirements permitted in each district. The various zoning districts found in the LWRA, and their corresponding allowable uses, are listed in more detail in Section II.

There are two zoning overlay districts of interest for implementation of the LWRP. These include:

- *Seaway Trail Overlay District (Section 230-20)* was established to highlight the unique nature of NYS Route 5 as a segment of the New York State Great Lakes Seaway Trail and National and State Scenic Byway. This overlay district regulates development along NYS Route 5 to maintain views of Lake Erie and the visual quality of the corridor.
- *Smokes Creek Overlay District (Section 230-21)* was established to protect and enhance the ecological quality of the Smokes Creek corridor, while allowing public recreational access.

Other provisions in the Zoning Ordinance that are application to LWRP implementation include:

- *Article V: Regulations Applicable to All Districts*, which regulates signs, landscaping, off street parking and loading, lighting, pedestrian and bicycle facilities, erosion and sedimentation, fencing, and building siting, mass and form, among other things.
- *Article VIII, §230-68 – Flood Development Permits* - These regulations establish the FP District which applies to all areas of special flood hazards to minimize the threat of flood damage. The district allows floodways to carry abnormal flows of water in time of flooding and to prevent encroachment into these floodways that would increase flood heights, velocities, damages or other problems. It regulates uses that could result in increased in erosion and flooding, requires uses vulnerable to floods to be protected at the time of initial construction, and controls the alteration of natural flood plains, stream channels and natural protective barriers to flooding and erosion.
- *Article XII: Stormwater Management* establishes stormwater management requirements and controls to minimize increases in stormwater runoff from development; reduce non-point source pollution and protect local water quality; reduce flooding, siltation and increases in stream temperature; and minimize streambank erosion and maintain the integrity of stream channels to protect public health and safety. These provisions meet the minimum requirements of the SPDES General Permit for Stormwater discharges for municipal separate storm sewer systems (MS4s) and require land development and construction activities to comply with these requirements.

5.2 Proposed Laws or Amendments Necessary to Implement the LWRP

5.2.1 LWRP Consistency Review Law

At present, the City addresses consistency review through Chapter 223 (Waterfront Revitalization) of the City Code, as noted above. Under this Chapter, LWRP Consistency review is tied directly to the SEQRA review and the determination of significance that results from the environmental review of a proposed action. The City has a coastal assessment form that is used as a part of this review, which would substantiate and provide a record of the LWRP consistency review determination.

To ensure that LWRP consistency review is undertaken in accordance with New York State requirements, the City will formally adopt an amendment to Chapter 223 LWRP (Waterfront Revitalization) to ensure that it includes all the necessary provisions for consistency review; additionally, the Coastal Assessment Form will also be revised. Revised copies of both are included in Appendix D. The Consistency Review Law (revised Chapter 223) outlines the process to be followed for the review of actions that are proposed within the City of Lackawanna LWRA for consistency with the LWRP policy standards, conditions and objectives.

5.2.2 Zoning (Map 7)

There zoning revisions proposed for the City of Lackawanna waterfront involve further definition of the existing Bethlehem Redevelopment Area (BRA) District. As a part of the update of the LWRP, the City conducted a thorough review of the zoning for the Bethlehem Redevelopment Area to ensure that it would effectively promote and support the land uses proposed for this area. This resulted in the delineation of five new zoning classifications for the former Bethlehem Steel plant property. As shown on Map 7, these include the following districts. No other zoning changes are proposed with the LWRA.

- **Light Industry District (BRA-LI)**
The purpose of the BRA-LI District is to encourage the development of offices (commercial, governmental, banking, professional), research and development facilities, large retail or wholesale establishments, warehousing and distribution centers and light manufacturing and assembly uses. The BRA-LI district is located along the eastern border of the former Bethlehem Steel property, with frontage along Hamburg Turnpike (NYS Route 5). Therefore, the revised Bethlehem Redevelopment Area zoning included supplemental regulation that provide for a higher level of design to protect and improve visual quality along the adjacent roadway, which are designated segments of the New York State Great Lakes Seaway Trail and National and State designated Scenic Byways.
- **Medium Industry District (BRA-MI)**
The BRA-MI District is being created to encourage redevelopment and establish a transitional zone between the BRA-LI district along Route 5 and the BRA-HI on the interior of the site. This transitional zone is intended to encourage "non-smokestack" manufacturing and high employment uses, while remaining compatible with both the BRA-HI and BRA-LI Districts.
- **Heavy Industry District (BRA-HI)**
The BRA-HI District will accommodate the redevelopment of the site for wind and power, heavy industry and general manufacturing and production uses. The BRA-HI District allows for a continuation of uses that have shaped Lackawanna's industrial past. The intent is to utilize the site's size, history, environmental limitations and existing infrastructure to take advantage of one of the region's best-suited sites for developing new heavy industry.
- **Intermodal District (BRA-INT)**
The intent of the BRA- INT District is to encourage continued use and expansion of existing shipping and rail infrastructure in the vicinity of the Port of Buffalo. The area within this district uniquely benefits by the location of the Gateway Trade Center, the Lackawanna Ship Canal and

an extensive network of rail lines and open areas to move, temporarily store and transfer goods between ship, rail and truck transport.

- **Lakefront Open Space District (LOS)**

The intent of the BRA-LOS District is to provide an area for habitat restoration and limited passive public open space for limited public access within the constraints of the site. This area includes the a 100-foot vegetative buffer along the top of the bluff. Site conditions in the BRA-LOS District preclude public access along the shoreline, but scenic overlooks may be feasible near Smokes Creek.

5.3 Other Public and Private Actions Necessary to Implement the LWRP

Projects and initiatives proposed along the City of Lackawanna waterfront that would be directly undertaken or undertaken with assistance from other public or private entities, include the following.

- Shoreline Trail Extension – As part of the Erie County Industrial Land Development Agency’s redevelopment plans for the Bethlehem Steel Redevelopment Area (BRA), the Shoreline Trail will be extended along the western right-of-way of Hamburg Turnpike, which parallels NYS Route 5 through this area. The Shoreline Trail is a continuous multi-use pathway that extends along the Niagara River and Lake Erie within Erie and Niagara Counties. The trail currently ends at the Buffalo-Lackawanna municipal border, in the vicinity of the Union Ship Canal. Erie County received a \$980,000 Transportation Alternatives Program grant from the NYSDOT to continue this trail south through the City. This will include a 10-foot wide, 6,500-foot long multi-use pathway, with greenspace that will extend along the frontage of the BRA. It will extend to the traffic signal at the intersection of the Hamburg Turnpike (NYS Route 5) and Dona Street. This section of the Shoreline Trail will safely connect the City of Lackawanna with previously built recreational resources along the City of Buffalo Outer Harbor, including Buffalo Harbor State Park, Gallagher Beach, Tifft Nature Preserve and the Times Beach Bird Sanctuary.
- Long-term Capital Improvements Plan for Sanitary Sewer System
Due to their age, I&I is a problem throughout the City. Broken and leaking sewer pipes allow stormwater to infiltrate the system, increasing flow and capacity. Stormwater that enters into the system through manhole covers and/or illegal residential storm drain hook ups also contributes to the problem. Erie County Sewer District No.6 does not have a long-term capital improvements plan in place to address system deficiencies. Therefore, the identification and correction of inflow and infiltration problems is a continuous effort. It is recommended that the County develop a long-term plan for improving the system, allowing them to more effectively schedule and budget for both critical and non-critical repairs to the system. This plan could also evaluate necessary improvements in the future that result from water quality classification upgrades to Smokes Creek.
- Smokes Creek Flood Control Project Modifications for Habitat Restoration
The flood control characteristics and channel configuration of the lower reach of Smokes Creek, which includes sheet piling along both sides of the creek mouth, has adversely affected the attributes necessary for successful spawning of walleye and other fish species known to frequent this area (which lies adjacent to the Smokes Creek Shoals NYS-designated Coastal Fish and Wildlife Habitat). Currently, sediment fills at the mouth of the creek, restricting fish movement. Limiting conditions that



have developed in this area include a lack of suitable substrate, unsuitable temperature regime, low stream velocity and low flow. These conditions are a consequence of the enlarged and channelized bed that was created by the USACE flood control project in 1970. Improvements in the area(s) near the flood control project, including the construction of eddies and development of fish habitat, are necessary to support successful fish spawning and nursery areas for aquatic species, as well as a more productive aquatic community for water-dependent wildlife in the lower reach of Smokes Creek. If improvements to this area are not pursued, the mouth of Smokes Creek will be devoid of suitable critical spawning habitat, which could adversely impact the walleye fishery in this part of Lake Erie. The Smokes Creek Shoals area at the mouth of the creek attracts significant recreational fishing pressure during late spring and early summer.

To remedy these problems, the USACE, in conjunction with the NYSDEC and the City of Lackawanna, has proposed mitigations, pursuant to Section 1135 of the Water Resources Development Act of 1986, to modify the flood control project to restore the ecological functions that have been eliminated or degraded on Smokes Creek. The cost sharing for this project includes a feasibility study phase, which is 100% federally-funded; and a design and implementation phase for detailed project design and construction, which is a shared 75% federal and 25% non-federal funding structure. The feasibility study has been completed and the detailed project design and environmental assessment report was 75% complete as of August 2013. At present, the project is on hold until a Feasibility Cost-Sharing Agreement can be signed, and the non-federal match can be secured.

The detailed project design and environmental assessment report identified and assessed a number of alternatives for addressing habitat restoration in Smokes Creek. These include stream channel reconnection, wetland enhancements, riparian enhancements, jetty construction and in-stream habitat improvements. Once the report is finalized, an appropriate alternative should be selected and implemented to restore the habitat value and fish spawning capability of Smokes Creek.

- Expansion of water-related businesses – work with local developers and business and property owners to expand water-related businesses along the waterfront. Emphasis would be on transshipment uses in the Port of Buffalo, as well as expansion of alternative energy generation facilities, where the City would like to see existing uses maintained and expanded, as well as the location of new uses that strengthen port activities and economic development.

It is understood that many of the projects outlined in Section 4, Proposed Land and Water Uses and Proposed Projects, will require some level of review, approval or technical assistance from State and local agencies, including the NYSDOS, the NYSDEC, the NYSDOT, the Army Corps of Engineers, the NYS Canal Corporation, the Greater Buffalo Niagara Regional Transportation Council (GBNRTC) and Erie County.

5.4 Management Structure Necessary for Implementing the LWRP

All State and Federal actions proposed within the City of Lackawanna 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 Appendix.

Various City agencies are responsible for management and coordination of the LWRP and are directly involved in ensuring that consistency review is properly undertaken for projects within the LWRA. Consistency review will be overseen and coordinated as follows:

- The City of Lackawanna Code Enforcement Office will be responsible for coordinating the review of actions proposed to be undertaken within the LWRA with the Development Department for consistency with the LWRP.
- Working with other City agencies as necessary, the Development Department will advise on, assist with, and make consistency recommendations in conjunction with the implementation of the LWRP, including its policies and projects. This department will coordinate with the New York State Department of State and other State agencies and Federal agencies regarding the consistency review of their respective actions that are proposed within the LWRA. The Building Inspection Department will also distribute copies of the Coastal Assessment Form (CAF) to applicants proposing actions in the LWRA.
- The Zoning Board of Appeals will hear and render decisions on variance applications and appeals involving properties or activities within the LWRA.

5.5 Financial Resources Necessary to Implement the LWRP

It is recognized that the implementation of the proposed projects identified in Section IV will require funding from both public and private sources. These costs may include administrative costs, capital outlays, maintenance costs and, in some cases, property acquisition. Funding for administrative costs, such as those associated with the City’s efforts to oversee conformance and enforcement of the LWRP, would come from general revenue sources and would be reflected in the annual budget.

Capital costs reflect the costs incurred by the City to complete specific projects. The costs for the projects identified in Sections IV and V are undetermined at this time. A number of these projects, however, would require significant capital expenditures. The City will pursue outside funding and, where appropriate, creative financing mechanisms for these and similar efforts. The City will also work diligently to secure funding through grants that are available under State and Federal programs to support the implementation of LWRP projects. Most of these programs require matching funds and/or in-kind service contributions. The City may also consider bond issues and other similar revenue enhancements to facilitate LWRP implementation. Some of the potential funding sources include:

- New York State Clean Water/Clean Air Bond Act,
- New York State Brownfield Opportunity Areas Program,
- New York State Environmental Protection Fund,
- Empire State Development Corporation (ESD),
- New York State Quality Communities Program,
- New York State Council for the Arts – Arts and Culture Initiatives Program,

- New York State Office of Parks, Recreation and Historic Preservation,
- New York State Department of Environmental Conservation Water Quality Improvement Program,
- NYSERDA Climate Smart Communities Program,
- New York State Department of Transportation Multi-Modal Program,
- New York State Environmental Facilities Corporation (EFC) Green Innovation Grant Program,
- New York State Nonpoint Source Implementation Grants Program,
- New York State Revolving Loan Fund,
- New York State Legislative Grant Program,
- New York State Local Government Efficiency Program,
- New York State Transportation Alternatives Program (TAP),
- Federal Transportation Act (Fixing American's Surface Transportation – FAST or equivalent),
- Federal Superfund – Comprehensive Environmental Response, Compensation and Liability Act (CERCLA),
- Clean Water Revolving Fund for Water Pollution Control,
- Land and Water Conservation Fund, and
- Community Development Block Grant Program.

In addition to the provision of funding, the successful implementation of certain Local Waterfront Revitalization Program's proposed projects and actions will depend on the City's ability to take a strong leadership role in working with property owners, potential investors, and County and State agencies, and to provide an effective framework for local public/private cooperation. Private commercial revitalization efforts are expected to occur in the future in areas of the former Bethlehem Street property. The City endorses these efforts and will ensure that they are undertaken in a manner that is consistent with the Policies of the LWRP. By so doing, the City will encourage the types of private sector participation that will contribute to the successful implementation of the LWRP and revitalization of the waterfront area.

5.6 Local Regulatory Changes

Zoning and local law changes are the responsibility of the City of Lackawanna Common Council, with the assistance of the Mayor and other City staff, as needed. Funding for these efforts would be included in the City's annual budget.

Section VI State and Federal Actions and Programs Likely to Affect LWRP Implementation

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

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the New York State Secretary of State notifies affected State agencies of those agency actions and programs that are to be undertaken in a manner consistent with approved LWRPs. The following information contained in Section 6.1 is the list of State actions and programs that require such consistency recognition. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that a LWRP identify those elements of the local program that can be implemented by the City of Lackawanna, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement of identification shall include those permit, license, certification or approval programs; grant, loan subsidy or other funding assistance programs; facilities construction, and planning programs that may affect the achievement of the City of Lackawanna LWRP. Federal agency actions and programs subject to consistency requirements are identified in the New York State Coastal Management Program and through the implementation of the regulations of the U.S. Coastal Zone Management Act.

The second part of this section is a more focused and descriptive list of State and federal agency actions that are necessary for further implementation of the LWRP. It is recognized that a State and Federal agency's ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above may not apply; and that the consistency requirements cannot be used to require a State or federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section 4 and Section 4 of this Program, which also discusses State and federal assistance needed to implement the LWRP.

6.1 State Actions and Programs that Should Be Undertaken in a Manner Consistent with the Local Waterfront Revitalization Program

OFFICE FOR THE AGING

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

DEPARTMENT OF AGRICULTURE AND MARKETS

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Program
- 4.00 Permit and approval programs:
 - 4.01 Custom Slaughters/Processor Permit
 - 4.02 Processing Plant License
 - 4.03 Refrigerated Warehouse and/or Locker Plant License
- 5.00 Farmland Protection Implementation Grant
- 6.00 Agricultural Nonpoint Source Abatement and Control Program

DIVISION OF ALCOHOLIC BEVERAGE CONTROL/ STATE LIQUOR AUTHORITY

- 1.00 Permit and Approval Programs:
 - 1.01 Ball Park - Stadium License
 - 1.02 Bottle Club License
 - 1.03 Bottling Permits
 - 1.04 Brewer's Licenses and Permits
 - 1.05 Brewer's Retail Beer License
 - 1.06 Catering Establishment Liquor License
 - 1.07 Cider Producer's and Wholesaler's Licenses
 - 1.08 Club Beer, Liquor, and Wine Licenses
 - 1.09 Distiller's Licenses
 - 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
 - 1.11 Farm Winery and Winery Licenses
 - 1.12 Hotel Beer, Wine, and Liquor Licenses
 - 1.13 Industrial Alcohol Manufacturer's Permits
 - 1.14 Liquor Store License
 - 1.15 On-Premises Liquor Licenses
 - 1.16 Plenary Permit (Miscellaneous-Annual)
 - 1.17 Summer Beer and Liquor Licenses
 - 1.18 Tavern/Restaurant and Restaurant Wine Licenses
 - 1.19 Vessel Beer and Liquor Licenses
 - 1.20 Warehouse Permit
 - 1.21 Wine Store License

- 1.22 Winter Beer and Liquor Licenses
- 1.23 Wholesale Beer, Wine, and Liquor Licenses

OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
 - 3.01 Letter Approval for Certificate of Need
 - 3.02 Operating Certificate (Alcoholism Facility)
 - 3.03 Operating Certificate (Community Residence)
 - 3.04 Operating Certificate (Outpatient Facility)
 - 3.05 Operating Certificate (Sobering-Up Station)

COUNCIL ON THE ARTS

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program.

OFFICE OF CHILDREN AND FAMILY SERVICES

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

DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

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

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

EDUCATION DEPARTMENT

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certification of Incorporation (Regents Charter)
 - 2.02 Private Business School Registration
 - 2.03 Private School License
 - 2.04 Registered Manufacturer of Drugs and/or Devices
 - 2.05 Registered Pharmacy Certificate
 - 2.06 Registered Wholesale of Drugs and/or Devices
 - 2.07 Registered Wholesaler-Repacker of Drugs and/or Devices
 - 2.08 Storekeeper's Certificate
- 3.00 Administration of Article 5, Section 233 of the Educational Law regarding the removal of archaeological and paleontological objects under the waters of the State.

OFFICE OF EMERGENCY MANAGEMENT

- hazard identification,
- loss prevention, planning, training, operational response to emergencies,
- technical support, and disaster recovery assistance.

EMPIRE STATE DEVELOPMENT/ EMPIRE STATE DEVELOPMENT CORPORATION

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.
- 2.00 New Construction Program – provide assistance to incorporate energy-efficiency measures into the design, construction and operation of new and substantially renovated buildings.
- 3.00 Existing Facilities Program – offers incentives for a variety of energy projects

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- 1.00 Acquisition, disposition, lease, grant of easement, and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:

- 4.01 Capital projects for limiting air pollution
 - 4.02 Cleanup of toxic waste dumps
 - 4.03 Flood control, beach erosion, and other water resource projects
 - 4.04 Operating aid to municipal wastewater treatment facilities
 - 4.05 Resource recovery and solid waste management capital projects
 - 4.06 Wastewater treatment facilities
 - 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
 - (a) Water Quality Improvement Projects
 - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects, and Waterways Projects.
 - 7.00 Marine Finfish and Shellfish Programs
 - 9.00 Permit and approval programs
- Air Resources
- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
 - 9.02 Certificate of Compliance for Tax Relief – Air Pollution Control Facility
 - 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; process, exhaust or Ventilation System
 - 9.04 Permit for Burial of Radioactive Material
 - 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
 - 9.06 Permit for Restricted Burning
 - 9.07 Permit to Construct; a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System
- Construction Management
- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities
- Fish and Wildlife
- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
 - 9.10 Commercial Inland Fisheries Licenses
 - 9.11 Fishing Preserve License
 - 9.12 Fur Breeder's License
 - 9.13 Game Dealer's License
 - 9.14 Licenses to breed Domestic Game Animals
 - 9.15 License to Possess and Sell Live Game
 - 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
 - 9.17 Permit to Raise and Sell trout
 - 9.18 Private Bass Hatchery Permit
 - 9.19 Shooting Preserve Licenses
 - 9.20 Taxidermy License
 - 9.21 Permit – Article 15, (Protection of Water) – Dredge and Deposit Material in a Waterway

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

9.23 Permit – Article 24, (Freshwater Wetlands)

Hazardous Substances

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

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

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

Lands and Forest

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

9.28 Floating Object Permit

9.29 Marine Regatta Permit

9.30 Navigation Aid Permit

Marine Resources

9.31 Digger's Permit (Shellfish)

9.32 License of Menhaden Fishing Vessel

9.33 License for Non-Resident Food Fishing Vessel

9.34 Non-Resident Lobster Permit

9.35 Marine Hatchery and/or Off Bottom Culture Shellfish Permits

9.36 Permits to Take Blue Claw Crabs

9.37 Permit to Use Pond or Trap Net

9.38 Resident Commercial Lobster Permit

9.39 Shellfish Bed Permit

9.40 Shellfish Shipper's Permits

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

9.42 Permit – Article 25, (Tidal Wetlands)

Mineral Resources

9.43 Mining Permit

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

9.45 Underground Storage Permit (Gas)

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

Solid Wastes

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

9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

9.49 Approval of Plans for Wastewater Disposal Systems

9.50 Certificate of Approval of Realty Subdivision Plans

9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)

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

- 9.53 Permit Article 36, (Construction in Flood Hazard Areas)
- 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.55 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.56 State Pollutant Discharge Elimination System (SPDES) Permit
- 9.57 Approval – Drainage Improvement District
- 9.58 Approval – Water (Diversion for Power)
- 9.59 Approval of Well System and Permit to Operate
- 9.60 Permit – Article 15, (Protection of Water) – Dam
- 9.61 Permit – Article 15, Title 15 (Water Supply)
- 9.62 River Improvement District Permits
- 9.63 River Regulatory District approvals
- 9.64 Well Drilling Certificate of Registration
- 9.65 401 Water Quality Certification
- 10.00 Preparation and revision of Air Pollution State Implementation Plan.
- 11.00 Preparation and revision of Continuous Executive Program Plan.
- 12.00 Preparation and revision of Statewide Environmental Plan.
- 13.00 Protection of Natural and Man-made Beauty Program.
- 14.00 Urban Fisheries Program.
- 15.00 Urban Forestry Program.
- 16.00 Urban Wildlife Program.

ENVIRONMENTAL FACILITIES CORPORATION

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

DEPARTMENT OF FINANCIAL SERVICES (DEPARTMENT OF BANKING)

- 1.00 Permit and approval programs:
 - 1.01 Authorization Certificate (Bank Branch)
 - 1.02 Authorization Certificate (Bank Change of Location)
 - 1.03 Authorization Certificate (Bank Charter)
 - 1.04 Authorization Certificate (Credit Union Change of Location)
 - 1.05 Authorization Certificate (Credit Union Charter)
 - 1.06 Authorization Certificate (Credit Union Station)
 - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
 - 1.08 Authorization Certificate (Foreign Banking Corp. Public Accommodations Office)
 - 1.09 Authorization Certificate (Investment Company Branch)
 - 1.10 Authorization Certificate (Investment Company Change of Location)
 - 1.11 Authorization Certificate (Investment Company Charter)

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

OFFICE OF GENERAL SERVICES

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land and grants of easement of land under water, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.
- 2.00 Administration of Article 4 B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition.
- 4.00 Administration of Article 5, Section 233, Subsection 5 of the Education Law on removal of archaeological and paleontological objects under the waters of the State.
- 5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.
- 6.00 Section 334 of the State Real Estate Law regarding subdivision of waterfront properties on navigable waters to include the location of riparian lines.

DEPARTMENT OF HEALTH

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

- 2.00 Permit and approval programs:
 - 2.01 Approval of Completed Works for Public Water Supply Improvements
 - 2.02 Approval of Plans for Public Water Supply Improvements.
 - 2.03 Certificate of Need (Health Related Facility except Hospitals)
 - 2.04 Certificate of Need (Hospitals)
 - 2.05 Operating Certificate (Diagnostic and Treatment Center)
 - 2.06 Operating Certificate (Health Related Facility)
 - 2.07 Operating Certificate (Hospice)
 - 2.08 Operating Certificate (Hospital)
 - 2.09 Operating Certificate (Nursing Home)
 - 2.10 Shared Health Facility Registration Certificate

DIVISION OF HOMES AND COMMUNITY RENEWAL and its subsidiaries and affiliates

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

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)

DIVISION OF MILITARY AND NAVAL AFFAIRS

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

NATURAL HERITAGE TRUST

1.0 Funding program for natural heritage institutions.

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

- 1.00 Acquisition, disposition, lease, grant of easement, or other activities related to the management of land under the jurisdiction of the Office.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Funding program for recreational boating, safety, and enforcement.
- 4.00 Funding program for State and local historic preservation projects.
- 5.00 Land and Water Conservation Fund programs.
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places.
- 7.00 Permit and approval programs:
 - 7.01 Floating Objects Permit
 - 7.02 Marine Regatta Permit
 - 7.03 Navigation Aide Permit
 - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.
- 9.00 Recreation services program.
- 10.00 Urban Cultural Parks Program.
- 11.00 Planning, construction, rehabilitation, expansion, demolition or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.

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

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.

ROCHESTER-GENESEE REGIONAL TRANSPORTATION AUTHORITY (regional agency)

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Increases in special fares for transportation services to public water-related recreation resources.

NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION

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

DEPARTMENT OF STATE

- 1.00 Appalachian Regional Development Program.
- 2.00 Coastal Management Program.
 - 2.10 Planning, construction, rehabilitation, expansion, demolition or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.
- 3.00 Community Services Block Grant Program.
- 4.00 Permit and approval programs:
 - 4.01 Billiard Room License
 - 4.02 Cemetery Operator
 - 4.03 Uniform Fire Prevention and Building Code

STATE UNIVERSITY CONSTRUCTION FUND

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

STATE UNIVERSITY OF NEW YORK

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

DEPARTMENT OF TRANSPORTATION

- 1.00 Acquisition, disposition, lease, grant of easement, and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including but not limited to:
 - (a) Highways and parkways

- (b) Bridges on the State highways system
- (c) Highway and parkway maintenance facilities
- (d) Rail facilities
- 3.00 Financial assistance/grant programs:
 - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
 - 3.02 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 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.

DIVISION OF YOUTH

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

6.2 Federal Activities Affecting Land and Water Uses and Natural Resources in the Coastal Zone of New York State

Note: This LWRP's list of the federal agency activities is identical to the most recent version of the Table 3 list in the New York State Coastal Management Program as approved by the federal Office for Coastal Management on May 7, 2017. Please contact the New York State Department of State, Office of Planning and Development, at (518) 474-6000, for any updates to New York State Coastal Management Program Table 3 federal agency activities list that may have occurred post-approval of this LWRP.

This list has been prepared in accordance with the consistency provisions of the federal Coastal Zone Management Act and implementing regulations in 15 CFR Part 930. It is not exhaustive of all activities subject to the consistency provisions of the federal Coastal Zone Management Act, implementing regulations in 15 CFR Part 930, and the New York Coastal Management Program. It includes activities requiring:

1. the submission of consistency determinations by federal agencies;
2. the submission of consistency certifications by entities other than federal agencies; and
3. the submission of necessary data and information to the New York State Department of State, in accordance with 15 CFR Part 930, Subparts C, D, E, F and I, and the New York Coastal Management Program.

I. Activities Undertaken Directly or on Behalf of Federal Agencies

The following activities, undertaken directly by or on behalf of the identified federal agencies, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart C, and the New York Coastal Management Program.

Department of Commerce, National Marine Fisheries Service:

- Fisheries Management Plans

Department of Defense, Army Corps of Engineers:

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

Department of Defense, Air Force, Army and Navy:

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

Department of Energy:

- Prohibition orders.

General Services Administration:

- 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:

- Management of National Wildlife refuges and proposed acquisitions.

Department of Interior, National Park Service:

- National Park and Seashore management and proposed acquisitions.

Department of Interior, Bureau of Ocean Energy Management

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

Department of Homeland Security, Coast Guard:

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

Department of Transportation, Federal Aviation Administration:

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

Department of Transportation, St. Lawrence Seaway Development Corporation:

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

Department of Transportation, Federal Highway Administration:

- Highway construction

II. Federal Licenses and Permits and Other Forms of Approval or Authorization

The following activities, requiring permits, licenses, or other forms of authorization or approval from federal agencies, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart D, and the New York Coastal Management Program.

Department of Defense, Army Corps of Engineers:

- 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).
- Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- 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).
- Approval of plans for improvements made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404 (33 U.S.C. 1344).
- 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).
- 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, Federal Energy Regulatory Commission:

- 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).
- Orders for interconnection of electric transmission facilities under Section 202 (b) of the Federal Power Act (15 U.S.C. 824 a (b)).
- 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. 717 f (c)).
- Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717 f (b)).

Department of Energy, Economic Regulatory Commission:

- 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.
- Exemptions from prohibition orders.

Environmental Protection Agency:

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

Department of Interior, Fish and Wildlife Services:

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

Department of Interior, Bureau of Ocean Energy Management:

- 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.
- 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.

Surface Transportation Board:

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

Nuclear Regulatory Commission:

- 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:

- Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.
- Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).

Department of Transportation, Federal Aviation Administration:

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

III. Federal Financial Assistance to State and Local Governments

The following activities, involving financial assistance from federal agencies to state and local governments, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15CFR Part 930, Subpart F, and the New York Coastal Management Program. When these activities involve financial assistance for entities other than State and local governments, the activities are subject to the consistency provisions of 15 CFR Part 930, Subpart C.

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 Rental 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 Intermodal Transportation
- 11.509 Development and Promotion of Domestic Water-borne Transport Systems

Department of Housing and Urban Development

- 14. 112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
- 14. 115 Mortgage Insurance - Development of Sales Type Cooperative Projects
- 14. 117 Mortgage Insurance - Homes
- 14. 124 Mortgage Insurance - Investor Sponsored Cooperative Housing
- 14. 125 Mortgage Insurance - Land Development and New Communities
- 14. 126 Mortgage Insurance - Manages ant 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 the Interior

- 15.400 Outdoor Recreation - Acquisition, Development and Planning
- 15.402 Outdoor Recreation - Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
- 15.411 Historic Preservation Grants-In-Aid
- 15.417 Urban Park and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation

- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.952 Water Research and Technology-Matching Funds to State Institutes

Department of Transportation

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 20.309 Railroad Rehabilitation and Improvement – Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

General Services Administration

- 39.002 Disposal of Federal Surplus Real Property

Community Services Administration

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

Small Business Administration

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

Environmental Protection Agency

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control - State and 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
- 66.800 Comprehensive Environmental Response, Compensation and Liability (Superfund)

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

6.3 State and Federal Programs Necessary to Further the Local Waterfront Revitalization Program

State Programs

- A. Department of Environmental Conservation
 - Technical and funding assistance with planning studies and/or the design and construction of projects targeted to control and mitigate potential localized flooding problems or protect wetland areas.
 - Technical and funding assistance with planning studies and/or design and construction of projects to improve erosion protection along the shoreline.
 - Technical and funding assistance with planning studies and/or design and construction of projects to improve water quality and address sanitary sewer inflow and infiltration problems.
 - Protect and enhance fish and wildlife habitat and populations in accordance with LWRP Policy 7.
 - Enforcement of Article 24 of the State's Environmental Conservation Law for protection of freshwater wetlands areas.
 - Administration of other local permits and approvals
 - Implementation of the Environmental Quality Review Act of 1972.
- B. Department of Economic Development/Empire State Development Corporation
 - Assistance, as needed, for the preparation of economic feasibility studies for the reuse of various deteriorated and unutilized structures, and with the siting or improvement of public facilities.
 - Technical and funding assistance for economic development studies and projects in the LWRA.
 - Assistance with funding for the promotion of recreational resources along Smokes Creek.

- C. Department of State
- Funding assistance through the Environmental Protection Fund for public access and waterfront recreation projects, including the construction and/or improvement of multi-use trails.
 - Funding approval and technical assistance for LWRP implementation of various planning, design and construction projects, as outlined in Section IV of this Program.
- D. Department of Transportation
- Technical assistance and funding for improvements, including intersection redesign and reconstruction and pedestrian safety improvements along NYS Route 5 and Hamburg Turnpike.
 - Consultation with the City before making any major improvements to bridges, culverts or State roads in the waterfront area.
 - Administration of highway work permits and other local permits and approvals.
- E. Environmental Facilities Corporation
- Funding assistance for the planning, design and construction of sewer extensions or other improvement projects along the waterfront.
 - Funding assistance for the planning, design and construction of water quality improvement projects along the waterfront.
 - Funding assistance for the planning, design and construction of green infrastructure projects in the LWRA.
- F. New York State Energy Research and Development Authority
- Funding and technical assistance with energy efficiency studies and projects.
- G. Niagara Frontier Transportation Authority
- Assistance with public transportation needs.
- H. Office of General Services (OGS)
- Prior to any development occurring in the water or on the immediate waterfront, OGS will be contacted for a determination of the State's interest in underwater or formerly underwater lands and for authorization to use and occupy such lands.

- I. Office of Parks, Recreation, and Historic Preservation
 - Technical assistance and funding for planning, development, construction, renovation or expansion of recreational facilities and waterfront access.
 - Technical assistance and funding for the protection of State and locally-significant historic resources.

Federal Programs

- A. Department of Defense
Army Corps of Engineers
 - Permit decisions and assistance with funding regarding dredging, the construction or reconstruction of erosion protection structures, ice management issues or waterfront development/redevelopment projects in the City of Lackawanna LWRA.
- B. Federal Highway Administration
 - Provision of funding for transportation improvements, including but not limited to, improvement projects that increase pedestrian and bicycle access or improve safety in the City of Lackawanna LWRA.
 - Provide funding and technical assistance for enhance of the Great Lakes Seaway Trail and National Scenic Byway throughout the Porter LWRA.
- C. Small Business Administration
 - Funding and technical assistance for local businesses along the waterfront to stimulate economic development.
- D. Department of Homeland Security
Coast Guard
 - Maintain navigational devices along the Outer Harbor and at the of Inner Harbor south channel entrance.
- E. Federal Emergency Management Agency
 - Update flood mapping for the City of Lackawanna using the best available data.

- F. Environmental Protection Agency
- Provide funding and technical assistance to implement the provisions of the Great Lakes Restoration Initiative.
 - Implement the provisions of the 2012 Great Lakes Water Quality Agreement and work to restore identified Areas of Concern.
 - Enforce the provisions of the Clean Water Act Section 312 (f)(3) with respect to the prohibition of vessel waste discharges into Lake Erie.
- G. US Department of Interior
Fish and Wildlife Service
- Protect and enhance fish and wildlife habitat and populations in accordance with LWRP Policy 7.

SECTION VII Local Commitment and Consultation

7.1 Local Commitment

The City of Lackawanna initiated its efforts to prepare a Local Waterfront Revitalization Program (LWRP) in the Spring of 2017, at which time the City established the Waterfront Advisory Committee to oversee and assist with the updating the existing program. The Waterfront Advisory Committee was comprised of representatives from the City and local community, including liaisons from the City Council and representatives from the New York State Department of Environmental Conservation, Erie County Department of Environment and Planning, and the Buffalo Niagara Waterkeeper. Additionally, representatives from Tecumseh Redevelopment, Inc. (the property owner) and Gateway Trade Center (active business on the property) were included on the Committee. The efforts of the Advisory Committee were supported by the New York State Department of State. This Committee initially met in April 2017 and held an additional XX meetings during the course of the project to assist with the preparation of the LWRP. Their input was instrumental to the planning process.

To strengthen local commitment for the City's planning efforts, the Waterfront Advisory Committee held two public meetings to provide local citizens an opportunity to comment on significant issues and opportunities in the City's waterfront area. These meetings were held on July 20, 2017 and June **, 2018. Both meetings were held at the City of Lackawanna Senior Center.

City of Lackawanna Local Waterfront Revitalization Program Update



Public Information Meeting – July 20, 2017

The first Public Information Meeting was held to introduce the LWRP project to the public and provide an opportunity for local residents and stakeholders to offer input on the issues and opportunities they felt were important in the waterfront area (see attached meeting summary).

The second Public Focus Meeting provided an opportunity for additional public comments on the draft LWRP policies, proposed projects and other actions proposed for implementing the LWRP and the proposed zoning (see attached meeting summary). The information gathered at this meeting was utilized to further shape and finalize the LWRP findings and policies, as well as the proposed projects and implementation actions outlined in the program, as needed.

Insert promotional graphic for mtg #2 here

Prior to the adoption of the LWRP, the Lackawanna City Council held a public hearing on **, 2018 on the action. This hearing provided the public with an opportunity to hear a presentation on the draft LWRP amendment, as well as to provide the City Council with final input on the updated program.

7.2 Consultation

During the course of preparing the City of Lackawanna LWRP, the Waterfront Advisory Committee forwarded draft sections of the revised program to the Department of State for their review and comments. In addition, draft documents were distributed to a number of involved and interested agencies to gather their comments on program findings, policies and recommendations. The local agencies that were contacted for their input included the Erie County Department of Environment and Planning, Erie County Health Department, the New York State Department of Environmental Conservation, and the City of Buffalo and Town of Hamburg (adjoining municipalities).

The draft LWRP was reviewed and accepted by the Lackawanna City Council and forwarded to the New York State Department of State. The Department of State initiated a 60-day public review period for the draft program, pursuant to the requirements of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of NYS Executive Law) and the State Environmental Quality Review Act. Copies of the draft LWRP were distributed to all potentially affected Federal State and local agencies, as well as Erie County, the City of Buffalo and the Town of Hamburg. Comments received on the draft document were reviewed by the City of Lackawanna and the Department of State, and changes were made, as required, to reflect substantive comments. Thereafter, the final draft LWRP was adopted by the Lackawanna City Council, presented to the New York State Secretary of State for approval and submitted to the National Oceanic and Atmospheric Administration for concurrence.

City of Lackawanna Local Waterfront Revitalization Program Public Information Meeting Summary

Date of Meeting: July 22, 2017
Meeting Time: 6:00 PM
Meeting Location: Lackawanna Senior Center, Martin Road, Lackawanna, NY

A public information meeting was held on July 22nd for the City of Lackawanna Local Waterfront Revitalization Program (LWRP). The meeting began with welcomes by Drew Shapiro, Director of Development, and Geoffrey Szymanski, Mayor. Wendy Salvati gave a presentation about the project. The presentation covered the purpose of a Local Waterfront Revitalization Program and the process the City is taking to update their plan (see attached PowerPoint slides). The presentation also addressed how the LWRP will be coordinated with other planning initiatives in the City: the City's Comprehensive Plan and the Brownfield Opportunity Area (BOA) Study.

The proposed changes to the LWRA boundary was presented and attendees were encouraged to comment. There was general consensus on the proposed expansion of the boundary to incorporate both branches of Smokes Creek east to the City line.

Following the presentation, the floor was opened to input from attendees. The following summarizes input received:

- A priority should be providing access to Lake Erie. Lackawanna is the only community without any access to the shoreline. It was acknowledged that there are constraints and access will be limited, but there was consensus for some type of improved access.
- Is a boat launch on Smokes Creek feasible?
- Can fishing access be provided?
- It was recognized that the majority of the LWRA will be dedicated to business uses, to enhance the City's tax base.
- Chris Pawenski from Erie County noted that the County is in the process of purchasing approximately 150 acres of the property along the frontage of Route 5. Their intent is to develop the property to grow the tax base. There is additional developable land the City is not currently purchasing.
- Areas closer to the shoreline have issues that limit redevelopment options.
- Could a fish hatchery be placed on the site? This would require private investment and coordination with DEC.
- Walking path through the City to the waterfront
- Provide visual access, with benches to enable people to enjoy views of the lake
- Biking / walking paths along the creek and some part of the lakefront.
- It was acknowledged that it will never be a natural waterfront, but there are beautiful views.
- There is a shortage of industrial land available for economic development purposes across Erie County. Having this large area zoned for industrial use is an asset.
- The site has excellent features to attract good businesses, including highway, water (port) and rail access.

- The City and County could cooperate to make the site “shovel ready” to further encourage redevelopment, and be ready when companies are looking for sites:
 - ✓ Move the rail line to open the site up for redevelopment
 - ✓ Add a roadway network to improve access to development sites
 - ✓ Improve the infrastructure
 - ✓ Review zoning to make sure it supports redevelopment
 - ✓ Complete remediation of former contamination.
- Put a pathway along the North Branch of Smokes Creek. Benefits: alleviates congestion on Ridge Road by providing an alternative for bicyclists; would be a recreational asset for walking, biking.
- Issue: how to cross the rail lines

Most of the attendees were members of the Steering Committee. They were given copies of the draft LWRA boundary and asked to provide the consulting team with comments. The meeting closed at approximately 7 pm.

Insert meeting summary from Mtg #2 here