



**Town of Porter**  
**Local Waterfront Revitalization Program**

Draft

Adopted:

Town of Porter Town Board, ....., 2020

Approved:

NYS Secretary of State, ....., 2020

Concurred:

U.S. Office for Coastal Management, ....., 2021

## ACKNOWLEDGEMENTS

The Town of Porter Local Waterfront Revitalization Program was prepared with funding provided by the New York State Department of State under Title 11 of the Environmental Protection Fund. The development of this Program was a multi-phased endeavor made possible through the efforts of:

### *Town of Porter Waterfront Advisory Committee*

Kathy Zasucha, Town of Porter Waterfront Advisory Committee Chairperson  
Anthony Collard, Town of Porter Planning Board Chairman  
Wendy Shaw, Town of Porter Parks and Recreation Department  
Bernie Rotella, Town of Porter Grants Consultant  
Dottie Riordan, Village of Youngstown Representative  
Peter T. Jeffery, Town of Porter Code Enforcement Officer

### *Our special thanks to all who assisted in the creation of this document*

John Duffy Johnston, Town of Porter Supervisor  
Irene Meyers, Town of Porter Councilwoman  
Jeffrey Baker, Town of Porter Councilman  
Lawrence White, Town of Porter Councilman  
Timothy Adamson, Town of Porter Councilman  
Merton K. Wiepert, former Town of Porter Supervisor  
Kara Hibbard, Porter Town Clerk  
Valeria Ivan, New York State Department of State  
Beth Geldard, New York State Department of Environmental Conservation  
and the Citizens of the Town of Porter

### Project Consultants

Wendy E. Weber Salvati  
Ellen Parker, AICP





## CONTENTS

INTRODUCTION AND BACKGROUND ..... 1

SECTION I - TOWN OF PORTER WATERFRONT REVITALIZATION AREA ..... 1

    Waterfront Revitalization Area Boundary ..... 1

    Existing New York State Coastal Management Area Boundary ..... 3

SECTION II - INVENTORY AND ANALYSIS OF EXISTING CONDITIONS ..... 1

    2.1. Summary of Issues and Opportunities within the WRA..... 3

        2.1.1. Findings ..... 3

        2.1.2. Assets and Opportunities..... 4

        2.1.3. Issues and Concerns..... 4

    2.2. Regional Setting, Historic Context and Community Characteristics ..... 5

    2.3. Overview of Coastal Resources Planning Efforts ..... 7

        2.3.1. Regional Planning..... 7

        2.3.2 Local Planning ..... 13

    2.4. Demographics and Economic Considerations..... 14

        2.4.1 Population and Household Characteristics..... 14

        2.4.2. Housing ..... 16

        2.4.3. Income and Employment..... 18

    2.5. Existing Land Uses ..... 19

        2.5.1. Existing Land Use ..... 19

        2.5.2. Water Dependent and Water-Enhanced Uses ..... 23

        2.5.3. Abandoned, Underutilized and Deteriorated Sites and Structures..... 23

        2.5.4. Zoning Districts ..... 23

        2.5.5. Public Access and Recreation ..... 26

        2.5.6. Public Lands ..... 29

        2.5.7. Underwater Lands..... 29

    2.6. Surface Water Uses, Navigation and Harbor Management..... 32

        2.6.1 Surface Water Resources..... 32

        2.6.2. Vessel Use, Navigation and Harbor Management..... 33

        2.6.3. Marinas and Docks..... 38

        2.6.4. Recreational Fishing..... 38

    2.7. Natural Resources ..... 40



2.7.1. Water Quality..... 40

2.7.2. Priority Waterbodies List ..... 41

2.7.3. Wetlands and Habitats ..... 48

2.7.4. Soils and Topography..... 59

2.7.5. Flooding ..... 60

2.7.6. Erosion ..... 61

2.7.7. Environmental Hazards and Constraints ..... 68

2.8. Historic, Cultural and Scenic Resources ..... 69

2.8.1. Historic Sites and Structures..... 69

2.8.2. Archaeological Resources ..... 70

2.8.3. Scenic Resources..... 71

2.9. Public Infrastructure ..... 74

2.9.1. Water Supply ..... 74

2.9.2. Wastewater Management..... 74

2.9.3. Stormwater Management ..... 77

2.9.4. Solid Waste Management..... 78

2.9.5. Other Utilities..... 78

2.9.6. Energy Generation ..... 78

2.9.7. Transportation Systems ..... 79

2.9.8. Emergency Services ..... 83

SECTION III - LOCAL WATERFRONT REVITALIZATION PROGRAM POLICIES ..... 1

Development Policies..... 2

Policy 1 ..... 2

Policy 1A..... 2

Policy 2 ..... 3

Policy 2A..... 3

Policy 3 ..... 6

Policy 4 ..... 7

Policy 5 ..... 7

Policy 5A..... 7

Policy 6 ..... 9

Fish and Wildlife Policies..... 10

Policy 7 ..... 10

Policy 7A..... 10

Policy 8 ..... 12



Policy 9 ..... 12

Policy 10 ..... 13

Flooding and Erosion Hazards Policies ..... 14

Policy 11 ..... 14

Policy 12 ..... 15

Policy 13 ..... 15

Policy 14 ..... 16

Policy 15 ..... 16

Policy 16 ..... 17

Policy 17 ..... 17

General Policy ..... 19

Policy 18 ..... 19

Public Access Policies ..... 19

Policy 19 ..... 19

Policy 20 ..... 21

Recreation Policies ..... 24

Policy 21 ..... 24

Policy 21A ..... 24

Policy 22 ..... 25

Historic and Scenic Resources Policies ..... 25

Policy 23 ..... 25

Policy 24 ..... 27

Policy 25 ..... 27

Agricultural Lands Policy ..... 29

Policy 26 ..... 29

Energy and Ice Management Policies ..... 32

Policy 27 ..... 32

Policy 28 ..... 33

Policy 29 ..... 34

Water and Air Resources Policies ..... 35

Policy 30 ..... 35

Policy 31 ..... 36

Policy 32 ..... 36

Policy 33 ..... 37

Policy 34 ..... 37



Policy 35..... 38

Policy 36..... 38

Policy 37..... 38

Policy 38..... 41

Policy 39..... 41

Policy 40..... 42

Policy 41..... 42

Policy 42..... 42

Policy 43..... 43

Wetlands Policy..... 43

    Policy 44..... 43

SECTION IV - PROPOSED LAND AND WATER USES AND PROPOSED PROJECTS..... 1

    4.1. Proposed Land Uses..... 1

        Subarea 1 - Niagara River..... 1

        Subarea 2 – Lake Ontario..... 1

    4.2. Proposed Water Uses/Harbor Management..... 4

    4.3. Proposed Town Projects and Studies..... 5

        Public Access and Wayfinding..... 7

        Environmental Protection..... 12

        Public Infrastructure Improvements..... 16

SECTION V - TECHNIQUES FOR LOCAL IMPLEMENTATION ..... 1

    5.1. Existing Local Laws ..... 1

        Chapter 70, Building Code Administration and Enforcement ..... 1

        Chapter 93, Flood Damage Prevention..... 1

        Chapter 145, Sewers..... 1

        Chapter 156, Solid Waste ..... 1

        Chapter 160, Streets and Sidewalks ..... 2

        Chapter 165, Subdivision of Land ..... 2

        Chapter 185, Water ..... 2

        Chapter 200, Zoning..... 2

    5.2. Proposed Local Laws Necessary to Implement the LWRP ..... 3

        5.2.1. LWRP Consistency Review Law..... 3

        5.2.2. Zoning and Other Code Revisions..... 4

    5.3. Other Public and Private Actions Necessary to Implement the LWRP ..... 4



Regional Actions and Programs ..... 4

State Actions and Programs..... 6

Federal Actions and Programs ..... 8

5.4. Management Structure for Implementing the LWRP ..... 10

    5.4.1. Local Management and Coordination ..... 10

    5.4.2. Local Regulatory Changes ..... 11

5.5. Guidelines for Notification and Review of State Agency Actions Proposed Within the Porter WRA..... 11

    I. Purposes of Guidelines ..... 11

    II. Definitions..... 12

    III. Notification Procedure..... 13

    IV. Local Government Review Procedure ..... 13

    V. Resolution of Conflicts..... 14

5.6. Procedural Guidelines for Coordinating New York State Department of State (DOS) and LWRP  
    Consistency Review of Federal Actions..... 15

    I. Direct Federal Agency Activities ..... 15

    II. Activities Requiring Federal Licenses, Permits and Other Regulatory Approvals..... 15

    III. Federal Financial Assistance to State and Local Governments..... 16

5.7. Financial Resources Necessary to Implement the LWRP ..... 17

SECTION VI – STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION..... 1

    6.1. State Actions and Programs Which Should Be Undertaken in a Manner Consistent With the LWRP..... 1

    6.2. Federal Activities Affecting Land and Water Uses and Natural Resources in the Coastal Zone of New York State ..... 12

        I. Activities Undertaken Directly by or on Behalf of Federal Agencies ..... 12

        II. Federal Licenses and Permits and Other Forms of Approval or Authorization ..... 14

        III. Federal Financial Assistance to State and Local Governments..... 16

SECTION VII - LOCAL COMMITMENT AND CONSULTATION..... 1

    7.1. Local Commitment ..... 1

    7.2. Consultation ..... 2

APPENDIX A – TOWN OF PORTER LWRP CONSISTENCY REVIEW LAW AND WATERFRONT ASSESSMENT  
    FORM..... 1

    Consistency Review Law ..... 1

    Waterfront Assessment Form..... 12

APPENDIX B - LAWS OF NEW YORK DOCUMENTING THE CREATION OF THE TOWN OF PORTER..... 1

APPENDIX C - LOCAL LAWS NECESSARY FOR LWRP IMPLEMENTATION ..... 1



Local Laws Implementing the LWRP Policies ..... 1

Chapter 93, Flood Damage Prevention ..... 4

Proposed Amended and New Local Laws Implementing the LWRP Policies .....26

    §200-\*\*. Lake Ontario environmental overlay district (new).....26

    §200-20. Niagara River environmental overlay (amendment).....27

    §\*\* PET WASTE (new).....29

APPENDIX D - NYSDEC HABITAT RATING FORM FOR FOUR MILE CREEK BAY ..... 1

APPENDIX E - RELEVANT ENVIRONMENTAL PROTECTION REPORTS, BROCHURES AND MANUALS ..... 1

    Fish Safe to Eat ..... 1

    Your Septic System, Maintenance Guide ..... 3

    Home Owner’s Guide, 12 simple strategies for sustainable waterfronts..... 7

    Shoreline Stabilization Techniques .....19

    Invasive Species of Lakes Erie and Ontario.....27

APPENDIX F - RESILIENCY AND ECONOMIC DEVELOPMENT INITIATIVE (REDI) INFORMATION AND  
    MAPPING..... 1

**LIST OF MAPS**

- Map 1 Local Waterfront Revitalization Area Boundary
- Map 2 Regional Setting
- Maps 3A & 3B Existing Land and Water Uses
- Maps 4A & 4B Existing Zoning
- Map 5 Environmental Features
- Map 6 Public Facilities
- Map 7 Transportation
- Maps 8A & 8B Proposed Land and Water Uses
- Map 8C Proposed Projects



## **GLOSSARY**

AAADT - Average Annual Daily Traffic  
ACOE - Army Corps of Engineers  
AOC - Area of Concern  
CEHA - Coastal Erosion Hazard Area  
CSMI - Cooperative Science and Monitoring Initiative  
ECL - Environmental Conservation Law  
EIS - Environmental Impact Statement  
FEMA - Federal Emergency Management Agency  
FIRM - Flood Insurance Rate Map  
GBNRTC - Greater Buffalo Niagara Regional Transportation Council  
I&I - Inflow and infiltration  
IJC - International Joint Commission  
LAMP - Lakewide Action Management Plan  
LWRP - Local Waterfront Revitalization Program  
MGD - Million gallons per day  
NDZ - No Discharge Zone  
NFIP - National Flood Insurance Program  
NHL - National Historic Landmark  
NYCRR - New York Code of Rules and Regulations  
NYS - New York State  
NYSDEC - New York State Department of Environmental Conservation  
NYSDOT - New York State Department of Transportation  
NCWD - Niagara County Water District  
OGS - Office of General Services  
SASS - Scenic Area of Statewide Significance  
SEQR - State Environmental Quality Review  
SPDES - State Pollution Discharge Elimination System  
SR - State Route  
TMDL - Total Maximum Daily Load  
USDOT - United States Department of Transportation  
WRA - Waterfront Revitalization Area  
WPCC - Water Pollution Control Center



## INTRODUCTION AND BACKGROUND

The New York State Local Waterfront Revitalization Program is designed to give eligible waterfront communities an opportunity to develop a local waterfront revitalization program (LWRP) to assess conditions along the waterfront, establish policies to guide development, and implement appropriate waterfront land uses and projects aimed at waterfront renewal. Each approved LWRP refines the State's Coastal Management Program and allows communities to design a program that better reflects and addresses local issues and opportunities in the designated local waterfront revitalization area (WRA). The LWRP establishes a planning and legal framework for guiding future public and private investment and development actions that occur within the WRA.

The Town of Porter is located on the shorelines of the Niagara River and Lake Ontario, in the northwest corner of Niagara County, New York (see Map 2). The Town of Porter has approximately 1.3 miles of shoreline along the Niagara River and 9.8 miles of shoreline along the Lake. Within the western New York region, Porter is situated approximately 13 miles north of the City of Niagara Falls and 30 miles north of the Buffalo metropolitan area. The Town is bordered by the Town of Lewiston to the south and Town of Wilson to the east; although not included in the Town's waterfront boundary, the Village of Youngstown is located on the Niagara River within the Town.

The Town of Porter is very rural in nature, characterized by farming and orchards. The Lake Ontario and Niagara River shorelines include areas with bluffs and high banks; beachfront areas along the lake are comprised of a mix of stones and sand substrate. The waterfront has long been popular as a summer attraction, with numerous cottages and smaller, modest homes located along the Lake Ontario shorefront and two large New York State Parks offering a variety of recreational amenities.

Over the years, the Town of Porter has maintained its appeal as a rural community, evolving from a farming community to a bedroom community for those employed in nearby towns and cities. The waterfront area has become increasingly attractive for residential use, with many cottages transitioning to year-round residences and the expansion of residential uses spreading south of the Village of Youngstown. This LWRP examines uses and activities along the waterfront and sets forth policies, guidance and recommendations for future use and enjoyment, resource protection and the expansion of recreational uses and activities.

Section I of the LWRP outlines the existing NYS Coastal Management Program boundary and changes that are proposed to this boundary to delineate the Town of Porter waterfront revitalization area (WRA). Section II of the LWRP includes an inventory and analysis of existing conditions and resources in the waterfront revitalization area. The LWRP policies that are contained in Section III of this LWRP are focused on waterfront revitalization, fish and wildlife, flooding and erosion, public access to the shoreline, recreation, historic and scenic resources, protection of agricultural lands, energy and ice management, water and air resources and wetlands. These are the coastal policies applicable within the portion of the State's coastal area defined by the Town of Porter Waterfront Revitalization Area.



## **SECTION I - TOWN OF PORTER WATERFRONT REVITALIZATION AREA**

### **WATERFRONT REVITALIZATION AREA BOUNDARY**

The Town of Porter Waterfront Revitalization Area (WRA), as illustrated on Map 1, modifies the upland side of the State's coastal area approved in 1983 by incorporating established and emerging freshwater wetlands located further upland from the eastern bank of Niagara River and the buffer zones of two State freshwater wetlands located along Lake Ontario, together with larger segments of the streams that formed these wetlands before discharging into Lake Ontario. The expansion of the upland portion of the State's coastal area also includes some of the active agricultural lands located further upland from the shores of Lake Ontario. The location of the established and emerging wetlands and those stream segments and the wetlands established where the streams discharge in Lake Ontario are illustrated on map 5. Maps 3A and 3B indicate the location of the active agricultural lands. In addition to increasing the protection of freshwater wetlands, the control of development along the streams crossing the State wetlands and the quality of the surface waters, the landward expansion of the State coastal area will also allow the Town to increase its efforts to connect and improve the public use of the existing public parks and recreation areas.

The waterside of the Porter WRA covers that portion of Niagara River within the Town's municipal boundary, between the eastern bank of the Niagara River and the US/Canada border, which does not modify the waterside boundary of the New York State coastal area. More details and descriptions of the existing resources within the WRA are included in Section II of the LWRP.

The proposed boundary of the Town of Porter WRA is illustrated on Map 1, along with the town's municipal boundary and the current waterside and upland boundaries of the State's coastal area, as approved in 1983. The narrative below describes the boundary of the Town of Porter WRA.

The boundary of the Town of Porter WRA begins at a point of intersection of the centerline of the southbound lane of the Niagara Scenic Parkway<sup>1</sup> with the municipal boundary between the Town of Lewiston and the Town of Porter and proceeds in a northerly direction along the centerline of the southbound lane of the Niagara Scenic Parkway for approximately 4.8 miles to a point of intersection of the Town's municipal boundary with the Village of Youngstown. Then, the WRA boundary:

- turns in a westerly direction and continues for approximately 1,425 feet along the southern boundary of the Village of Youngstown, before turning south;
- then, continues for approximately 750 feet in a southerly direction along the eastern boundary of the Village of Youngstown;
- then, turns westerly and continues for approximately 2,500 feet along the southern boundary of the Village of Youngstown;
- then, continues for approximately 1,775 feet along the eastern boundary of the Village of Youngstown;



- then, continues for approximately 2400 feet in a westerly direction along the municipal boundary with the Village of Youngstown;
- then, turns southerly and continues for approximately 1800 feet along the municipal boundary with the Village of Youngstown;
- then, continues for approximately 1,500 feet along the Town's municipal boundary with the Village of Youngstown before turning in a northerly direction;
- then, follows the Town's boundary with the Village of Youngstown northerly for approximately 7,000 feet, before turning in an easterly direction;
- then, proceeds along the Town's municipal boundary with the Village of Youngstown for approximately 1,300 feet to the intersection with Lake Street;
- then, the WRA boundary turns northeasterly and continues for approximately 475 feet along the municipal boundary with the Village of Youngstown before turning easterly;
- then, continues for 3,700 feet along the municipal boundary with Village of Youngstown to a point of intersection with the centerline of the of the southbound lane of the Niagara Scenic Parkway;
- then, continues northerly and easterly following the centerline of the of the southbound lane of the Niagara Scenic Parkway to a point of intersection with the extension of the North Creek Road, before turning southerly;
- then, continues for approximately 1,200 feet in a southerly direction along North Creek Road, past the intersection with the Creek Lane, to a point of intersection with Creek Road;
- then, continues for approximately 2,900 feet in a southerly direction along Creek Road to a point of intersection with Youngstown-Lockport Road;
- then, turns easterly and continues along Youngstown-Lockport Road for approximately 1,100 feet, before turning northerly on Meadow Drive;
- then, continues northerly and easterly for approximately 1,200 feet along Meadow Drive to a point of intersection with Youngstown-Wilson Road, before turning northerly;
- then, continues northerly and easterly for approximately 3,300 feet along the Youngstown-Wilson Road to a point of intersection Cothran Road, before turning northerly;
- then, proceeds northerly for approximately 2,100 feet along Cothran Road to a point of intersection with Lake Road, before turning north-easterly;
- then, continues east-northeasterly for approximately 1.3 miles along Lake Road to a point of intersection with Murphy's Corners Road;
- then, proceeds for approximately 2,880 feet along Lake Road to the intersection with the western boundary of tax parcel 33.00-1-10 (1762 Lake Road) before turning south;
- then, continues south in an imaginary straight line for approximately 4,150 feet to a point of intersection with Youngstown-Wilson Road;
- then, turns east northeasterly and continues for approximately 2,900 feet along Youngstown Wilson Road to the point of intersection with Porter Center Road, before turning northerly;
- then, continues north for approximately 4,400 feet along the Porter Center Road to a point of intersection with Lake Road, before turning east northeasterly;



- then, continues for approximately 2.9 miles along Lake Road to a point of intersection with of the Town of Porter boundary with the Town of Wilson, before turning northerly;
- then, the WRA boundary continues for 450 feet along the municipal boundary with the Town of Wilson to a point of intersection with the low water mark of Lake Ontario, before turning southwesterly;
- then continues for approximately 9 miles along the low water mark of Lake Ontario to a point where the Town of Porter municipal boundary meets the U.S./Canadian border in Niagara River, before turning in a general south-east direction;
- then, the WRA boundary follows the Town’s municipal boundary along the U.S./Canadian border for 3.4 miles to a point of intersection with the municipal boundary of the Town of Lewiston, before turning easterly;
- then, the WRA boundary continues for approximately 6,400 feet along the municipal boundary of the Town of Porter with the Town of Lewiston, to the point of beginning.

## **EXISTING NEW YORK STATE COASTAL MANAGEMENT AREA BOUNDARY**

The existing boundary of the New York State coastal management area within the municipal boundary of the Town of Porter, as approved in 1983, begins at a point of intersection of the municipal boundary between the Town of Porter and the Town of Lewiston with the ordinary highwater mark along the east bank of Niagara River; then, continues for 600 feet along the municipal boundary with the Town of Lewiston, before turning northerly; then, continues to the north along an imaginary straight line for approximately 7,600 feet to a point of intersection with the municipal boundary of the Village of Youngstown; then, turns easterly, following the southern, eastern and northern portions of the municipal boundary of the Village of Youngstown for approximately 3.0 miles to a point of intersection with Lake Road, on the northern side of the Village of Youngstown;

- then, turns northerly and follows Lake Road to a point of intersection with the eastern terminus of Creek Road, before turning east;
- then, continues to follow Lake Road in a northeasterly direction to a point of intersection with the municipal boundary with the Town of Wilson, before turning northerly;
- then, continues approximately 450 feet along the municipal boundary with the Town of Wilson, before turning westerly;
- then, follows the Town of Porter boundary along the shoreline of Lake Ontario for approximately 8.8 miles to a point of intersection with the ordinary high-water mark of Niagara River;
- then, continues to follow the municipal boundary of the Town of Porter approximately 1,100 feet to a point of intersection with the U.S./Canadian border, in Niagara River;
- then, follows for approximately 3.3 miles the U.S./Canadian border to a point of intersection with the municipal boundary of the Town of Porter with the Town of Lewiston, before turning easterly;
- then, continues easterly for approximately 1,300 feet over the Niagara River to the point of beginning.



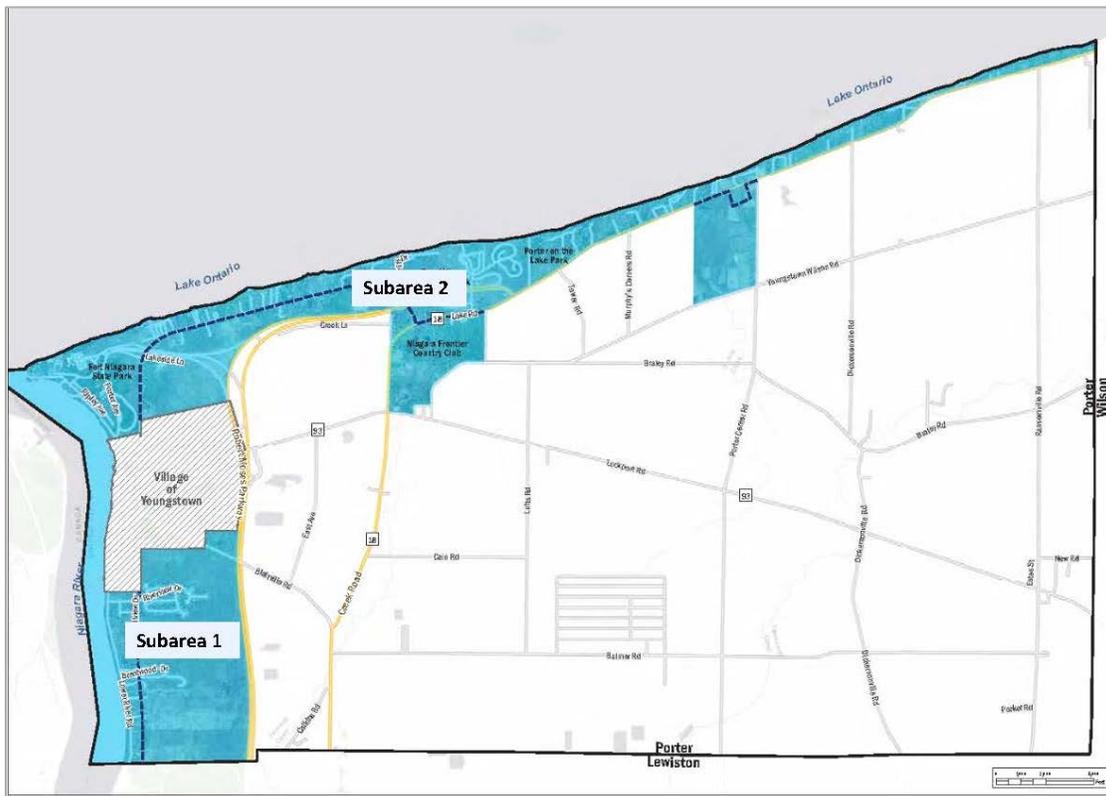


## SECTION II - INVENTORY AND ANALYSIS OF EXISTING CONDITIONS

The shoreline and upland of the Town of Porter waterfront revitalization area (WRA) extend along the Lower Niagara River and Lake Ontario. Most of the Porter WRA is well-established with residential uses. These areas have retained a rural character, with small-scale and low-density development enhanced by the shoreline location.

The Village of Youngstown splits the upland of the Town of Porter WRA into Subarea 1– Niagara River and Subarea 2 – Lake Ontario, as illustrated on Figure 1 and described below.

**Figure 1. WRA Subareas**



### Subarea 1 – Niagara River

The boundary for Subarea 1 begins at the mean low water line of the Niagara River and proceeding in a westerly direction along the municipal boundary between the Town of Lewiston and the Town of Porter to the center line of the Niagara Scenic Parkway; thence proceeding in a northerly direction along the Niagara Scenic Parkway to the intersection with the southern boundary for the Village of Youngstown. The WRA boundary then proceeds in a westerly and southerly direction, following the southern boundary of the Village of Youngstown boundary to the mean low water line of the Niagara River.



### **Subarea 2: Lake Ontario**

The boundary for Subarea 2 at the mean low water line of the shoreline of the Niagara River and proceeding in an easterly direction along the boundary between the Village of Youngstown and the Town of Porter to the western right-of-way line of the Niagara Scenic Parkway. Thence, proceeding in northeasterly direction along the right-of-way line of the Niagara Scenic Parkway to northern terminus of North Creek Road, where the boundary heads south, following North Creek Road to the intersection with Creek Road; thence continuing in a southerly direction to the intersection of Creek Road and Youngstown-Lockport Road (SR 93). At this point, the WRA boundary turns east, following Youngstown-Lockport Road to the intersection with Meadow Drive; thence turning north, following Meadow Drive to the north and then east, where it intersects with Youngstown-Wilson Road. The boundary then follows Youngstown-Wilson Road in a northeasterly direction to the intersection with Cothran Road; thence following Cothran Road in a northerly direction to the intersection with Lake Road (SR 18).

The WRA boundary then follows the northern right-of-way of Lake Road in a northeasterly direction to the intersection with the western boundary of the property located at 1762 Lake Road (SBL 33.0-1-10); thence following this property line due south, for a distance of approximately 4,000 feet, to the point of intersection with Youngstown-Wilson Road. The boundary then turns in a northeasterly direction, following Youngstown-Wilson Road to the intersection with Porter Corners Road, where the boundary heads north to intersection with Lake Road (SR 18). The WRA boundary then proceeds in a northeasterly direction along the northern right-of-way of Lake Road (SR 18) to the municipal boundary with the Town of Wilson; then proceeding north along the boundary between the Town of Porter and the Town of Wilson to the shoreline of Lake Ontario.

**Subarea 1: Niagara River**



**Subarea 2: Lake Ontario**





## 2.1. SUMMARY OF ISSUES AND OPPORTUNITIES WITHIN THE WRA

### 2.1.1. Findings

- ❑ The Town of Porter waterfront possesses a quaint, rural character with a mix of residences along the Niagara River shoreline and small cottages along the Lake Ontario shoreline, open lands, two large State parks and a few agricultural uses, making it an attractive place for residents and visitors alike.
- ❑ There are a small number of agricultural uses in the WRA, which include field crops, two horse farms and a small orchard. Some of these lands are located within Niagara County Agricultural District No. 8. A few of the properties located within this district are no longer actively farmed.
- ❑ The waterfront is primarily residential in nature. The only water-dependent uses in the WRA are the boat launch ramps and US Coast Guard docking facility that are in Fort Niagara State Park. There is no waterfront commercial activity within WRA.
- ❑ Lake Road (State Route 18) and Lower River Road (State Route 18F) are both designated segments of the Great Lakes Seaway Trail, are State-designated Scenic Byways, and are designated as portions of the Historic Niagara Trail, validating the scenic and cultural importance of these shoreline thoroughfares.
- ❑ Both subareas in the WRA are served by public water supply; public sanitary sewer service is only available in Subarea 1 and the western portion of Subarea 2 (west of Four Mile Creek State Park). East of Four Mile Creek State Park in Subarea 2, sanitary waste is managed using on-site septic systems.
- ❑ There are two large New York State parks located in the WRA, including Fort Niagara State Park and Four Mile Creek State Park, which both offer a wide variety of public recreational opportunities and panoramic views of the Niagara River and Lake Ontario.
- ❑ Porter on the Lake Town Park provides approximately 33 acres of parkland, with shoreline access along Lake Ontario, offering public recreation opportunities. The Town owns approximately six acres of additional undeveloped forested lands adjacent to this park.
- ❑ Access to the shoreline is provided along the Niagara River by way of numerous private stairways and docking facilities that service upland property owners. There are also a small number of stairways and docks that provide access for private properties along Lake Ontario.
- ❑ Public Access to Lake Ontario is available from the State parks and Town Park. There are no locations for public access along the Niagara River.
- ❑ There are no public docks or marinas within the Town of Porter WRA. Additionally, there are no vessel waste pump-out sites.
- ❑ Public walking trails are available in Fort Niagara State Park; there is a pedestrian pathway that extends along the west side of Lower River Road, from the Village of Youngstown to the Town boundary. There are no other walking or bicycling amenities in the WRA.
- ❑ Public water is available throughout the WRA. Public sanitary sewer service is only available in Subarea 1 and the area west of Four Mile Creek State Park in Subarea 2. Wastewater is managed with on-site septic systems throughout the remainder of Subarea 2.



- ❑ The Lake Ontario and Niagara River shorelines include areas with bluffs and high banks. There is shoreline erosion protection along several waterfront properties, which includes stone revetment, rip rap, and a small number of concrete seawalls and wooden bulkheads.
- ❑ The areas around Four Mile and Six Mile Creeks contain large areas of freshwater wetlands that are important natural resources in the WRA. The WRA boundary has been expanded to encompass some of these wetland areas.

### 2.1.2. Assets and Opportunities

- ❑ Preservation of rural character (agrarian nature of the community, with low-density development throughout), will help to maintain the quality of life along the waterfront.
- ❑ Creating new opportunities for scenic viewing along Lake Road (State Route 18) and Lower River Road (State Route 18F), or enhancing and maintaining existing resources, will help the Town to capitalize on the designation of these roadways as Scenic Byways and part of the Great Lakes Seaway Trail system.
- ❑ Creating new and expanded trail connections would provide access to the State Parks and the Town Park. At present, multi-use trails end at Pletcher Road, just south of Joseph Davis Park in the Town of Lewiston. Extending this trail, and providing trail extensions, could provide access to local parks and the Village of Youngstown, benefiting Town and village residents and visitors to the community.
- ❑ Porter on the Lake Town Park provides several recreational opportunities, but there are opportunities to expand public use at this park, enhancing its value. This is important because this park is the only municipal public park on the waterfront.
- ❑ Porter on the Lake Town Park is fully open to the general public offering opportunities for enhanced tourism and access to the lakeshore. This should be better promoted.
- ❑ The shoreline at the end of Dietz Road or the waterfront area at the adjoining Porter on the Lake Town Park will be improved to allow for launching of non-motorized vessels (kayaks, canoes, small boats), providing an additional opportunity for access to Lake Ontario.
- ❑ Additional recreational facilities and public access to the Lake and River should be provided at Ft. Niagara State Park, including boat docking space and a vessel waste pump-out.
- ❑ Opportunities for improved use and access at Four Mile Creek State Park will be explored to enable the public to hike, fish and enjoy the shoreline of the lake. At present, the park focuses on camping, as its primary use.
- ❑ A connection between Four Mile Creek State Park and Porter on the Lake Town Park (which are adjoining properties) that will enhance visitors' and residents' experience of the waterfront, will be explored by the town in collaboration with the State agencies.
- ❑ The variety of flora and fauna in marsh lands at the mouth of Six-Mile Creek warrants consideration by the State for designation as a significant coastal fish and wildlife habitat.

### 2.1.3. Issues and Concerns

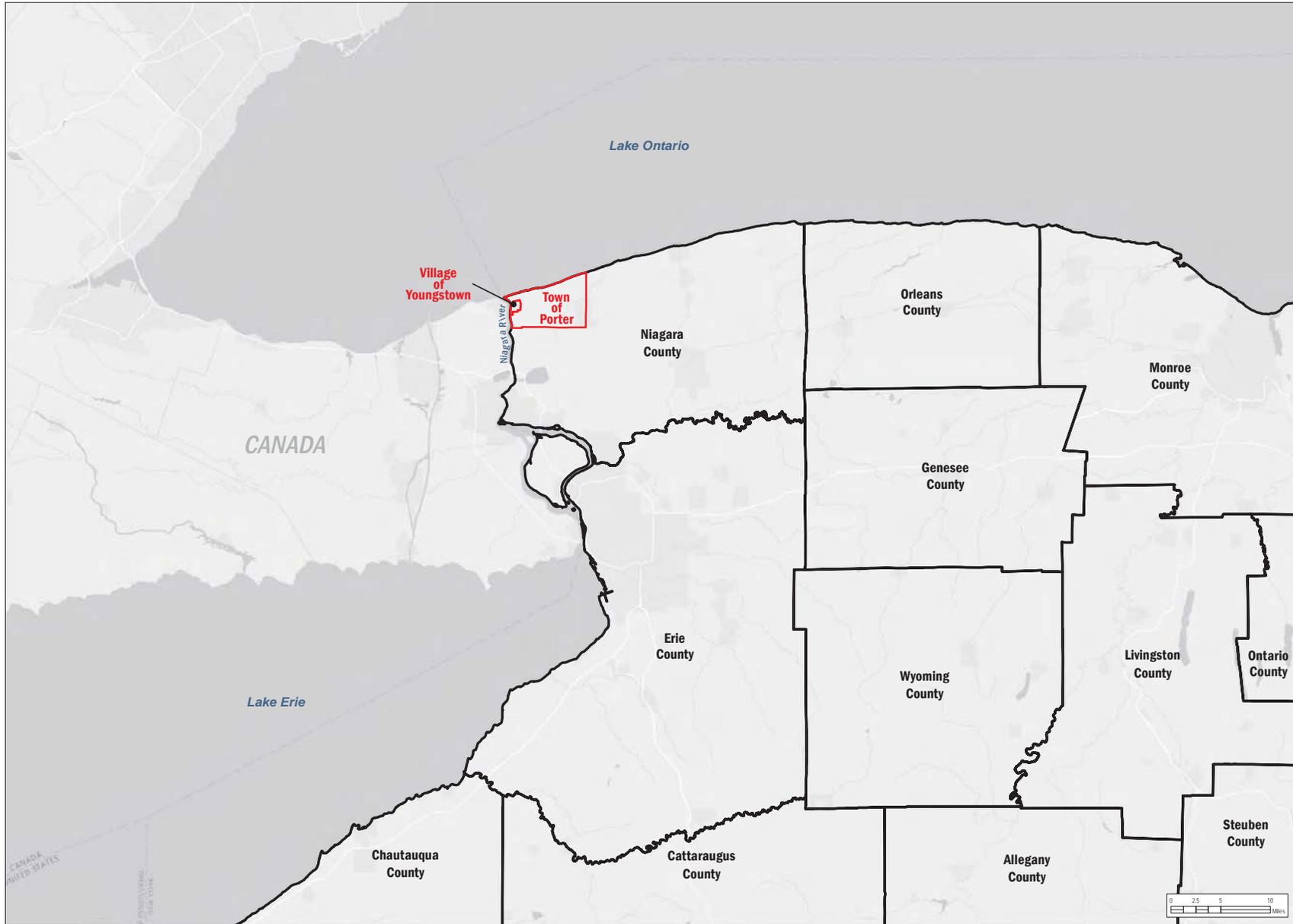
- ❑ Although there are two large State parks and one Town park in the WRA, the only other publicly owned property within the WRA is Fort Niagara Beach. Access to the shoreline/water is primarily achieved by property owners from private, residential parcels.



- ❑ Public boat launch access to local waterways is available at Fort Niagara State Park and in the neighboring Village of Youngstown.
- ❑ Shoreline erosion is a significant concern for property owners along Lake Ontario. Some of the existing erosion protection structures are in various states of disrepair. There is a need to address existing problems and proactively plan for shoreline changes that are resulting from rising water levels in the lake.
- ❑ There is a lack of trail connections between the public parks in the WRA. There is a need to connect the two State Parks, with a linkage to the Town Park, to provide greater recreational benefits for park uses.
- ❑ The existing pedestrian pathway that extends along Lower River Road (State Route 18F), between the Village of Youngstown and the Town of Lewiston in Subarea 1, is not designed to effectively accommodate multi-modal use. It is not wide enough for use by both pedestrians and bicyclists, who are forced to ride along Lower River Road, which has no bike lane and limited shoulder width. There is a need to reconstruct the pathway for improved usage. This would enable enhanced use of the trail and improve public safety.
- ❑ There are inflow and infiltration (I&I) issues in the existing sewer districts in the WRA. Sewer overflows also affect the use of local waters for bathing. The Town needs to work cooperatively with the Town of Lewiston and the Village of Youngstown to study this problem and identify mitigation measures to address this problem.
- ❑ There is a concern for water quality improvement in local waterways. This includes nonpoint source contaminants carried in creek waters that enters the lake, failing septic systems, sanitary sewer inflow and infiltration, and stormwater flows from residential development along Lower River Road and other areas in the WRA.
- ❑ There are portions of the Niagara Scenic Parkway (known as the Robert Moses State Parkway until 2016) and Lake Road (State Route 18) that are in poor condition and should be resurfaced or reconstructed.
- ❑ The maintenance of the vegetation within the right-of-way of Niagara Scenic Parkway must be improved to ensure visibility and safety for motorists.

## 2.2. REGIONAL SETTING, HISTORIC CONTEXT AND COMMUNITY CHARACTERISTICS

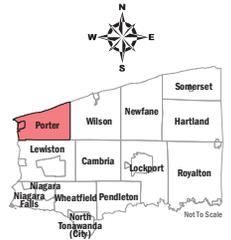
The Town of Porter was formed in 1812 from land that was previously a part of the Town of Cambria (see Appendix B). The Town is situated in the northwest corner of Niagara County (and New York State) and is bordered by the Town of Lewiston to the south, the Niagara River to the west, Lake Ontario to the north, and the Town of Wilson to the east (see Map 1). At the time the Town was first formed, it extended much further east to include what is now the Town of Wilson and the western portion of the Town of Newfane. Within the western New York region, Porter is situated approximately 13 miles from the City of Niagara Falls and 30 miles outside the Buffalo metropolitan area. The Town measures 33.2 square miles in size and has just over 11 miles of shoreline, including approximately 1.3 miles of shoreline on the Niagara River (between the Town of Lewiston and the Village of Youngstown) and 9.8 miles of shoreline along Lake Ontario (from the Village of Youngstown to the Town of Wilson).



# Town of Porter

## Waterfront Revitalization Program

### Map 2 Regional Setting



**LEGEND**

- Project Location
- Counties



Wendel WD Architecture, Engineering, Surveying and Landscape Architecture, P.C. shall assume no liability for:  
 1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused or  
 2. Any decision or action taken or not taken by the reader in reliance upon any information or data furnished hereunder.  
 Data Sources: Esri, HERE, DeLorme, Mapbox, Bing, OpenStreetMap contributors, NY State Department of State, Office of Planning and Development, NY State Office of Information Technology Services, GIS Program Office



This map was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.



For thousands of years the Town was inhabited by various cultures of indigenous peoples; this was the territory of the Iroquois Confederacy. Permanent European-American settlement occurred about 1801, after the Iroquois were forced to cede their lands to the State of New York. The Town was named in honor of Judge Augustus Porter, a member of one of the leading families in Niagara County. The Town's town urban centers include the Village of Youngstown on the west and the Hamlet of Ransomville to the east, each of which has its own identity and history, and each influencing the growth and development of the Town. Over the years, the Town of Porter has maintained its appeal as a rural community, evolving from a farming community to a bedroom community for those employed in nearby towns and cities. Although still present in the area, the number of farms has declined; those that remain contribute significantly to the area.

Although both subareas are predominantly rural in nature, much of the shoreline has been developed with medium density residential uses. Subarea 1 includes a stretch of housing that sits above the Niagara River gorge, along with two distinct suburban-style residential neighborhoods. These areas include Youngstown Estates and Collingwood Estates. One additional residential subdivision, Runaway Bay, is expected to receive approval in late 2019. In Subarea 2, the Lake Ontario shoreline contains numerous small homes and cottages, along with a small number of larger estate size residential properties. There are two large State parks and one Town park located on the waterfront. The Fort Niagara State Park property includes a US Coast Guard facility and public boat launch facilities. There are no public or private marinas or other waterfront boating amenities along the Town of Porter waterfront.

## **2.3. OVERVIEW OF COASTAL RESOURCES PLANNING EFFORTS**

### **2.3.1. Regional Planning**

There are several regional plans that are available to help guide land use and other activities in the Town of Porter and Niagara County, as a whole.

#### ***Framework for Regional Growth for Erie and Niagara Counties***

The Framework for Regional Growth for Erie and Niagara Counties, New York is the regional planning document. The Framework was finalized in October of 2006 and establishes basic policies and principles to guide the future growth and development of 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 Framework for Regional Growth 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, where development and public investment may be appropriate subject to careful evaluation and where conservation strategies generally take precedence over plans for development and public

investment. The planning policy areas include Developed Areas, Developing Areas and Rural Areas, as illustrated below. The Town of Porter waterfront area includes a small extent of Developed Area designation in the area around the Village of Youngstown, area that is considered as Developing Area north of the Village, with the remaining extent of the waterfront designated as Rural Area.

### [Niagara Communities Comprehensive Plan](#)

The Niagara Communities Comprehensive Plan (NCCP) is a county-wide planning document that emphasizes a multi-municipal approach for planning and decision making. The NCCP provides a framework for achieving five high priority goals:

- Encouraging desirable and appropriate growth and development,
- Strengthening the local economy,
- Improving the delivery of services,
- Prioritizing and coordinating capital improvements, and
- Improving the quality of life for County residents.

The Niagara Communities Comprehensive Plan is intended to unify existing county-wide planning efforts, while recognizing the important planning initiatives undertaken at other levels of government. This is a guiding document for assisting future decision making by providing direction for ongoing and future planning efforts. It recommends various broad-based, county-wide strategies and potential projects, such as watershed and trails planning, and working cooperatively with the Army Corps. of Engineers on shoreline erosion and other related issues.



### Niagara River Greenway Plan

The Niagara River Greenway Plan is a guidance document for creating connections between the various constituents, organizations and municipalities that comprise the Niagara River Greenway. It is an initiative with broad-based support aimed at fostering consensus. Under the umbrella of the Niagara River Greenway, these entities can advance local and regional agendas for community livability, environmental sustainability, tourism and economic revitalization.

The boundaries of the Greenway have been mapped along municipal boundaries. However, focus was placed on projects close to the Niagara River and its immediately adjacent assets. Progress on improving this core area will create discrete, visible results that will have local and regional impacts. Projects that fall outside of the focus area should help establish strong linkages between the Greenway focus area and the surrounding area. In addition, several municipalities do not control their waterfront land, or their waterfront lands are already developed. It is expected that these municipalities and other stakeholders will develop projects consistent with the Greenway Plan, but not necessarily along the River's edge.

Projects proposed away from the River should help establish physical and/or interpretive connections between the River and the surrounding area. The Focus Area in the Town of Porter includes the Fort Niagara State Park area and the portion of the WRA that includes Lower River Road.

The Niagara River Greenway Plan (NRGP) establishes a unified vision and a set of principles for the Niagara River Greenway. It identifies assets and resources that make up the Greenway. It sets priorities that suggest the types of activities to target in the near-term. It identifies potential funding sources, partnerships and linkages, and, in conjunction with the Metropolitan Planning Organization (MPO), addresses key transportation issues that affect the Greenway. The Plan also discusses several high priority Implementation Concepts, which describe system-wide approaches and strategies for Greenway development.



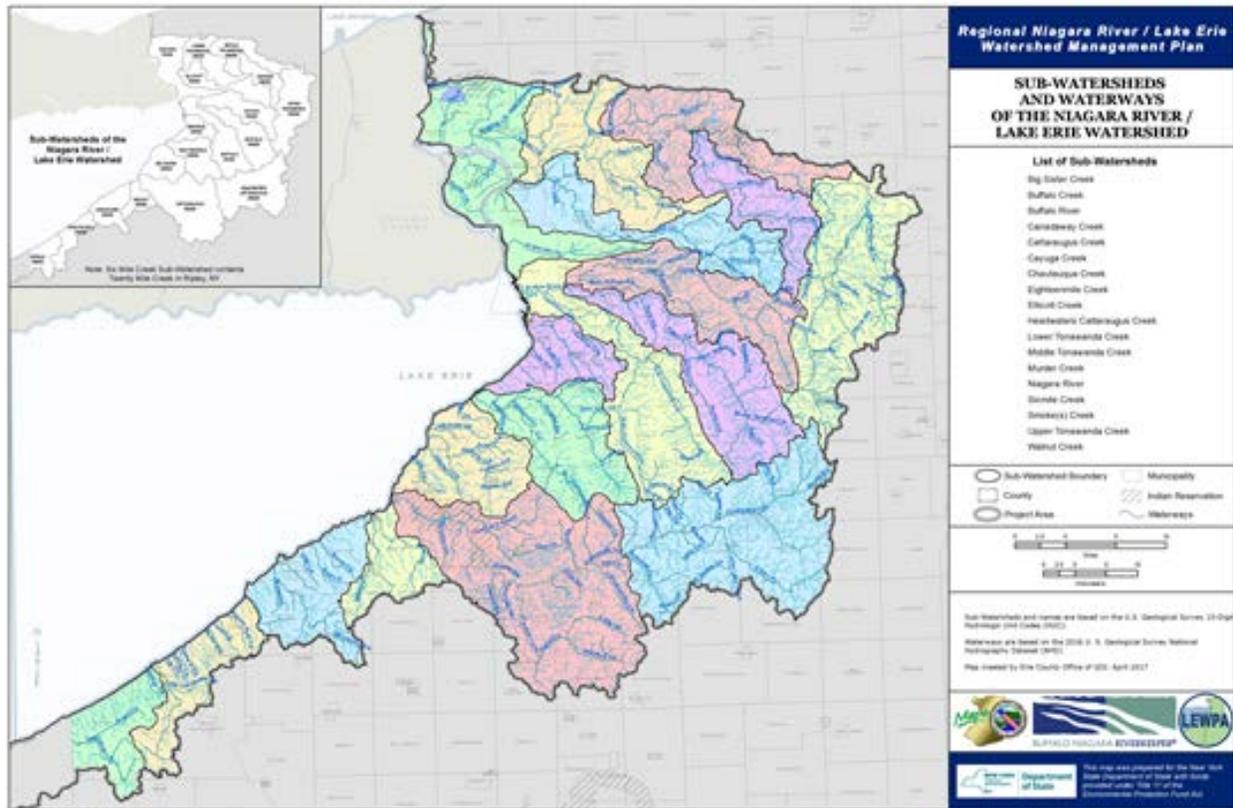


The principles and goals for the NRGF represent the general values for guiding greenway planning toward achievement of the vision. These principles and goals are centered on promoting high-quality, ecologically sensitive and sustainable activities and development.

The central theme is aimed at improving access to the Niagara River, making connections between communities and filling gaps in the trail system, protecting and restoring environmental systems, celebrating the history and heritage of the region, sparking revitalization and renewal, promoting long term sustainability and extending the Frederick Law Olmsted legacy for future generations.

**Healthy Niagara – Regional Niagara River-Lake Erie Watershed Management Plan**

The Healthy Niagara Initiative represents the Buffalo Niagara Waterkeeper’s work in watershed planning and regional water quality measurement and reporting. Through this initiative, Waterkeeper has worked with local municipalities and agencies to develop a watershed management plan, consisting of a series of tools for stakeholders and the public to use to understand current conditions throughout the Niagara River watershed (which includes the shoreline area that extends into Subarea 1 of the WRA in the Town of Porter), and best management practices that were developed in conjunction with technical experts to address water quality impairments in the region. Waterkeeper approached the watershed planning process through a two-phased process, with Phase I (the Niagara River Watershed Management Plan) focused on completing an initial assessment of the watershed by performing an ecological inventory, GIS analysis, municipal code review to identify and rank sub-watersheds based on water quality, habitat and land use metrics.





The second phase of this report (the Regional Niagara River-Lake Erie Watershed Management Plan), which was completed in 2017, consisted of the development of implementation plans for five priority sub-watersheds based on water quality and stream condition data to inform a number of implementation actions, best management practices and programmatic suggestions for addressing waterbody impairments and conserving lands that contribute to good water quality.

#### **Lake Ontario Lakewide Action and Management Plan**

The Lake Ontario Lakewide Action and Management Plan (LAMP) is a binational plan to protect and restore the health of Lake Ontario by addressing the chemical, biological and physical stressors affecting the lake. Both the Niagara River and St. Lawrence River are included in the scope of the Lake Ontario LAMP. The Lake Ontario LAMP is led by the U.S. Environmental Protection Agency, Environment Canada, NYSDEC, and the Ontario Ministry of the Environment. The LAMP guides the activities of these and other U.S. and Canadian federal, state, provincial, and tribal agencies by establishing ecosystem goals, objectives and indicators.

#### **Cooperative Science and Monitoring Initiative**

The Cooperative Science and Monitoring Initiative (CSMI) is a bi-national effort that rotates through the Great Lakes on a five-year cycle, coordinating scientific monitoring and research to better understand the Great Lakes ecosystem. CSMI informs Great Lakes management programs, such as the Lakewide Action and Management Plans (LAMPs) and the Great Lakes Fishery Commission's Lake Committees, as well as provinces, states, and tribes in support of U.S. and Canadian Great Lakes Water Quality Agreement commitments.

#### **Invasive Species Comprehensive Management Plan**

To address the risks posed by invasive species, the NYSDEC has developed the Invasive Species Comprehensive Management Plan, as directed in Title 17 of the Environmental Conservation Law Article 9, to encompass all current and future invasive species and ecosystem types found across New York State.

The goal of the Invasive Species Comprehensive Management Plan is to help minimize the introduction, establishment and proliferation of invasive species thereby limiting potential negative impacts. This plan positions New York State to continue its role as a leader in the management of invasive species and protect our natural resources for future generations. This plan is framed around eight focus area initiatives:

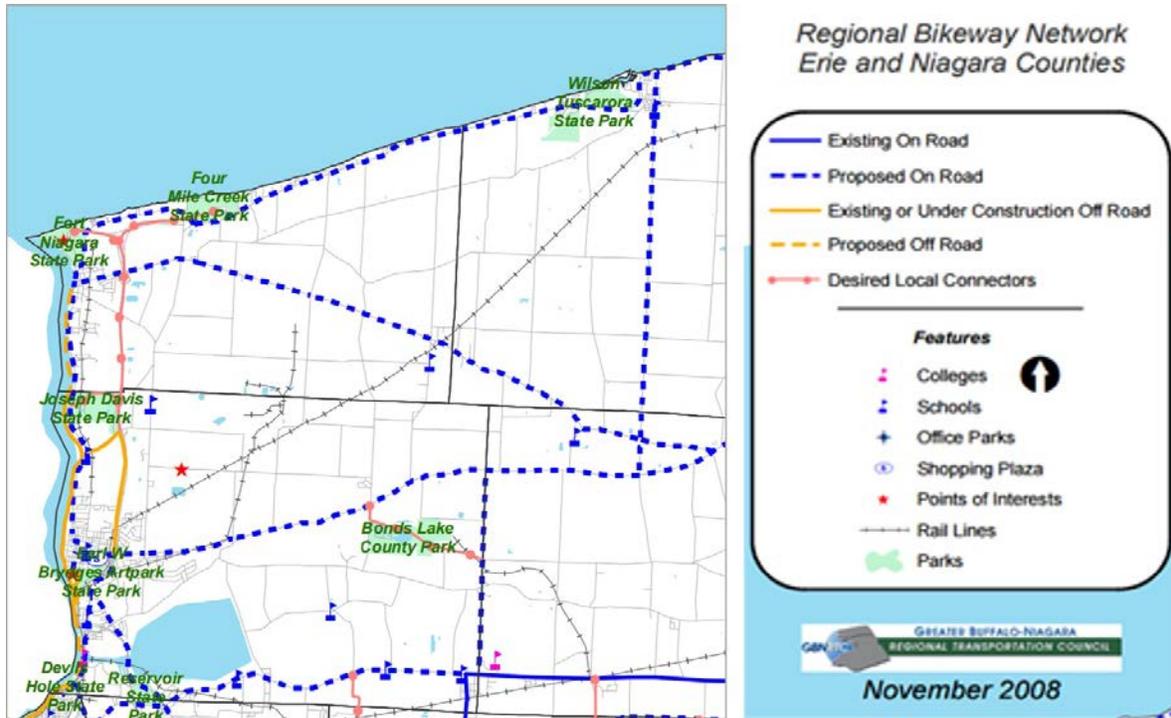
- Setting priorities for invasive species management and advance preparedness
- Engaging and informing the public
- Advance prevention and early detection
- Improving the response to invasive species
- Recovering ecosystem resilience, and
- Evaluating success.

Each initiative includes recommended actions to guide management activities of State agencies and to align the priorities of regional and local natural resource managers to State-level actions.



### 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 express purpose of the Master Plan is to provide coordinated guidance for the implementation of a safe, efficient and accessible transportation system designed for walking and bicycling. By reassessing previous goals and objectives, the intent is to adjust and reaffirm a regional vision regarding bicycling and pedestrian activities, including the establishment of interconnected bicycle and pedestrian networks for transportation. Such networks provide for focused treatments and sometimes separate facilities to promote walking and bicycling and add a critical multi-modal element to a transportation system often geared toward motor vehicle travel. It furthermore reflects current 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 Town’s goal to construct a multi-use pathway along Lower River Road, the continuation of a trail north of Joseph Davis State Park, and a trail connection between Fort Niagara State Park and Four Mile Creek State Park (and the adjacent Town Park), as well as along the length of Lake Road (SR 18). The plan outlines objectives that support the



Town's vision for the waterfront pathways, including the adaptation of existing roadways to allow for safe and convenient bicycle travel, the incorporation of innovative designs to expand and enhance the regional bikeway network, making intersections bicycle and pedestrian friendly, and identifying and eliminating hazards to pedestrian and bicycle movement.

#### **[Transportation Improvement Program, 2017-2021](#)**

The Transportation Improvement Program (TIP) is the capital programming component of the 2040 Long-Range Transportation Plan Update. The 2040 Long-Range Plan integrates up to date demographic, financial and traffic conditions information, and goals and objectives that are used to evaluate significant projects that could impact future transportation. The 2040 Plan acts as the multimodal blueprint for transportation systems and services and guides future investments aimed at meeting the transportation demands of existing and future development in Erie and Niagara County. The TIP outlines all federally funded roadway, transit, and major transportation projects being considered within the region through 2021, based on recommendations from the Long-Range Plan. The TIP also includes those regionally significant transportation projects being advanced by State and local entities with non-federal funding. At present there are no projects in the WRA that are listed on the TIP.

#### **[Buffalo Niagara 2050](#)**

The Greater Buffalo Niagara Regional Transportation Council (GBNRTC), in conjunction with community partners and regional stakeholders, is in the beginning stages of developing Buffalo Niagara 2050, 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 in the region and will focus on ways to create a more efficient, greener, smarter and sustainable transportation system for future generations.

#### **[Niagara County Comprehensive Emergency Management Plan \(CEMP\)](#)**

This plan was developed to enhance Niagara County's ability to manage emergency situations, with the focus on rapidly and adequately responding in order to minimize injury and speed recovery. It consists of three components: disaster prevention and mitigation, disaster response, and disaster recovery. The CEMP 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. This CEMP, completed in February 2008, 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**

#### **[Town of Porter Comprehensive Plan: Connecting our Past with our Future](#)**

Local planning plays a big part in how the waterfront in the Town is used and developed. The Town has been pro-active in planning for growth in the Town and adopted a Comprehensive Plan in 2004. Although the Town acknowledges that some of the information in this plan is falling out of date, the Plan still provides guidance for managing land use along the waterfront. The Comprehensive Plan recognizes



the need to protect the waterfront and ensure access to the Lake and River. It also recognizes the resources and assets that exist in the waterfront area, including fisheries and other fauna and flora, scenic vistas and parks and open space. The Comprehensive Plan sets forth guidance and recommendations for zoning and other improvements specific to the waterfront.

#### **Porter on the Lake Town Park Master Plan**

The Town of Porter owns a 33.0 +/- acre property along the shoreline of Lake Ontario, immediately east of Four Mile Creek State Park, which was developed as a park. A Master Plan was developed to identify potential improvements that could be undertaken to increase public recreational use and enjoyment of this park. This plan discusses existing conditions at this Town-owned park, provides a design philosophy and outlines several recommendations for proposed improvements, which are illustrated on a concept plan. The recommendations include ideas for improved amenities, parking and public access.

#### **Stormwater Management Plan**

The Town of Porter 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.

## **2.4. DEMOGRAPHICS AND ECONOMIC CONSIDERATIONS**

### **2.4.1 Population and Household Characteristics**

The LWRP project areas on the Town of Porter waterfront along the Niagara River and Lake Ontario are not easily captured by Census geography. Accordingly, the following information is based on the Town-wide data from the U.S. Census Bureau's 2010 Decennial Census and the 2015 American Community Survey Demographic and Housing Estimates. This information is intended to provide the general context of the Town and how it may affect waterfront planning, while recognizing that many Town residents do not live within the waterfront area.

In 2015, the Town of Porter had an estimated total population of 6,685 residents, with 3,387 males (50.7%) and 3,298 females (49.3%)<sup>1</sup>. This population estimate represents a slight decrease from the total population tally from 2010, when the Town's population was 6,771. From a statistical point of view, this approximately 1.3% decrease in the Town's population is an indicator of a relatively stable population trend in Porter over the last 5 years.

---

<sup>1</sup> American FactFinder, American Community Survey Demographic and Housing Estimates, 2015. The margin of error for the estimated total population is +/-24 persons.



Table 1 shows the Town of Porter’s population trend during the last 75-years, from 1940 to 1975. The data includes the population of the Village of Youngtown in the Town of Porter’s tabulations. It shows that after a boom in the 1950’s, the population of the Town stabilized, and has been experiencing slow, gradual declines since 1970. In Table 2, the Village of Youngstown’s population was separated from the Town of Porter’s for purposes of comparison. The same 75-year period from 1940 to 2015 was analyzed.

**Table 1: Town of Porter Population Trends**

Year	Population	Percent Change
2015	6,685	-1.3%
2010	6,771	-2.2%
2000	6,920	-2.7%
1990	7,110	-1.9%
1980	7,251	-2.4%
1970	7,429	+1.6%
1960	7,309	+71%
1950	4,276	+27%
1940	3,361	****

Source: U.S. Census Bureau

**Table 2: Town of Porter Population – Village of Youngstown Trends (75-Year Trend)**

Town of Porter (Excluding Village of Youngstown)			Village of Youngstown	
Year	Population	Percent Change	Population	Percent Change
2015	4,718	-2.4%	1,967	-1.6%
2010	4,836	-2.6%	1,935	-1.1%
2000	4,963	-1.4%	1,957	-5.7%
1990	5,034	<-1%	2,076	-5.2%
1980	5,060	-3.8%	2,191	+1%
1970	5,260	-3.6%	2,169	+17.4%
1960	5,461	+63.3%	1,848	+98.2%
1950	3,344	+32.1%	932	+17%
1940	2,532	****	799	****

Source: U.S. Census Bureau

Continuing the comparison, one finds that Niagara County’s population trends are slightly different from those found in the Town of Porter and the Village of Youngstown. From 1990 to 2015, Niagara County, overall, saw its population fluctuate downwards from 220,756 residents in 1990 to 216,749 residents in 2015, a drop of approximately 1.8%, while the Town of Porter’s population dropped over 8% during that the same time span, from 7,710 to 6,685 – over four times the amount.

In 2010, the median age of Porter’s residents was 45.9 years. Approximately 78.8% of residents were over 18 years of age and approximately 78.3% of Porter’s residents were between 18 years and 62 years of age. Approximately 17% of Porter’s residents were over the age of 65. As the following table illustrates, Porter’s age distribution was similar to the age distribution for Niagara County.



**Table 3: Age Distribution**

Age Distribution	Town of Porter		Niagara County	
<5 Years	312	4.6%	11,580	5.3%
5-17 Years	1,121	16.5%	34,910	16.1%
18-65 Years	4,174	61.6%	135,591	62.6%
65 Years and Over	1,164	17.2%	34,388	15.9%
TOTAL	6,771	100%	216,469	100%

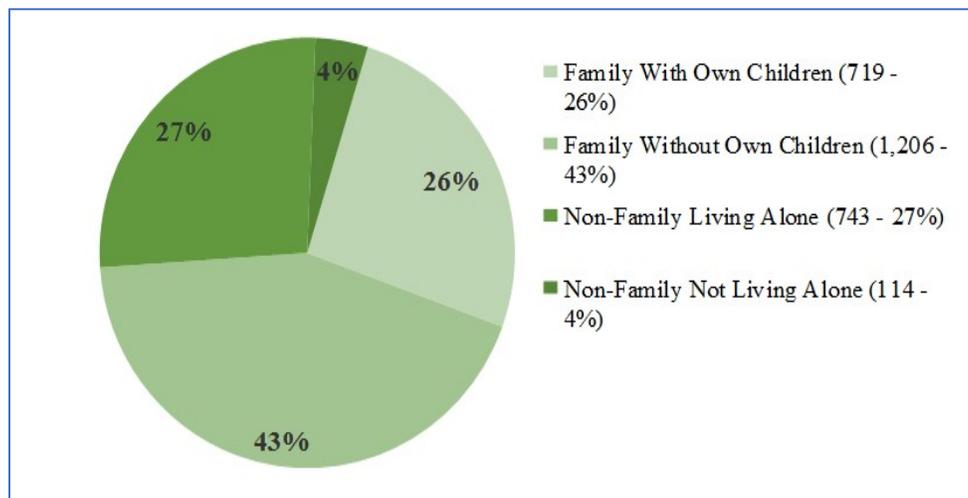
Source: U.S. Census Bureau

The average household size in Porter was 2.43 persons. The majority of residents lived in either 2-person households (36%) or 1-person households (27%). The remaining 37% of residents lived in households ranging in size from 3-person to 6-person or more. Figures 2 and 3 illustrate the breakdown of household type and size in the Town of Porter.

### 2.4.2. Housing

Housing along the Town of Porter waterfront areas generally consists of single-family detached dwelling units. In 2010, the Town of Porter had a total of 3,103 housing units, 89.7% of these housing units (2,782) were occupied, while 10.3% of the housing units (321) were vacant.

**Figure2: Town of Porter Household Type, 2010**

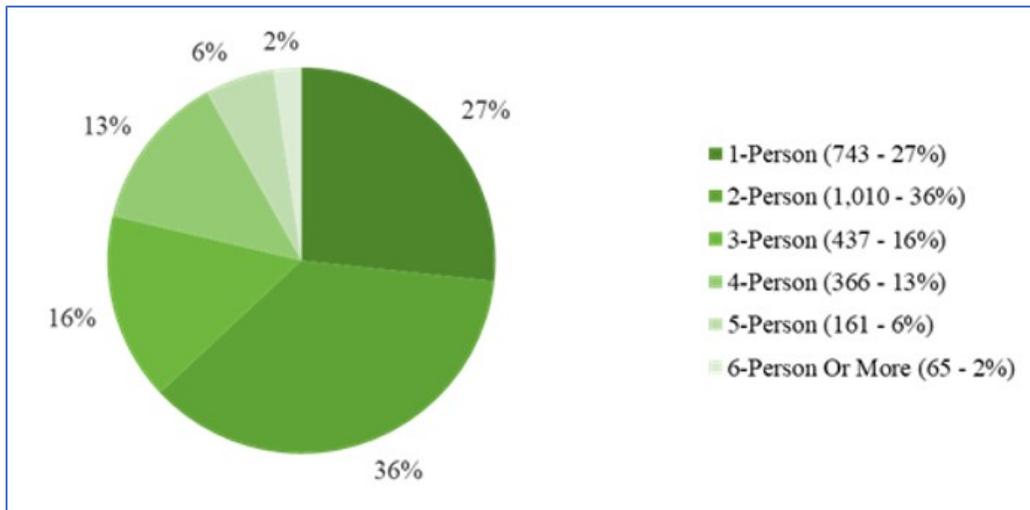


Source: U.S. Census Bureau

This relatively high vacancy rate is due to the prevalence of seasonal homes. Of the 321 vacant units, just a little over half (165) were for seasonal, recreational, or occasional use, while 34 were for rent, and 54 were for sale. A vacancy rate of roughly 5% is considered a normal vacancy rate, representing housing that is in transition, either for sale or rent. In Niagara County, approximately 8.6% of the existing housing units sat vacant.



**Figure 3: Town of Porter Household Size, 2010**



Source: U.S. Census Bureau

In 2010, of the Town of Porter’s 2,782 occupied housing units, 2,228 were owner occupied (80%) and 554 were renter occupied (20%). In comparison, of Niagara County’s 90,556 occupied housing units in 2010, 62,616 (69%) were owner occupied and 27,940 (31%) were renter occupied. Porter had roughly 10% more of its occupied housing units occupied by owners than Niagara County did. A breakdown of the types of occupied housing units found in Town of Porter can be seen in Table 4<sup>2</sup>, below.

**Table 4: Types of Occupied Housing Units**

Type of Occupied Housing Unit	Percentage of Total (2,644)
1 – Detached	86%
1 – Attached	1.3%
2 – Apartments	4.8%
3 to 4 – Apartments	1.2%
5 to 9 – Apartments	1.7%
10 or More – Apartments	1.9%
Mobile Home or Other Type	3.0%

Source: U.S. Census Bureau, 2015 Estimate

Most housing units (roughly 74%) were built between 1940 and 1999, with another approximately 22% being built prior to 1939 (Figure 4). Approximately 3% of the housing units were constructed sometime after the year 2000. In comparison, in Niagara County, approximately 30% of the housing units were constructed prior to 1939 and approximately 63% of the units were constructed between 1940 and 1999, with approximately 7% constructed sometime after the year 2000. According to the U.S. Census Bureau’s 2015 estimates, the median value of home in the Town of Porter was \$140,500, while the median value of a home in Niagara County was \$108,000, over \$32,000 less.

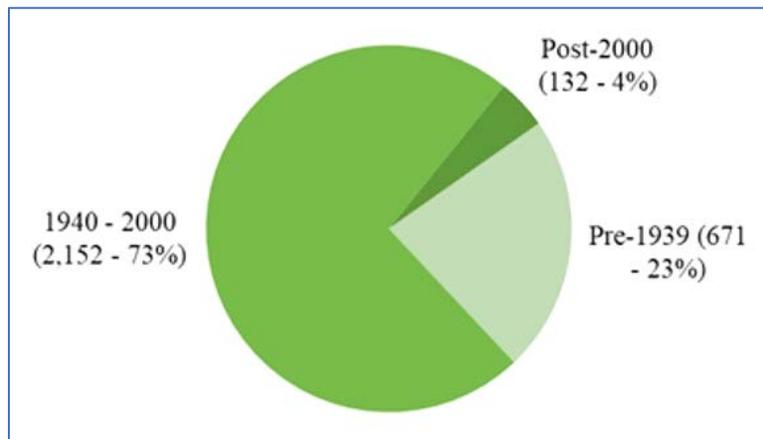
<sup>2</sup> American FactFinder, American Community Survey Demographic and Housing Estimates, 2011-2015, Figures represent an estimate based on surveys, and include a margin of error.



### 2.4.3. Income and Employment

Historically, Porter’s waterfront areas have been predominately residential in character, with a few scattered commercial establishments and limited opportunities for employment. Many residents seek employment opportunities in nearby communities such as the Village of Youngstown, Town of Lewiston, and the City of Niagara Falls.

**Figure 4: Town of Porter Housing Units, by year of construction**



Source: U.S. Census Bureau

The population in Porter tends to be more affluent than in Niagara County, as a whole. The median household income in the Town of Porter was \$67,169, approximately \$17,720 more than the \$49,449 median household income in Niagara County. The following table illustrates the income distribution for Porter.

**Table 5: Town of Porter Income Distribution, 2015 Estimate**

2015 Inflation-Adjusted	Number	Percent
<\$10,000	42	2.2%
\$10,000 to \$14,999	40	2.1%
\$15,000 to \$24,999	91	4.8%
\$25,000 to \$34,999	151	8%
\$35,000 to \$49,999	169	8.9%
\$50,000 to \$74,999	454	24.1%
\$75,000 to \$99,999	320	17%
\$100,000 to \$149,999	351	18.6%
\$150,000 to \$199,999	139	7.4%
\$200,000 or More	128	6.8%

Source: U.S. Census Bureau

The Town of Porter unemployment rate is relatively low when compared to Niagara County. With a civilian labor force of approximately 3,397 persons – approximately 95% (3,211) were employed in 2015, while Niagara County’s percentage of employed was approximately 92%.



Porter's unique, historic, and scenic location, along with its close proximity to valuable natural resources, Niagara Falls, and the Canadian border and by extension, one of the fastest growing cities in North America – Toronto, Ontario, could potentially serve as the basis for steady population trends, tourism interest, or even an increase in the number of residents.

## 2.5. EXISTING LAND USES

### 2.5.1. Existing Land Use (Maps 3A and 3B)

Land use along the waterfront in the Town of Porter is primarily residential in nature. There are no industrial uses and only two commercial properties found in the Porter Waterfront Revitalization Area (WRA).

Although agricultural uses are prevalent on the south side of Lake Road, there is limited farming activity within the WRA. Parkland is limited to two large State parks and one Town park facility. The land uses found in the WRA are described as follows.

#### **Subarea 1 - Niagara River**

(from the Town of Lewiston to the Village of Youngstown boundary)

**Agricultural:** There are no properties in Subarea 1 in active agricultural use. Although two large parcels are still included in Niagara County Agricultural District No. 8, these parcels have not been farmed in several years.

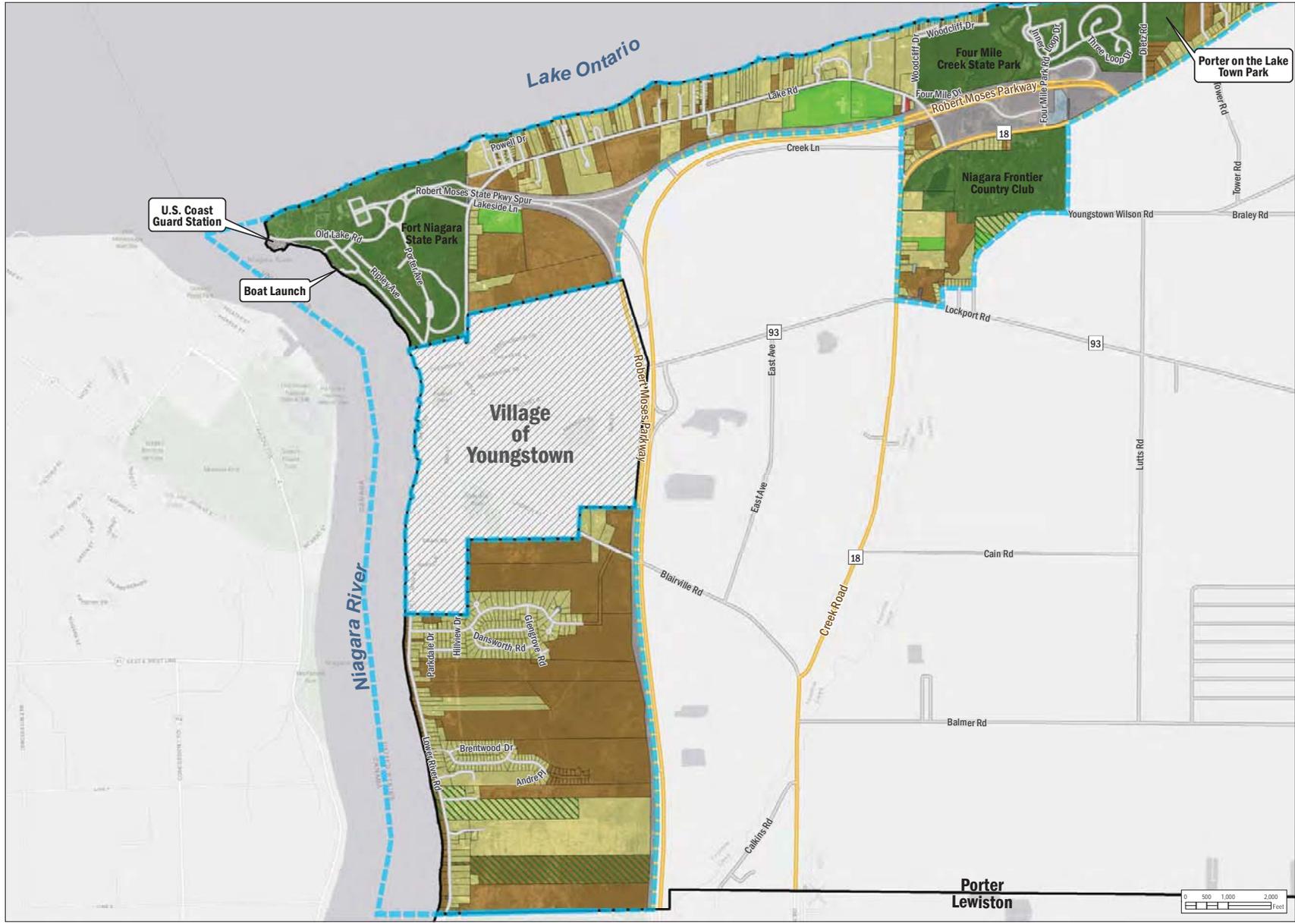
**Residential:** There are numerous residential parcels, accounting for 264.2 acres or 25.6% of land coverage. This includes single-family residences, estates that were converted to apartments, and some cottages. Many of the residences in this area are located on the east side of Lower River Road, with the property owners holding ownership to the small parcels of open land located on the west (opposite) side of the road, at the top of the Niagara River bluff. Some of these riverside properties have stairways that extend down the face of the bluff to the river's edge, where decks and/or docks are located. No multi-family dwellings were identified in this subarea. Subarea 1 does include two suburban style residential subdivisions and a small number of larger estate-sized properties.

**Commercial:** There are no commercial properties in Subarea 1.

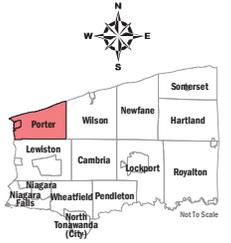
**Industrial:** There are no industrial land uses in Subarea 1.

**Parkland:** There are no parks or parkland properties in Subarea 1.

**Vacant:** Approximately 696.8 acres or 67.6 percent of Subarea 1 consists of vacant lands, including large wooded, undeveloped lots and unutilized or abandoned agricultural fields.



# Town of Porter Waterfront Revitalization Program Map 3A - Existing Land/ Water Uses



**LEGEND**

- WRA Boundary
- Municipal Boundary
- Village of Youngstown
- Parcels (2016)
- Agriculture Districts, 2017

**Existing Land Use**

- No Data Available
- Agriculture
- Residential
- Vacant
- Commercial
- Community Services
- Public Services
- Parkland/Recreation

WD Project # 432114  
Map Created: March, 2019

Wendel WDArchitecture, Engineering, Surveying and Landscape Architecture, P.C. shall assume no liability for:  
1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused or 2. Any decision or action taken or not taken by the reader or reliance upon any information or data furnished hereon.  
Data Sources: Esri, HERE, DeLorme, Mapbox, OpenStreetMap contributors, Swatch, NOAA, USGS, NYS Department of State, Office of Planning and Development, NYS Office of Information Technology Services, GIS Program Office, 2014 Aerial Imagery, Cornell GIS, NYS Ag and Markets.

This map was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.



### **Subarea 2 – Lake Ontario**

(from Fort Niagara State Park to the Town of Wilson municipal boundary)

**Agricultural:** There are a number of properties in Subarea 2 that are in agricultural use, including field crops, horse farms and a small area of orchard. These are located south and west of Four Mile Creek State Park and in the area surrounding Six Mile Creek. Most of these properties are located within Niagara County Agricultural District No. 8.

**Residential:** There are numerous residential parcels, accounting for 735.9 acres or 33.4% of land coverage. Residential uses in Subarea 2 are comprised of single-family dwellings and cottages. Many of the properties situated between Lake Road (SR 18) and the lakeshore are deep, with the home located closer to the Lake and away from the road. The area also includes several larger estate-sized properties, with bigger dwellings. The Town owns land in the Fort Niagara Beach residential area, which includes the roadways and the lakeshore frontage.

**Commercial:** There is a very limited number of commercial properties found along Lake Road in Subarea 2, including Bandana's Bar and Grill.

**Industrial:** There are no industrial land uses in Subarea 2.

**Parkland:** There are two State parks found in the WRA, including Fort Niagara State Park (located at the mouth of the Niagara River, in the northwestern corner of the Town) and Four-Mile Creek State Park, which is located along the Lake Ontario Shoreline, east of Fort Niagara. In addition, the Town operates Porter on the Lake Town Park, which is situated immediately east of Four-Mile Creek State Park. Lower River Road (SR18F) and Lake Road (SR 18) are also designated segments of the Great Lakes Seaway Trail system and the National Scenic Byway. Parklands make up over 25% of the land area in Subarea 2.

**Vacant:** Approximately 332.1 acres or 15.1% of Subarea 2 consists of vacant lands, including a combination of wooded lots, undeveloped lands and unutilized properties.



# Town of Porter Waterfront Revitalization Program Map 3B - Existing Land/ Water Uses

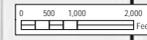


**LEGEND**

- Municipal Boundary
- Parcels (2016)
- WRA Boundary
- Agriculture Districts, 2017

**Existing Land Use**

- No Data Available
- Agriculture
- Residential
- Vacant
- Commercial
- Community Services
- Parkland/Recreation



This map was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.

WD Project # 432114  
Map Created: December, 2018

Wendel WD Architecture, Engineering, Surveying and Landscape Architecture, P.C. shall assume no liability for 1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused or 2. Any decisions or action taken or not taken by the reader in reliance upon any information or data furnished hereon.

Data Sources: Esri, HERE, DeLorme, Mapbox, Intel, OpenStreetMap contributors, Swatch, NOAA, USGS, Imagery, Mapbox, Microsoft, Bing, NYS Department of State, Office of Planning and Development, NYS Office of Information Technology Services, GIS Program Office, 2014 Aerial Imagery, Cornell GIS, NYS Ag and Markets.



## 2.5.2. Water Dependent and Water-Enhanced Uses

The only water-dependent uses found in the Porter WRA are located in Fort Niagara State Park, which include two public boat launch ramps and a U.S. Coast Guard boat docking area (see Maps 3A and 3B). Water-enhanced uses located along the Lake Ontario shoreline include Four Mile Creek State Park, Porter on the Lake Town Park and Willow Beach Campground, which is a private property located at the mouth of Six Mile Creek. Many shoreline residences have private docks or water access decks, most of which are found along the Niagara River. There are also two residential properties on Lake Ontario that share a private boat launch facility. Waterfowl hunting is conducted from Fort Niagara State Park and from shoreline docks and properties along the Lake Ontario during the fall hunting season.

## 2.5.3. Abandoned, Underutilized and Deteriorated Sites and Structures

The Porter waterfront contains a very limited number of abandoned, underutilized and deteriorated sites and structures. Being a rural community, that is mostly developed with rural residential housing and farmland, these abandoned or deteriorated uses would be comprised of older barn structures or residential properties that are in disrepair. However, such uses are uncommon in both subareas. There are two large properties in Subarea 1 that are abandoned farm fields, which have not been actively worked in a number of years and are now overgrown with natural vegetation.

## 2.5.4. Zoning Districts (see Maps 4A and 4B)

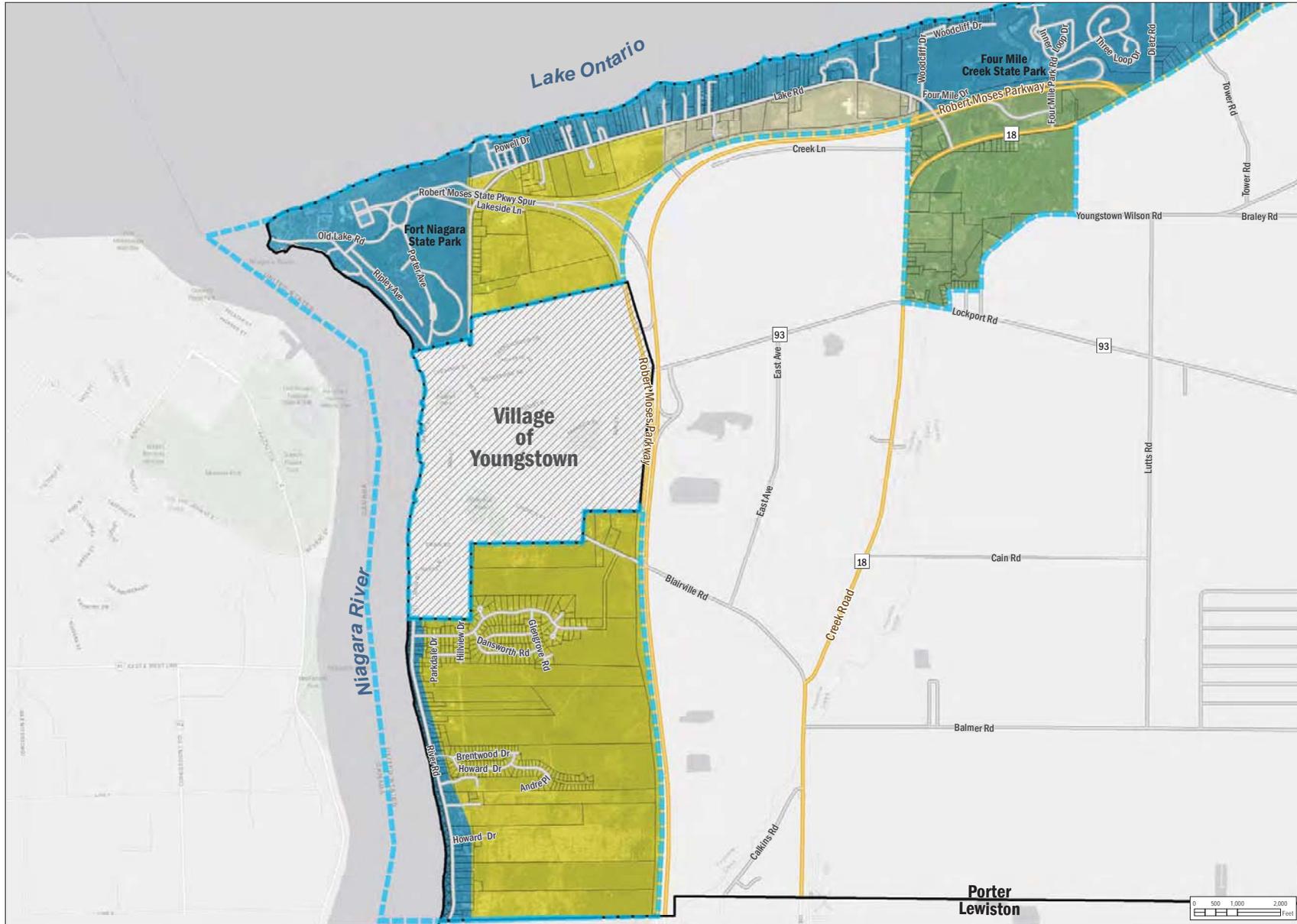
Within the Town of Porter, land use is regulated by the Zoning Ordinance (Chapter 200 of the Porter Town Code - Zoning) and by Subdivision Regulations (Chapter 165 - Subdivision of Land). Zoning in the waterfront area includes four classifications (WR-Waterfront Residential District, RA – Rural Agriculture, LDR-Low Density Residential District, MDR-Medium Density Residential District, and the Niagara River Environmental Overlay). Existing zoning along the waterfront is depicted on Maps 4A and 4B.

Zoning regulations include provisions for site plan review, cluster development, landscaping and lighting, sewage disposal facilities, signage and stormwater management. The zoning also regulates bed and breakfast establishments, home occupations, hunting clubs, and solar energy collection systems. The zoning code establishes height and bulk regulations, site plan specifications, development standards, required improvements, and penalties.

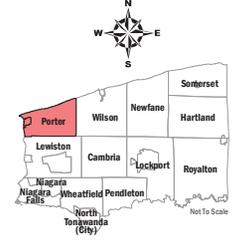
Much of the Town of Porter waterfront is zoned WR-Waterfront residential (Maps 4A and 4B).

A large area east of Lower River Road and another area north of the Village of Youngstown are zoned Medium Density Residential. An additional area, located south of Lake Road (SR 18) and west of Four Mile Creek State Park, is zoned Low Density Residential. These zoning classifications include the following provisions.

**WR – Waterfront Residential** - This district allows residential development along the shoreline of Lake Ontario. Although not listed in the adopted zoning narrative, this district is also mapped and applies to the Niagara River shoreline; the WR district zoning language needs to be revised to reflect this fact. The WR district requires greater setbacks to be consistent with the NYS Coastal Erosion Hazard Area requirements and smaller lot coverage along the lakeshore to open views of the lake. This district also allows water dependent uses that would provide public access to the shoreline.



## Town of Porter Waterfront Revitalization Program Map 4A - Existing Zoning



**LEGEND**

- Municipal Boundary
- Village of Youngstown
- Parcels (2016)
- WRA Boundary
- Existing**
- LDR: Low Density Residential
- MDR: Medium Density Residential
- WR: Waterfront Residential
- RA: Rural Agriculture
- Niagara River Environmental Overlay

WD Project # 43211.4  
Map Created: March, 2018

Wendel WD Architecture, Engineering, Surveying and Landscape Architecture, P.C. shall assume no liability for:  
1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused or 2. Any decision or action taken or not taken by the reader or reliance upon any information or data furnished hereunder.  
GIS Sources: Esri, HERE, DeLorme, Mapbox, OpenStreetMap contributors, Niagara County Real Property Services, NYS Department of State, Office of Planning and Development, NYS Office of Information Technology Services, GIS Program Office, 2014 Aerial Imagery

This map was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.





**RA – Rural Agriculture** – The RA district is designed to protect agricultural land resources and promote rural character. It allows residential development on large lots (minimum five acres), but agriculture is the primary permitted land use.

**LDR – Low Density Residential** – The LDR district is designed to provide for the development of areas that are occupied primarily by single-family residences to promote the residential character of the Town. It provides opportunities for larger yards and houses and serves as a transition area between agricultural uses and denser development.

**MDR – Medium Density Residential** – The MDR district allows for the higher-density development of neighborhoods that include a mix of single-family and multi-family dwellings and complementary services.

**Niagara River Environmental Overlay** – This overlay establishes requirements for frontage lands along the Niagara River. Any development in this area requires a special permit, site plan review and permits (as necessary) from the NYSDEC and Army Corps. of Engineers. This overlay district needs to be re-examined to better establish environmental protections; its boundaries should also be expanded to cover the Lake Ontario shoreline.

**Waterfront Access** – For waterfront parcels that exceed five acres in total lot area, Section 200-91 of the Zoning Law allows for an increase in development density in exchange for the dedication of land to the Town for public access to the shoreline.

Chapter 165 of the Town Code – the subdivision regulations, are fairly standard, with procedures for both minor subdivisions (4 or less lots, not involving public infrastructure improvements or extensions) and major subdivisions (more than 4 lots). A minor subdivision approval is a twostep process with sketch plan and minor subdivision plat review. A major subdivision requires three steps: sketch plan, preliminary plat review, and final plat review.

Other codes in the Town of Porter that affect land use in the Town include Chapter 89, which regulates flooding and flood damage prevention; Chapter 145 – Sewers, which regulates use of public sewer service and private sewage disposal; Chapter 156 – Solid Waste, which sets forth regulations for recycling in the Town; Chapter 160 – Streets and Sidewalks, which regulates driveways and culverts and requires highway work permits; and Chapter 185 – Water, which regulates use of the public water supply.

### **2.5.5. Public Access and Recreation** (Map 6)

There is a finite number of sites that offer public access in the WRA. Public waterfront access is enjoyed at two State park properties and one Town park (Map 6). There are a number of private docks located along the Niagara River waterfront, but they do not provide access to the river for the public. Residents in the Town of Porter WRA also have access to parks outside the WRA, including nearby Joseph Davis State Park, which is situated immediately south of Subarea 1, in the Town of Lewiston; the Waterfront Park and Pier, which is located along the Niagara River shoreline in the Village of Youngstown; and Falkner Park, Veterans Park and Constitution Park, also located in Youngstown Village.



### **Fort Niagara State Park**

Fort Niagara State Park is located in the northwestern corner of the Town, with lands fronting the Niagara River and Lake Ontario. This 280-acre park is open year-round and includes 10,600 linear feet of shoreline (as well as over 200 acres of underwater lands) that offer panoramic views of the River and Lake. Fort Niagara State Park provides for a variety of amenities and activities, including two boat launch sites that provide access to local surface waters for boating, fishing, sailing and swimming. Additional features in the park include wooded trails, nature programs, walking and bicycle paths, in-ground swimming and wading pools, a water slide, 18 soccer fields, three small playgrounds, five pavilions, picnic tables, a snack bar and restrooms. Limited waterfowl hunting is permitted in season. Winter activities include sledding, snowshoeing and cross-country skiing. Fort Niagara State Park also includes the Old Fort Niagara Historic site, which attracts about 100,000 visitors annually. This park also houses a US Coast Guard facility.

### **Fort Niagara State Park**



### **Four Mile Creek State Park**

Four Mile Creek State Park encompasses 248 acres and is located on Lake Road, east of Fort Niagara State Park. This park offers 275 camp sites and 2 yurts, a camp store, nature and bicycle trails, fishing areas and panoramic views of Lake Ontario. Other amenities include picnic tables, playground facilities, restrooms and laundry facilities, and snack bar and recreational programs.

### **Four Mile Creek State Park**





Four Mile Creek Park includes the mouth of Four Mile Creek and its surrounding marshlands, which provide excellent opportunities for bird watching. The park is open seasonally for camping from mid-April through mid-October. There are two dirt paths that at the eastern edge of the park that lead through a wooded area to Dietz Road, offering access between the State Park and Porter on the Lake Town Park.

### [Porter on the Lake Town Park](#)

Porter on the Lake Town Park is located along Lake Ontario, at the end of Dietz Road, immediately east of Four Mile Creek State Park. This 33.0+/- acre park provides waterfront access, as well as a number of other amenities. These include one large pavilion and two smaller pavilions, picnic tables, restrooms, basketball courts, a playground, a disk golf course and open fields for passive and active recreation. A stairway provides shoreline access to the Lake. This park has the potential for improvement to expand public recreation opportunities.

#### **Porter on the Lake Town Park - - upland and lake access**



The Town of Porter maintains a paved walking trail that runs alongside the Niagara River from the Village of Youngstown line and the Town of Lewiston line. Although occasionally used by bicyclists, this path is not designed as a multi-use amenity to properly accommodate all users.

There are also hiking trails for recreational use that are located in the State Parks. The Greater Buffalo Niagara Regional Transportation Council (GBNRTC) considers Lower River Road (SR18F) and Lake Road (SR 18) suitable for bicycle travel, but there are not designated bicycle lanes along either of these roadways.

Private recreational facilities in the WRA include the Niagara Frontier Country Club and Willow Beach Campground. The Youngstown Yacht Club is located in the Village of Youngstown, outside the WRA. The Niagara Frontier Country Club is a private membership, not-for-profit, club that is located on 130-acres situated along Lake Road in Subarea 2. The club is open seasonally and provides an 18-hole golf course and clubhouse with a dining room and bar. Willow Beach Campground is located along the Lake Ontario shoreline, at the mouth of Six Mile Creek. This facility offers long-term leases for seasonal camping use.



Lower River Road Pathway

Niagara Frontier Country Club



### 2.5.6. Public Lands

There are only four upland properties located within the WRA that are publicly owned. These include Fort Niagara State Park, Four Mile Creek State Park and Porter on the Lake Town Park, as well as the roadway right-of-way and lakeshore frontage (a total of 3.4 acres) in the Fort Niagara Beach residential area in Subarea 2. All other waterfront lands are held in private ownership.

### 2.5.7. Underwater Lands

New York, upon attaining Statehood, succeeded the King of England in ownership of all lands within the State not already granted away, including all rights and title to the navigable waters and the soil under them (NYS Public Lands Law, Section 4; *People v. Trinity Church*, 22 N.Y.44, 1860; *Langdon v. Mayor of the City of New York*, 93 N.Y. 129, 1883). Broadly speaking, the State holds title to all underwater lands not otherwise conveyed away by 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 U.S. 364, 1926; *Coxe v. State of New York*, 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 (upland) 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.

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 underwater lands 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.

#### *Underwater Land Grants and Leases*

Over the years, a small number of underwater land grants have been issued by the State along the shoreline of the Niagara River and Lake Ontario in the Town of Porter (see Table 6). 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 were acquired from the NYS Office of General Services (OGS) Bureau of Land Management for the Porter waterfront area. These maps indicate that a small number of underwater land grants were issued in the area, primarily during the late 1800's and the mid 1900's. Approximately 7 grants were issued along the shoreline between 1891 and 1971. These underwater grant lands consisted of offshore area that was used for the installation of docks or other offshore structures.



**Table 6: Town of Porter Underwater Land Grants**

Recipient	Type	Date Issued	Location	Size
Lobee Pump & Machinery	Two small areas - Unspecified	6/6/1966	East of Six Mile Creek	unknown
Town of Lewiston	Pipelines	9/8/1971	Directly west of Four Mile Creek	unknown
Harold A. Richmond	Two small areas – Unspecified*	6/5/1941	Directly east of Fort Niagara State Park	unknown
Niagara Frontier State Parks Commission	Underwater Land Ownership Transfer**	12/14/1966	Lands offshore of Fort Niagara State Park	220 acres
Tellico Johnson	Beneficial Enjoyment	10/12/1891	Niagara River shoreline	0.87 acres
Henry Howard	Beneficial Enjoyment	8/8/1892	Niagara River shoreline	0.44 acres
Burton Mitchell***	Beneficial Enjoyment	2/9/1921	Niagara River shoreline	3.42 acres

\* Likely associated with former Rumsey Park development

\*\* Land transfer associated with establishment of Fort Niagara State Park.

\*\*\* Land Patent interest in these underwater lands was surrendered and released on Oct. 13, 1931. Ownership of these underwater lands was reverted back to the State.

Source: NYSOGS, Bureau of Land Management.

Based on discussions with the OGS Bureau of Land Management (Kaleb Winters, March 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 historic interest in the underwater land moves with the title to the land.

For private property, because the interest in the underwater lands is attached to the title, there is no need for the State to reconvey the lands to the new landowner. Therefore, underwater land ownership has been transferred through property sales, over the years, to the present-day owners of the upland properties. In the future, when shoreline property owners are proposing the installation of offshore docking facilities or other structures that require the use of bottomlands, confirmation of the historic land grants will be cleared with the OGS.

**Management of Underwater Lands**

As noted, State-owned underwater lands in the Niagara River and Lake Ontario are managed by the OGS. The OGS issues grants, leases, easements and other interests for the use and occupation of 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 all NYSDEC and Army Corps of Engineers permit 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) for the use of State-owned underwater lands.



The State Office of General Services Bureau of Land Management 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 Town of Porter, the OGS is the authorizing agency for the use of underwater lands for docks or other marine structures proposed along the Niagara River or Lake Ontario shoreline. 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. Noncommercial 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 from the OGS. Hence, there are some docks along the Niagara River, which are not grandfathered through historic underwater land grants, and do not have standing (and mapped) interests.

Commercial structures or non-commercial structures that exceed 4,000 square feet in size would need review and approval by the OGS, as well as the NYSDEC, a Special Use Permit from the Town of Porter, and review and approval from the Army Corps. of Engineers permits, depending on the extent of bottom land disturbance.

## **2.6. SURFACE WATER USES, NAVIGATION AND HARBOR MANAGEMENT**

### **2.6.1 Surface Water Resources**



Surface waters in the Town of Porter WRA include the Niagara River (extending out to the international boundary with Canada); the northern boundary of the WRA follows the Lake Ontario shoreline for approximately 9 miles but does not extend out into the lake (see Map 1).

There are also two major creeks, Four Mile Creek and Six Mile Creek, which extend through the WRA before discharging to Lake Ontario, and a few smaller tributary creeks and streams. Local surface waters are utilized

for a variety of uses, including recreational/pleasure boating and sailing, swimming, recreational fishing, diving and waterfowl hunting. The Niagara River is also a source for local drinking water supply and a discharge point for wastewater effluent. All local surface water bodies receive stormwater discharges, whether through point sources or overland flow.

The Niagara River is a connecting channel for the Great Lakes, linking Lake Erie with Lake Ontario. It also represents the international boundary between the United States and Canada. The river flows northward from Lake Erie for a distance of 36 miles, conveying an average flow of about 200,000 cubic feet of water per second. The river is comprised of upper and lower sections that are separated by Niagara Falls. The Lower Niagara River is approximately 14 miles in length and supplies Lake Ontario



with about 80 percent of its water, which is more than all other sources combined. The Niagara River shoreline in the WRA measures about 2.3 miles in length.



Lake Ontario Shoreline

Lower Niagara River



Lake Ontario is the 14th largest lake in the world and the smallest of the five Great Lakes. It has a surface area that measures 193 long by 53 miles wide and is the fourth deepest of the five lakes.

The average depth in the lake is 283 feet (maximum depth 802 feet). Although similar in size to Lake Erie, Lake Ontario holds four times the volume of water. The drainage basin for the Lake Ontario watershed includes parts of Ontario, Canada and New York State. The drainage basin measures 24,720 square miles. The total retention time for water in the lake is six years (which is based on the volume of water in the lake and the mean rate of outflow). The Lake Ontario shoreline in the WRA measures approximately 8.8 miles.

Four-Mile Creek is located about four miles east of the mouth of the Niagara River. The creek extends inland from the lake, running in a southerly direction through the Town of Porter and into the Town of Lewiston. With a few minor tributaries, the Four Mile Creek is part of the overall Twelve-Mile Creek watershed, draining to Lake Ontario. There is a 20+/- acre wetland marsh that lies between the large sand bar at the mouth of the creek and the Niagara Scenic Parkway.

Above the parkway, the creek is relatively small, warm water stream that is an attractive habitat for steelhead trout and salmon.

### **2.6.2. Vessel Use, Navigation and Harbor Management**

Vessel use along the Niagara River and Lake Ontario is limited to small pleasure craft, which are used extensively for recreational boating, sailing and fishing. Access to the Niagara River within the Porter WRA can be gained from a boat launch facility in Fort Niagara State Park and the U.S.



Coast Guard Facility, which is located within the park (see Map 3A). There are no public docks, marinas or boat launch facilities along the Lake Ontario shoreline or the Niagara River shoreline, south of the Village of Youngstown. Outside the WRA, private marinas, a yacht club and boat launch facilities located in the Village of Youngstown provide access to the Niagara River in the immediate vicinity. There are also no docks for commercial or charter vessels or commercial fishing industry support facilities located within the Porter WRA. Such uses and facilities can be found in the nearby Village of Lewiston, Town of Wilson and Town of Newfane.

### Niagara River

As previously noted, the Niagara River flows from the northeastern end of Lake Erie, passing over Niagara Falls, to Lake Ontario. The entrance to lake at the mouth of the Niagara River is located between Fort Niagara, New York on the east and Fort Mississauga, Ontario on the west. The international boundary between the United State and Canada generally follows the middle of the river corridor through the lower Niagara River.

According to the National Oceanic and Atmospheric Administration (NOAA) nautical charts, the offshore water depths in the Niagara River range between 35 and 50 feet in the area that extends from the Porter/Lewiston Town boundary to the Village of Youngstown boundary in Subarea 1. Water depths increase to between 50 and 65 feet from the southern boundary of the Village to the mouth of the river (see Figure 5).

Section 7 of the Rivers and Harbors Act of March 4, 1915 (33 U.S.C. 471) authorizes the establishment of anchorage grounds for vessels in navigable waters of the United States whenever it is apparent that these are required by the maritime or commercial interests of the U.S. for safe navigation. The statute also authorizes the adoption of suitable rules and regulations regarding the establishment of anchorage grounds. Pursuant to Section 110.85 of the Code of Federal Regulations, three special anchorage areas have been established within the Niagara River that fall within the waterside portion of the Porter WRA (see Figure 5). These areas are located adjacent to the Village of Youngstown and encompass approximately 90 acres of water surface. Permitting jurisdiction within these anchorage areas is reserved for the U.S. Army Corps of Engineers and the U.S. Coast Guard. The Youngstown Harbor Commission controls the location, type and assignment of vessel moorings placed within these areas; vessel use within Niagara River waters offshore of Youngstown is also regulated by the Village pursuant to Chapter 79 of the Village Code.

The entrance of the Niagara River is marked by a lighted, water activated green bell buoy, with a four second flash (see Figure 6). This buoy is located about a mile out into the Lake. There are additional navigation aids in the Niagara River, offshore of the Village of Youngstown. These consist of privately owned, floating beacons that identify the special anchorage areas, including the mooring area for the Youngstown Yacht Club (see Figure 5).

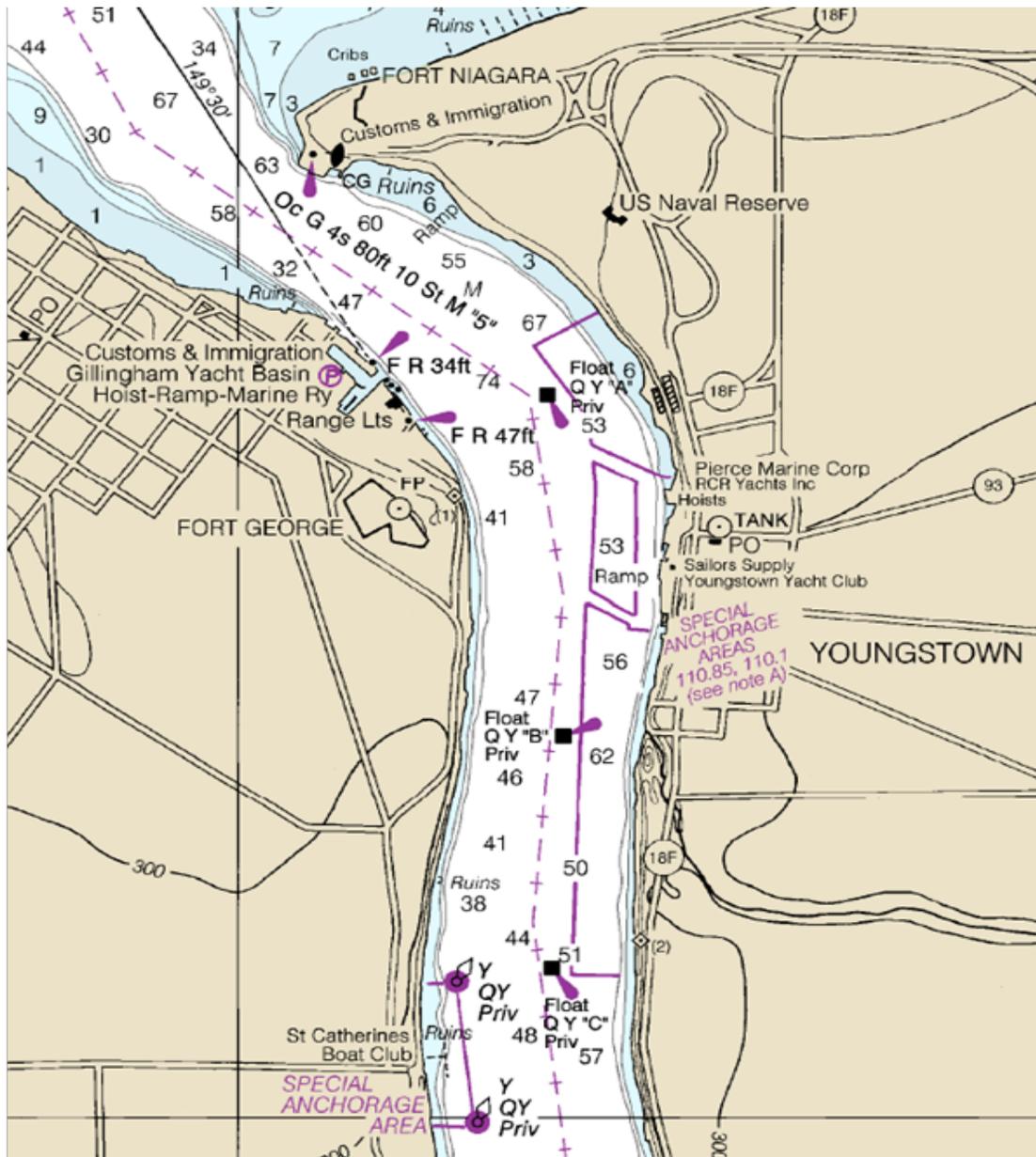
### Lake Ontario

Water depths in Lake Ontario vary considerably (see Figure 6), ranging from between one and twenty feet closer to the U.S. and Canadian shorelines, to over 20 feet as you move into further reaches of the lake. Water depths in the middle of Lake Ontario exceed 100 feet. The shallow depths near the shoreline



and the mouth of the Niagara River are due to the fact that the river carries a great volume of water, with a current that flows at approximately 2.2 knots, depositing considerable amounts of sediment in Lake Ontario. This sedimentation forms extensive shoaling that extends for a radius of about three miles out from the mouth of the Niagara River. The Rumsey Shoal, which has water depths of about 17 feet, is an unmarked, detached shoal that is located about 1.5 miles north of Fort Niagara. There is a lighted beacon located at Fort Niagara, on the east side of the mouth of the Niagara River channel. This light stands 80 feet above the water and is shown from a tower that has a white and green diamond-shaped daymark.

**Figure 5: Navigation Chart for Niagara River**



Source: NOAA, Office of Coast Survey





### *Jurisdictional Authority for Enforcement of Navigation Law and Surface Water Uses*

Different federal, state and local entities have the authority to regulate activities in the Niagara River portion of the Porter WRA. These include the U.S. Coast Guard and Army Corps. of Engineers (ACOE), the New York State Department of Environmental Conservation (NYSDEC), Niagara County Sheriff's Department and the Town of Porter. Additionally, as discussed in Section 2.5.7, the New York State Office of General Services has jurisdiction authority over the underwater land of the Niagara River.



The U.S. Coast Guard operates a station located in Fort Niagara State Park, at the mouth of the Niagara River. The mission of this station includes search and rescue, enforcement of New York State Navigation Law, homeland security and customs and immigration, drug and alien interdiction, ice rescue, recreation boater safety, environmental response and military readiness. As previously stated, the U.S. Coast Guard also has permitting

jurisdiction within the three special anchorage areas in the Niagara River.

In accordance with Section 404 of the Clean Water Act (33 CFR Sections 322 and 323), the U.S. Army Corps. of Engineers (ACOE) regulates the physical disturbance of lands located below the ordinary high-water mark when adjacent wetlands are absent and to the limits of the adjacent wetlands where present. Permits are required from the ACOE for the installation of structures or for work in or affecting navigable waters of the U.S. This includes the installation of piers, docks, boat launch ramps, breakwaters, bulkheads, revetments, rip rap, jetties, permanent moorings, navigational aids, power transmission line; and discharges of dredged fill or other materials.

The NYSDEC regulates docks and other marine structures and uses pursuant to the New York State Protection of Waters Program (6 NYCRR, Part 608). A Protection of Waters Permit is required from NYSDEC for constructing, reconstruction or repairing docks or platforms and for the installation of mooring on, in or above navigable waters. In addition to this permit, the NYSDEC also regulates activities undertaken in designated freshwater wetlands and coastal erosion hazard areas within the WRA.

The Niagara County Sheriff's Marine Patrol focuses on enforcement of the New York State Navigation Laws and boater safety and education. This includes teaching Boater Safety Certificate Courses and vessel inspections. The Marine Patrol provides search and rescue capabilities and assistance for stranded boaters, accident investigation, regatta permit assistance, pollution control response and boating manufacturer standards compliance. The Marine Patrol operates multiple patrol boats within the 540 square miles of Niagara County waters. This includes parts of the Erie Canal, Upper Niagara River, Lower Niagara River, and Lake Ontario. New York State Navigation Law currently requires any operator of a Personal Watercraft (PWC), regardless of age, to first complete an approved Boater Safety Course. The Niagara County Sheriff's Marine Patrol conducts these courses throughout the year. Their



area of responsibility is the Lower Niagara River and 34 miles of Lake Ontario waters extending east of the Niagara River.

Pursuant to Article 3, Section 32-e. of the New York State Navigation Law, the Town of Porter has delegated authority within its municipal boundary to restrict and regulate the construction and location of docking structures in the Niagara River or bounding the Town. Structures that can be regulated include boathouses, docks and piers, wharfs, jetties and other types of structures that are non-permanent in nature or that are otherwise not subject to permit requirements. Any private boathouse or private (non-commercial) dock for four or less boats that is sited along the Niagara River in the Porter WRA requires a Special Use Permit from the Town per Section 200-20 of the Zoning Ordinance, as well as any NYSDEC and/or Army Corps of Engineers approvals, as required.

### **2.6.3. Marinas and Docks**

As previously noted, there are no public or private marinas within the Porter WRA. There is a public boat launch ramp located within Fort Niagara State Park. This facility consists of two, two-lane concrete ramps; one is utilized for launching boats and the other for retrieval. The park also offers restrooms, a fish cleaning station and parking for 50+ vehicles with trailers. A fee is charged to use the ramps; a fee to use the park may also be charged, depending upon time of year.

Boat launching facilities are also available in the Village of Youngstown, outside the WRA. Boat docks along Lake Ontario are limited due to shoreline conditions and the seasonal impacts of lake storms. There are a few private properties along the lake that have small docks and two residential properties that share a private boat launch facility. There are numerous private docking facilities found along the Niagara River shoreline that are associated with private residential properties, which enable residents to utilize the Niagara River for recreational boating and fishing. As discussed in Section 2.6.2, the installation of docks, pilings, decks and boathouses along the Niagara River and on Lake Ontario, 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 application.

NYSDEC approval may also be required depending on the circumstances. Additionally, any dock installed along the Niagara River shoreline requires a special use permit from the Town in accordance with Section 200-20 of the Zoning regulations.

### **2.6.4. Recreational Fishing**



Recreational freshwater sports fishing is a popular sport and a significant industry in Lake Ontario and the Niagara River. Whether from water or land, anglers are active throughout the year in search of numerous species of fish. Fish that can be found in the Lake Ontario and Niagara River waters in the Porter WRA include lake trout, largemouth bass, smallmouth bass, chinook and Coho salmon, perch, steelhead (rainbow) trout, smelt and northern pike.



As previously noted, the Niagara bar, which is located northeast of the mouth of the Niagara River, is a huge sand and gravel deposit that extends about four miles north into the lake and two miles to the east. This area is one of the most productive fishing areas in the region, spring through fall. The Niagara River's warmer water extends in a plume into Lake Ontario, drawing baitfish to the river in early spring, resulting in good trout and salmon fishing in the "trench"—the deep channel that extends from the river's mouth out to the green buoy. From mid-April through May, Chinook salmon fishing is popular in the lake, along the "ledge" (northern edge of the bar) where water depths can reach 300 feet.

Anglers also experience good catches of lake trout, Coho salmon and brown trout on top of the bar during that same time of the season. During summer, smallmouth bass, walleye and brown trout dominate catches on top of the bar. Chinook salmon catches peak again in mid-August through mid-September, as fish stack up along the ledge in preparation for their spawning run upriver.



The Lower Niagara River is one of New York State's finest trout and salmon fisheries. Beginning in early September, anglers can take advantage of one of the earliest Chinook salmon runs that Lake Ontario has to offer. From fall through spring, steelhead trout, brown trout, lake trout and the occasional Atlantic salmon can be caught on any given day.



Shoreline fishing is also popular in the area. There are a few locations in the WRA for shoreline fishing, including Fort Niagara State Park, Four Mile Creek State Park, and Four Mile Creek itself, which attract anglers seeking steelhead trout or salmon. Decks and docks along the Niagara River provide additional opportunities, but these are private and do not offer public access. Constitution Park and the South Waterfront Dock, in the Village of Youngstown, and Joseph Davis State Park (all located outside the WRA) are also popular fishing spots in the

area. The provision of other public locations for shoreline fishing in the WRA would be beneficial for increasing recreational fishing opportunities.

Every year the NYSDEC releases huge amounts of fish into public streams, rivers and lakes across the State to restore native species and to enhance recreational fishing, including Lake Ontario and the Niagara River. In 2016, fish stocking in Lake Ontario included approximately 1.88 million Chinook salmon, 316,000 Coho salmon, 662,170 steelhead trout, 495,620 brown trout, 156,270 Atlantic salmon, 384,250 lake trout and 68,250 walleye.

There are numerous charter fishing establishments, regional fishing clubs, fishing derbies and locations for trailer and car top boat launching in the nearby region. Boat launching in the WRA occurs at Fort Niagara State Park; a nominal fee is charged per vessel. The Niagara Bar and Lower Niagara River (Coast Guard drift, Johnsons drift and Peggy's eddy) are popular locations for "boat drifting". Maps, such as the



Western New York Hot Spot Fishing Map and Niagara USA's Fishing and Outdoor Activity Map, provide a wealth of information about local fisheries, marinas and launch areas, shoreline fishing locations, charter fishing and licensing and the like.

Information about when and where to fish in the area can also be found on the NYSDEC, Niagara County, Niagara Falls USA, and other sports fishing websites.

In summary, surface water resources in the Porter WRA include the Niagara River, Lake Ontario, two major creeks and a small number of tributary streams. The Niagara River, Lake Ontario and major creeks are popular places for recreational boating and sport fishing, which is a significant industry in the region. There are no public marinas or docking facilities for boating in the WRA; public access to local waters for these activities is limited to two boat launch facilities at Fort Niagara State Park, and marinas and commercial docks in the Village of Youngstown and other nearby locations outside the WRA. Shoreline fishing is also popular, but there are limited locations for this activity in the WRA. Additional opportunities for public access for recreational activities, within existing State Parks and Porter on the Lake Town Park, as well as other locations along the shoreline need to be explored.

### **[The Niagara River Anglers Association](#)**

The Niagara River Anglers Association is not-for-profit, membership-based sport fishing club that is dedicated to a clean environment, education and the preservation of wildlife. They have promoted clean water, fish stocking and wildlife preservation projects since 1982. This association established the 61-acre Walleye Ponds and Wilderness Preserve, on Balmer Road in the Town of Porter, where Walleye fry are raised and then transferred annually to the lower Niagara River.

## **2.7. NATURAL RESOURCES (Map 5)**

### **2.7.1. Water Quality**

The Porter WRA includes portions of two separate watershed basins. The Niagara River is the receiving waterbody for the Niagara River watershed, which drains the northern portion of the Niagara River/Lake Erie Basin. Lake Ontario receives waters from the Western Lake Ontario/Oak Orchard-Twelve Mile Watershed. In the WRA, this would include flows from Four Mile Creek, Six Mile Creek and other tributary streams, as well as overland flow. All told, Lake Ontario receives inflow from approximately 24,000 square miles of upland area.

Pursuant to Article 15 of the Environmental Conservation Law, New York State Department of Environmental Conservation (NYSDEC) created the Protection of Waters Program to prevent undesirable activities on water bodies by establishing and enforcing regulations that are compatible with the preservation, protection and enhancement of the present and potential values of the water resources; protect the public health and welfare; and are consistent with the reasonable economic and social development of the State. The discharge of any and all pollutants from municipal, industrial and commercial uses into the Niagara River, Lake Ontario and major creeks and creek tributaries shall conform to Article 15 as well as all other State and Federal water quality standards and must be in full compliance with all applicable regulations that govern such discharges.



In accordance with Title 6 of the New York Code of Rules and Regulations (NYCRR), Part 701- Classifications - Waters and Groundwaters, the NYSDEC assigns water quality classifications to surface waters in New York State. These classifications identify existing or expected best usage for each waterway or waterway segment in the State. Water quality classification categories that apply to the waterbodies within the WRA are noted below and in Table 7.

**Classification A-Special (A-S)** – The best usage of Class A-S waters is as a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. These waters are considered suitable for fish, shellfish and wildlife propagation and survival.

**Classification A** – The best usage of Class A-S waters is as a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing. These waters are considered suitable for fish, shellfish and wildlife propagation and survival.

**Classification B** – The best usage of Class B waters is primary and secondary contact recreation and fishing. These waters are considered suitable for fish, shellfish and wildlife propagation and survival.

**Classification C** – The best usage of Class C waters is fishing. These waters shall be suitable for fish, shellfish and wildlife propagation and survival. These waters may be suitable for primary and secondary contact recreation, although other factors may limit the use for such purposes.

In certain locations, class A, B and C surface waters may also have a standard of (T) or (TS) attached, which indicates the presence of trout or trout spawning. In such cases, this designation may afford additional protection for these waters. None of the surface waters in the Porter WRA carry this distinction.

**Table 7: Water Quality Classifications**

Waterbody Segment	Index No.	Classification
Lake Ontario	Ont (portion 22 – Niagara River to Roosevelt Beach, Wilson)	A
Niagara River	Ont 158 (portion 1 – Lake Ontario to Niagara Falls)	A-Special
Four Mile Creek, mouth to SR 18 (Lake Road)	Ont 156 – Lake Ontario to Towers Corners	B
Four Mile Creek, SR 18 (Lake Road) to source	Ont 156 – Lake Ontario to Towers Corners	C
Six Mile Creek	Not assessed	-

*Source: Title 6 of the New York Code of Rules and Regulations, Part 701*

### 2.7.2. Priority Waterbodies List

The water quality classifications assigned to waterbodies do not necessarily (or accurately) reflect all water quality issues and conditions. The Federal Clean Water Act requires states to periodically assess and report on the quality of waters in their jurisdiction. Therefore, the NYSDEC has developed a State-wide inventory of specific waterbodies that is based on monitoring and information drawn from other programs and sources. This inventory characterizes general water quality, the degree to which water



uses are supported, and progress 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. The “Waterbody Inventory /Priority Waterbodies List” is used as a base resource for the 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:

**Impaired Segments** – These are waterbodies with well documented water quality problems that result in precluded or impaired uses. This category includes “High and Medium Resolvability” segments where the Division of Water considers the expenditure of additional resources to improve water quality to be worthwhile given public interest and/or the expectation that a measurable improvement can be achieved; and “Low Resolvability” segments with persistent/intractable problems on which the Division is not likely to spend any significant resources (e.g., segments affected by atmospheric deposition, etc.);

**Waters with Minor Impacts** – These are 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.

**Threatened Waterbody Segments** – These are 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. Also included in this category are waterbodies where the support of a specific and/or distinctive use makes the waterbody susceptible to water quality threats.

**Waterbodies with Impacts Needing Verification** – These are segments that are thought to have water quality problems or impacts, but for which there is insufficient or indefinite documentation. These segments require additional monitoring to determine whether uses should be restricted.

**Waters with No Known Impacts** – These are waterbody segments where monitoring data and information indicate no use restrictions to overall uses, although minor impacts to component indicators, such as biological assessments, may be present.

**UnAssessed Waterbodies** – These are 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 8 outlines the use impairments, types of pollutants and sources for each listed waterbody located within the Porter WRA, which is part of the Lake Ontario Basin Waterbody Inventory area for the Priority Waterbodies List. This inventory evaluates conditions in Lake Ontario, the Niagara River and Four-Mile Creek, but water quality conditions in Six Mile Creek have not been assessed. Water quality, particularly at the mouth of Six Mile Creek, is a local concern due to the use of on-site septic systems for sanitary waste disposal, which are a known source of contamination and impairment. Agricultural nutrients may also be problem for water



quality in Six Mile Creek. This creek should be assessed to determine if the water quality is impaired and to provide data to support potential remedies for identified or suspected problems.

**Table 8: Water Quality Impairments**

Water Body	Category	Impaired Uses /Conditions	Severity	Type of Pollutant	Causes/Sources
<i>Capital letters indicate major pollutants/sources</i>					
<b>Lake Ontario</b> Western Shoreline (Ont – Portion 22)  Shoreline from Niagara River East to Roosevelt Beach (Town of Wilson)	Impaired Segment	Fish Consumption	Impaired ( <i>Known</i> )	<u>Known:</u> PRIORITY ORGANICS (PCBS, DIOXIN) PESTICIDES (MIREX)	<u>Known:</u> CONTAMINATED /TOXIC SEDIMENTS; Atmospheric Deposition
		Public Bathing	Impaired ( <i>Known</i> )	ALGAL/NATIVE PLANT GROWTH (CLADOPHORA)	<u>Suspected:</u> AGRICULTURE; HABITAT ALTERATION;
		Recreation	Impaired ( <i>Known</i> )	<u>Suspected:</u> NUTRIENTS (PHOSPHORUS)	Streambank Erosion;
		Aquatic Life	Fully Supported ( <i>Known</i> )	Silt/Sediment	Urban/Storm Runoff
		Water Supply	Fully Supported ( <i>Known</i> )		
		Habitat/Hydrology	Fair		
		Aesthetics	Fair		
<b>Niagara River</b> Lower, Main Stem (Ont.158-Portion 1) 12.0 Miles	Impaired Segment	FISH CONSUMPTION	Impaired ( <i>Known</i> )	PRIORITY ORGANICS ( <i>Known</i> ) PCBs and Dioxin	<u>Known:</u> CONTAMINATED / TOXIC SEDIMENTS from Lake Ontario
		HABITAT /HYDROLOGY	Impaired ( <i>Suspected</i> )	PESTICIDES ( <i>Known</i> ) Mirex PRIORITY ORGANICS ( <i>Suspected</i> ) PAHs	<u>Suspected:</u> HABITAT MODIFICATION
		Water Supply	Threatened ( <i>Possible</i> )	PESTICIDES ( <i>Suspected</i> ) Organic Chlor /HCB	
<b>Four Mile Creek</b> Lower Corridor and Tributaries (Ont. 156) 1.5 Miles	Impaired Segment	AQUATIC LIFE	Impaired ( <i>Known</i> )	UNKNOWN TOXICITY, Nutrients, Pathogens	<u>Suspected</u> Sanitary Discharges <u>Possible:</u> UNKNOWN SOURCE Municipal; On-Site Septic Systems; Biological Impacts; Private, Commercial, Institutional.
		RECREATION	Impaired ( <i>Known</i> )		

Source: NYSDEC Lake Ontario Basin and Niagara River/Lake Erie Basin Priority Waterbodies Listings, August 2007 and September 2010

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 in order to restore and protect such uses. The 2016 Section 303(d) List of Impaired Waters identifies Lake Ontario, the lower segment of the Niagara River and Four Mile Creek as



surface waters in the WRA that require some level of attention to identify water quality impairments and strategies to achieve water quality standards. A Total Maximum Daily Load (TMDL) or other appropriate strategy is required for Lake Ontario and the lower Niagara River due to fish consumption advisories related to the known presence of contaminated sediments containing dioxin, Mirex and PCBs.

The lower Niagara River, Lake Ontario and Four Mile Creek are identified as waters where the preparation of a TMDL may be deferred pending further verification of suspected impairments and the cause, pollutant or source of water quality problems. As noted in the 2016 Section 303(d) List, the Niagara River requires further study for pesticides and priority organics; Lake Ontario for phosphorus associated with algal blooms (suspected source is agricultural runoff).

Aquatic life support and fishing in Four Mile Creek are impaired by unidentified pollutants that need to be identified so an appropriate remedial strategy can be devised. Biological sampling in Four Mile Creek that was taken in the vicinity of the Niagara Frontier Country Club golf course revealed severely impacted water quality conditions. The impact source determination indicated that municipal/industrial wastes were the primary cause. Such impacts suggest domestic sewage or other pollutants frequently associated with direct discharge of wastewater. There are known stormwater discharges to the creek, which likely carry septic leachate which could be a contributing source of the contamination.

### **Buffalo Niagara Waterkeeper**

The mission of this organization is to restore and protect the 1,440 square miles of watershed for the Niagara River, addressing issues that affect the Niagara River, Lake Erie and Lake Ontario. The objective is to protect water quality, restore the health of ecosystems, connect people to the water and promote economic growth and community engagement.

The Buffalo Niagara Waterkeeper worked with local municipalities and agencies to produce the Healthy Niagara Watershed Management Plan, which was a two-phased planning effort focused on completing an initial assessment of the Niagara River watershed by performing an ecological inventory, GIS analysis, and municipal code review to identify and rank sub-watersheds based on water quality, habitat and land use metrics, and developing implementation plans for five priority sub-watersheds based on water quality and stream condition data to inform a number of strategic actions, best management practices and programmatic suggestions for addressing waterbody impairments and conserving lands that contribute to good water quality.

The Waterkeeper also conducts the Riverwatch Program that trains volunteers to monitor water quality in local streams and creeks in the region. While government agencies regularly collect data from several sites in the Niagara River watershed, budget and staff limitations prevent adequate coverage for many creeks and tributary streams. The River Watch program enables the Waterkeeper to provide surveillance monitoring to bolster baseline water quality data and track the health of local waterways to determine if restoration actions are necessary to protect water quality. There are no sites in the Porter WRA that are currently being monitored under this program, but there is a need to gain a better understanding of water quality conditions in Six Mile Creek and portions of Four Mile Creek. Having local volunteers participating in the WRA would help to identify local water quality problems and potential solutions. The Town will work with the Buffalo Niagara Waterkeeper in this regard.



### Niagara River Area of Concern

The Niagara River extends through Erie and Niagara counties in western New York. In the early 20th century, the Niagara River was considered to be one of the most degraded places in North America. Over the past 50 years, major cleanup efforts in the river have reduced discharges of pollution and toxic chemicals. The goal is to have the Niagara River officially removed from the list of polluted places (hot spots) in the Great Lakes by December of 2019.

In 1972, the U.S. and Canada first signed the Great Lakes Water Quality Agreement, which was amended in 1983 and 1987. The 1987 amendment to this Agreement designated 43 Areas of Concern (AOCs) as a way to focus restoration work on these areas. Of the 43 AOCs, 26 are located entirely within the U.S., 12 are entirely in Canada, and 5 are shared by both countries. Under the Great Lakes Water Quality Agreement, the International Joint Commission (IJC) independently monitors implementation of cleanup plans, and reviews and comments on proposals for delisting AOCs. Every three years, the IJC also assesses the progress of the partnering governments in undertaking activities under the Agreement. This assessment may include an examination of steps taken to remove impairments and cleanup AOCs.

**Figure 7: Niagara River Area of Concern**



The Niagara River was designated an AOC under the 1987 amendment to the Great Lakes Water Quality Agreement (Figure 7). The Niagara River AOC boundary extends from the mouth of Niagara River at Lake Ontario to Smokes Creek near the southern end of Buffalo Harbor. The area was considered highly degraded due to:

- post-industrial and municipal discharges degrading water quality and producing bottom sediment problems,
- a long history of development affecting fish and wildlife habitat,
- metals and cyanides in bottom sediments,
- hazardous waste sites,
- two Superfund sites, and
- contaminated discharges from Lake Erie's watershed.

Habitat degradation and the survival of aquatic life in the Niagara River AOC have been impaired by toxic chemicals, such as PCBs, mirex, chlordane, dioxin, dibenzofuran, hexachlorocyclo-hexane, polycyclic aromatic hydrocarbons (PAHs), and pesticides. This degradation resulted in a number of beneficial use impairments, including:

- restrictions on fish and wildlife consumption,
- fish tumors or other deformities,
- degradation of the benthos layer,
- restriction on dredging activities,
- loss of fish and wildlife habitat,
- degradation of fish and wildlife populations, and
- bird or animal deformities or reproduction problems.



In 2012, the Great Lakes Water Quality Agreement was updated to enhance water quality programs that ensure the “chemical, physical, and biological integrity” of the Great Lakes. The 2012 agreement will facilitate United States and Canadian action on threats to Great Lakes water quality and includes strengthened measures to anticipate and prevent ecological harm. New provisions address aquatic invasive species, habitat degradation and the effects of climate change, and support continued work on existing threats to public health and the environment in the Great Lakes Basin, such as harmful algae, toxic chemicals, and discharges from vessels.

The Great Lakes Water Quality Agreement outlines the process for restoring Areas of Concern. This process involves developing a Remedial Action Plan to address the beneficial use impairments that have resulted from historic legacy of pollution for each AOC. Past municipal and industrial discharges, waste disposal sites and urban/stormwater runoff have long been the key source of contaminants to the Niagara River. Beyond this, water quality issues in the drainage basin are quite diverse and include non-point source pollution, stream bank erosion, urban /industrial runoff, sanitary discharges from municipal and on-site systems, habitat modification and agricultural activity. Shoreline development, bulkheading and other shoreline protection structures, dredging and stream modifications have also impacted the river.

Remedial Actions Plans are developed in three stages. Stage I identifies specific beneficial use impairments and the sources of pollution, Stage II lays out restoration actions and a plan for implementing those actions, and Stage III provides documentation that all the beneficial use impairments have been addressed and that the AOC is ready to be delisted. A combined Stage I/II RAP was developed for the Niagara River in 1994, followed by the development of the Niagara River Toxics Management Plan, which provided a summary of the progress being made toward the reduction of “priority toxics” carried in point and non-point source discharges to the river. An update to the Stage II RAP was completed in December of 2009. An additional update was prepared in 2012, which documents work that has been accomplished, and work that remains to be completed, to address the beneficial use impairments.

Beginning in 2010, EPA awarded money from the Great Lake Restoration Initiative (GLRI) to fund the Niagara River restoration project. The GLRI was launched to accelerate efforts to protect and restore the Great Lakes, which is the largest system of fresh surface waters in the world. During fiscal year 2015-2019, federal agencies will continue to use GLRI resources to strategically target the biggest threats to the Great Lakes ecosystem and to accelerate progress toward long-term goals for this important ecosystem (which are summarized in the GLRI Action Plan II). The actions will build on restoration and protection work carried out under the first GLRI Action Plan, with a major focus on:

- cleaning up Great Lakes AOCs,
- preventing and controlling invasive species,
- reducing nutrient runoff that contributes to harmful/nuisance algal blooms, and
- restoring habitat to protect native species.

Continued efforts to address the Niagara River AOC impairments through 2019 and beyond, are contingent upon the continuance of essential government funding.



### Vessel Waste

Pursuant to Clean Water Act Section 312(f)(3), the State of New York has determined that the protection and enhancement of the quality navigable surface waters in the State requires greater environmental protection. Therefore, as a key component of a larger strategy to protect water quality, the State has designated most coastal waters and connecting waterways as Vessel Waste No Discharge Zones (NDZ).



Vessel Waste No Discharge Zones are locations where it is illegal to discharge on-board sanitary wastes from boats into surface waters; boaters are required to use appropriate vessel pump-out facilities, which are available at most marinas, to dispose of treated and untreated sewage waste. Sanitary waste from boats often contains harmful levels of pathogens and chemicals, such as formaldehyde, phenols and chlorine, which severely harm water quality, pose a risk to public health, and impair marine life and habitats. The Niagara River and the Lake Ontario are designated NDZs.

There are no vessel waste pump-out facilities located within the Porter WRA. The only feasible location for such a facility would be at the boat launch ramps at Ft. Niagara State Park, as this is the only water-dependent use for motorized vessels in the WRA. Should the State undertake future expansions at the park, such as expanded docking facilities, a vessel waste pump-out station should be provided. Vessel waste pump-out facilities are located at the Youngstown Yacht Club and RCR Yachts marina in the Village of Youngstown; at the Lewiston Dock in the Village of Lewiston and at Roosevelt Harbor in the Town of Wilson; all these locations are outside of the WRA.

### Stormwater Drainage and Non-Point Source Pollution

Another primary impact to water quality in the Porter WRA is non-point source pollution. Non-point source pollution is pollution that reaches a surface water body through unconfined or indiscrete means. Examples include stormwater sheet or overland flow (i.e. – unchanneled flow from paved surfaces, buildings and construction sites) which carries animal wastes, soil and sediment, road oil and other automotive by-products, pesticides and fertilizer; and groundwater infiltration that can carry contaminants from faulty cesspools or septic tanks or toxins from other sources of pollution. The best way to control the rate of non-point contaminant generation and transport in upland areas is through the use of best management practices (BMPs). Non- structural BMPs, such as reducing fertilizer and pesticide applications, and proper disposal of pet wastes, automobile waste oils, etc., are relatively inexpensive as compared to the costs of employing structural measures to mitigate pollution. Public Education is an important means of implementing best management practices.

The Town of Porter 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, including the Town of Porter, 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.

As a means of implementing the Stormwater Management Plan, the Town of Porter adopted Chapter 200-84 of the Zoning Law to establish minimum stormwater management requirements and controls to protect the general health safety, and welfare of the public. This section of the Law sets forth the requirements and procedures for managing stormwater flows in the Town. It requires the preparation of stormwater pollution prevention plans for all land development activity, which is construction activity disturbing land of one acre or more, or activities disturbing less than one acre of total land area that are part of a larger common plan of development or sale.

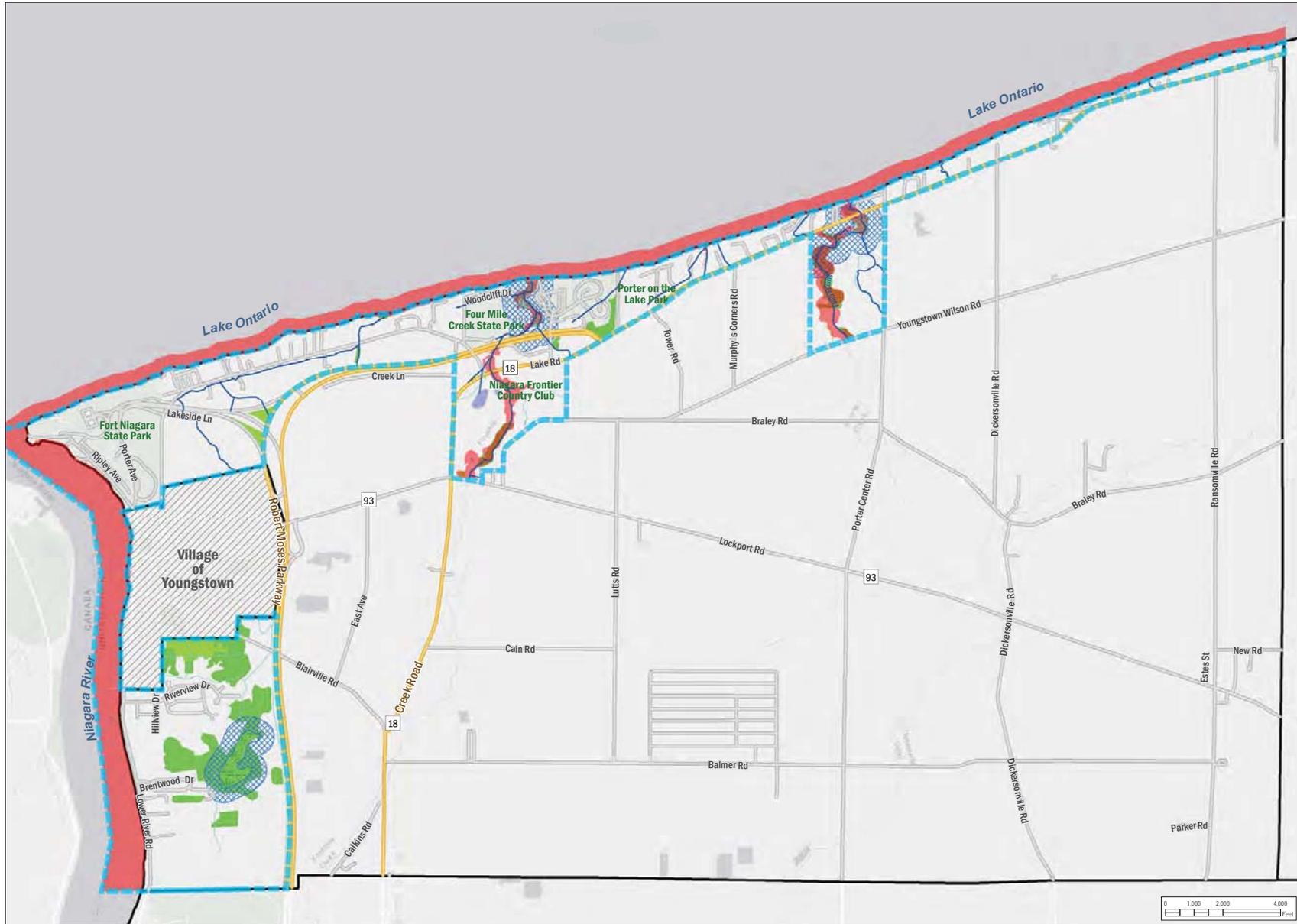
### **2.7.3. Wetlands and Habitats**

Wetlands (swamps, marshes and similar areas) are areas saturated by surface or ground water 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 filters for reducing excess nutrients from water that flows through them; they also absorb the forces of flood and tidal erosion to prevent loss of upland soils. The New York State Freshwaters Wetlands Act (6 NYCRR, Chapter X, Subchapter A., Article 1, Part 663.1) seeks to “preserve, protect and conserve freshwater wetlands and the benefits derived therefrom to prevent the despoliation and destruction of freshwater wetlands, and to regulate use and development of such wetlands to secure the natural benefits of wetlands, consistent with the general welfare and beneficial economic, social and agricultural development of the State”.

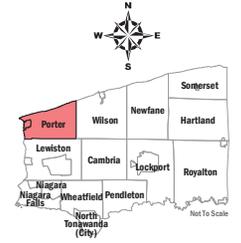
There are two types of wetlands found throughout the Porter WRA - State designated freshwater wetlands and Federal jurisdictional freshwater wetlands (see Map 5). State wetlands are those regulated by the New York State Department of Environmental Conservation (NYSDEC) and are identified by the existence of certain species of vegetation that grow well in wet soils. The New York State Freshwater Wetlands Act (Environmental Conservation Law – Article 24) protects all wetlands of 12.4 acres (5 hectares) in area or larger. The State also regulates the land area within 100 feet of protected wetlands. Wetlands smaller than 12.4 acres may be protected by the State if they are considered to be of local importance. State wetlands are ranked in four classes ranging from Class I to Class IV. Regardless of the wetland class, a permit is required to conduct any regulated activity within a wetland area or the 100-foot buffer area that surrounds the wetland.

**Class I wetlands** provide the most critical of the state's wetland benefits, reduction of which is acceptable only in the most unusual circumstances. A permit shall be issued only if it is determined that the proposed activity satisfies a compelling economic or social need that clearly and substantially outweighs the loss of or detriment to the benefit(s) of the wetland.

**Class II wetlands** provide important wetland benefits, the loss of which are acceptable only in very limited circumstances. A permit shall be issued only if it is determined that the proposed activity satisfies a pressing economic or social need that clearly outweighs the loss of or detriment to the benefit(s) of the wetland.



## Town of Porter Waterfront Revitalization Program Map 5 - Environmental Features

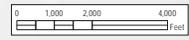


**LEGEND**

- Municipal Boundary
- Village of Youngstown
- WRA Boundary
- Waterway
- 100 Year Floodzone
- State Wetlands
- State Wetlands Checkzone
- Federal Wetlands**
  - Freshwater Emergent Wetland
  - Freshwater Forested/Shrub Wetland
  - Freshwater Pond
  - Lake
  - Riverine



Wendel WD Architecture, Engineering, Surveying and Landscape Architecture, P.C. shall assume no liability for:  
 1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused or 2. Any decision or action taken or not taken by the reader or reliance upon any information so furnished hereunder.  
 GIS Sources: Esri, HERE, DeLorme, Mapbox, OpenStreetMap contributors, Niagara County Real Property Services, NYS Department of State, Office of Planning and Development, NYS Office of Information Technology Services, GIS Program Office, 2014 Aerial Imagery



This map was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.



The second type of wetlands are federal jurisdictional wetlands. Federal jurisdictional wetlands are regulated by the U.S. Army Corps. of Engineers (ACOE) under Section 404 of the Clean Water Act, irrespective of their size, and Section 10 of the Rivers and Harbors Act of 1899. Many wetlands that are designated as State wetlands are also federal wetlands; however, most of the smaller wetland areas that do not meet the State's minimum size requirement are only federal jurisdiction. These areas, which are mapped by the U.S. Fish and Wildlife Service, are designated as wetlands based upon the presence of three features: hydric soils, wetland vegetation and specific hydrologic conditions.

Under the law, although there is no required setback or buffer area, a permit is required from the ACOE for any structure or activity that takes place in, under, or over a navigable waterway or wetland area located adjacent to navigable waters (such as dock construction, dredging, and shoreline protection). In addition, any land use or activity that involves a discharge of dredge spoil material or placement of fill material into navigable waters or associated wetlands requires a permit, as well as activities that would drain or flood wetlands or significantly disturb the soil (such as land clearing, ditching, stream channelization, and excavating). Certain activities that impact streams or streambeds, including impoundments and watercourse alteration, may also require the issuance of a Protection of Waters permit (Water Quality Certification) from the NYSDEC, pursuant to Article 15 of the Environmental Conservation Law.

As shown on Map 5, the mouths and marsh areas of Four Mile Creek and Six Mile Creek are State-designated freshwater wetlands; there is also a large State wetland in Subarea 1. There are numerous areas of federal jurisdictional wetlands in Subarea 1, and along the creek corridors in Subarea 2.

### *Niagara River – Wetland of International Importance*

The Niagara River was officially designated a Wetland of International Importance in October 2019 under the world's oldest environmental treaty, the Ramsar Convention. This global treaty was signed by 170 countries in the Iranian city of Ramsar in 1971. This is a designation that recognizes rare and unique wetlands for their importance to biological diversity and to humanity as a whole. To be designated as a part of the Ramsar Convention, a wetland



must meet at least one of nine criteria, including hosting more than 20,000 shorebirds at a time, serving as fish nursery habitat and supporting threatened species.

The Niagara River corridor joins 29 other U.S. wetlands and more than 2,300 wetlands around the world to become part of a network formed as a result of the treaty. The Niagara River is enjoyed by hundreds of thousands of boaters, hikers, anglers, birdwatchers, swimmers, scenic viewers and others each year. The river corridor supports great migrations of birds, ancient and massive fish, and incredible plants and animals (many of which are protected, endangered and rare). This designation recognizes and highlights



the ongoing restoration efforts to improve the health of the Niagara River, and will support and enhance future efforts of this nature.

### Habitat Management

Shoreline development, bulkheading and other shoreline protection structures, dredging and other stream modifications have also impacted wildlife habitat areas along the Niagara River and Lake Ontario. There is one New York State designated significant coastal fish and wildlife habitat located within the Porter WRA. The **Four Mile Creek Bay habitat**, located in Subarea 2, encompasses the lower reaches of Four Mile Creek, which outlets to Lake Ontario. It is one of the few sizeable areas of undisturbed coastal wetlands remaining in Niagara County. Despite its small size relative to other wetland areas around eastern Lake Ontario, this area provides valuable habitat for a wide variety of fish and wildlife species. This habitat encompasses all the area along Four Mile Creek that is located below mean high water, including deep aquatic beds and emergent marsh, as well as an approximate 20-acre wetland estuary that is situated north of the Niagara Scenic Parkway, within Four Mile Creek State Park. The mouth of Four Mile Creek is often closed off by a large sand and gravel bar in the summer. The land area surrounding the Four Mile Creek Bay habitat is generally undeveloped, dominated by a broad band of mature deciduous forest. Probable or confirmed breeding bird species that inhabit the Four Mile Creek Bay habitat include great blue heron, green-backed heron, mallard, wood duck, belted kingfisher, and a variety of passerine birds. In addition, this area serves as a feeding area for herons and waterfowl during spring and fall migrations. Other wildlife species inhabiting the bay include muskrat, raccoon, and painted turtles.

**Figure 8 - Four Mile Creek Bay Significant Coastal Fish and Wildlife Habitat**



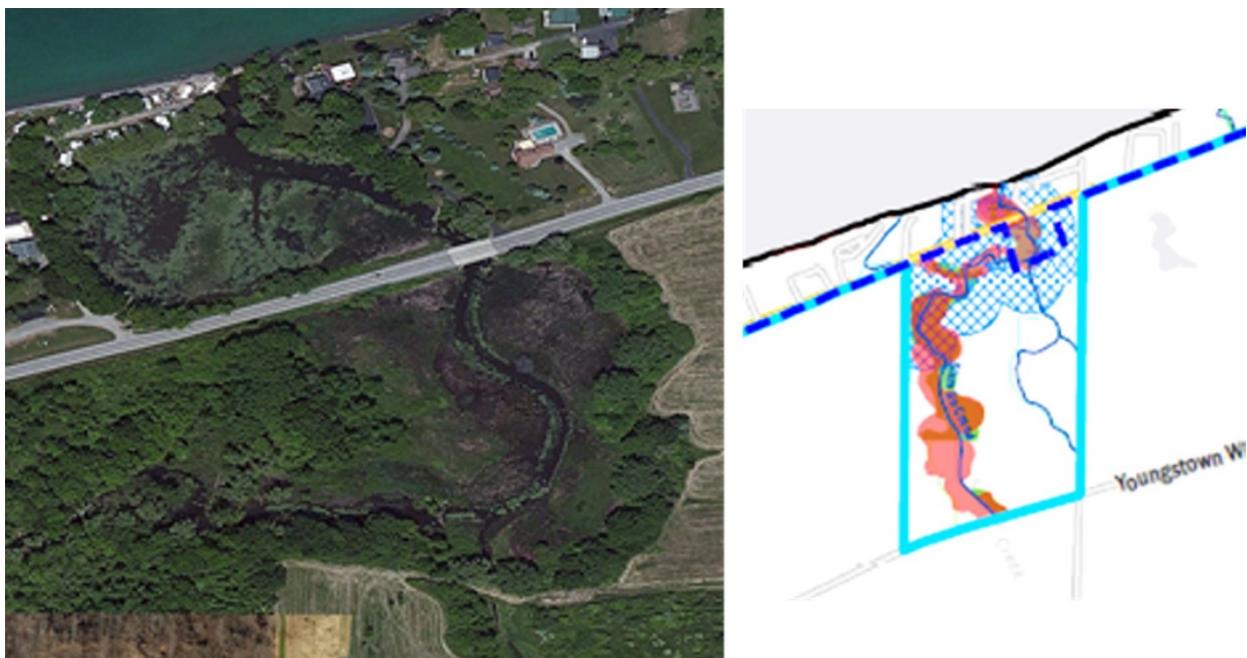
Four Mile Creek Bay is a productive warm water fisheries habitat, which is relatively uncommon in this section of Lake Ontario. The area supports sizeable resident populations of brown bullhead, rock bass,



largemouth bass, northern pike, and other panfish. Four Mile Creek is also one of about four tributary streams in Niagara County that have significant runs of steelhead (rainbow trout) in the spring (late February- April), and runs of steelhead, brown trout, and salmon in the fall (September-November). These salmonid populations are the result of an ongoing effort by the NYSDEC to establish a major salmonid fishery in the Great Lakes through stocking efforts, including in Four Mile Creek Bay. The relatively small, but diverse fisheries in this area provide valuable opportunities for recreational fishing by residents of northern Niagara County and visitors to Four Mile Creek State Park. Access to the area for shoreline fishing is readily available from within the park, as well as from a parking area located at the intersection of Creek Road (SR 18) and Lake Road (SR18F). Appendix D includes the full coastal fish and wildlife habitat rating form for the Four Mile Creek Bay habitat.

**Six Mile Creek** is another large freshwater creek in the Porter WRA that drains to Lake Ontario. It is located east of Four Mile Creek, near Porter Center Road, and contains a large area of relatively undisturbed coastal wetlands that extend well south of Lake Road. The WRA boundary was enlarged and extended further south to include this area because of its locally significant habitat value. Like Four Mile Creek, this area includes both State and federally designated freshwater wetlands. The mouth of Six Mile Creek contains a large freshwater pond area; the creek corridor supports a variety of wetland communities, including emergent and submergent vegetation that provides extensive habitat for a wide variety of fish, birds and other wildlife species. This area is worthy of evaluation by the NYSDEC to determine its potential as a State-designated Significant Coastal Fish and Wildlife Habitat, and the Town will reach out to the State to request this determination. At the very least, the Town should consider the protection of this area through an environmental zoning overlay, which could also be applied to Four Mile Creek and the Four Mile Creek Bay habitat area, to safeguard the habitat from the impacts of development.

**Figure 9 - Six Mile Creek and Wetlands Complex**





The **Lake Ontario** Lakewide Action and Management Plan (LAMP) is a binational plan to protect and restore the health of Lake Ontario by addressing the chemical, biological and physical stressors affecting the lake. Both the Niagara River and St. Lawrence River are included in the scope of the Lake Ontario LAMP. The Lake Ontario LAMP is led by the U.S. Environmental Protection Agency, Environment Canada, NYSDEC, and the Ontario Ministry of the Environment. The LAMP guides the activities of these and other U.S. and Canadian federal, state, provincial, and tribal agencies by establishing ecosystem goals, objectives and indicators. There are several major issues affecting the health of Lake Ontario that the LAMP partners are working to address:

- Degradation of the lower food chain - As new species have been introduced to Lake Ontario, the lake's ecosystem, habitat and food web have changed. The former dominant lake bottom species, the native shrimp-like crustacean Diporeia, was nearly eliminated from the lake following the arrival of zebra and quagga mussels. This important food source for lake trout remains rare in offshore areas of the lake.
- Loss of biodiversity - The biodiversity of the lake's ecosystem is affected by aquatic invasive species, nearshore water quality, shoreline development, and the effects of water level regulation on coastal wetlands.
- Fish advisories and consumption restrictions - Restrictions on the consumption of most sportfish in Lake Ontario continue because of chemicals, such as PCBs, dioxin and mirex. The New York State Department of Health issues an annual advisory on eating sportfish because of potentially harmful levels of chemical contaminants. Current restrictions are noted in Table 9 (also see the Buffalo Niagara Waterkeeper's report – A People's Guide to Eating Fish Caught in Western New York in Appendix E).
- Aquatic invasive species - The Great Lakes ecosystem has about 180 different invasive species, and reducing their impact is a challenge for the LAMP partners. Invasive species affecting Lake Ontario include zebra and quagga mussels, sea lamprey, the fishhook water flea, round goby, spiny waterflea, and phragmites.
- Nearshore water quality - Nutrients are vital to Lake Ontario's food web; however, nutrient levels that are too high can lead to excessive algae, including blooms of nuisance algae and potentially toxic blue-green algae.

The Cooperative Science and Monitoring Initiative (CSMI) is a bi-national effort that rotates through the Great Lakes on a five-year cycle, coordinating scientific monitoring and research to better understand the Great Lakes ecosystem. CSMI informs Great Lakes management programs, such as the Lakewide Action and Management Plans and the Great Lakes Fishery Commission's Lake Committees, as well as provinces, states, and tribes in support of U.S. and Canadian Great Lakes Water Quality Agreement commitments. In 2013, the Lake Ontario effort took a collaborative approach to determine the source and fate of nutrients and food web production across trophic levels. The Lake Ontario effort included five research themes:

- The amount of phosphorus and nitrogen entering the lake and how these nutrients move through the food web;
- biological connections between nearshore and offshore areas of the lake;



- phytoplankton and zooplankton population dynamics and use of nutrients in the lower food web;
- fish production and population changes, diets and distribution in different areas of the lake; and
- transfer of nutrients and energy through the food web of the lake.

**Table 9: Fish Consumption Advisories**

				
Waterbody (County)	Fish	Men over 15 & Women over 50	Women under 50 & Children under 15	Chemicals of Concern
Lake Ontario (Niagara County)	White sucker	Up to 1 meal / month	Don't Eat	PCBs, Mirex, Dioxin
	White perch	East of Point Breeze, up to 1 meal / month; West of Point Breeze- Don't Eat	Don't Eat	PCBs, Mirex, Dioxin
	Lake trout	Greater than 25" – up to 1 meal / month; Less than 25" – up to 4 meals / month	Don't Eat	PCBs, Mirex, Dioxin
	Channel Fish or Carp	Don't Eat	Don't Eat	PCBs, Mirex, Dioxin
	Brown trout	Greater than 20" – up to 1 meal / month; Less than 20" – up to 4 meals / month	Don't Eat	PCBs, Mirex, Dioxin
	All other fish	Up to 4 meals / month	Don't Eat	PCBs, Mirex, Dioxin
	Lower Niagara River (downstream of Niagara Falls)	Lake trout	Greater than 25" – up to 1 meal / month; Less than 25" – up to 4 meals / month	Don't Eat
White perch, Channel Fish or Carp		Don't Eat	Don't Eat	PCBs, Mirex, Dioxin
White Sucker		Up to 1 meal / month	Don't Eat	PCBs, Mirex, Dioxin
Brown trout		Greater than 20" – up to 1 meal / month; Less than 20" – up to 4 meals / month	Don't Eat	PCBs, Mirex, Dioxin

Source: NYS Department of Health, 2014 and NYSDEC website.



This research will address management and research priorities for Lake Ontario, including nutrient loading and management, the role of invasive species, and the ability of the lake to sustain fisheries.

### *Birding and Bird Habitat*

The Niagara River and portions of Lake Ontario are important habitat and overwintering areas for birds and waterfowl. Birdlife International has designated the entire Niagara River corridor, from Lake Erie to Lake Ontario, as a globally significant important bird area. The habitat along the river shoreline supports a diversity of migratory songbirds during spring and fall migrations. The few remaining marshes, such as that found at Four Mile Creek and Six Mile Creek, support breeding least bittern, northern harrier, wood duck, kingfisher, sedge wren, and various species of heron, among other species. Fort Niagara and Four Mile Creek State Parks are popular locations for bird watching enthusiasts. Both parks should be evaluated to determine what enhancements could be implemented to promote the variety of birds in the area and attract more visitors. In winter, the lower Niagara River and Lake Ontario are also favored locations for waterfowl hunting.

Lake Ontario and the Niagara River are also important habitat and popular locations for migrating flocks of waterfowl. Bird counts have named up to 19 individual species of gulls on the Niagara River, including herring, ring-billed, greater black backed and Bonaparte's gulls. The river has hosted 50,000 to 75,000 Bonaparte's Gulls, which is approximately 10 percent of the world's population. Lesser common or rarer species spotted on the river include, the California gull, Iceland gull, Franklin's gull, Sabine's gull, and the slaty-backed and Ross's gulls, which nest as far away as Siberia.

The Niagara River is also a major wintering area for numerous species of ducks, cormorants, loons, geese and swans. Many of these birds can also be found on Lake Ontario, particularly in area of the Niagara Bar. Species such as the American widgeon, redhead, canvasback, common golden eye, old squaw, white winged scoter, artic duck, common merganser, red breasted merganser, bufflehead and long tail ducks are noted visitors to the area.

All Canada geese, including resident flocks, are protected by Federal and State laws and regulations. In New York, management responsibility for Canada geese is shared by the U.S. Fish and Wildlife Service (USFWS), U.S. Department of Agriculture (USDA), and the NYSDEC. It is illegal to hunt, kill, sell, purchase, or possess migratory birds or their parts (feathers, nests, eggs, etc.), except as permitted by regulations adopted by USFWS and NYSDEC. DEC generally does not allow relocation of geese with or without a permit.

Joseph Davis State Park, located immediately south of Subarea 1 in the Town of Lewiston, includes a designated Bird Conservation Area (BCA). This is one of 59 BCAs in New York State. The park has approximately 1,400 feet of shoreline along the Niagara River and 31 acres of underwater land. About two-thirds of this BCA is successional shrubland. Mature second growth forests are found in the eastern portion and along the river shoreline. Other ecological communities found in the BCA include old fields, open water and wetlands. The fields host savannah sparrow, bobolink and eastern meadowlark. Species at risk are also found here, including State-threatened pied-billed grebe, bald eagle, northern harrier and common tern. State species of special concern include osprey, sharp-shinned hawk, Cooper's hawk,



common nighthawk, whip-poor-will, horned lark, and yellow-breasted chat. Joseph Davis Park is also one of the best spots in the Niagara region for wintering eastern bluebirds.

### Invasive Species

An invasive species is a plant or animal that is foreign (non-native) to an ecosystem whose introduction causes or is likely to cause economic or environmental harm or harm to human health. During the past two centuries, invasive species have significantly changed 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 Niagara River and Lake Ontario watersheds include:

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

Aquatic invasive species can displace native species and reduce biological diversity. In the 1980s, zebra mussels entered the state through Lake Erie. Quagga mussels were first reported in North America in 1988 and the Erie Canal in 1989. Quagga now dominate Lake Ontario substrates, where zebra mussels once did (Mills, et al. 1999), perhaps due to the species' preference for deeper, cooler waters as compared to zebra mussels (Mills, et al. 1996). Round goby followed dreissenid mussels into Lake Ontario from Lake Erie, where they quickly became established. In localized areas, they can rapidly become the most abundant fish species present. Round goby can out-compete and replace native species such as the mottled sculpin (*Cottus bairdi* (Jude 1996) and prey upon the eggs of native species (Chotkowski and Marsden, 1999). Round goby has also been implicated as reservoirs of both avian botulism (Getchell, et al. 2006) and viral hemorrhagic septicemia virus (Eckerlin, et al. 2011) in Lake Ontario and the St. Lawrence River. Although some people see the zebra mussel-eating goby as a beneficial invader, some researchers are concerned that gobies may move the contaminants found in the flesh of zebra mussels (bioaccumulated as a result of the mussels' voracious filter feeding) up the food chain, where the toxins have the potential to impact valuable game fish such as smallmouth bass. The spiny waterflea, first discovered in Lake Ontario in 1982 and the fishhook waterflea, first found in Lake Ontario in 1998, are small predatory crustaceans with a long-barbed tail spine that protects them from predators while they compete with fishes, like young yellow perch, for zooplankton. Both species of waterflea are a nuisance to anglers, who often find cotton-like globs of the creatures on fishing lines and nets. Some anglers have had to cut their lines and lose fish. Their food web impacts are still



unknown. These examples of aquatic invasive species demonstrate that commercial and recreational fishing are severely impacted by invasive species<sup>3</sup>.

The movement of species occurs naturally through migration patterns, climatic events, and 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. According to the Ontario Ministry of Natural Resource's Aquatic Invasive Species Program, 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 the Niagara River and Lake Ontario. 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. Another important, and often overlooked component, is the proper disposal of invasive plants. If not disposed of properly

---

<sup>3</sup> [www.seagrant.sunysb.edu/ais/pdfs/AIS-LErieOnt.pdf](http://www.seagrant.sunysb.edu/ais/pdfs/AIS-LErieOnt.pdf)



they will only contribute to the spread of new infestations (e.g., in trash, not compost piles or waterways).

To address the risks posed by invasive species, the NYSDEC has developed the Invasive Species Comprehensive Management Plan (draft plan issued in April 2018), as directed in Title 17 of the Environmental Conservation Law Article 9, to encompass all current and future invasive species and ecosystem types found across New York State. The goal of the Invasive Species Comprehensive Management Plan is to help minimize the introduction, establishment and proliferation of invasive species thereby limiting potential negative impacts. This plan positions New York State to continue its role as a leader in the management of invasive species and protect our natural resources for future generations.

This plan is framed around eight focus area initiatives:

- Setting priorities for invasive species management and advance preparedness
- Engaging and informing the public
- Advance prevention and early detection
- Improving the response to invasive species
- Recovering ecosystem resilience, and
- Evaluating success.

Each initiative includes recommended actions to guide management activities of State agencies and to align the priorities of regional and local natural resource managers to State-level actions.

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. As needed, consultation with the NYSDEC, the Western New York Partnership for Regional Invasive Species Management (PRISM – [www.wnyprism.org](http://www.wnyprism.org)), New York Sea Grant (see Appendix E), or the Buffalo Niagara Waterkeeper is recommended to help the Town deal with this problem.

In general, more public education is needed on the state of local and regional surface waters, habitats and invasive species, water quality and stormwater management. Aside from providing various information at Town Hall and on the Town's website, the Town of Porter could coordinate with surrounding Towns and Niagara County to organize periodic public meetings where local and regional organizations, such as NYSDEC or the Buffalo Niagara Waterkeeper, would present information on these important topics. Funding could be pursued for this effort, if proposed collaboratively with neighboring communities and the County; additionally, funding to establish the position of a local or County level coordinator is another option.



## 2.7.4. Soils and Topography

Soils in Niagara County formed in glacial material that was deposited during, and shortly after, the ice age. During the Pleistocene epoch, the advancing ice sheet moved slowly southward and picked up rock and soil material. This material was transported south and later dumped to form hills, ridges and plains. This is known as glacial till.

Niagara County borders the southern shoreline of Lake Ontario to the north, Tonawanda Creek (Erie Canal) to the south, Genesee and Orleans Counties to the east, and the Niagara River to the west. The Niagara Escarpment divides the County into two plains, the Lake Ontario Plain to the north and the Huron Plain to the south. The escarpment, which is the primary topographic feature in the region, is a steep northward slope, with perpendicular bluffs that are exposed in some places. As you move away from the escarpment, lands to the north and south become flat, with little topography as you move toward each shoreline.

The Town of Porter is located primarily in the Lake Ontario Plain, with an average elevation of 246 feet above mean sea level. Generally, the land in the Town is gently rolling with slopes that are 10 percent or less. Several streams flow through the slopes of the escarpment and along the plain to discharge in Lake Ontario.

According to the 1972 Niagara County Soils Survey, the dominant soil association in the Town of Porter is the Rhinebeck-Ovid-Madalin association, which makes up the soils in 15% of Niagara County. The largest areas of this soil association are found in the northwest part of the County, in the vicinity of the Village of Youngstown. Rhinebeck soils are deep and somewhat poorly drained. These soils typically have a silt loam surface layer, a silty clay or silty clay loam subsoil, and are underlain with silt and clay. They occupy broad areas within the association and are slightly dissected by erosion in a few places, especially in areas that boarder Lake Ontario. Rhinebeck soils comprise over 32 % of this classification; they also comprise about 46% of the soils in the WRA.

The Madalin soils occupy the more nearly level, more depressional areas within the broader Lake Ontario Plain area. These soils are deep and poorly to very poorly drained. Madalin soils typically have a dark silt loam surface layer that is high in organic matter content, a silty clay subsoil, and a silt – clay under layer. Madalin soils comprise about 15% of the WRA. While Ovid soils are found in limited areas in Subarea 1, they are not found in Subarea 2.

The minor soils in the Rhinebeck-Ovid-Madalin association are mainly of the Collamer, Hudson and Niagara soil series. These soils are intermingled with the major soils in this association. The Collamer and Hudson soils occupy knolls or higher elevations; the Niagara soils are mainly nearly level.

Natural drainage and slow permeability are the principal concerns for land development due to the flatness of the land. The soils in most areas can be drained with surface ditching. Tile lines can also be used to drain some of the wet, coarser textured inclusions. In many places the soils are unstable because they formed in deep lake deposits.

The Niagara soils association has a medium value for farming. Much of it is idle or is cropland that is not used intensively. Acreage closer to the lake is used primarily for fruit orchards, with increasing acreage



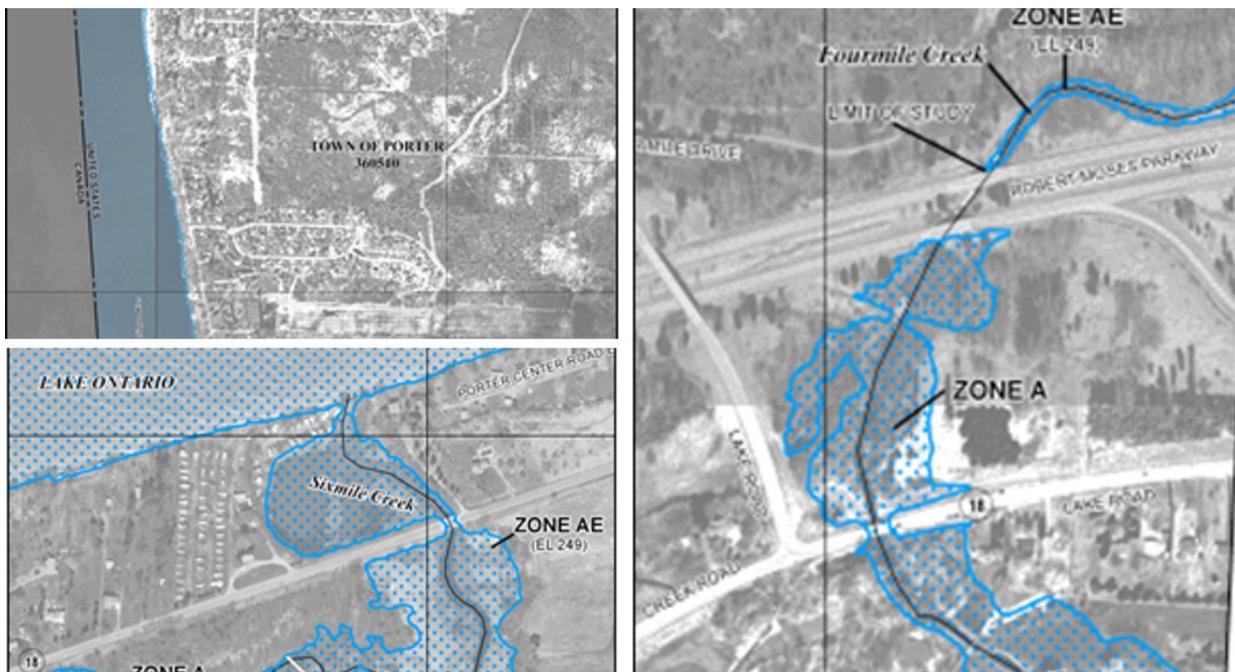
being used for grapes. Where properly drained, these soils have good potential for apples, grapes, pears and other fruit, as well as grain and hay crops.

### 2.7.5. Flooding (See Map 5)

The Federal Emergency Management Agency (FEMA) developed a series of Flood Insurance Rate Maps (FIRMs) for the Town of Porter. The WRA is covered by eight Community Panels Numbers: 36063C0156E for Subarea 1 and 36063C0014E to 360630041E for Subarea 2. These maps delineate the flood hazard boundaries (flood zones). These maps provide the basis for the implementation of the regular program phase of the National Flood Insurance Program within the Town. The FIRM maps for Porter were last updated in September of 2010.

FEMA flood zones are established based upon the degree to which an area is susceptible to flooding and flood damage. The flood zones that exist within the Town of Porter WRA include "A" and "AE" Zones. Also known as the special flood hazard areas, the A and AE zones are the areas of land that would primarily experience still water flooding, without significant wave activity, during a 100-year storm event. In the A zone, no Base Flood Elevations or depths are shown on the FIRMs because no detailed hydraulic analyses have been done in these areas. While in the AE zone, Base Flood Elevations have been derived and are shown on the maps as 249 feet above mean sea level along the Lake Ontario shoreline.

**Figures 10, 11 and 12: Flood Zones along the Niagara River, Lake Ontario and major creeks**



Within Subarea 1, the A zone special flood hazard area extends along the Niagara riverfront to just north of Reserve Drive, potentially affecting any structures that are situated along the immediate shoreline (see Map 5 and Figure 10). North of Reserve Drive, the riverfront is situated within the AE zone, which extends north into the Village of Youngstown. In Subarea 2, the AE zone encompasses the entire length of the Lake Ontario shoreline, as well as the lower portions of the Four Mile and Six Mile Creek corridors



(Figures 11 and 12). The upper portion of Four Mile Creek, beyond the Niagara Scenic Parkway, is designated as an A zone. The A zone boundary extends south around the creek corridor to the southern Town boundary, and beyond into the Town of Lewiston. The AE boundary for Six Mile Creek extends to the area just beyond the large marshland that is located on the south side of Lake Road. From there, the creek corridor is designated as an A zone, which terminates at Youngstown-Wilson Road.

Chapter 93 of the Town Code – the Flood Damage Prevention Law was adopted by the Town Board to include federally approved floodplain management regulations to manage land use and development within the designated flood hazard areas and allows property owners in the A and AE zones to take advantage of the National Flood Insurance Program (NFIP). Lands situated within designated special flood hazard areas are eligible to receive federal flood insurance, and federally insured mortgage funding is available to those purchasing land in these areas.

### **2.7.6. Erosion**

Chapter 93 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. Chapter 93 regulates development in special flood hazards areas and a Floodplain Development Permit is required for all construction and other development activities to be undertaken in areas of special flood hazard in the Town for the purpose of protecting the public from increased flood hazards and insuring that new development is constructed in a manner that minimizes exposure to flooding. Permits must be obtained from the Town of Porter Code Enforcement Officer, who is the designated Local Administrator of the Flood Damage Prevention Law. Chapter 93 is included in Appendix C.

Certain sections of New York State’s shoreline are vulnerable to coastal erosion through natural actions and human activities (including construction, shipping, boating and recreation). Erosion is the loss or displacement of land along the shoreline due to the action of waves, currents, tides, wind-driven water, waterborne ice and other storm impacts. It also means the loss or displacement of land due to the action of wind, runoff of surface waters and groundwater seepage. Other contributing factors that can significantly increase erosion include length of fetch, wind direction and speed, nearshore water depth, tidal influence, wave height and length, and the duration of storm events.

While natural events play a major role in the coastal erosion process, human actions can intensify the effects of these processes and speed up the rate of erosion. Humans contribute to the coastal erosion process by:

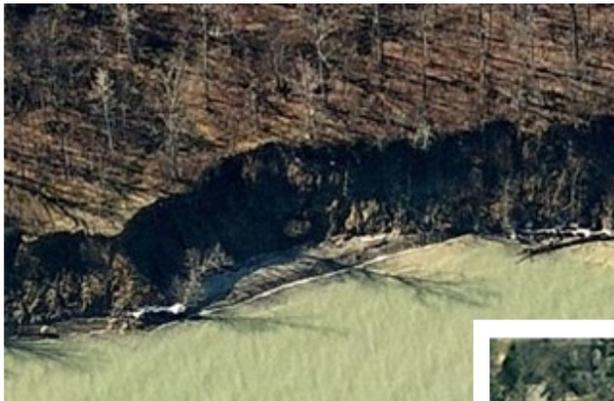
- removing or destroying vegetation and exposing bare soil to be easily eroded by wind, waves and precipitation;
- directing stormwater runoff over the bank or bluff, causing it to erode;
- constructing “hard” structures along the shore that block the natural movement of sand and sediment;
- building structures that are intended to prevent coastal erosion that may exacerbate erosion conditions on adjacent or nearby properties; and
- wakes from boats that produce wave action along the shoreline.



The Niagara River shoreline includes extensive areas with steep, vegetated bluffs that are highest at the northern extent of Subarea 1, with a gradual decrease in slope as you move further south along the river. The Lake Ontario shoreline also has areas of steep bluffs and high banks, as well as stony beaches and nearshore areas. The rugged appearance and lack of vegetated cover on the bluffs along Lake Ontario is an indication of the severity of the wave and wind action from lake storms. The shoreline of the lake is steeper to the west and gradually reduces in elevation as you move to the east. While steep bluffs are common in the area between Four Mile Creek State Park and Fort Niagara, where stairways extending down the bluff face can be seen, extensive lengths of stone beach and areas with lower banks are found in the eastern portion of Subarea 2.

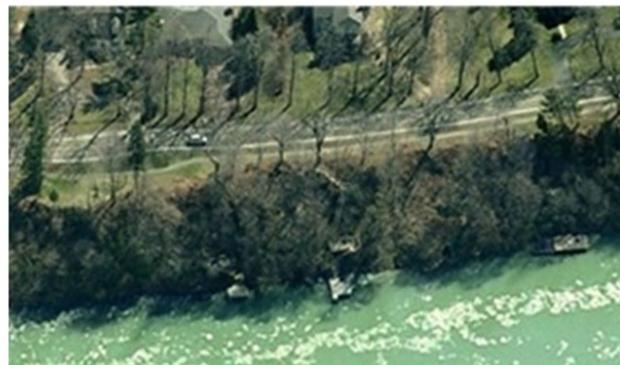
### Shoreline Protection

The entire shoreline of Lake Ontario is subject to coastal erosion and has been designated by New York State as a Coastal Erosion Hazard Area (CEHA). While also subject to erosion, the Niagara River shoreline has not been designated as a CEHA. Erosion along the lakeshore is the result of wave action, tides and currents that run along the shore, as well as wind-driven water and ice. Stormwater runoff from the upland areas and groundwater seepage also contributes to shoreline erosion in the area. The State requires that development and other activities proposed within the CEHA be undertaken in a manner that minimizes damage to property and prevents the intensification of shoreline erosion. As necessary, such actions may be limited or prohibited to achieve these objectives.



Lake Ontario shoreline

Niagara River shoreline



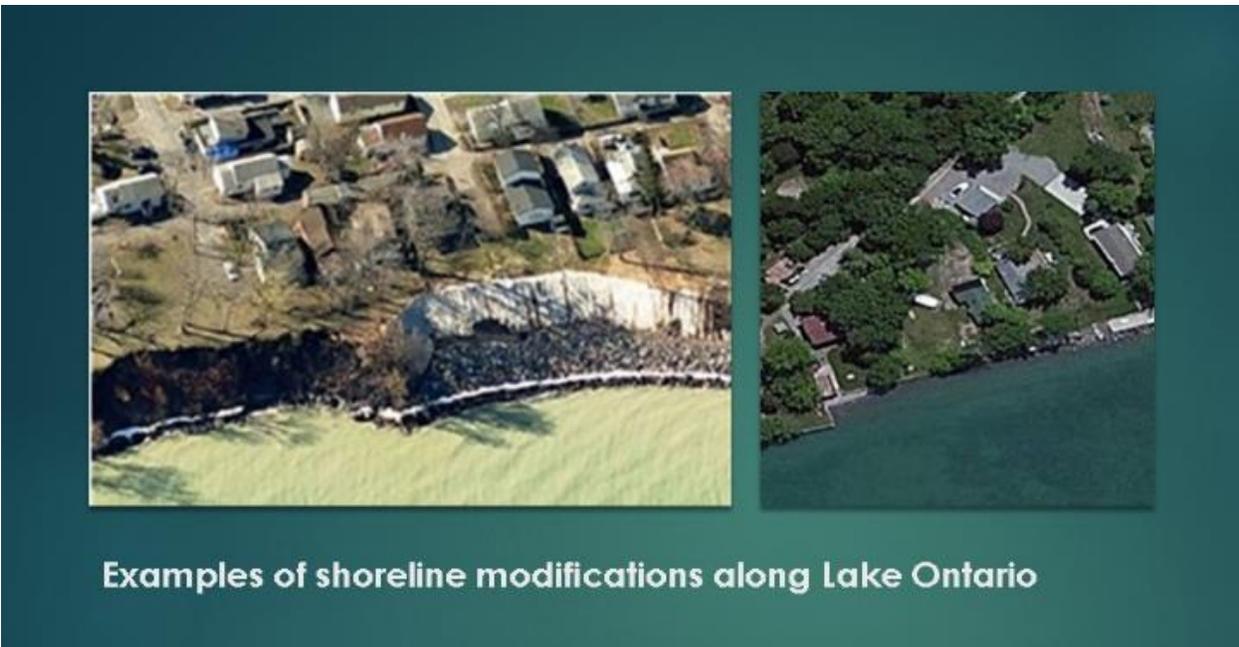
To mitigate long standing shoreline erosion, various forms of shoreline protection have been put in place along small portions of the Niagara River and in numerous places along the Lake Ontario waterfront. Many private properties are protected by stone revetment, rip rap or rubble to protect the shoreline of the lake from erosion. There are also a few locations with seawalls.



The most intensive erosion protection is found along the Fort Niagara State Park shoreline, where high concrete seawalls protect the historic Fort Niagara site. This seawall has been eroding over the years; recent storm events associated with high water levels in the like are exacerbating the rate of erosion. In March of 2019, the Buffalo District of the U.S. Army Corps of Engineers issued a determination under Section 14 of the 1946 Flood Control Act that there is a federal interest in pursuing a project to mitigate erosion that is threatening the northern seawall, and the historic structures at the Old Fort Niagara complex in Fort Niagara State Park. “With this federal interest determination, our project delivery team will now continue with the plan formulation process and coordinate with our local sponsor, the New York State Office of Parks, Recreation, and Historic Preservation, to execute a Feasibility Cost Sharing Agreement,” said CPT Henry Harpen, USACE Buffalo District Project Manager. “The Feasibility Phase of the project, funds permitting, can produce a detailed project report in as quickly as 24 months, and the engineering and design work can begin immediately thereafter.”

The construction or installation of erosion control structures in the CEHA is regulated by the NYSDEC pursuant to Article 34 of the Environmental Conservation Law. Pursuant to 6 NYCRR, Part 505 (the implementing regulations for Article 34), a permit is required for all proposed activities that are regulated in the CEHA. The construction, modification or placement of any structure that would materially alter the condition of the shoreline, including grading, excavating, dumping, dredging, filling or any disturbance of soil is a regulated activity that requires a permit. The Town of Porter Code Enforcement Officer works with the NYSDEC to enforce the CEHA law, as necessary, for the permitting and the installation of erosion protection structures.

In vulnerable areas, coastal erosion causes extensive damage to public and private property and to natural resources. While shoreline hardening may provide temporary relief from erosion in areas subjected to intense lake storms and significant wave action or current, structural measures are expensive to install, degrade shoreline habitat, interrupt natural shoreline processes, and may act to transfer erosion problems to adjacent areas. The NYSDEC discourages the use of seawalls because they do not dissipate wave energy properly and typically cause erosion in downdrift areas along the shoreline. Additionally, the wave action of the lake undermines the shoreline and overtime, can act to weaken existing seawalls and bulkheading where not well constructed. It is not uncommon to see structures fail during severe storm events. The NYSDEC stresses the importance of maintaining shoreline structures to ensure their integrity. They recommend utilizing alternative methods that imitate nature (a mix of materials, such as trees, rocks of differing size, various deep-rooted plantings, etc.), are small in scale and more simplified, that maintain more gentle slopes to absorb wave energy and are comprised of soft armoring, such as a plants, logs, root webs, vegetative matting, contour wattling with live bundles of sticks and stems, etc. In certain locations and where possible, these types of alternative shoreline techniques should be considered for use as a first step for erosion protection. These alternative solutions can result in a more naturalized shoreline, which has ecological and aesthetic benefits. A mix of soft and harder erosion protection measures can also be employed, such as stone rip rap where underlying soils are stable, or vegetated gabions or cribbing, to achieve success.



Hard structural erosion protection measures should be used where there is a documented and significant erosion problem and where alternative measures have been proven to be inadequate to protect the principal use. Conditions in many places along the Lake Ontario shoreline warrant the use of hard structures, primarily stone rip rap or rock revetment, due to intensive wave and ice action that have powerful erosive capacity. In many locations, plantings and other alternative solutions alone may not provide adequate protection along the lakeshore. However, whether as a part of larger construction or restoration projects or other smaller efforts by property owners, the planting of vegetation behind the revetment or in combination with other hardening solutions is highly encouraged as it can help with water absorption and overall shoreline protection.

#### **Minimum Bluff Setback Requirements**

The area extending 25 feet landward from the top of the bluff is considered the Natural Protective Features Area (natural protective features include bluffs, dunes, beaches and nearshore areas). Structures are not permitted to be located within this setback area. In some areas along the shoreline, erosion is occurring at a more rapid rate of one foot or more per year. These areas have been designated as Structural Hazard Areas. The boundary for structural hazard areas starts at the inland boundary of the natural protective features area, with the full width of the area determined by the estimated rate of recession (the long-term average of one or more feet per year multiplied by 40). According to the NYSDEC, some areas of the Porter shoreline have erosion (recession) rates estimated at up to 2½ feet per year on average (B. Gelding, NYSDEC, May 2017). Although no homes in the area are known to be in danger, there are areas where residential structures are situated closer to the top of the bluff. These include the Woodcliff Drive residential community situated immediately west of Four Mile Creek State Park, the Sunrise Lane community just west of Dietz Road, the Porter Center Road extension, the Old Lake Road area, the Uneda Beach area, and a few other locations where homes are scattered randomly along the shoreline.



### Extreme Weather Conditions

Aside from the flooding and erosion experienced as a result of extreme weather conditions in 2017, shoreline erosion in Porter has not been severe in the past few years. Nonetheless, intense storms that bring large amounts of rainfall can (and do) have an impact. The springtime is the most vulnerable period when the ground can become very saturated. Experience in the area has also shown that erosion is more prominent where poor stormwater drainage in the upland area overburdens the bluff. Surface runoff is a considerable problem. When the soil becomes saturated at the top of bluffs it can exacerbate their failure, particularly if they are being impacted and undermined by wave and ice action at the toe along the shoreline. Although the Code Enforcement Officer can only recommend that existing homeowners implement drainage improvements to help prevent erosion, newly built structures must be required to employ drainage measures to ensure that stormwater discharged from gutters and sumps is properly managed and not conveyed toward or over the bluff and down to the lake shore. Residents can install plantings above the top of bluffs to help absorb stormwater flows. French drains are also recommended. The NYSDEC can provide guidance to help property owners protect their lands (see Appendix E).

### Lake Ontario Water Levels

Coastal flooding and erosion on the Great Lakes occurs when intense or long-lasting storms increase water levels, and strong winds produce damaging wave action, particularly during the winter and spring. Lake Ontario is located at the eastern end of the five great lakes system, receiving flow from the other lakes as the system drains to the St. Lawrence River and ultimately, the Atlantic Ocean.

The water level in Lake Ontario is influenced by inflow received from the drainage basin surrounding the Lake (watershed areas), as well as inflow by way of the Niagara River that is contributed from the upper great lakes, in particular Lake Erie, which contributes 85 percent of the total inflow of water to Lake Ontario. However, water depths in Lake Ontario are also affected by the regular diversion of lake water for the St. Lawrence Seaway Power Project (Moses-Saunders Dam), which is located between Massena, New York and Cornwall, Ontario, at the eastern end of the lake.



The International Joint Commission was established under the Boundary Waters Treaty of 1909 to help the United States and Canada prevent and resolve disputes over the use of the waters that the two countries share. Its responsibilities include considering applications for project that affect the natural levels and flow of boundary waters, such as the Moses-Saunders Dam. In 1931, New York Governor Franklin D. Roosevelt signed the Power Authority Act, allowing for the development of the St. Lawrence River for power use. In 1952, President Dwight D. Eisenhower approved a hydroelectric dam for the river; in October of 1952, the International Joint Commission (IJC), authorized construction of the dam and a navigational lock. In 1956, the IJC established the International St. Lawrence River Board of



Control, as a mechanism for regulating the river, above and below the dam. At that time, criteria were established for managing water levels and flow.

**Figure 13: Lake Ontario-St. Lawrence River Watersheds**



Natural factors, including precipitation, wind and evaporation, along with surface water runoff, are among the primary drivers of water levels in Lake Ontario and the St. Lawrence River. The management of water levels has provided substantial benefits to the region by reducing flooding and erosion along the Lake Ontario shoreline and providing more favorable conditions for water intakes, recreational boating, commercial navigation and hydroelectric power generation. However, current day water levels and flows were still being managed according to criteria developed in the 1950's, which relied upon water supplies to Lake Ontario that were recorded between the 1860's and 1950's. The IJC recognized that the region's population, economy, mix of water uses and scientific knowledge were different today than they were over 60 years ago or more, and will be different in the future from what they are today. With an understanding that data, technology and knowledge of the cause and effects of fluctuating water levels are far superior today than what they were in the 1950's, the IJC decided to study an updated approach for managing water levels and flow. The intent of this approach could reflect what has been learned since the early implementation of the water level and flow regulation plan, and include a system to monitor social, economic and environmental impacts of water level regulation, as well as the effect of global climate change on water supplies and storm events, to be more responsive to the region's diverse and changing needs. The new approach was realized as Plan 2014, which is a new



regulation plan for determining and managing water levels and flows in Lake Ontario and the St. Lawrence River.

Starting in 2000, extensive scientific study, public engagement and governmental review was conducted. Between 2000 and 2006, technical experts and stakeholders worked together to build evaluation models and tested hundreds of alternatives, with public involvement throughout the process. The IJC continued to evaluate and optimize the alternatives that resulted from the five-year Lake Ontario-St. Lawrence River Study, holding public meeting in 2012 and public hearings in 2013. The IJC issued an order of approval for Plan 2014 in December of 2016, to replace the outdated system for regulating flows that was developed in the 1950's. The IJC instructed the International St. Lawrence River Board of Control to set water levels and flows in accordance with the Plan 2014 recommendations, beginning in January 2017.

The sixteen years of study and review indicated that the existing regulation plan and criteria for managing water levels and flow has altered the natural patterns of water level fluctuations on Lake Ontario and the upper St. Lawrence River, and has severely stressed coastal wetlands, which are essential for the well-being of the lake and river ecosystems. The old regulation plan reduced the diversity of plant life in wetland areas and disrupted the cycles of wetland rejuvenation, creating conditions that favor areas dominated by cattails. Water level patterns have a direct influence on the breeding and nesting success of marsh birds, fish and amphibians that inhabit wetland areas. Re-establishing a more diverse ecosystem can better resist impacts from environmental threats such as pollution and invasive species, which have taken a toll on the lake and river.

Since the implementation of Plan 2014 was commenced in January 2017, the region experienced record-breaking rainfall (April to June 2017 and May 2019, surpassing 2017 flood levels), which has had a severe impact on the Lake Ontario and St. Lawrence River system. A combination of factors caused unprecedented flooding and erosion, including:

- an unusually mild winter in 2017,
- above normal inflow from the upper great lakes,
- record setting spring “freshet” in the Ottawa River basin (sudden rise in water levels from heavy rain and/or snow-ice melt), and
- heavy rainfall events across the Lake Ontario and St. Lawrence River system that in 2017 and 2019.

Water entered Lake Ontario from the Niagara River and the St. Lawrence River from the Ottawa River, in addition to stormwater runoff that entered the entire system from watershed drainage throughout the region, all coming in much faster than it could be emptied. This resulted in significant flooding and erosion along the Lake Ontario shoreline, particularly the south shore of the lake, and in the Lake St. Louis area, particularly around Montreal, where water levels rose even higher above normal than in the lake. IJC representatives explained that as more water was released through the dam from the lake, it caused water levels to significantly rise in the Montreal area.

The Board of Control adjusted water levels in the lake in response to the rainfall impacts in 2017 and 2019 (the Board increased outflow 17 times and reduced it 13 times between April 5 and early May



2017 alone). It is a balancing act as conditions continually change. It becomes more about how much water is coming into the system, and the rate of increase, rather than how much is being released, and lake level adjustments were being made based on Plan 2014 guidance and the judgment of the Board of Control. With the agency facing the highest water levels since 1993, demands for the prevention of flooding and erosion were high. A State of Emergency was declared by the Governor of New York State both years, allowing the NYSDEC to issue emergency permits for flood and erosion protection. While many blame the Plan 2014, the IJC indicated that the extreme wet weather was the primary cause of the problems on Lake Ontario, noting that the lake water levels would be within inches of where they were at the height of the crisis each year had the 1950's regulation plan not been changed. As spring is typically the rainy season, recent events set a good example for the IJC Board of Control to use for addressing future extreme water level fluctuations and regulation. Political pressure has come to bear forcing the Board to allow a continued release of water beyond Plan 2014 criteria.

New York State committed more than \$100 million to rebuild communities along the Lake Ontario shoreline that were devastated by flooding in 2017, only to again experience record high water levels and flooding in those same communities in 2019. In 2019, in response to these events, the New York State Governor's office established the Resiliency and Economic Development Initiative (REDI), recognizing that high water levels on the lake are the new normal and that continuing to rebuild to the same standard is foolish. This multi-agency task force was charged with developing a plan to redesign and re-envision infrastructure along Lake Ontario's waterfront with different protections to respond to inevitable factors of the future, while strengthening the resiliency of the region's local economies that are heavily dependent on summer tourism. As a part of this effort, the New York State Department of State developed a series of maps to help local communities understand the potential severity of future flooding and erosion and the areas where such action may occur. The REDI maps for the Town of Porter (see Appendix F) show the potential for extreme flood and erosion hazards along the Lake Ontario and Niagara River shorelines and the creek corridors, with a high level of severity extending further inland, outside the WRA.

There is no long-term solution for flooding and erosion as the Lake Ontario shoreline is actively changing and will continue to do so well into the future. Therefore, the Town of Porter needs to continue working with the NYSDEC to help property owners understand the natural processes of the lake, act to keep existing shoreline protection maintained, to plant vegetation as needed along the top of bluffs and behind (upland of) stone revetments and to locate structures a safe distance from the shore. As noted at the end of Section 2.7.2, aside from providing various information at Town Hall and on the Town's website, this is another important topic that should be discussed at a public information meeting organized by the Town of Porter in conjunction with surrounding Towns, NYSDEC and Niagara County. Property owners also need to recognize that permanent docks and other such structures are regulated by the NYSDEC and are subject to future impacts and storm damage.

### **2.7.7. Environmental Hazards and Constraints**

There are no known active or inactive hazardous waste sites located within the WRA. The waterfront has no history of industrial or wide scale commercial use. The area has traditionally been used for recreation and residential development.



## 2.8. HISTORIC, CULTURAL AND SCENIC RESOURCES

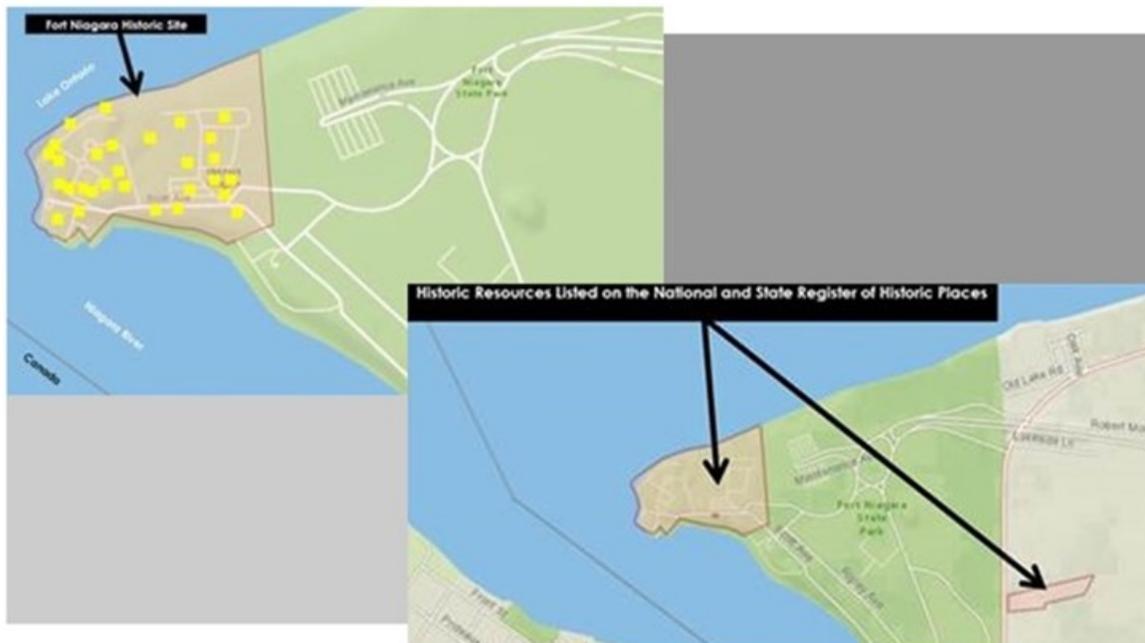
### 2.8.1. Historic Sites and Structures

The Town of Porter is located in northwestern Niagara County, bounded by Lake Ontario to the north, the Town of Wilson to the east, Lewiston to the south, and the scenic Niagara River to the west. It was incorporated in 1812, formed from the Town of Cambria. The Town has one incorporated village, the Village of Youngstown (population 1,935), which is located on the Niagara River at the western edge of the Town.

Porter was named after the first judge of Niagara County, the Honorable Augustus Porter. Long before incorporation, the area had been inhabited by members of the Iroquois Confederacy. Early American settlers did not move into the area until the early nineteenth century.

The most significant historic and cultural site in the Town of Porter is Fort Niagara, prominently and strategically positioned on the shore of Lake Ontario at the mouth of the Niagara River. The Fort’s grounds have changed hands several times throughout its history. The Iroquois Confederacy were the first to realize the strategic importance of the site. The French erected the first permanent fortifications on the site in 1726. Around 1759, the French began construction of a building that would become known as the “French Castle,” which still stands as a major landmark in the Town.

Figure 14 – Historic Resources



The British captured the Fort from the French during the French and Indian War in 1759 and did not relinquish their control of the premises until 1796 when the United States gained control. America’s first grip on the Fort was relatively short-lived, as the British re-captured it in 1813, during the War of 1812. Finally, at the end of the War of 1812, Fort Niagara was released back to the United States. From 1815



to 1963 the Fort was utilized by the United States Army as a barracks and training station. The United States Coast Guard has had a station situated below the Fort's northwestern corner on the Niagara River since 1893 and retains an active presence.

Located within Fort Niagara State Park, Old Fort Niagara is an historic resource consisting of over two dozen contributing buildings. This property is listed on the National Register of Historic Places and the New York State Register of Historic Places (Figures 13). It also has the distinction of being designated as a National Historic Landmark (NHL) – one of only 268 NHLs in New York State. The centerpiece of the Fort is the circa 1759 French Castle, a stone, symmetrical / rectangular, imposing, three-story fortified chateau overlooking Lake Ontario. The French Castle features a hipped roof, over fifteen gabled dormers, and over eight chimneys. Other outbuildings include a bake house/oven, a well, a furnace, a powder works, a warehouse, a garage, and the earthworks and brick/stone fortifications that comprise the Fort, as well as other minor structures.

Old Fort Niagara and Fort Niagara State Park are critical components of the Niagara Falls National Heritage Area. The Niagara Falls National Heritage Area is one of 49 National Heritage Areas in the United States, and one of only four National Heritage Areas in New York State. Designated by the United States Congress in 2008, its mission is to preserve, protect and promote the historic, natural and cultural resources of the area stretching from the City of Niagara Falls to Old Fort Niagara in the Town of Porter.

The U.S. Coast Guard Station Niagara, which is part of the Sector Buffalo Area of Responsibility, is also located on the Fort's grounds. The current Station is a two-and-one-half-story Colonial Revival building, complete with gambrel roof, symmetrical fenestration, and gabled dormers. It was constructed circa 1925. The Coast Guard is the only member of the United States Armed Forces that maintains a presence at Fort Niagara.

Another prominent historic structure in Fort Niagara State Park is the circa 1871 Fort Niagara Lighthouse, which was built to replace the light that was removed from roof of the French Castle.

The lighthouse is constructed of rusticated stone and brick and features an octagonal shaft. A lighthouse keeper's building was built nearby circa 1897. The lighthouse was raised an additional 11'4" in 1900 to increase its visibility to ships entering the mouth of the Niagara River.

Directly across from Fort Niagara State Park on Lake Road is the John Carter Farmstead (Figure 14), which is listed on the National Register of Historic Places and the New York State Register of Historic Places. The Farmstead consists of two contributing buildings and two non-contributing buildings. The main house is a mid-nineteenth century Greek Revival/Italianate building constructed circa 1858. It was listed under Criterion A (Broad Patterns of History) and Criterion C (Distinctive Type, Period, or Method of Construction).

## **2.8.2. Archaeological Resources**

Niagara County and the Town of Porter, in particular, are rich in cultural history. Long before Europeans arrived, Native Americans inhabited the area. The extensive pre-contact history coupled with the more well-known and recent history of European settlement and interactions with Native Americans in and around Porter leads to a relatively high likelihood of finding artifacts during both light (e.g. simple



grading/ earth disturbance) and intensive (e.g. construction of new buildings) site development processes. Several Phase 1 and Phase 2 archaeological surveys have been conducted within the LWRP boundaries, in and around Fort Niagara and Fort Niagara State Park.

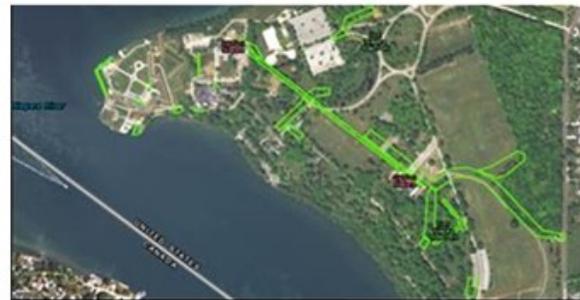
The State has identified over a dozen Archaeologically Sensitive Areas (ASA) within the Town of Porter corporate limits. The ASAs are depicted with shaded circles on the Figure 15; all the lands that fall within the shaded circles are considered archaeologically sensitive. The location of archaeological surveys in and around Fort Niagara State Park can be seen in the aerial imagery (Figure 16), outlined in green.

Many of these ASAs are located within the WRA boundaries, along the Niagara River, near many of the creeks located within the Town, and along the Lake Ontario shoreline. Proposed projects occurring within these ASAs will most likely need to be reviewed by the State Historic Preservation Office and further archaeological investigation, in the form of Phase 1 and/or Phase 2 surveys, might be required.

**Figure 15: Archaeologically Sensitive Areas**



**Figure 16: Archaeological Surveys**



### 2.8.3. Scenic Resources

There are no Scenic Areas of Statewide Significance (SASS) within the Porter WRA, as designated by the Secretary of State (SASS's are currently limited to six areas in the Hudson River Valley and on Long Island). Although not formally designated by the State, the scenic resources along the waterfront areas in the Town of Porter are locally significant. These scenic resources consist primarily of the dramatic vistas of Lake Ontario and its shoreline, as well as the Niagara River. The Lake can be viewed from portions of Lake Road (SR 18), as well as from the State and Town parks. Lower River Road (SR 18F) provides excellent view of the Niagara River gorge. There are three scenic trail resources that extend through the WRA. These are discussed as follows.

#### Great Lakes Seaway Trail and Scenic Byways

In the Porter WRA, Lake Road (State Route 18) and Lower River Road (SR 18F) are designated segments of the Great Lakes Seaway Trail in New York State. The Great Lakes Seaway Trail is a 454-mile scenic route that stretches across 10 counties that parallel Lake Erie, the Niagara River, Lake Ontario and the



St. Lawrence River. Designated as a National Recreation Trail, this route is intended for use by car, RV, tour bus, bicycle or boat (where feasible). Green and white markers are posted along the trail to guide travelers who journey along the shoreline. In the Town of Porter WRA, Lake Road and Lower River Road are marked segments that provide stopping points and views of Lake Ontario and the Niagara River (Figure 17). Panoramic views of these waterways can be achieved from Fort Niagara State Park, Four Mile Creek State Park, Porter on the Lake Town Park, the Lower River Road pedestrian pathway and a few other viewing locations along Lower River and Lake Roads.

**Figure 17 –Great Lakes Seaway Trail and Scenic Byways**



The Great Lakes Seaway Trail is one of three Nationally designated Scenic Byways in New York State (this includes Lower River Road and Lake Road in the Porter WRA). A National Scenic Byway is a road recognized by the U.S. Department of Transportation (USDOT) for one or more of six intrinsic characteristics: archaeological, cultural, historic, natural, recreational and scenic. The program was established by Congress in 1991 to preserve and protect the nation’s scenic and often less traveled roads and to promote tourism and economic development. New York State Parkways are regulated by Article 13, Section 13.07 of the Parks, Recreation and Historic Preservation Law. Subsequent to this law, all parkways in the State were legislatively designated as scenic byways, making all scenic byway rules applicable to these roadways. This would apply to the Niagara Scenic Parkway in the Town of Porter.

In accordance with the National Scenic Byway designation for State Route 18, views of Lake Ontario and the Niagara River should be protected and improved, wherever possible, and the erection of any off-premise signs is prohibited. Pursuant to the passage of the Federal Highway Beautification Act, New York State entered into an agreement with the U.S. Department of Transportation to adopt legislative and development rules and regulations to control signage along specific highways and enforce sign prohibitions. This is further supported by the Town’s sign regulations (Section 200-82 of the Town Code).

**Audubon Niagara Birding Trail**

The Buffalo Audubon Society has identified a regional birding trail that extends 115 miles from the shores of Lake Erie at Woodlawn Beach State Park, in the Town of Hamburg, this trail follows the Niagara River to Lake Ontario, and then on east to the Iroquois National Wildlife Refuge in Orleans County. The Audubon Niagara Birding Trail, which is a portion of the larger trail system, starts in Niagara Falls and passes through the Town of Porter. This trail includes four State parks, including Joseph Davis, Fort Niagara, Four Mile Creek and Wilson-Tuscarora, which are identified as good viewing areas for birdlife. The Buffalo Audubon Society notes that “the Niagara River is the first site in North America to be identified bi-nationally as an Important Bird Area (IBA). The binational IBA was dedicated by the



National Audubon Society, Canadian Nature Federation, American Bird Conservancy, and Bird Studies Canada on December 11, 1996<sup>4</sup>.

**Niagara Historic Trail**

Lake Road (SR 18), and Lower River Road (SR 18F) are also scenic segments of the Niagara Historic Trail. In 1975, the North Tonawanda History Museum, in cooperation with the County of Niagara and the Association of Municipal Historians of Niagara County and other County historians, the Historical Society of North German Settlements in Western New York and the Niagara County Historical Society, received grant funding to produce a guidebook and map known as “The Niagara Historic Trail: A Self-Guided Historic Tour of Niagara County”, which was updated in 2009. At the time, the trail map and guidebook served as the County’s official bicentennial publication to help commemorate and celebrate the 200th anniversary of the founding of the United States of America. The trail roughly follows the perimeter of Niagara County, passing through the Town of Porter WRA as it follows the Niagara River northward and then Lake Ontario eastward (Figure 18). This marked trail provides visitors with the locations of historic and cultural points of interest in each of the communities along the route. Tour stops in the Porter WRA include Old Fort Niagara and Oakland Rural Cemetery, among other local historic sites.

**Figure 18 – Historic Niagara Trail**



The Town will make efforts to enhance and promote the trail corridors and scenic byways that extend through the WRA in recognition of their designation. Efforts will also be taken to protect, and where possible, improve the visual quality and visual accessibility of the scenic areas in the WRA. This can be done locally, through the site plan review process and the enforcement of the sign regulations.

---

<sup>4</sup> Buffalo Audubon Society, *Nature Tourism in Buffalo Niagara*, <http://www.buffaloudubon.org/docs/BuffaloAudubonNatureTourism.pdf>



Improved signage and wayfinding, and the enhancement of gateway features are also a consideration for specific areas to boost tourism and visitation to Porter on the Lake Park.

## **2.9. PUBLIC INFRASTRUCTURE** (Map 6)

### **2.9.1. Water Supply**

The Niagara County Water District (NCWD) serves approximately 150,000 people through 108 service connections to Towns and Villages. The entire Town of Porter is served by public water that is provided from the NCWD. In 2017, the daily average volume of water treated and pumped into the distribution system was 14,575,366 gallons per day; the total amount of water delivered to customers was 5,305,433,240 gallons. The Niagara County Water Treatment Plant is located about 18 miles south of the Village of Youngstown, on Williams Road in the Town of Wheatfield, outside of the WRA boundary. Intake pipes for the treatment plant draw water from the west branch of the Niagara River. The treatment process uses pre-chlorination, coagulation, rapid mix, flocculation, sedimentation and filtration processes to ensure the quality of drinking water. Chlorination is also used for disinfection, and fluoride and a corrosion inhibitor are added to the water prior to distribution. Treated (potable) drinking water is conveyed to the various water districts through a system of water lines that spread throughout the County. The Town is located in Niagara County Water District No.1.

The quality of the water drawn from the Niagara River is considered excellent. The NCWD conducts routine testing for numerous contaminants and prepares annual water quality reports in accordance with New York State requirements. In 2017, the water system did not violate any maximum contaminant levels or any other water quality standards and did not experience any restriction on the water source.

In 2017, the NCWD completed waterline upgrades in the transmission system, lagoon cleaning and upgrades to the filtration system at the water treatment plant. Construction is ongoing for the transmission system upgrades. These improvements facilitate continuing efforts to maintain a safe and dependable water supply.

### **2.9.2. Wastewater Management**

The Town of Lewiston provides wastewater collection and treatment service to limited portions of the Town of Porter (Map 6). Sanitary sewer service is provided in two districts in the WRA. The Porter West Sewer Improvement area provides service to Subarea 1, south of the Village of Youngstown, and the western portion of Subarea 2. The Lakeshore Sewer Improvement Area covers the area east of Fort Niagara State park (and north of the Niagara Scenic Parkway), extending east to Four Mile Creek State Park. Both State Parks have sanitary sewer service.

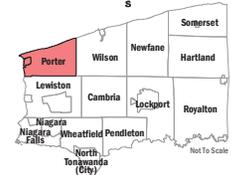
Sanitary sewer lines also extend south along Creek Road in Subarea 2, terminating at Youngstown-Lockport Road, with service provided to the Niagara Frontier Country Club. The remaining portion of Subarea 2 utilizes on-site septic systems for wastewater management and treatment; due to the vast length of the area and cost constraints, it is unlikely that public sewer service will ever be provided in the future.



# Town of Porter

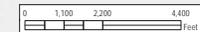
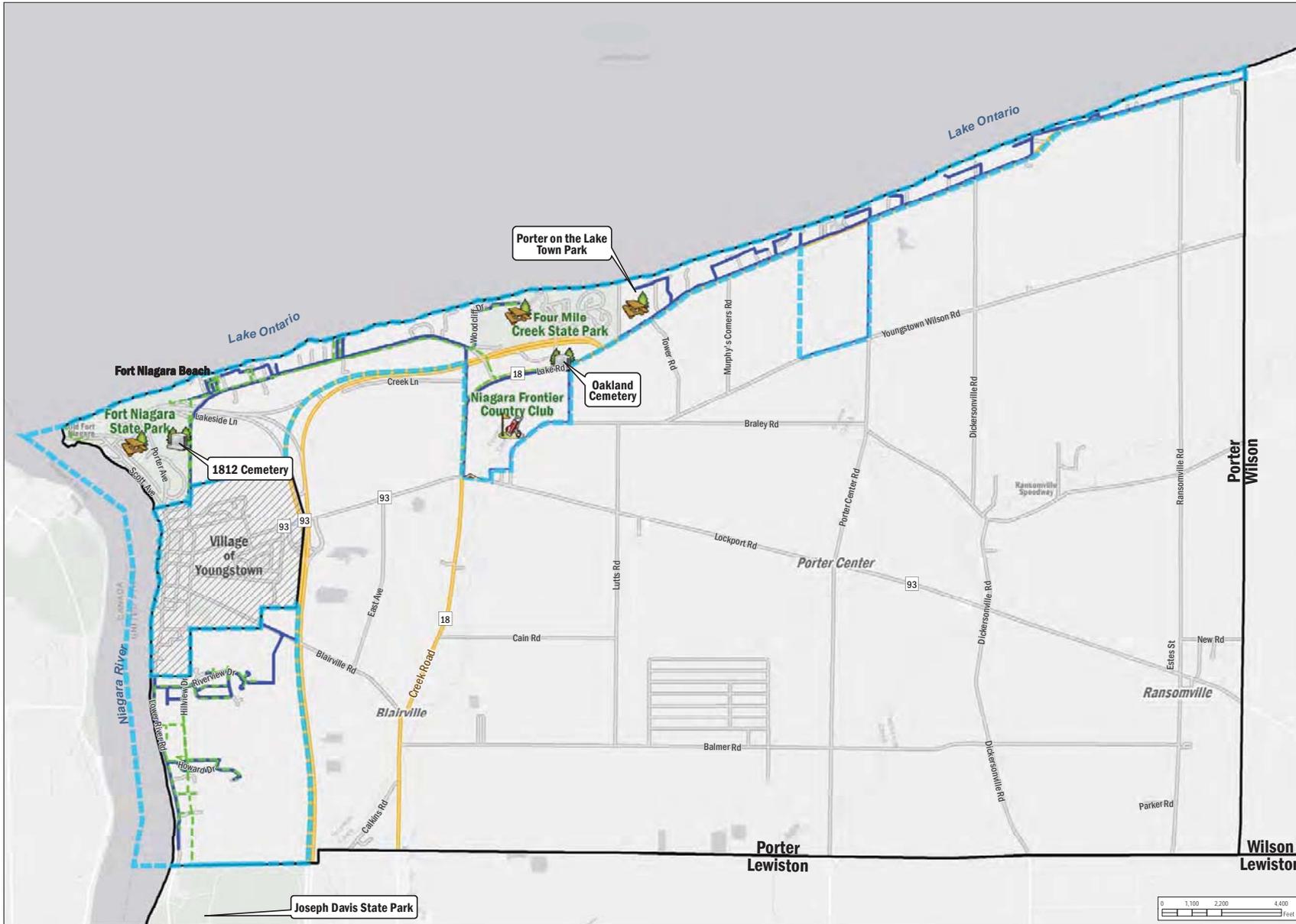
## Waterfront Revitalization Program

### Map 6 - Public Facilities



**LEGEND**

- Municipal Boundary
- Village of Youngstown
- WRA Boundary
- Sewerlines
- Waterlines
- Community Features**
- Cemetery
- Golf
- Park



This map was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.

WD Project # 432114  
Map Created: March, 2019

Wendel WD Architecture, Engineering, Surveying and Landscape Architecture, P.C. shall assume no liability for:  
1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused or 2. Any decision or action taken or not taken by the reader or reliance upon any information so provided hereunder.  
GIS Sources: Esri, HERE, DeLorme, Mapbox, OpenStreetMap contributors, Niagara County Real Property Services, NYS Department of State, Office of Planning and Development, NYS Office of Information Technology Services, GIS Program Office



Wastewater from the Lakeshore Sewer Improvement area is conveyed to three pump stations on Lake Road – station #1 at 766 Lake Road, station #2 at 945 Lake Road and the Porter North station located on Lake Road at the north entrance to Fort Niagara State Park. Wastewater is conveyed south, through the Village of Youngstown, to another pump station located on Swain Road, at the southern Village boundary. From this point it is carried through a force main to the Town of Lewiston Water Pollution Control Center for treatment (J. Ritter, WPCC Administrator, October 14, 2019).

The Town of Lewiston Water Pollution Control Center (WPCC) is located on Pletcher Road, south of Subarea 1. The WPCC was constructed in 1978 to provide secondary treatment for a design flow of 2.75 million gallons per day (MGD). It currently handles approximately 1.9 MGD of flow, having excess capacity for district expansion. The WPCC treatment process was expanded to provide additional treatment for phosphorus removal and nitrification under the existing design flow. The treatment process consists of a plant influent screen, primary clarifiers, aeration tanks with diffused air, final clarifiers and a chlorine contact tank. Ferric chloride is used for phosphate removal. Treated wastewater is discharged through an outfall to the Niagara River.

According to the WPCC Administrator, the district experiences ongoing inflow and infiltration (I&I) problems, wherein stormwater runoff gets into sanitary sewer lines through cracks, illegal hookups or manhole covers. Stormwater I&I impacts the volume of flows to the WPCC during storm events, adversely effecting overall plant capacity. The WPCC presently utilizes an Overflow Retention Facility to manage the excess flow. The Town has been working with The Town of Lewiston to identify and remedy I&I. They utilize a camera system to televise sewer lines to find problem areas. The Town is planning on undertaking further study in the Town of Porter to identify and mitigate I&I issues in the Porter West and Lakeshore Sewer Improvement Areas. This project could be undertaken as a collaborative effort with the Village of Youngstown.

Sanitary waste management in much of the Town of Porter is handled through on-site sanitary (septic) systems. The Niagara County Department of Health, Environmental Health Division, regulates the construction, structural integrity and use of new or modified septic systems for commercial or residential properties, pursuant to Chapter 3 of the Niagara County Sanitary Code. It is important that on-site sanitary systems be maintained on a regular basis to ensure their effectiveness and control water quality issues, particularly for systems situated near local creeks and streams (see Appendix E). Septic system inspections are typically performed as a part of real estate transactions or on a as needed by as determined by Niagara County.

A primary area of concern along the waterfront is the Willow Beach campground. According to representatives from the Niagara County Department of Health, Division of Environmental Health, Willow Beach utilizes a communal sanitary waste collection system that employs a pump station to convey wastewater to a sand filter septic system. Wastewater is filtered and then chlorinated prior to discharge to the lake.

Willow Beach did suffer damage from flooding and erosion that occurred in the late spring and early summer of 2017. As a result, a number of campsites that were situated along the lakeshore were deemed uninhabitable by the County and removed from service. Subsequent problems with the on-site wastewater treatment facility were identified and remedied by Niagara County. The County conducts



inspections of the campground, including the campsites and utility infrastructure at least once per season. The most recent permit for the campground was issued by the County on August 1, 2017, after the flooding occurred. Additionally, a permit application for the placement of approximately 20,000 square feet of fill was approved by NYSDEC to prevent the flooding of campsites at the Willow Beach Campground. This project was designed to raise grade level of the southern side of the existing camping lots to equal the grade level of the lots on the lakeward side of property. Permits were issued for this project pursuant to Article 15 Title 5 – Excavation and Fill in Navigable Waters, Article 24 – Freshwater Wetlands and Section 401 – Clean Water Act Water Quality Certification.

### **2.9.3. Stormwater Management**

Stormwater is conveyed in the Town of Porter through a combination of closed pipes and open ditches. There is one known stormwater outfall, which discharges to the Niagara River, in Subarea 1. It is located just south of the Collingwood Estates subdivision, where it collects and conveys stormwater runoff from this residential area to the river (D. Briton, GHD, March 30, 2017). As drainage has been a major issue in the Town, the Porter Highway Department systematically and aggressively addresses all major drainage channels in the Town. Existing creeks and ditches are cleared of debris and new drainage systems are constructed, where required. Efforts to keep roadside ditches and culverts open and free from growth and debris will remain an ongoing priority for the Town, as it is also important for farming activities that occur outside of the WRA. Drainage considerations are also included in all new development proposals as a part of site plan review.

As noted in Section 2.7.1, the Town of Porter 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, including the Town of Porter, 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 provisions of the Stormwater Management Plan were carried over into Article V of Chapter 145 (Storm Sewers) of the Porter Town Code. Article V recognizes the Town as an MS4 (a community that maintains a separate municipal storm sewer system) and outlines prohibitions on illicit discharges and activities that contaminate stormwater. It outlines best management practices for preventing, controlling and reducing discharges, provisions for access and monitoring, enforcement and other aspects of stormwater management.

The Town of Porter also adopted Chapter 200-84 of the Town of Porter Zoning Law and to establish minimum stormwater management requirements and controls to protect and safeguard the general health safety, and welfare of the public. These regulations set forth the requirements and procedures for managing stormwater flows in the Town. Section 200-84 requires the preparation of stormwater pollution prevention plans (SWPPPs) for certain construction and development activities subject to review and approval by the Zoning Administrator, Planning Board, Town Board or Zoning Board of Appeals under the Town’s subdivision, site plan, automobile access area or mobile home park regulations. Land development activity that requires a SWPPP includes construction activity disturbing



land of one acre or more, or activities disturbing less than one acre of total land area that are part of a larger common plan of development or sale

#### **2.9.4. Solid Waste Management**

The Town of Porter Highway Department oversees the collection of municipal solid waste. The Town contracts with Modern Disposal for waste collection and disposal, who provides residents with collection cart receptacles. The Highway Department conducts an electronic waste collection program. The Town also requires that residents recycle as a part of the municipal waste collection arrangement with Modern. Accepted materials include paper (newsprint and office paper, junk mail, magazines/catalogs, cardboard, paperboard), metal cans and kitchen cookware, plastic (bags, containers, bottles and rigid plastic items), and clear glass. Modern collects recyclables every other week and white goods (appliances) once per month. Yard waste is collected from March through the first week of November.

The Niagara County landfill has a recycling center where Town residents can dispose of certain waste materials, including construction and demolition debris, tires, yard waste, and contaminated soil. The County also conducts annual household hazardous waste collection events.

#### **2.9.5. Other Utilities**

Other utility services available in the waterfront area include electric, telephone (land line and cellular) and natural gas. Cable television and internet services and satellite television services are also provided by private carriers.

#### **2.9.6. Energy Generation**

There are no land uses in the Town of Porter WRA that generate energy through the burning of oil, gas or coal. The Town of Porter supports the conservation of energy resources and promotes the use of alternative sources of energy that are self-sustaining for small-scale use in the Town. The Town also recognizes the need to develop new renewable sources of energy in a manner that will not endanger the environment and adversely impact important shoreline amenities and the quality of life in the community. The waterfront is a significant recreational resource in the Town and has the potential for increased tourism development.

The Town supports energy conservation and the use of small-scale alternative sources for energy generation in the WRA. The conservation of energy should be an important part of prudent future land use planning for the waterfront. Energy efficiency can be achieved through several means that fall under the jurisdiction of the Town, including:

- Promoting energy efficient design in new development, particularly LEED certification;
- Promoting greater energy generating efficiency through upgrades to existing public and private facilities; and
- Allowing the use of solar, geothermal or wind energy generating systems in appropriate locations.



### 2.9.7. Transportation Systems (Map 7)

The Town of Porter WRA is serviced by several roadways that provide access throughout the waterfront, as well as to the State Parks and Village of Youngstown. These roadways are described below. Public transportation options are limited in this area but are adequate to service the needs of the community. There are no active railroad lines in the WRA. The Niagara County Rural Niagara Transportation System provides one bus line that services the Village of Youngstown and surrounding area. Route 4A – 4D on the Ransomville-Youngstown-Lewiston line provide morning and afternoon bus service. There are two bus stops on Lower River Road in Subarea 1 and one stop on Main Street in the Village of Youngstown. Bus service travels to and from Niagara County Community College, with a small number of stops along the line where passenger can transfer to another line. Passengers may also flag a moving bus from any point along a route, where safety permits.

#### Roadways and Roadway Classifications

There are approximately 22 miles of roadways under the jurisdiction of the New York State Department of Transportation in the Town of Porter. This includes the Niagara Scenic Parkway and Parkway spur to Fort Niagara State Park, Lower River Road (State Route 18F – Sub Area 1), and Lake Road (State Routes 18F and 18 – Sub Area 2).

The Niagara Scenic Parkway (State Route 957A – formerly known as the Robert Moses State Parkway) is a principal arterial (expressway) and mainline segment of the national highway system that extends from the City of Niagara Falls to the Town of Porter. State Route (SR) 957A is a divided, limited access highway that has four travel lanes (two northbound and two southbound). This roadway has 10-foot wide paved shoulders with curbed edges, a mowed right-of-way and a posted speed limit of 55 miles per hour. Data from the Greater Buffalo Niagara Regional Transportation Council (GBNRTC) from indicates that this parkway has an average annual daily traffic (AADT) volume<sup>5</sup> of over 4,000 vehicles per day, with entrance and exit ramps at Youngstown Lockport Road (SR 93) that provide access to the Village of Youngstown. As shown in Table 10 and on Map 7, a significant amount of traffic on the Niagara Scenic Parkway travels to and from the Village of Youngstown. Trucks with more than four axles (semi-tractor trailers, etc.) are not permitted to utilize the Niagara Scenic Parkway, although they are permitted on portions of State Route 18F and State Route 18.

The Niagara Scenic Parkway splits just north of Youngstown Lockport Road (SR 93), with a spur that extends to the west that services Fort Niagara State Park. The Parkway spur (SR 958A) is a divided, limited access highway that has four travel lanes (two northbound and two southbound). This roadway has six-foot wide stabilized (treated gravel) shoulders, with an un-mowed right-of-way. The Niagara Scenic Parkway corridor that continues to the east (from the split) provides access to Four Mile Creek State Park and Lake Road (SR 18), in Subarea 2. This portion of the parkway remains a divided, limited access highway with two northbound and two southbound travel lanes. It has paved shoulders with curbed edges and a mowed right-of-way.

---

<sup>5</sup> AADT – the total volume of vehicle traffic of a highway or road for a year divided by 365 days. AADT represents both directions of travel on a roadway and is a useful and simple measurement of how busy the road is.



# Town of Porter Waterfront Revitalization Program Map 7 - Transportation



**LEGEND**

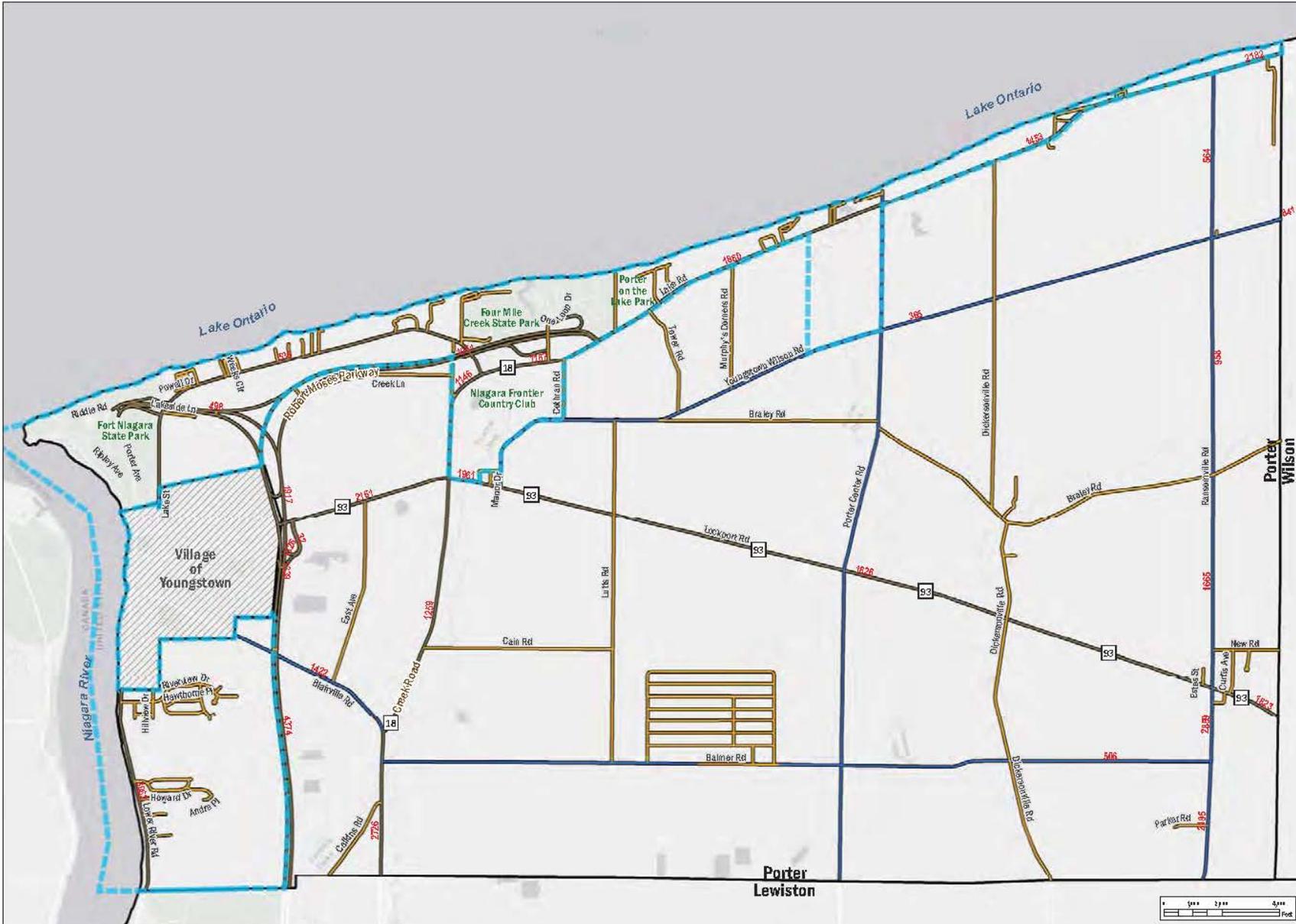
- Municipal Boundary
- Village of Youngstown
- WRA B Boundary
- AADT 2015 Traffic Counts Labeled

**Road Jurisdiction**

- 01 - State Route
- 02 - County Route
- 03 - Town Road
- 13 - Village Street



Wendel W&A Inc., Engineers, Surveyors and Landscape Architects, 225 Westchester Ave., Suite 200, Westchester, NY 10804. For a full and complete description of the services provided, please refer to the contract documents. The information herein is intended for the use of the client and is not to be used for any other purpose without the written consent of Wendel W&A Inc. The information herein is not to be used for any other purpose without the written consent of Wendel W&A Inc. The information herein is not to be used for any other purpose without the written consent of Wendel W&A Inc.



This map was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.



Lake Road is divided into two separate sections of roadway that provide service through Subarea 2 in the Porter WRA. The first section, which is a portion of SR 18F, extends from the northern boundary of the Village of Youngstown to the intersection with Creek Road and State Route 18, just west of Four Mile Creek State Park. This section of Lake Road has 20- foot of travel lanes with four-foot wide stabilized shoulders and a mowed right-of-way.

**Table 10: Functional Roadway Classifications and Traffic Counts**

Route Name	Segment	Lanes	AADT Count	Year
<b>PRINCIPAL ARTERIALS / EXPRESSWAYS</b>				
NIAGARA SCENIC PARKWAY (957A)	Pletcher Road (Town of Lewiston) to State Route 93 (Youngstown Lockport Road)	4	4,701	2015
NIAGARA SCENIC PARKWAY (957A)	Northbound Off Ramp to State Route 93 (Youngstown Lockport Road)	1	1,326	2015
NIAGARA SCENIC PARKWAY (957A)	Southbound on Ramp from State Route 93 (Youngstown Lockport Road)	1	1,339	2015
NIAGARA SCENIC PARKWAY (957A)	State Route 93 (Youngstown Lockport Road) to Fort Niagara State Park Spur	4	1,909	2015
NIAGARA SCENIC SPUR (958A)	Niagara Scenic Parkway to the Fort Niagara State Park Entrance	4	704	2015
NIAGARA SCENIC PARKWAY (957A)	Fort Niagara State Park Spur to Lake Road (SR 18)/Four Mile Creek Park	4	1,246	2015
<b>MINOR ARTERIALS (URBAN)</b>				
NIAGARA SCENIC PARKWAY (957A)	Four Mile Creek Park to Lake Road (SR 18)	4	1,010	2015
LAKE ROAD (SR 18F)	Village of Youngstown boundary to State Route 18 (Lake Road)	2	535	2015
<b>MINOR ARTERIALS (RURAL)</b>				
LAKE ROAD (SR 18)	State Route 18F to Niagara Scenic Pkwy.	2	1,174	2015
LAKE ROAD (SR 18)	Niagara Scenic Pkwy. to Porter Center Road	2	1,868	2015
LAKE ROAD (SR 18)	Porter Center Road to Ransomville Road	2	1,620	2015
CREEK ROAD (SR18)	Route 93 (Youngstown Lockport Road) to Lake Road (SR 18F)	2	1,180	2015
LOWER RIVER ROAD (SR 18F)	Town of Lewiston boundary to Village of Youngstown boundary	2	3,078	2015

*Source: GBNRTC, 2016*

The second section of Lake Road is a portion of State Route 18 (SR 18) that runs west to east, extending from the intersection of Creek Road and the terminus of SR 18F to the Porter-Wilson Town line. This



two-lane roadway provides access through the northern extent of the Town in Subarea 2. Lake Road has paved, 22-foot travel lanes with six-foot wide stabilized shoulders and a mowed right-of-way.

Lower River Road (SR18F) is the primary travel route through Subarea 1 in the Porter WRA. A segment of State Route 18F, it extends north from the Porter-Lewiston town line to the southern boundary of the Village of Youngstown in the WRA, servicing commuter and other traffic from the Village of Youngstown, as well as local development and the two residential subdivisions located in Subarea 1. This roadway has two paved travel lanes and a posted speed limit of 45 mph, with four-foot wide unimproved shoulders and a mowed right-of-way.

A small section of Creek Road is located in Subarea 2. It extends in a northerly direction from Youngstown Lockport Road (SR 93), terminating at the intersection with Lake Road (SR18), where it becomes Lake Road (SR 18). This roadway is classified as a rural minor arterial, providing a northerly connection between SR 93 and SR 18, SR 18F and the Niagara Scenic Parkway. It has two travels lanes and a posted speed limit of 55 mph. This roadway consists of 24 feet of travel lanes that are paved with asphalt over concrete, with 10-foot wide stabilized shoulders and a mowed right-of-way.

According to the most recent traffic counts, the Niagara Scenic Parkway, Lower River Road and Lake Road (SR 18), are the most traveled roadways in the WRA. Truck traffic was the most prevalent on Lake Road (SR 18). The New York State Department of Transportation calculates volume trends using a volume to capacity ratio to determine a roadway’s ability to accommodate present and future traffic volume. The volume trends for roadways in the Porter WRA indicate that they adequately service existing traffic flows and have the capacity to handle potential increases in volume.

**Roadway Conditions**

The New York State Department of Transportation (NYSDOT) uses a rating system to assess pavement conditions of all highways that are owned or maintained by the State. Since 1981, the NYSDOT has used a windshield survey to assess the severity and extent of distress of each highway segment and assign a surface rating to represent the dominant level of distress. Roadways are rated on a scale of 1 to 10, with 10 being the best condition.

The NYSDOT 2015 Pavement Data Report includes roadway information on the physical characteristics, traffic volumes, pavement conditions and work that has been undertaken for all roads within its jurisdiction.

**Table 11: NYSDOT Highway Surface Ratings**

Rating	Condition	Description
9-10	Excellent	No significant surface distress
7-8	Good	Surface distress beginning to show
6	Fair	Surface distress is clearly visible
1-5	Poor	Distress is frequent and severe
U	Under Construction	Not rated due to ongoing work

*Source: NYSDOT, 2015 Pavement Data Report.*



As shown in Table 12, this report provides existing pavement condition ratings for Lower River Road (SR 18F), Lake Road (SR 18F), the Niagara Scenic Parkway (SR 957A) and parkway spur to Fort Niagara State Park (958A), Creek Road (SR 18), and Creek Road (SR 18). As noted, there are certain areas where pavement conditions could be improved, particularly on the Niagara Scenic Parkway spur that extend to Fort Niagara State Park. Other areas rated fair should also be re-evaluated to determine if improvements are warranted. It is important to note that the Niagara Scenic Highway, Lower River Road and Lake Road are Federal Aid Eligible Highways.

**Table 12: Existing Roadway Conditions**

Route Name	Segment	Rating	Condition	Last Work Year
NIAGARA SCENIC PARKWAY (957A)	Pletcher Road (Town of Lewiston) Four Mile Creek State Park	6	Fair	1965
NIAGARA SCENIC PARKWAY (957A)	Four Mile Creek Park to Lake Road (SR 18)	6	Fair	1997
NIAGARA SCENIC SPUR (958A)	Niagara Scenic Parkway Main to the Fort Niagara State Park Entrance	5	Poor	1967
LAKE ROAD (SR 18F)	Village of Youngstown boundary to State Route 18 (Lake Road) – western section	9	Excellent	2014
LAKE ROAD (SR 18F)	Village of Youngstown boundary to State Route 18 (Lake Road) – eastern section	6	Fair	2004
LAKE ROAD (SR 18)	State Route 18F to the terminus of the Niagara Scenic Parkway	7	Good	2006
LAKE ROAD (SR 18)	Terminus of the Niagara Scenic Parkway to Porter Center Road	7	Good	2006
LAKE ROAD (SR 18)	Porter Center Road to Ransomville Road	6	Fair	2004
CREEK ROAD (SR 18)	Route 93 (Youngstown Lockport Road) to Lake Road (SR 18F)	7	Good	2006
LOWER RIVER ROAD (SR 18F)	Town of Lewiston boundary to Village of Youngstown boundary	8	Good	2000

*Source: NYSDOT, 2015 Pavement Data Report.*

### 2.9.8. Emergency Services

The Niagara County Sheriff’s Department and the New York State Police patrol the waterfront areas and respond to emergencies in the Town. Back up service is provided by the Village of Youngstown Police Department. The lower portion of the Niagara River is patrolled and protected by the U.S. Coast Guard, Niagara County Sheriff’s Marine Division and the NYSDEC Marine Enforcement Unit. The U.S. Border Patrol also cruises the Niagara River and patrols the upland areas to maintain operational control of the border of the United States.



Fire protection within the Town of Porter is provided by local volunteer fire companies. The Youngstown Volunteer Fire Company serves Subarea 1 (see Map 6). Subarea 2 receives service from the Youngstown Volunteer Fire Company, as well as the Ransomville Volunteer Fire Company. These fire companies provide fire protection and emergency medical services to their respective service areas.



## SECTION III - LOCAL WATERFRONT REVITALIZATION PROGRAM POLICIES

The Porter Local Waterfront Revitalization Program (LWRP) policies and sub-policies, collectively referred to as the “policies” and presented in this section, consider the economic, environmental, and cultural characteristics of the community's waterfront. The policies represent a balance between economic development and environmental preservation that will permit beneficial use of and prevent adverse effects to coastal resources. They also represent the enforceable policies of the New York State Coastal Management Program for the Town of Porter waterfront revitalization area, pursuant to this LWRP.

The policies are comprehensive and reflect the Town’s concerns; they will be enforced through the use of State laws and authorities, and local laws and regulations (a listing of local laws that support implementation of the LWRP policies is included in Appendix C).

The policies are the basis for Federal and State consistency determinations for activities affecting the waterfront area. The following pages contain explicit policy statements and explanations, including the local refinement that is necessary to relate to the Porter WRA.

The policies are organized as follows:

- Development 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



## DEVELOPMENT POLICIES

### Policy 1

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

#### Policy 1A

**Promote uses that serve as a catalyst to private investment and are compatible with the character of the area.**

##### Explanation of policies

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 office 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 within the Town of Porter Waterfront Revitalization Area (WRA), 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 waterfront areas. Waterfront redevelopment and revitalization is also one of the most effective means 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 and easing certain requirements (Policy 6) will be increased if a discrete area and not the entire waterfront is the focus for revitalization efforts. In turn, ease in obtaining permits should increase the interest to invest in these areas. Furthermore, once any concentrated effort for revitalization has succeeded, stabilization and revitalization of surrounding areas may occur in response to this action.

The Town of Porter through the Local Waterfront Revitalization Program has the primary responsibility for implementing this policy. The Town of Porter will continue to identify and evaluate areas suitable for redevelopment and establish and enforce redevelopment programs.

1. When a Federal, State or local action is proposed to take place in a location within the WRA 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 enhance existing and anticipated uses.
  - c. The action should serve as a catalyst to private investment in the area.
  - d. The action should improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration.
  - e. 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.
  - f. 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.
  - e. The action should improve adjacent and upland views of the water and, at a minimum, must not affect their availability or the quality of existing views.
  - h. The action should have the potential to enable multiple uses on the site.
2. If a Federal, State or local action is proposed to take place outside of a given deteriorated or underutilized waterfront area that is suitable for redevelopment and is either within the relevant community or adjacent coastal communities, 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 consider undertaking the action in that area. If not feasible, the agency must take the appropriate steps to ensure that the action does not cause or exacerbate further deterioration of that area.

## **Policy 2**

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

#### **Policy 2A**

##### **Promote water-enhanced uses that support and don't compete for space with nearby water-dependent commercial and recreational uses.**

###### Explanation of Policies

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 Town-wide basis, the only reasonable expectation is that long-term demand for waterfront space will increase. 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 Town of Porter Waterfront Revitalization Area (WRA), the town government and State and federal agencies will avoid undertaking, funding, or approving non-water dependent uses when such uses would preempt the reasonably foreseeable development of water dependent uses in appropriate locations. Furthermore, the town government and State and federal agencies will utilize appropriate existing programs to encourage the siting of water dependent activities, where feasible.

Water dependent activities shall not be considered a private nuisance, provided such activities were commenced prior to the surrounding activities and have not been determined to be the cause of conditions dangerous to life or health and any disturbance to enjoyment of land and water has not materially increased.

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. Recreational activities that depend on access to the Niagara River, Lake Ontario or local creeks, such as fishing, boating, swimming, scuba diving, and wildlife viewing;
3. Uses involved in the sea/land transfer of goods, such as docks, loading areas, pipelines, and short-term storage facilities;
4. Structures needed for navigational purposes;
5. Flood and erosion protection structures, including breakwaters, bulkheads and seawalls
6. Facilities needed to store and service recreational vessels, such as marinas, boat repair, boat storage, boat construction yards etc.;
7. Uses requiring large quantities of water for processing and cooling purposes, such as fish processing plants, pumped storage power plants, etc.;
8. 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;
9. Uses that operate under such severe time constraints where proximity to shipping facilities is critical, such as firms processing perishable foods;
10. Scientific/educational activities that, by their nature, require access to coastal waters (e.g., certain meteorological and oceanographic activities); and
11. Support facilities that are necessary for the successful functioning of permitted water-dependent uses (e.g., parking lots, snack bars, first aid stations, short-term 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, or entertainment uses. Also, a restaurant that



uses good site design to take advantage of a waterfront view is an example of a water-enhanced use. Waterfront parks and multi-use trails are the main water-enhanced amenities within the Porter WRA, including Fort Niagara State Park, Four Mile Creek State Park, Porter on the Lake Town Park and Willow Beach Campground. These types of uses help support tourism activity and economic development.

If there is no immediate demand for a water-dependent use in a given area, but a future demand is reasonably foreseeable, temporary non-water-dependent uses should be considered preferable to a non-water-dependent or enhanced use that involves an irreversible or nearly irreversible commitment of land. Parking lots, roadway overlooks for passive recreation and scenic viewing, 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 recreational boating exists or is planned, consideration should be given to sites that ensure 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. For example, a recreation-oriented water-dependent use area could be sited in an area already oriented towards tourism. Clearly, a marina, fishing pier or swimming area would be enhanced by nearby restaurants, motels and other non-water-oriented tourist activities. 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 WRA that are currently underutilized.
6. Providing for expansion: A primary objective of the policy is to create a process by which water dependent uses can be accommodated well into the future. State agencies and localities will, therefore, give consideration to long-term space needs and, where practicable, accommodate future demand by identifying more land than is needed in the near future.

In promoting water-dependent 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 construction and maintenance of park and water-oriented tourism facilities and roads and the availability of public transportation within areas suitable for water dependent uses.
2. When areas suitable for water dependent uses are publicly owned, favored leasing arrangements should be given to these uses.
3. Where possible, consideration should be given to providing water dependent uses with property tax abatements, loan guarantees, or loans at below market rates.
4. State and local planning and economic development agencies should actively promote water dependent 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.
5. Local, State and Federal agencies should work together to streamline permitting procedures that may be burdensome to water dependent uses.
6. Local land use controls, especially the use of zoning districts exclusively for waterfront uses, can be an effective tool of local government in assuring adequate space for the development of water dependent uses.

### **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**

#### Explanation of Policy

The Town of Porter waterfront revitalization area is not designated as one of the State's major ports. Therefore, this policy is not applicable to the current conditions within Porter WRA.



## **Policy 4**

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

### Explanation of Policy

The topography, coastal geology and private ownership of the shoreline within the Porter WRA does not allow for the development of marinas or a harbor of refuge. Therefore, this policy is not applicable to the current conditions within the Porter WRA.

## **Policy 5**

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

### **Policy 5A**

**Residential development will be encouraged in areas abutting the Village of Youngstown, where adequate public infrastructure exists to support it**

### Explanation of Policies

By its construction, taxing, funding and regulatory powers, government has become a dominant force in shaping the course, location and density 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 available and adequate to support such uses; 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:

1. Strengthen existing residential, industrial and commercial centers;
2. Foster an orderly pattern of growth where outward expansion may be occurring;
3. Increase the productivity of existing public services and moderate the need to provide new public services in outlying areas;
4. Preserve open space in sufficient amounts and where desirable; and
5. Foster energy conservation by encouraging mixed use and denser development, as well as closer proximity between home, work and leisure activities in appropriate areas.

For any action that would result in large scale development or an action which would facilitate or serve future development, a determination shall be made as to whether the action is within, contiguous to, or in close proximity to an area of concentrated development in the WRA where infrastructure and public services are adequate. The following guidelines shall be used in making that determination:



1. built-up suburban towns and villages in the coastal area are generally areas of concentrated development where infrastructure and public services are adequate.
2. Other locations in the WRA may also be suitable for development, if three or more of the following conditions prevail:
  - a. Population density of the area surrounding or adjacent to the proposed site exceeds 1,000 persons per square mile;
  - b. Fewer than 50% of the buildable sites (i.e., sites meeting lot area requirements under existing local zoning regulations) within one-mile radius of the proposed site are vacant;
  - c. Proposed site is served by or is near to public or private sewer and water lines;
  - d. Public transportation service is available within one mile of the proposed site; and
  - e. A significant concentration of commercial activity is within one mile of the proposed site.
3. The following factors shall be considered in assessing the adequacy of infrastructure and public services in the WRA:
  - a. Streets and roadways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development;
  - b. The water needs of the new development (consumptive and firefighting) can be met by the existing water supply system;
  - c. Sanitary sewage disposal systems can accommodate the wastes generated by the development;
  - d. Energy needs of the proposed land development can be accommodated by existing utility systems;
  - e. Stormwater runoff from the proposed site can be accommodated by on-site and/or off-site facilities; and
  - f. Schools, police and fire protection, and health and social services are adequate to meet the needs of the population expected to live, work, shop, or conduct business in the area of the development.

It is recognized that certain forms of development may and/or should occur at locations that are not within or near areas of concentrated development. Thus, this coastal development policy does not apply to the following types of development projects and activities.

1. Economic activities that depend upon sites at or near locations where natural resources are present.
2. Development that, by its nature, is enhanced by a non-urbanized setting, such as a resort complex, campgrounds, second home construction.
3. Development that is designed to be a self-contained activity, such as a small college or an academic or religious retreat.



4. Water dependent uses with site requirements not compatible with this policy or when alternative sites are not available.
5. Development that because of its isolated location and small scale has little or no potential to generate and/or encourage further land development.
6. Uses and/or activities that because of public safety considerations should be located away from populous areas.
7. Rehabilitation or restoration of existing structures and facilities.
8. Development projects that are essential to the construction and/or operation of the above uses and activities.

For any action that would result in development or facilitate and serve future development, a determination shall be made as to whether the action is within, contiguous to, or in close proximity to an area of concentrated development in the WRA where infrastructure and public services are adequate.

In the areas of the Town of Porter WRA, north and south of the Village of Youngstown, where new residential development is encouraged, the condition of existing public water and sewer infrastructure must be evaluated to determine if improvements are required to support such development. The Town must work with the Town of Lewiston and Niagara County, and those State and federal agencies that allocate funds for investments in water and sewer infrastructure, as necessary, to address any identified problems to help enable waterfront revitalization.

## **Policy 6**

**Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.**

### Explanation of Policy

For specific types of development activities, and in areas suitable for such development, state agencies and the Town of Porter 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 synchronized 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. 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 regulation's objectives.



## FISH AND WILDLIFE POLICIES

### Policy 7

**Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored to maintain their viability as habitats**

### Policy 7A

**The Four Mile Creek Bay Significant Coastal Fish and Wildlife Habitat shall be protected, preserved and, where practical, restored to maintain its viability and resource value.**

#### Explanation of Policies

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/or 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 capacities, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

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

1. Draining wetlands or other water bodies: such activity would cause changes in vegetation or changes in groundwater and surface water hydrology;
2. Filling wetlands, shallow areas of creeks or streams and/or lakes: such activity could change the physical characteristics of substrate (e.g., from sandy to muddy, smother vegetation, alter surface water hydrology);
3. Grading land: such activity can result in the removal of vegetation, increased surface runoff, or increased soil erosion and downstream sedimentation;



4. Clear cutting: such activity can result in the loss of vegetative cover, increased fluctuations in the amount of surface water runoff, or increased streambed scouring, soil erosion, or sediment deposition;
5. Dredging or excavation: such activity 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. Dredge spoil disposal: such activity may result in shoaling of littoral areas or changes in circulation patterns.
7. Physical alteration of shore areas through channelization or construction of shoreline structures: such activity can result in changes to the volume and rate of water flow or increased scouring and sedimentation; and
8. 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: such activity can cause increased mortality or sublethal effects on organisms, alter their reproductive capabilities, or reduce their value as food organisms.

The range of physical, biological and chemical parameters that should be considered as a part of habitat protection include, but are not limited to:

1. Physical parameters, such as living space, circulation, flushing rates, turbidity, water temperature, water depth, 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, 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, toxic and hazardous materials).

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

In cooperation with the State's Coastal Management Program, the Department of Environmental Conservation has developed a rating system incorporating these five parameters (The Development and Evaluation of a System for Rating Fish and Wildlife Habitats in the Coastal Zone of New York State, Final Report, January 1981, 15 pp.).

To further aid Federal and State agencies in determining the consistency of a proposed action with this policy, a narrative will be prepared for each significant habitat which will: (1) identify the location of the habitat; (2) describe the community of organisms which utilize the habitat; (3) identify the biological, physical and chemical parameters which should be considered when assessing the potential impacts of a project on that habitat; (4) identify generic activities which would most likely create significant impacts on the habitat; and (5) provide the quantitative basis used to rate the habitat. Prior to formal



designation of significant fish and wildlife habitats, copies of the individual habitat narratives plus copies of habitat maps and completed rating forms will be provided to Federal and State agencies and the public for the review and comment.

Four Mile Creek Bay is the only State-designated Significant Coastal Fish and Wildlife Habitat in the Porter WRA (see Appendix D).

## **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**

### 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 bioaccumulation in the fish and wildlife populations at levels that cause mortality or create physiological and behavioral disorders. Other pollutants of concern are those conventional wastes that are generated from point and non-point sources, and not identified as hazardous wastes, but controlled through other State laws.

## **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**

### Explanation of Policy

Recreational uses of fish and wildlife resources in the Town of Porter Local Waterfront Revitalization Area (WRA) include consumptive uses such as fishing, and non-consumptive uses such as wildlife photography, bird watching and nature study and interpretation. Any efforts to increase the



recreational use of fish and wildlife resources will be undertaken in a manner that ensures the protection of the fish and wildlife resources in marine and freshwater coastal 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 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 recreational and educational value of waterfront areas that have concentrations of fish and wildlife resources provides great benefit to the general public. This is particularly important in the lower Niagara River and Lake Ontario, and to a lesser extent Four Mile and other local creeks, which offer quality fishing opportunities in the WRA. Where feasible, access to existing resources, whether for consumptive or non-consumptive activities, should be increased in these areas. Providing or enhancing access to Six-Mile Creek for non-consumptive (passive) activities should also be considered.

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 State and/or Town's recreational fish and wildlife resources;
2. Efforts to increase access to recreational fish and wildlife resources in the WRA should not lead to over-utilization of that resource or cause impairment of the 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 onshore 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 Town of Porter waterfront revitalization area, and no onshore commercial fishing facilities. Therefore, this policy is not applicable to the current conditions within Porter WRA.



## 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

On coastal lands identified as coastal erosion hazard areas, buildings and similar structures shall be set back from the shoreline a distance sufficient to minimize damage from erosion unless no reasonable prudent alternative site is available as in the case of piers, docks, and other structures necessary to gain access to coastal waters to be able to function. The extent of the setback will be calculated, taking into account the rate at which land is receding due to erosion and the protection provided by existing erosion protection structures, as well as by natural protective features such as beaches, sandbars, spits, shoals, nearshore areas, bluffs and wetlands. The only new structure allowed in coastal erosion hazard areas is a moveable structure as defined in 6 NYCRR Part 505.2(x). Prior to its construction, an erosion hazard areas permit must be approved for the structure. Existing non-conforming structures located in coastal erosion hazard areas may be only minimally enlarged. Section 2.7.5 of the Inventory and Analysis discusses the Coastal Erosion Hazard Area along Lake Ontario in the Town of Porter WRA.

This policy seeks to protect life, structures and natural resources from the hazards of flooding and erosion. The policy reflects Town of Porter flood damage regulations and provides measures for the reduction of hazards and protection of resources. The provisions of this policy are applicable to the floodplain areas adjacent to the Niagara River, Lake Ontario, major creeks and creek tributaries to the lake, as well as other floodplain areas within the WRA.

The Town of Porter waterfront contains flood zones that have been designated by the Federal Emergency Management Agency (FEMA) and are depicted on Flood Insurance Rate Maps, which were last updated in September of 2010 (the FEMA website can be consulted to identify future updates to these maps). The Town participates in the National Flood Insurance Program and development in the floodplain is regulated under Chapter 93 of the Town Code –Flood Damage Prevention (Chapter 93 is included in Appendix C). This law is designed to promote the public health, safety and general welfare and to minimize public and private loss due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Pursuant to Chapter 93, all construction and other development that is proposed within regulated areas of special flood hazards (100-year floodplains) requires a permit from the Local Floodplain Administrator (Town of Porter Builder Inspector). No structure in an area of special flood hazard shall be constructed, located, extended, converted, or altered, and no land shall be excavated or filled unless such actions are in full compliance with the terms of the law and any other applicable regulations. Chapter 93 includes construction standards that apply to all forms of development in the Town of Porter WRA. Additionally, where human lives may be endangered by major coastal storms, all necessary emergency preparedness measures should be taken, including disaster preparedness planning.



## 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

The beaches, bluffs, and other natural protective features within the Town of Porter WRA help safeguard lands and property along the shoreline from damage, as well as reduce the danger to human life, resulting from flooding and erosion caused by severe storms and high-water levels on Lake Ontario and the Niagara River.

Excavation of these coastal features, improperly designed erosion protection structures, inadequate site planning, or other similar actions that fail to recognize the fragile nature and high protective values of these resources, lead to the weakening or destruction of those landforms. Activities or development in, or in proximity to, natural protective features must ensure that all such adverse actions are minimized.

## 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

Various forms of erosion protection are widely used throughout the Town of Porter Local Waterfront Revitalization area. However, because of improper design, construction, maintenance and age, some fail to give the protection that they were originally intended to provide. As a result, certain development may be sited in areas where it is subject to damage or loss due to erosion.

This policy is designed to help ensure that erosion protection structures in the WRA are constructed or reconstructed to provide effective, long-term protection to reduce such damage or loss. This is particularly important where public funds are used for the construction or reconstruction of these structures. Property owners shall undertake proper maintenance, as needed, to ensure that erosion protection structures are in proper condition and capable of providing adequate protection. Where necessary, vegetative plantings and other protective measures should be installed or strengthened to ensure the effectiveness of erosion protection measures along the shoreline.



## 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 our actions, humans can increase the severity and adverse effects of those processes, causing damage to, or loss, of property and endangering human lives. Those actions include:

1. The use of erosion protection structures, such as seawalls or impermeable docks, that interfere with the littoral transport of sediment to adjacent shorelands, thus increasing their rate of erosion on adjacent properties;
2. The failure to observe proper drainage or land restoration practices upland of the shoreline, thereby causing runoff and the erosion and weakening of the natural protective features along the shoreline; and

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 Town of Porter WRA that would result in flooding or erosion, or any measurable increase of such. Property owners should take care to ensure that stormwater runoff generated upland of the top of bluffs or the shoreline in general does not weaken the stability of these resources. The planting of vegetation upland of the top of a bluff can help to absorb stormwater flows, helping to mitigate potential impacts. In no case should drainage be directed toward the shoreline that would threaten shoreline resources. Additionally, plantings should be added behind stone revetment and similar structures that are placed at the toe of a bluff to further stabilize those areas.

## 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 shoreline sediment by water, and any dredging in nearshore or offshore waters that changes the supply and net flow of such materials, can deprive shorelands of their natural regenerative powers. Dredging activities in the Niagara River or Lake Ontario should be accomplished in a manner that does not cause a reduction of supply, and thus an increase of erosion, to adjacent shorelands. Currently, there are no offshore mining or excavation activities in the Porter 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 Town of Porter, as well as new development that needs a location adjacent to coastal waters to be able to function. 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 Town of Porter 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 occurs.

## 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 Town of Porter Local Waterfront Revitalization Area. To ascertain consistency with this policy, it must be determined if any one measure, or any combination of non-structural measures, would afford the degree of protection appropriate to the character and purpose of the activity or development, and to the hazard. If non-structural measures are determined to offer sufficient protection, then consistency with this policy would require the implementation of such measures whenever possible. Non-structural measures shall include, but are not limited to, the avoidance of risk or damage from flooding by the siting of buildings outside the structural hazard area, and the flood-proofing of buildings or their elevation about the base flood level.

"Non-structural measures" shall include, but not be limited to:

1. Within coastal erosion hazard areas identified under Section 0104 of Coastal Erosion Hazard Areas law (Environmental Conservation Law Article 34), and subject to the permit requirements on all regulated activities and development established under that law, (a) the use of minimum setbacks as provided for in Section 0108 of Environmental Conservation Law Article 34; and (b) the strengthening of coastal landforms by the planting of appropriate vegetation on dunes and



bluffs, the installation of sand fencing on dunes, the reshaping of bluffs to achieve an appropriate vegetation on dunes and bluffs, the installation of sand fencing on dunes, the reshaping of bluffs to achieve an appropriate angle of repose so as to reduce the potential for slumping and to permit the planting of stabilization vegetation, and the installation of drainage systems on bluffs to reduce runoff and internal seepage of waters which erode or weaken the landforms; and

2. Within identified flood hazard areas, (a) the avoidance of risk or damage from flooding by the siting of buildings outside the hazard area, and (b) the flood-proofing of buildings or their elevation about the base flood level.

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

In determining whether non-structural measures to protect against erosion or flooding will afford the degree of protection appropriate, an analysis of the site and of the alternative protection measures and, if necessary, other materials such as plans or sketches of the activity or development, should be prepared to allow an assessment to be made. Under all circumstances the provisions of Chapter 93 of the Porter Town Code (the Flood Damage Prevention Law) must be followed.

Various forms of shoreline protection are in place along much of the Lake Ontario and the Niagara River to protect the shoreline from erosion. This policy acknowledges that the Lake Ontario shoreline is subject to the impacts of intense wave action from severe storms, particularly during times when water levels in the lake are elevated, and that non-structural measures may not be effective in certain areas. Shoreline protection structures include the use of stone revetment and rip rap, concrete rubble and concrete seawalls, and bulkheading, depending on the location, to ensure proper protection from flooding and erosion. The restricted vessel speed limit on the Niagara River also helps to control deterioration along the shoreline from wave action. It must be recognized that while shoreline hardening may provide relief from erosion in areas subjected to intense storms and wave action, these structural measures are expensive to install, can degrade shoreline habitat and 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 areas, whenever possible. Alternative measures should also be considered in combination with structural measures to increase protection, where feasible. 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 used 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 shall 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 within the Porter WRA 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 Town of Porter 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 Town 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 Town and State, and their citizens, in such matters that would affect natural resources, water levels and flows in the WRA, 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.**

#### Explanation of Policy

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

- the level of access to a water-related recreational resource or facility,
- the capacity of a resource or facility to sustain use, and
- the protection of natural resources.

An imbalance among these factors is typical in many areas and is often due to access-related problems. Therefore, priority shall be given to improving physical access to existing and potential water-related recreation sites within the Town of Porter Local Waterfront Revitalization Area, and to increasing the ability of residents and others to get to water-related recreation areas. The particular water-related recreation resources and facilities that should receive priority for improved access in the WRA are public parks, boating facilities, fishing areas and waterfront trails. In addition, because of the greater competition for waterfront locations within the WRA, this policy encourages mixed use areas and the multiple use of facilities, where feasible, to improve access.



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. The following is an explanation of the terms used in the above guidelines:
  - a. Access means the ability and right of the public to reach and use public lands and waters in the WRA.
  - b. Public water-related recreation resources or 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 foreshore.
  - 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 Town 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.
  4. In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation, within the boundaries of the Federal-Aid Metropolitan urban area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

Public access improvements should be emphasized to better establish the connection between upland areas and the waterfront. The Town must also evaluate opportunities to increase access to existing water-related recreation facilities (State and Town parks) and provide and/or improve access to enhance public use. Linkages are also important and should be created through the expansion of the existing waterfront trail system, which does not extend beyond Joseph Davis State Park in the Town of Lewiston (immediately south of the Porter WRA). The extension of this trail system would enable continued public access from areas south of the Town of Porter to public recreational facilities located with the Porter WRA. Improvements should also be made to the pathway along Lower River Road to improve public use and access to the Village of Youngstown.

## 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. 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 access across transportation facilities to the waterfront, and the promotion of mixed and multi-use development that provide shoreline access to waterfront areas.

The Town of Porter waterfront offers a number of opportunities for access to the public foreshore and the water's edge. The two State parks and Porter on the Lake Town Park provide shoreline access for



multiple uses. Although a public pathway extends along Lower River Road (SR 18F), above the Niagara River, this trail should be enlarged to accommodate multi-modal use and extended to provide a linkage between the Village of Youngstown and Joseph Davis Park in the Town of Lewiston. Additionally, a multi-use trail system that ends at Joseph Davis Park should be extended further north along the Niagara Scenic Parkway to provide access to Fort Niagara and Four Mile Creek State Parks. The provision of such additional access opportunities would enable a complete connection between the State park facilities in this area of Niagara County and provide a safer, and an alternative, means of accessing these recreational resources.

While publicly-owned lands referenced in the policy shall be retained in public ownership, the issuance of easements on lands underwater to adjacent onshore property owners 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. 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, military security or the protection of fragile coastal resources.

The regulation of projects and structures that are proposed to be constructed on or over lands underwater is necessary to:

1. Ensure the responsible management of underwater lands and to protect the vital assets of the State that are held in public trust, and
2. Ensure that the exercise of riparian rights and access to navigable waters by waterfront property owners shall be consistent with the public interest and does not interfere with reasonable public use of, and access to, public trust lands and navigable waters for the purposes of navigation, commerce, fishing, recreation, environmental and aesthetic protection, and other such pursuits.

The following guidelines will be used in determining 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 these guidelines:

- a. See the definitions included in Policy 19 for “access” and “public lands or facilities”.
- b. A reduction in the existing or anticipated level of public access includes, but is not limited, to the following:
  - (1) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.



- (2) Pedestrian access is diminished or blocked completely by public or private development.
  - c. An elimination of the possibility of increasing public access in the future includes, but is not limited to:
    - (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 the WRA shall not be reduced or eliminated:
  - a. A reduction or elimination in the existing level of public access includes, but is not limited to, the following:
    - (1) Access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines or similar linear features.
    - (2) Access is reduced or blocked completely by any public developments.
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;
  - b. adequate access exists within one-half mile; or
  - c. agriculture would be adversely affected.

Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.
4. The Town 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 public access to coastal lands and/or waters 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 coastal lands and/or waters. If this is determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
6. In making any grant, lease, permit, or other conveyance of land now or formerly underwater, there shall be reserved such interests or attached such conditions to preserve the public interest



in the use of State-owned lands underwater and waterways for navigation, commerce, fishing, bathing, recreation, environmental protection, and access to the navigable waters of the State. In particular, the granting of publicly owned underwater or formerly underwater lands to private entities will be limited to exceptional circumstances only.

## **RECREATION POLICIES**

### **Policy 21**

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

#### **Policy 21A**

**Maintain and, where appropriate, expand water-dependent recreational uses and facilities**

##### Explanation of Policies

Water-related recreation includes such activities as boating, swimming, 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 Town of Porter Waterfront Revitalization Area (WRA) shall be consistent with the preservation and enhancement of important coastal resources, such as fish and wildlife habitats, aesthetically significant areas, and historic and cultural resources. Water-related recreational development in the WRA 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 the WRA that would result in a barrier to the recreational use of waterfront shall be avoided.

Porter on the Lake Park provides a variety of opportunities for public access to the Lake Ontario shoreline, public use and enjoyment of the lakefront, and enhance the Town as a regional tourist destination.

The Town of Porter also is home to two large State Parks – Fort Niagara State Park and Four Mile Creek State Park, which offer opportunities for a wide variety of active and passive public recreation. These parks bring numerous visitors to the Town's waterfront throughout the year. The State is encouraged to keep the various facilities located within these parks well maintained and to provide additional opportunities for recreational enjoyment wherever possible.

The Town of Porter benefits from two State parks and one Town park that offer water-related recreational uses, including waterfront trails, picnic areas, fishing access, play fields and boating facilities. These uses should be maintained and enhanced, and where appropriate, expanded to increase opportunities for public use. At present, opportunities to increase locations for shoreline fishing should be encouraged. The provision of adequate boating services to meet future demand is desirable, but there are no boating facilities located within the WRA. Existing geologic conditions and the wide extent of private land ownership preclude the siting of such uses and facilities.



## 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 new 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, power plants, utility transmission rights-of-way, sewage treatment facilities\*, hospitals\*, prisons\*, schools and universities, military facilities\*, nature preserves\*, large residential subdivisions (over 50 units), shopping centers and office buildings.

Prior to taking action relative to any development proposal in the WRA, the Town 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.

\* *The types of recreation use likely to be compatible with these facilities are limited to the more passive forms, such as trails or fishing access. In some cases, land areas not directly or immediately needed by the facility could be used for recreation.*

## 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.**

### Explanation of Policy

Among the most valuable of the State's man-made resources are those structures or areas that are of historic, archaeological, or cultural significance. The protection of these structures must involve a recognition of their importance by all agencies and the ability to identify and describe them. Protection must include concern not just with specific sites but with areas of significance, and with the area around specific sites. This policy is not to be construed as a passive mandate, but must include active efforts, when appropriate, to restore or revitalize historic and cultural resources through adaptive reuse. Of particular concern is the preservation of historic and cultural resources that have a relationship with the waterfront.



The resources located within the Town of Porter Local Waterfront Revitalization Area that are of historic, architectural, archaeological or cultural significance and should be protected under this policy include the following:

1. Any resource that is located within a State park that was established, among other reasons, to protect and preserve the resource (e.g., Fort Niagara State Park);
2. Any resource that is on, nominated to be on, or determined eligible to be on the National or State Registers of Historic Places;
3. Any resource that is on or nominated to be on the State Nature and Historic Preserve Trust;
4. Any archaeological resource that is on the State Department of Education's inventory of archaeological sites; and
5. Any locally designated or significant historic landmark, structure, site or district.

All practicable means to protect structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the Town, State and Nation shall be deemed to include the consideration and adoption of any techniques, measures, or controls to prevent a significant adverse change to these resources. A significant adverse change includes but is not limited to:

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



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

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

## **Policy 24**

### **Prevent impairment of scenic resources of statewide significance**

#### Explanation of Policy

There are no scenic resources of statewide significance in the Town of Porter local waterfront revitalization area. Therefore, this policy is not applicable to the current conditions within the Porter WRA.

## **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.**

#### Explanation of Policy

The Town of Porter is located along two separate waterbodies that contribute to the scenic quality of the area and provide a wide array of opportunities for scenic viewing and enjoyment. As noted in the Inventory section of the LWRP, Lower River Road (SR 18F) and Lake Road (SR 18) are segments of the New York State Great Lakes Seaway Trail and are designated National and State Scenic By-Ways. Activities that could impair or further degrade scenic quality, such as irreversible modification of natural landforms or the installation of structures that would impact views of the shoreline, should be avoided.

In accordance federal requirements for National Scenic Byways, views of Lake Ontario and the Niagara River must be protected and improved, wherever possible, and the erection of any off-premise signs is prohibited. This is enforced through legislative and development rules and regulations of the New York State Sign Program that control signage along specific highways, as well as by the Town of Porter sign regulations (Section 200-82 of the Town Code).

Areas of visual interest in the Town of Porter Local Waterfront Revitalization area vary, depending on the location. Where some areas naturally, or have been improved to, provide scenic vistas, there are areas where views could be improved. These include, but are not limited to, certain sections of Lake Road.



The 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 guidelines will 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 (where permitted), back from shoreline or in other inconspicuous locations to maintain the attractive quality of the waterfront and to retain views to and from the shore;
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 landforms, 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. 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.
11. Providing interpretative exhibits at appropriate locations for visual access to enhance public understanding and enjoyment of views of waterfront lands and waters.
12. Providing visual access to areas of high visual quality including community waterfronts, water-dependent uses, natural resources, and panoramas of the Niagara River and Lake Ontario, in a manner that does not require the removal of existing vegetation or trees.



These guidelines will be adhered to and enforced through the site plan review process for new development or the redevelopment of existing properties in the WRA.

## **AGRICULTURAL LANDS POLICY**

### **Policy 26**

#### **Conserve and protect agricultural lands in the State's coastal area.**

##### Explanation of Policy

Although agriculture is a prominent land use in the Town of Porter, there are only six properties in the WRA where farming or other agricultural activities occur. This land use accounts for approximately 150 acres of land, with a little more than half of this acreage located in a designated agricultural district. Nonetheless, the continued use of this land for agriculture is encouraged.

Implementing a policy of promoting agricultural use of land must, to be practical, concentrate on controlling the replacement of agricultural land uses with non-agricultural land use as the result of some public action. The many other factors such as markets, taxes, and regulations that influence the viability of agriculture in a given area can only be addressed on a Statewide or national basis. This policy requires a concern for the loss of any important agricultural land. However, the primary concern must be with the loss of agricultural land when that loss would have a significant effect on an ability of agricultural uses in the area to continue to exist, prosper and expand.

It must be determined whether a proposed public action would result in the loss of important agricultural lands as identified in the waterfront area. If it is determined that an action would result in the loss of identified agricultural lands, but that loss would not have an adverse effect on the viability of agriculture in the surrounding area, then the action may be consistent with this policy. However, such action must be undertaken in a manner that would minimize the loss of important farmland. If the action is determined to result in a significant loss of important agricultural land, then the action is not consistent with this agriculture policy.

The following guidelines define what must be considered in making the above determinations:

1. A public action would likely significantly impair the viability of an important agricultural area if:
  - a. The action would occur on identified agricultural land and would:
    - (1) Consume more than 10 percent of the land of an active farm,
    - (2) Consume a total of 100 acres or more of identified important agricultural land, or
    - (3) Divide an active farm with identified important agricultural land into two or more parts, thus impeding efficient farm operation or reducing the size of farmed acreages to less than 25 acres.
  - b. The action would result in environmental changes that may reduce the productivity or adversely affect the quality and use of any identified agricultural lands.



- c. The action would create real estate market conditions favorable to the conversion of large areas of identified agricultural land to non-agricultural uses. Such conditions may be created by:
  - (1) Public water or sewer facilities to serve non-farm structures.
  - (2) Transportation improvements, except for maintenance of and safety improvements to, existing facilities that serve non-farm or non-farm related development.
  - (3) Major non-agribusiness commercial development adjacent to identified agricultural lands.
  - (4) Major public institutions.
  - (5) Residential uses other than farm dwellings.
  - (6) Any change in land use regulations applying to agricultural land that would encourage or allow land uses that are incompatible with the agricultural use of the land.
2. The following types of facilities and activities should not be construed as having adverse effects on the preservation of agricultural land:
  - a. Farm dwellings, barns, silos, and other accessory uses and structures incidental to agricultural production or necessary for supplementing farm family income.
  - b. Agricultural business development, which includes the entire structure of local support services and commercial enterprises necessary to maintain an agricultural operation.
3. In determining whether an action that would result in the loss of farmland is of overriding regional or statewide benefit, the following factors should be considered:
  - a. For an action to be considered overriding, it must be shown to provide significantly greater benefits to the region or State than are provided by the affected agricultural area (not merely the land directly affected by the action). In determining the benefits of the affected agriculture to the region or State, consideration must be given to its social and cultural value, its economic viability, its environmental benefits, its existing and potential contribution to food or fiber production in the State and any State food policy, as well as its direct economic benefits.
    - (1) An agricultural area is an area predominantly in farming and in which the farms produce similar products and/or rely on the same agribusiness support services and are to be a significant degree economically interdependent. At a minimum, this area should consist of at least 500 acres of identified important agriculture land. For the purpose of analyzing impacts of any action on agriculture, the boundary of such area need not be restricted to land within the coastal boundary. If the affected agricultural lands lie within an agricultural district then, at a minimum, the agricultural area should include the entire agricultural district.
    - (2) In determining the benefits of an agricultural area, its relationship to agricultural lands outside the area should also be considered.



- (3) The estimate of the economic viability of the affected agricultural area should be based on an assessment of:
  - i soil resources, topography, conditions of climate and water resources.
  - ii availability of agribusiness and other support services, and the level and condition of investments in farm real estate, livestock and equipment.
  - iii the level of farming skills as evidenced by income obtained, yield estimates for crops, and costs being experienced with the present types and conditions of buildings, equipment, and cropland.
  - iv use of new technology and the rates at which new technology is adopted.
  - v competition from substitute products and other farming regions and trends in total demand for given products.
  - vi patterns of farm ownership for their effect on farm efficiency and the likelihood that farms will remain in use.
- (4) The estimate of the social and cultural value of farming in the area should be based on an analysis of:
  - i the history of farming in the area.
  - ii the length of time farm properties have remained in one family.
  - iii the degree to which farmers in the area share a cultural or ethnic heritage.
  - iv the extent to which products are sold and consumed locally.
  - v the degree to which a specific crop(s) has become identified with a community.
- (5) An estimate of the environmental benefits of the affected agriculture should be based on analysis of:
  - i the extent to which the affected agriculture as currently practiced provides a habitat or food for wildlife.
  - ii the extent to which a farm landscape adds to the visual quality of an area.
  - iii any regional or local open space plans, and degree to which the open space contributes to air quality.
  - iv the degree to which the affected agriculture does, or could, contribute to the establishment of a clear edge between rural and urban development.
4. Whenever a proposed action is determined to have an insignificant adverse effect on identified important agricultural land or whenever it is permitted to substantially hinder the achievement of the policy according to DOS regulations, Part 600, or as a result of the findings of an EIS, then the required minimization should be undertaken in the following manner:



- a. The proposed action shall, to the extent practicable, be sited on any land not identified as important agricultural land or, if it must be sited on identified important agricultural land, it should be done in a manner that avoids disturbance of land according to the following priority:
  - (1) Prime or unique farmland in orchards or vineyards,
  - (2) Other prime farmland in active farming,
  - (3) Farmland of Statewide importance in active farming,
  - (4) Active farmland identified as having high economic viability,
  - (5) Prime farmland not being farmed, and
  - (6) Farmland of Statewide importance not being farmed.
5. Where possible, development should be undertaken in a manner, such as conservation subdivision or clustering, that preserves land for continued or future agricultural use through such means as lease arrangements with farmers, direct undertaking of agriculture, or sale of surplus land to farmers. Agricultural use of such land should have priority over any other proposed multiple use of the land.

## **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. 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. 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. 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.

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. 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. 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.

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 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 SEQRA 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.

## **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

The International Joint Commission Niagara Board of Control oversees the installation of an ice boom at the terminus of Lake Erie to control ice flow along the upper corridor of the Niagara River and Niagara Falls. Ice buildup on the lower corridor of the Niagara River is not formally managed along the Riverbank or the Lake Ontario shoreline within the Porter WRA. However, prior to undertaking local, State or Federal actions required for ice management, an assessment must be made of the potential effects of such actions upon fish and wildlife habitats, flood levels and the potential for flood damage, rates of shoreline erosion and the potential for shoreline damage. Following such an examination, adequate methods of avoidance or mitigation of any potential effects must be utilized if the proposed action is to be implemented.



## 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 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 New York, as the State 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. 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 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 New York’s coastal resources, activities and uses. 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 area of New York State.

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 which may be found in offshore waters within the state's territorial limit or the Atlantic Outer Continental Shelf (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 which 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.**

#### 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.



## Policy 31

**State coastal area policies and management objectives of approved Town of Porter LWRP 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 Town of Porter Local Waterfront Revitalization Program shall be factored into the review process for the waters in the Niagara River, Lake Ontario, Four Mile Creek, and Six Mile Creek (for which water quality has not been assessed). However, such consideration shall not affect any water pollution control requirements established by the State pursuant to the Federal Clean Water Act.

The State has identified certain stream segments as being either “water quality limiting” or “effluent limiting”. Waters not meeting State standards and that would not be expected to meet these standards even after applying “best practicable treatment” to effluent discharges are classified as “water quality limiting”. Those segments meeting standards or those expected to meet them after application of “best practicable treatment” are classified as “effluent limiting”, and all new waste discharges must receive “best practicable treatment”. However, along stream segments classified as “water quality limiting” waste treatment beyond “best practicable treatment” would be required and costs of applying such additional treatment may be prohibitive for new development.

In the review of existing water quality classifications for the waterways in the WRA, it should be recognized that State water quality classifications are not always indicative of actual water quality conditions. Any review of local surface waters should take into consideration existing conditions of waterbodies as noted in the Statewide Inventory of Specific Waterbodies and utilize the Waterbody Inventory/Priority Waterbodies List as a base resource for the evaluation and revision of water quality classifications (see Section 2.7 in the Inventory and Analysis).

## 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

Alternative systems include individual septic tanks and other subsurface disposal systems, dual systems, small systems serving clusters of households or commercial users, and pressure or vacuum sewers.



These types of systems are often more cost effective in smaller, less densely populated communities and for which conventional facilities are too expensive.

The lands in Sub-Area 1 and certain lands in Sub-Area 2 (west of Four Mile Creek State Park) have public sanitary sewer service. All lands in the WRA situated east of Four Mile Creek State Park utilize on-site septic systems for wastewater management. It is cost prohibitive to extend public sewer service further to the east. In unsewered areas of the waterfront where septic systems are in use, proper maintenance practices must be promoted to protect water quality and ensure that these systems are functioning effectively.

### **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 are not economically feasible. There are no combined sewer overflows in the Town of Porter. Proposed amendments to the Clean Water Act, however, will authorize funding to address 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. Waterbodies in the Porter WRA that require enhanced stormwater controls to avoid exacerbating the quality or quantity of runoff include Four Mile Creek and Six Mile Creek.

### **Policy 34**

**Discharge of waste materials into coastal waters from vessels subject to State jurisdiction will be limited 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 Town of Porter Local Waterfront Revitalization Area. The waters of the Niagara River and the Lake Ontario are State-designated vessel waste no discharge zones. 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 Town of Porter Local Waterfront Revitalization Area are required to utilize available vessel waste pump-out facilities 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 dredging 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 Town of Porter 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 34 – Coastal Erosion Hazard Areas), and are consistent with other local policies pertaining to the protection and use of coastal resources (LWRP policies 7, 15, 19, 20, 24, 26 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 Town of Porter Local Waterfront Revitalization Area that store or ship petroleum or other hazardous materials. These practices and uses are not permitted within the Town of Porter WRA per existing zoning regulations governing Waterfront Residential, Medium-density Residential and Low-Density Residential districts. Small scale uses, such as gas stations or industrial uses, that store these materials are regulated by the New York State Department of Environmental Conservation and are required to operate in full compliance of all State (and Federal) regulations. (See Policy 39). However, there are no such uses of this nature in the WRA as well.

## Policy 37

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

### Explanation of Policy



Best management practices should be used to reduce non-point sources of pollution that degrade local surface water quality. The Town of Porter is a member of the Western New York Stormwater Coalition and has incorporated Stormwater Management provisions under Section 200-84 of the Town Code. All development activities that are undertaken in the Town's Local Waterfront Revitalization Area shall conform to these provisions and employ all necessary best management practices to prevent and address non-point source pollution.

In general, non-point pollution of surface waters shall 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 constituents 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 water level;
  - c. Limiting 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 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. Preserving natural hydrologic conditions to maintain natural surface water flow characteristics and retaining natural watercourses and drainage systems where present; and
  - g. Where natural drainage systems are absent or incapable of handling the anticipated runoff demands, using low impact measures or green infrastructure to address open drainage flow; 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). Recommendations from this



Environmental Protection Agency publication that are applicable for addressing non-point source discharges are outlined as follows.

1. Urban development
  - a. For new development, manage total suspended solids in runoff to remain at pre-development 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. For new on-site sewage disposal systems, ensure that siting, design, maintenance, and operation prevent discharge of pollutants.
  - e. Plan, site, and design roads and highways and roadway improvements to manage erosion and sediment loss, and limit disturbance of land and vegetation.
  - f. Plan, site, and design bridges to protect ecosystems.
  - g. For roads, highways, and bridges, minimize runoff of contaminants to surface waters to the greatest extent practical.
2. Hydro modifications
  - 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 the Niagara River, Lake Ontario and local creeks that are tributary to the lake.
  - b. Use vegetative means, wherever possible, to protect stream banks and shorelines from erosion.
3. Floatables and litter
  - a. Prohibit all direct or indirect discharges of refuse or litter into surface waters of Niagara River, Lake Ontario and local creeks, or upon public lands contiguous to and within 100 feet of these surface waters.
  - 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 and as a means of implementing Policy 37, the Town will require the utilization of green infrastructure to manage stormwater runoff for large-scale projects. 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.

## **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

Public water supply in the Town of Porter is provided by the Niagara County Water Authority. Potable water is drawn from the Niagara River at the County's water treatment plant in the Town of Wheatfield for distribution to municipal customers. There are no primary or sole sources of water supply in the Town of Porter Waterfront Revitalization Area.

## **Policy 39**

**The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal area will be conducted in such a manner to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources**

### Explanation of Policy

The definitions of terms "solid wastes" and "solid wastes management facilities" are taken from New York's Collection, Treatment and Disposal of Refuse and Other Solid Waste (Environmental Conservation Law Article 27). 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.

There are no facilities in the Town of Porter WRA that store or treat solid and hazardous wastes. These practices and activities are not permitted in the waterfront area in accordance with zoning provisions. Although the zoning regulations do not prohibit the transport of these substances in the WRA, it is discouraged. Solid waste and hazardous substances and materials that are transported through the



Town's Waterfront Revitalization Area should be done so using routes and methods identified by the Town that protect the safety, well-being, and general welfare of the public; the environmental resources of the Town and State; and the transportation corridors and highways that are properly designated 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 Town of Porter local waterfront revitalization area. Currently, 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 related to land and water use and any recommendations regarding 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.

There are no land uses in the Town of Porter Local Waterfront Revitalization Area (WRA) that manufacture chemicals or other goods, or that generate energy through the burning of oil, gas or coal, thereby releasing emissions of constituents that result in the violation of Federal and State air quality standards. Furthermore, there are not lands in the WRA that can be used in such a manner.

## **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 NYS Department of Environmental Conservation with recommendations for proposed prevention of significant deterioration land classification designations based upon State and local coastal management programs.

There are no land uses in the Town of Porter Local Waterfront Revitalization Area that manufacture chemicals or other goods, or that generate energy through the burning of oil, gas or coal, thereby releasing emissions of nitrogen oxides, sulfur dioxide, carbon monoxide, particulate matter, sulfuric acid mist, or other constituents that result in deteriorated air quality. Furthermore, there are not lands in the WRA that can be used for this purpose. Therefore, any consideration of this policy by the State of New York in the reclassification of land areas pursuant to the Prevention of Significant Deterioration regulations should take this factor into consideration.

### **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 Town's Local Waterfront Revitalization Area that generate air pollutants that contribute to the generation of acid rain. Furthermore, there are no areas in WRA where such industrial development could occur. 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.**

#### 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 Town's Local Waterfront Revitalization Area.

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semi-aquatic vegetation and other wetlands so defined in the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act (Water Resources Law, Environmental Conservation Law Article 15).

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 Town of Porter Local Waterfront Revitalization Area include portions of the creek corridors along Four Mile Creek and Six Mile Creek and small isolated areas on the Niagara Frontier Country Club, as well as larger wetland complexes in the upland areas of Sub-Area 1. These areas will be protected in accordance with State and Federal requirements and, as determined, 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 Town of Porter waterfront area. Proposed projects are also briefly described in this section. The proposed land use patterns are illustrated on Maps 8A and 8B while the general location of proposed projects within the LWRP area are identified on Map 8C. Recommendations have been included to improve opportunities for future public access to the shoreline, wherever possible. The Town's long-range goal for the waterfront is to make necessary improvements for residents to maintain the quality of life, enhance public access in appropriate places, and to maintain and enhance opportunities for public recreation.

### **4.1. PROPOSED LAND USES**

Land uses in the Town of Porter WRA are proposed in a manner that will continue the general patterns of existing development in each Subarea. Therefore, future land uses implementing the LWRP will be an extension of current land use, as illustrated on Maps 8A and 8B, which also take into account the vision set forth in the Town of Porter's Comprehensive Plan.

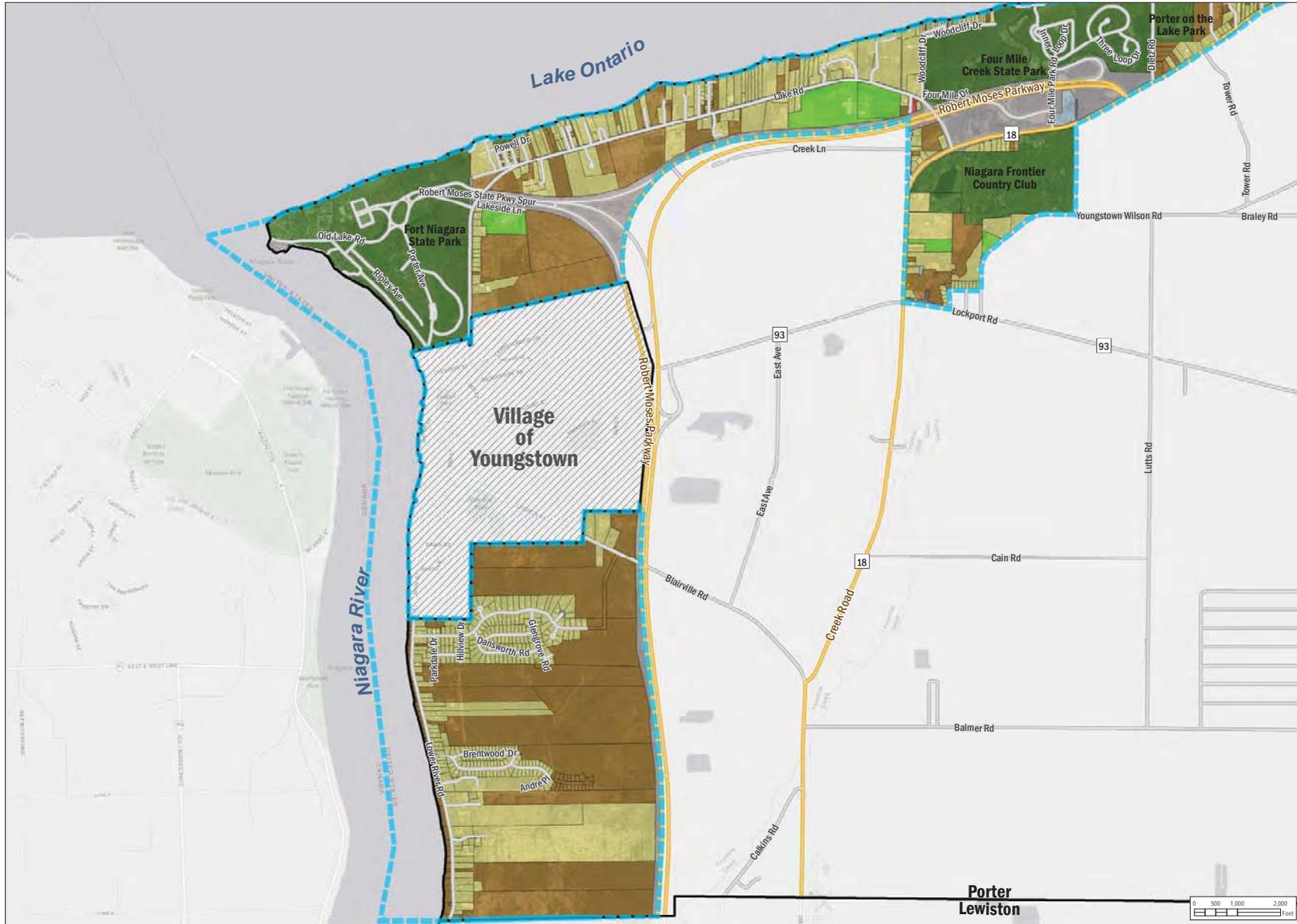
#### **Subarea 1 - Niagara River** (see Map 8A)

Subarea 1 is developed with a stable stock of single-family residential dwellings, east of Lower River Road, with large areas of open space located further inland from these residential uses. The Niagara River shoreline, west of Lower River Road, is mostly a narrow, steep bluff with recreational accessory uses (boathouses, docks, landing, etc., associated with upland residential uses) located at the bottom of the bluff.

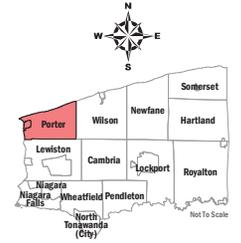
Current land uses shall be continued in Subarea 1, with minor changes in a few locations to accommodate additional residential use along the east side of Lower River Road (primarily in-fill development). Efforts are also needed to improve public access through Subarea 1, between the Town of Lewiston and the Village of Youngstown. Improvement of the existing pathway that is situated along the top of the Niagara River gorge would enable a multi-modal connection between the adjoining municipalities and allow for recreational access between Joseph Davis State Park in Lewiston and Ft. Niagara State Park in Subarea 2.

#### **Subarea 2 - Lake Ontario** (see Map 8B)

Subarea 2 primarily contains single-family residential uses that span the Lake Ontario shoreline. As with Subarea 1, current land uses shall be continued with minor changes in a few locations to accommodate additional residential use along Lake Road (primarily in-fill development).



# Town of Porter Waterfront Revitalization Program Map 8A - Proposed Land/ Water Uses



**LEGEND**

- Municipal Boundary
- Village of Youngstown
- Parcels (2016)
- WRA Boundary
- Proposed Land Use**
- No Data Available
- Agriculture
- Residential
- Vacant
- Commercial
- Community Services
- Public Services
- Parkland/Recreation

WD Project # 432114  
Map Created: March, 2019  
Wendel WD Architecture, Engineering, Surveying and Landscape Architecture, P.C. shall assume no liability for:  
1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused or 2. Any decision or action taken or not taken by the reader or reliance upon any information so fully furnished hereunder.  
Data Sources: Esri, HERE, DeLorme, Mapbox, OpenStreetMap contributors, Swatch, NOAA, USGS, NPS, Department of State, Office of Planning and Development, NYS Office of Information Technology Services, GIS Program Office, 2014 Aerial Imagery

This map was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.



# Town of Porter Waterfront Revitalization Program Map 8B - Proposed Land/ Water Uses

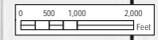


**LEGEND**

- Municipal Boundary
- Parcels (2016)
- WRA Boundary
- Proposed Land Use**
- No Data
- Agriculture
- Residential
- Vacant
- Commercial
- Community Services
- Parkland/Recreation



Wendel WD Architecture, Engineering, Surveying and Landscape Architecture, P.C. shall assume no liability for:  
 1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused or 2. Any decision or action taken or not taken by the reader or reliance upon any information or data furnished hereunder.  
 GIS Sources: Esri, HERE, DeLorme, Mapbox, OpenStreetMap contributors, Swatch, NOAA, USGS, NYS Department of State, Office of Planning and Development, NYS Office of Information Technology Services, GIS Program Office, 2014 Aerial Imagery



This map was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.



Efforts are also needed to improve public access in Subarea 2 through the establishment of a multi-use trail system that would interconnect Ft. Niagara State Park (and the adjacent Village of Youngstown) with Four Mile Creek State Park and Porter on the Lake Town Park. The Niagara Frontier County Club presently operates a golf course in Subarea 2 that provides opportunities for recreation. In the event this facility ceases operation in the future, the long-term goal of the Town is to keep this property in recreational use, whether public or private. At present, however, there are no plans for the current use to change. Additionally, a formalized connection is needed between Four Mile Creek Park and Porter on the Lake Town Park to improve public access between these two facilities.

## **4.2. PROPOSED WATER USES/HARBOR MANAGEMENT**

Vessel use along the Niagara River and Lake Ontario is limited to small pleasure craft, which are used extensively for recreational boating, sailing and fishing. Access to the Niagara River within the Porter WRA can be gained from a boat launch facility in Fort Niagara State Park and the U.S. Coast Guard Facility, which is located within the park (see Map 3A in Section II). There are no public docks, marinas or additional boat launch facilities along the Lake Ontario shoreline or the Niagara River shoreline, south of the Village of Youngstown. Private marinas, a yacht club, mooring areas and boat launch facilities are located along the shoreline and offshore of the Village of Youngstown, which provide safe refuge and access to the Niagara River and Lake Ontario. Docks for commercial or charter vessels or commercial fishing industry support facilities are located outside of the Porter WRA. Such uses and facilities can be found in the nearby Village of Lewiston and Town of Wilson. Additionally, the Village of Youngstown exercises authority over the surface waters located offshore of that municipality. For these reasons, which are further elaborated below, the development of a formal Harbor Management Plan has not been included as a part of the Porter LWRP.

The level of water use and existing State regulations prompted the Town of Porter to designate the municipal boundary as the northern limit of the WRA along Lake Ontario, which follows the mean low water line of the lake. To the west, the WRA boundary extends over the surface waters of the Niagara River to the International Boundary between the United States and Canada (which roughly lies at the center of the river channel), which includes the surface waters offshore of the Village of Youngstown. Pursuant to Section 32-e of Article 3 of the New York State Navigation Law, the Town of Porter and the Village of Youngstown may adopt, amend, and enforce local regulations that control the manner of construction and location of structures within the Niagara River or bounding the Town and the Village within the WRA boundary. Such structures may include docks, wharfs, piers, jetties and boathouses, and other types of non-permanent structures that are otherwise not subject to permit requirements. Additionally, the Town has the authority to regulate surface water uses within 1,500 feet of the Niagara River shoreline.

As noted in Inventory and Analysis, pursuant to Section 110.85 of the Code of Federal Regulations, three special anchorage areas have been established in the Niagara River that fall within the waterside portion of the Porter WRA (see Figure 5 in Section II). These areas are located adjacent to the Village of Youngstown and encompass approximately 90 acres of water surface area. Permitting jurisdiction within these anchorage areas is reserved for the U.S. Army Corps of Engineers and the U.S. Coast Guard. The



Youngstown Harbor Commission controls the location, type and assignment of vessel moorings placed within these special anchorage areas. Vessel use within Niagara River waters offshore of Youngstown is regulated by the Village pursuant to Chapter 79 of the Village Code, which establishes a Safe Boating Zone and regulates vessel speeds within this area. The Village of Youngstown also has an adopted LWRP and associated regulations that govern their waterfront.

There are no designated channels or other navigational infrastructure in the WRA aside from the federal navigation channel that extends through the center of the Niagara River and out into Lake Ontario. This channel is delineated by navigational lights and buoys and under the jurisdiction of the Army Corps of Engineers.

The inventory of existing conditions within the WRA, included in Section II of the LWRP, identifies a range of compatible existent surface water uses, and related controls. The analysis of the inventory does not reveal current or future potential competition for space or incompatibility of uses. In addition, the location, type, and assignment of moorings in the federally designated special anchorage area adjacent to the village of Youngstown is controlled by the Youngstown Harbor Commission, pursuant to 33 CFR 110.85. As described in the Inventory and Analysis, due to shoreline conditions along the Niagara River and Lake Ontario, there are no suitable and economically feasible locations for establishing marinas or other recreational boating support facilities. Therefore, emphasis is placed on opportunities for improved public access to the shoreline and project recommendations have been included to provide future opportunities for public access, wherever possible. The Town's long-range goal for the waterfront is to make necessary improvements for residents to maintain the quality of life, enhance public access in appropriate places, and to maintain and enhance opportunities for public recreation.

### **4.3. PROPOSED TOWN PROJECTS AND STUDIES**

There are several projects proposed along the Town of Porter waterfront to improve opportunities for public access and recreation and to address water quality, habitat protection and other local concerns. As noted in the previous discussion, much of the shoreline is developed with private residential uses, limiting the potential for the general public (particularly residents living in inland areas of the Town) to enjoy the waterfront. Projects proposed along the Town of Porter waterfront are outlined below. It is important to note that any action that is undertaken to implement the Porter LWRP must be consistent with Town zoning provisions and would be subject to review under the New York State Environmental Quality Review Act.

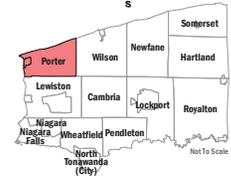
It is also important for the Town of Porter to maintain and strengthen its relationship with the New York State Department of Transportation (NYSDOT), New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP) and the New York State Department of Environmental Conservation (NYSDEC), as well as the Village of Youngstown and Town of Lewiston. Maintaining and strengthening these relationships is important for the achievement and coordination of proposed projects along the waterfront, for boosting tourism throughout the WRA and to protect natural resources.

Proposed projects locations are illustrated on Map 8C.



# Town of Porter Waterfront Revitalization Program

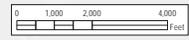
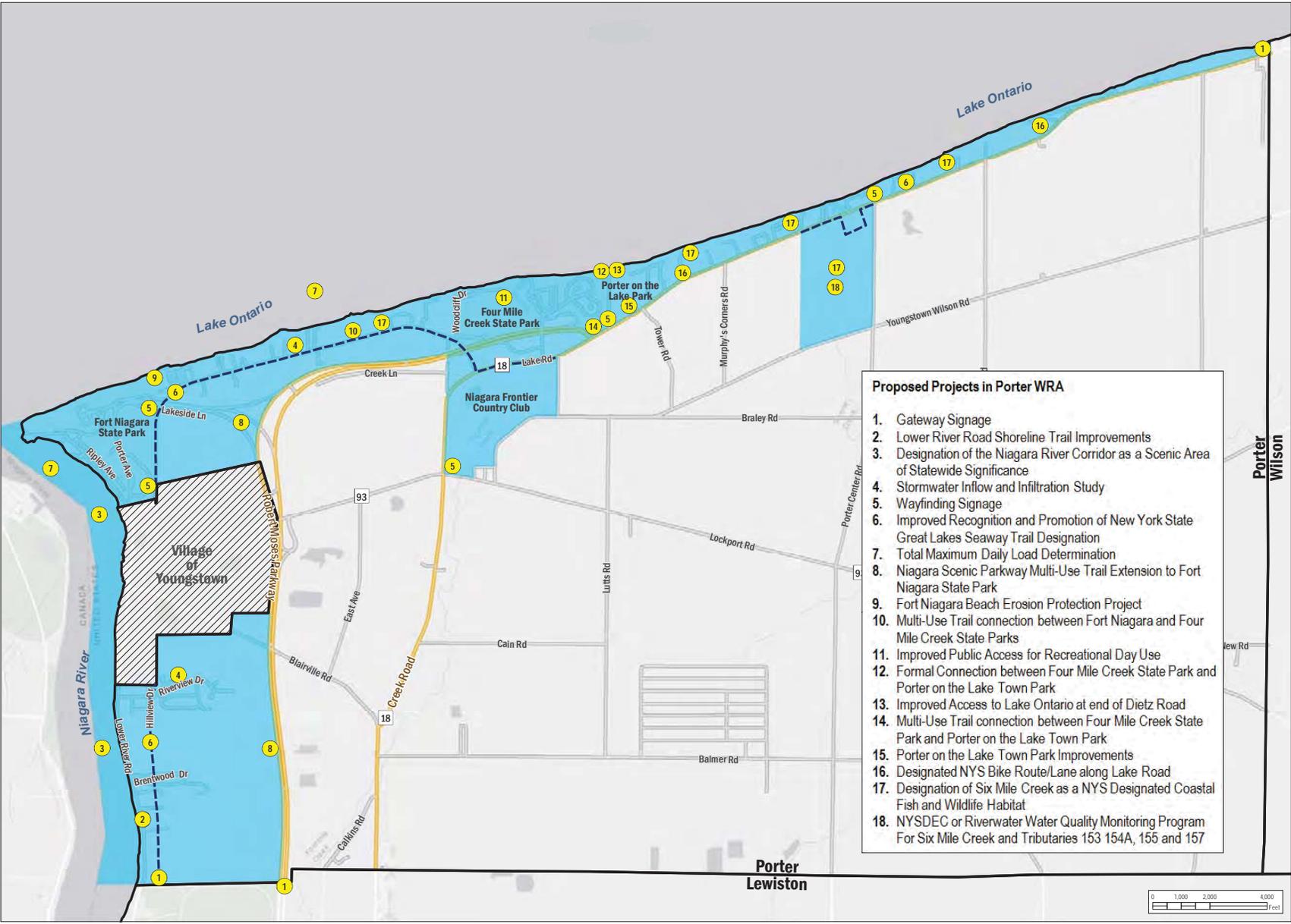
## Map 8C Proposed Projects



### LEGEND

- Municipal Boundary
- Village of Youngstown
- Existing Coastal Area Boundary
- Proposed WRA Boundary
- Project Locations

- ### Proposed Projects in Porter WRA
1. Gateway Signage
  2. Lower River Road Shoreline Trail Improvements
  3. Designation of the Niagara River Corridor as a Scenic Area of Statewide Significance
  4. Stormwater Inflow and Infiltration Study
  5. Wayfinding Signage
  6. Improved Recognition and Promotion of New York State Great Lakes Seaway Trail Designation
  7. Total Maximum Daily Load Determination
  8. Niagara Scenic Parkway Multi-Use Trail Extension to Fort Niagara State Park
  9. Fort Niagara Beach Erosion Protection Project
  10. Multi-Use Trail connection between Fort Niagara and Four Mile Creek State Parks
  11. Improved Public Access for Recreational Day Use
  12. Formal Connection between Four Mile Creek State Park and Porter on the Lake Town Park
  13. Improved Access to Lake Ontario at end of Dietz Road
  14. Multi-Use Trail connection between Four Mile Creek State Park and Porter on the Lake Town Park
  15. Porter on the Lake Town Park Improvements
  16. Designated NYS Bike Route/Lane along Lake Road
  17. Designation of Six Mile Creek as a NYS Designated Coastal Fish and Wildlife Habitat
  18. NYSDEC or Riverwater Water Quality Monitoring Program For Six Mile Creek and Tributaries 153 154A, 155 and 157



Wendel WD Architecture, Engineering, Surveying and Landscape Architecture, P.C. shall assume no liability for:  
 1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused or 2. Any decision or action taken or not taken by the reader or reliance upon any information so provided without independent verification.  
 Data Sources: Esri, HERE, DeLorme, Mapbox, OpenStreetMap contributors, Niagara County Real Property Services, NYS Department of State, Office of Planning and Development, NYS Office of Information Technology Services, GIS Program Office, 2014 Aerial Imagery

This map was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.



## Public Access and Wayfinding



### **Project 1 – Design and Construction of Improvements to the Lower River Road Pedestrian Trail**

There is an existing pedestrian pathway that extends along the west side of Lower River Road in Subarea 1. This paved pathway follows the top of the bluff along the Niagara River gorge, from the Porter-Lewiston Town line to the Village of Youngstown municipal boundary, providing scenic views as well as healthy living opportunities (walking, biking, etc.) for residents. This pathway, which is considered an informal section of the Erie Niagara Shoreline Trail, needs to be reconstructed and widened to provide multi-modal access and meet the requirements of the American Disabilities Act.

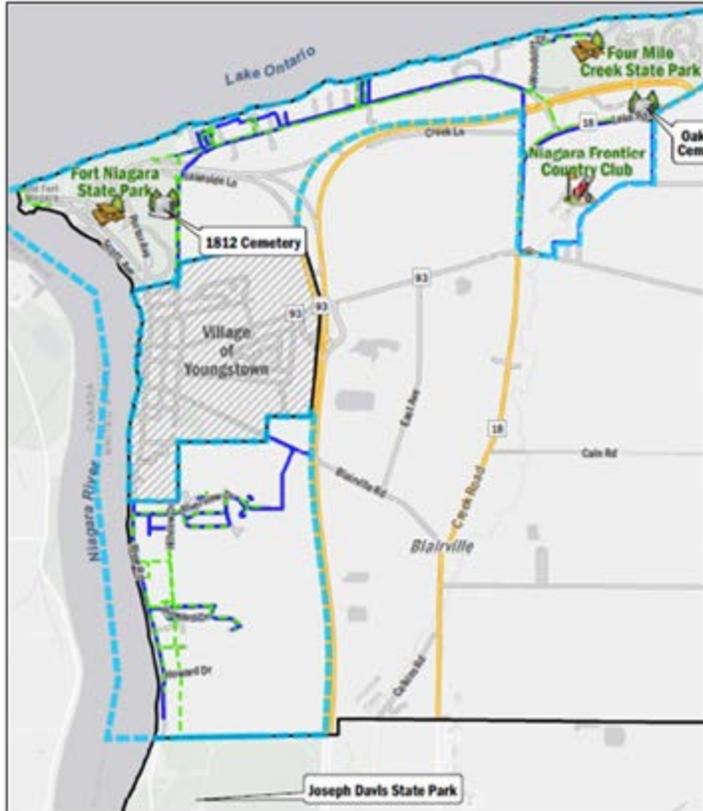
This project would allow for a formal connection to the public trail system within Joseph Davis State Park and to the Niagara Scenic Parkway multi-use trail that extends

south from the park to the Village of Lewiston. Redevelopment of this trail would also offer the opportunity for the extension of the trail north, through the Village of Youngstown, where a sidewalk currently provides access to Fort Niagara State Park. This improved trail extension would provide a direct connection between Fort Niagara State Park and Joseph Davis State Park (in the Town of Lewiston). Hence, this is a project that could be explored jointly with the Village of Youngstown. This project was identified as a policy and project recommendation in the Porter Comprehensive Plan. The implementation of these improvements will be initiated following the completion of design and construction documents and upon issuance of all necessary permits and approvals.

Estimated Project Cost:	\$2,000,000
Potential Funding Sources:	NYSDOS, Niagara River Greenway Commission, NYSOPRHP, NYSDOT
Potential Project Partners:	Village of Youngstown, NYSDOS, Niagara River Greenway Commission
Potential Approvals/Permits:	NYSDOT, Town of Porter
Responsible Entity:	Town of Porter

### **Project 2 – Evaluate the Feasibility of Developing of a Multi-Use Trail Connection between State Parks**

The Town of Porter is home to two New York State Parks (Fort Niagara and Four Mile Creek) and is located adjacent to a third State Park (Joseph Davis Park) in the Town of Lewiston. A continuous multi-use connection is needed between these amenities to increase tourism, waterfront access and recreational enjoyment. This is a policy recommendation in the Town’s Comprehensive Plan that needs to be implemented.



At present, there is a multi-use recreational trail that extends north along the western Niagara Scenic Parkway right-of-way from the Village of Lewiston to Pletcher Road in the Town of Lewiston, which provides access to Joseph Davis State Park. To provide public access and recreational enjoyment between the Village of Lewiston and the Town of Porter, this existing multi-use pathway could be continued further north to provide direct access to Fort Niagara State Park and Four Mile Creek State Park. This trail extension would constitute a new segment in the regional Niagara River Greenway system and provide a safe location for walking, biking and other recreational use in the Town of Porter.

As previously discussed, the improvement of the Lower River Road trail in Subarea 1

could constitute the connection between Joseph Davis State Park, in Lewiston, with Fort Niagara State Park in Subarea 2. However, a trail connection between Fort Niagara State Park and Four Mile Creek State Park would still be needed to effectively interconnect the three parks for bicyclists and other trail users. This could be achieved by constructing a trail along the Niagara Scenic Parkway, which currently provides a vehicular connection, or through the construction of a trail along Lake Road, which also runs between the two parks.

To achieve these ideas and recommendations, the Town of Porter needs to approach the NYSDOT, as well as the NYSOPRHP, to initiate a discussion and advocate for the expansion of the multi-use trail system in the WRA that would interconnect the State Parks system, as well as the Town of Lewiston, Village of Youngstown and Town of Porter. As noted, a project of this nature would clearly draw more visitors to the WRA, helping to boost tourism and recreational use and activity in the area.

Additionally, the Town will work with the State to encourage consideration of continued multi-use trail access from the terminus of the Niagara Scenic Parkway (beyond Four Mile Creek State Park) and along State Route 18 (Lake Road) to Dietz Road. This would enable an additional or alternate connection between Four Mile Creek State Park and the adjacent Porter on the Lake Town Park (see project discussion below), which is situated at the end of Dietz Road, immediately east of the State Park. Currently, there are no trails or pathways along the waterfront in this area of Porter WRA, and no formal connection between the Town and State parks, so the construction of this trail extension would provide additional public benefit for Town residents, State Park patrons and other visitors to the community.



Long term, the regional trail system should be continued along the shoulder of Lake Road (SR 18), east of Four Mile Creek State Park. This would provide recreational and biking access to the east, to the Town of Wilson. At the very least, the Town of Porter will encourage the New York State Department of Transportation to designate State Route 18 as a State Bike Route. This would require ensuring appropriate shoulder lane width to accommodate bicyclists and the posting of appropriate signage to safely enable recreational biking along this highway.

Estimated Project Cost: \$30,000  
Potential Funding Sources: NYSDOS, Niagara River Greenway Commission, NYSOPRHP, NYSDOT  
Potential Project Partners: NYSDOS, Niagara River Greenway Commission  
Potential Approvals/Permits: To be determined as part of feasibility study  
Responsible Entities: NYSOPRHP

**Project 3 – Evaluate the Feasibility of Establishing Access between Four Mile Creek State Park and Porter on the Lake Town Park**



Porter on the Lake Town Park is situated immediately east of Four Mile Creek State Park, but there is no formal connection between these two public recreational facilities. At present, public access is achieved by way of two informal pathways that have been established through a wooded area along the eastern edge of Four Mile Creek State Park. One path leads to Dietz Road, adjacent to the entrance to Porter on the Lake Town Park; another path follows the top of the bluff/shoreline to the end of Dietz Road, where users must work their way around

the end of a chain link fence to reach the roadway.

To achieve this project and determine an appropriate manner for cross access, the Town of Porter will reach out to the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP) to request formal review and coordination. Such access would have to be established with recognition that Four Mile Creek is primarily used as a campground, and in a manner that affords campers a certain degree of privacy and safety. It must also be recognized that campers and others are currently moving between both parks informally, as previously described, which is an activity that is not likely to be discontinued. Therefore, public safety must also be a consideration.

Estimated Project Cost: \$10,000  
Potential Funding Sources: NYSDOS, Niagara River Greenway Commission, NYSOPRHP  
Potential Project Partners: NYSDOS, Town of Porter, NYSOPRHP, Niagara River Greenway Commission  
Potential Approvals/Permits: To be determined as part of feasibility study  
Responsible Entity: NYSOPRHP



**Project 4 – Improvements to Porter on the Lake  
Town Park**

Porter on the Lake Town Park is located along the Lake Ontario shoreline at the end of Dietz Road, immediately east of Four Mile Creek State Park. The Town has undertaken improvements to Porter on the Lake Town Park to enhance public enjoyment and will be installing a kayak launch to improve public access to Lake Ontario. The Town is evaluating additional actions that could be taken to further improve and expand public use of this park. These include development of a soccer field in the upland area of the park, installation of an additional pavilion closer to the lakeshore and additional enhancements for access to the lake.

Additionally, the Town should work with the State to identify locations for the installation of wayfinding signage to promote the location and direct the public to Porter on the Lake Town Park. Not having a conspicuous location along Lake Road, it is not a highly visible or well-known amenity for tourists who are visiting the Town, which affects the use and popularity of the park.

To better promote this recreational asset and increase tourism, wayfinding signage is needed

along the Niagara Scenic Parkway, Lake Road (SR 18) and at other prominent locations in the WRA, such as the intersection of Lockport Road (SR 93) and Creek Road (SR18) and the Niagara Scenic Parkway and Lockport Road.

This park is a valuable recreational asset that provides waterfront access, which is limited in the WRA, and can help boost tourism and waterfront enjoyment in the community.

- Estimated Project Cost: \$750,000
- Potential Funding Sources: NYSDOS, Niagara River Greenway Commission, NYSOPRHP
- Potential Project Partners: Village of Youngstown, NYSDOS, Niagara River Greenway Commission
- Potential Approvals/Permits: To be determined as part of project
- Responsible Entities: Town of Porter



**Project 5 - Improved Public Use of Four Mile Creek State Park**

Additionally, the Town will approach the NYSOPRHP to discuss the potential for expanding public use of Four Mile Creek State Park for day-users (non-campers) who desire access to the Lake Ontario shoreline and the Four Mile Creek State Designated Coastal Fish and Wildlife Habitat portions of the park. Although access is available from the end of Woodcliff Drive, on the west side of the park, this roadway is narrow and lacks

sufficient parking area, as its primary purpose is to provide access to waterfront residences along its length. Expanding public access through the Four Mile Creek State Park for picnicking, hiking, birdwatching and other passive recreational activities is recommended. Here again, it must be determined how the expansion of public access to the park can be achieved in a manner that does not interfere with the privacy and safety of campers.

- Estimated Project Cost: \$ to be determined by State
- Potential Funding Sources: NYSDOS, NYSOPRHP
- Potential Project Partners: NYSDOS, NYSOPRHP, Town of Porter
- Potential Approvals/Permits: To be determined as part of project
- Responsible Entities: NYSOPRHP

**Project 6 - Improved Great Lakes Seaway Trail Recognition**



Lower River Road (SR 18F) in Subarea 1 and Lake Road (SR 18) in Subarea 2 are segments of the Great Lakes Seaway Trail and Nationally and State-designated Scenic By-Ways. These designations need to be better promoted as a local and regional

tourism experience that recognizes the cultural and natural character of the community. Gateway and improved wayfinding features would improve recognition of this distinction. Furthermore, there is more than one map available for the Seaway Trail and some versions of the map for the western portion of the trail do not include Four Mile Creek State Park, the Four Mile Creek State Designated Coastal Fish and Wildlife Habitat or Porter on the Lake Town Park as cultural destinations in the Town of Porter. The Town will work with the New York Great Lakes Seaway Trail, Inc. to explore opportunities to install additional interpretive signage or a kiosk at appropriate locations to better acknowledge the status of this trail resource, and to ensure consistency with trail mapping. The Town shall also enforce restrictions



on signage that is not in keeping with the scenic by-way designation to prohibit billboard structures and other commercial advertising that would adversely impact the visual quality of this roadway corridor.

Estimated Project Cost: \$250,000

Potential Funding Sources: NYSDOS, New York Great Lakes Seaway Trail Niagara River Greenway Commission, NYSOPRHP

Potential Project Partners: Great Lakes Seaway Trail, Inc., NYSDOS, Town of Porter, Niagara River Greenway Commission

Potential Approvals/Permits: To be determined as a part of this project

Responsible Entities: Great Lakes Seaway Trail, Inc.

**Project 7 - Community Gateways**

The Town of Porter will explore opportunities for establishing or improving gateway features at prominent entry points to the community. This is something that was identified in the Town’s Comprehensive Plan as a means of welcoming visitors to the Town and promoting the local character, cultural resources and recreational attractions found within the community. Potential gateway locations in the WRA include at the east and west entrances to the Town on Lower River Road (SR 18F) and Lake Road (SR 18).

Estimated Project Cost: \$250,000

Potential Funding Sources: NYSDOS, Niagara River Greenway Commission

Potential Project Partners: NYSDOS, Village of Youngstown, Niagara County

Potential Approvals/Permits: To be determined as a part of this project

Responsible Entity: Town of Porter

**Environmental Protection**

**Project 8 - Evaluation of Six-Mile Creek as a State Designated Significant Coastal Fish and Wildlife Habitat**

The Town of Porter will reach out to and coordinate with the NYSDEC and NYSDOS to initiate a formal review and evaluation of Six-Mile Creek corridor for designation as a New York State Significant Coastal Fish and Wildlife Habitat. As discussed in the Inventory and Analysis (Section II of the LWRP), like Four Mile Creek (which is a designated habitat), the mouth and lower reaches of Six Mile Creek include an extensive complex of State and federal wetlands, submergent vegetation and surface waters that provide valuable habitat for a wide variety of flora and fauna. This area likely warrants protection and recognition as a significant wildlife habitat, but





study and assessment of the area is required to gain this designation and the protections that it provides.

- Estimated Project Cost:           There should be no cost to Town of Porter for this project
- Potential Funding Sources:       NYSDOS, NYSDEC
- Potential Project Partners:       NYSDOS, NYSDEC, Town of Porter, Buffalo Niagara Waterkeeper
- Potential Approvals/Permits:    To be determined as part of study
- Responsible Entity:                NYSDOS

**Project 9 - Creek and Stream Corridor Protection**

The Town of Porter WRA includes important creeks and streams that provide significant wildlife habitat, support recreational fishing and enhance the scenic character of the Town. Protection of the water quality in these creeks and streams, in particular Four Mile Creek and Six Mile Creek, is critical to their long-term use and natural resource value. The Town will coordinate with the NYSDEC and other local agencies and organizations to address monitoring and other water quality needs.

The NYSDEC conducts water quality monitoring in Lake Ontario, the Niagara River and Four Mile Creek. There are other tributary creeks and stream corridors in the WRA, especially Six Mile Creek, for which water quality is not being monitored by the NYSDEC or the Town. Six Mile Creek is a significant creek corridor that extends through the WRA and supports extensive wetlands and wildlife habitat. Like Four Mile Creek, water quality in Six Mile Creek needs to be assessed to identify potential sources of impairment and probable solutions.

The Buffalo Niagara Waterkeeper currently works with the Town to conduct the Riverwatch Program that trains volunteers to collect samples for water quality monitoring in local streams and creeks in the region. While government agencies regularly collect data from several sites in the Niagara River watershed, budget and staff limitations prevent adequate coverage for many creeks and tributary streams, as noted. There are no sites in the Porter WRA that are currently being monitored under this program, but there is a need to gain a better understanding of water quality conditions in Six Mile Creek and portions of Four Mile Creek. Implementing the Riverwatch program in Porter would enable the Waterkeeper to provide surveillance monitoring to collect and bolster baseline water quality data to identify problems and to track the health of local waterways in the Town to determine if restoration actions are necessary to protect water quality. The Town will work with the Buffalo Niagara Waterkeeper to recruit volunteers and undertake this program in the community.

Additionally, the Town will explore partnerships with the Niagara County Soil and Water Conservation Services and local sports fishing groups that utilize the local creeks for recreation fishing and enjoyment. Such partnerships can help protect creek resources and water quality, which is essential for recreational tourism in local creeks and the economic benefit derived therefrom. Working with local groups who benefit from a healthy ecosystem will help to promote and ensure the quality and protection of local resources.

- Estimated Project Cost:           \$10,000
- Potential Funding Sources:       NYSDOS, NYSDEC, Town of Porter



Potential Project Partners: NYSDOS, NYSDEC, Buffalo Niagara Waterkeeper, Niagara County Soil and Water District, Town of Porter

Potential Approvals/Permits: To be determined as a part of this study

Responsible Entity: NYSDEC

**Project 10 - Total Maximum Daily Load Evaluation for Lake Ontario and Niagara River**

Section 303(d) of the Federal Clean Water Act requires States to identify impaired waters wherein specific designated or appropriate uses are not supported, requiring the identification of a Total Maximum Daily Load (TMDL) or other restoration strategy to reduce the input of the specific pollutant(s) that restricts waterbody uses in order to restore and protect such uses. The TMDL target is a numeric endpoint specified to represent the level of acceptable water quality that is to be achieved by implementing this TMDL strategy. The 2016 Section 303(d) List of Impaired Waters identifies Lake Ontario, the lower segment of the Niagara River and Four Mile Creek as surface waters in the Porter WRA that require some level of attention to identify water quality impairments and strategies to achieve water quality standards.

A TMDL determination or other appropriate strategy is required for Lake Ontario and the lower Niagara River due to fish consumption advisories related to the known presence of contaminated sediments containing dioxin, mirex and PCBs. The lower Niagara River, Lake Ontario and Four Mile Creek are identified as waters where the preparation of a TMDL may be deferred pending further verification of suspected impairments and the cause, pollutant or source of water quality problems. As noted in the 2016 Section 303(d) List, the Niagara River requires further study for pesticides and priority organics; Lake Ontario for phosphorus associated with algal blooms (the suspected source is agricultural runoff). Aquatic life support and fishing in Four Mile Creek are impaired by pollutants that need to be verified so that an appropriate remedial strategy can be devised. To address these water quality issues in the Porter WRA, the Town will contact the NYSDEC to initiate appropriate action. Water quality issues, particularly the increasing prevalence of algal blooms and contaminants that may impact recreational fishing, must be addressed to ensure the long-term viability and enjoyment of surface waters in the Town.

Estimated Project Cost: There should be no cost to Town of Porter for this project

Potential Funding Sources: NYSDOS, Niagara River Greenway Commission, NYSDEC

Potential Project Partners: NYSDOS, NYSDEC, Buffalo Niagara Waterkeeper, Town of Porter, Village of Youngstown

Potential Approvals/Permits: None

Responsible Entity: NYSDEC

**Project 11 - Designation of the Niagara River Corridor as a Scenic Area of Statewide Significance**

New York State recognizes that a major component of community character is scenic resources, including special landscape features and views that contribute to visual quality and public enjoyment. The shoreline in Subarea 1 offers spectacular views of the Niagara River corridor and gorge. This area is also part of the New York Great Lakes Seaway Trail, which extends along Lower River Road.



The Town of Porter will work with the NYSDOS to initiate an assessment of the Niagara River shoreline within the WRA to determine if this area would qualify for designation as a Scenic Area of Statewide Significance (SASS). Such designation protects scenic landscapes through review of projects that require State or federal actions, including direct actions, permits or funding. The Town could work with the Town of Lewiston and Village of Youngstown, which both have adopted LWRPs, to lend greater value and seek designation for a wider extend of the river corridor.



- Estimated Project Cost: \$70,000 or donated work by regional organizations
- Potential Funding Sources: NYSDOS, Niagara River Greenway Commission, NYSDEC
- Potential Project Partners: NYSDOS, Village of Youngstown, NYSDEC, Buffalo Niagara Waterkeeper
- Potential Approvals/Permits: NYSDOS
- Responsible Entity: NYSDOS

**Project 12 - Erosion Protection at Fort Niagara Beach**



The Lake Ontario shoreline along the Fort Niagara Beach residential area, and the town-owned land, has experienced significant erosion that threatens homes that were constructed along the top of the bluff. Individual homeowners have requested assistance from the Town for improving shoreline protection.



The town will work with affected residents and appropriate State and Federal agencies to determine what action is needed to slow down erosion and avoid property loss.

Estimated Project Cost: \$25,000  
Potential Funding Sources: NYSDOS, Niagara River Greenway Commission, NYSDEC  
Potential Project Partners: NYSDOS, NYSDEC, Town of Porter  
Potential Approvals/Permits: NYSDEC  
Responsible Entity: NYSDEC

**Project 13 - Evaluation Study of Erosion Risk and Protection along Lake Ontario**

There is a need for pro-active planning to address shoreline flooding and erosion along the Lake Ontario shoreline. The Town of Porter will contact the NYSDEC to initiate a study of the erosion along the Lake Ontario Shoreline in the WRA to determine the potential risk for future landslide and the potential rate of bluff erosion, and possible solutions and mitigations. This study would also include an evaluation of existing erosion protection structures to determine their existing condition, maintenance needs and effectiveness for erosion protection during severe storms and lake level rise events. It is recommended that the Town collaborate with the Town of Wilson on such a study, as that municipality is also experiencing flooding and erosion issues and such a collaboration could offer greater value to the public and the State.

Estimated Project Cost: \$50,000  
Potential Funding Sources: NYSDOS, Niagara River Greenway Commission, NYSDEC  
Potential Project Partners: NYSDOS, NYSDEC  
Potential Approvals/Permits: None  
Responsible Entity: NYSDEC

**Project 14 - Environmental Protection Workshops**

To assist its residents to apply best management practices when maintaining and improving their properties, the Town will reach out to local environmental groups and agencies to host a series of public workshops or forums on relevant topics such as water quality and non-point source pollution, septic system care and maintenance, invasive species management, habitat protection, shoreline erosion, and climate change. The Town could seek funding for the programming of this effort.

Estimated Project Cost: \$ 5,000 – \$10,000  
Potential Funding Sources: Niagara River Greenway Commission, NYSDEC  
Potential Project Partners: NYSDOS, NYSDEC, Niagara County, Buffalo Niagara Waterkeeper, Town of Porter, Village of Youngstown  
Potential Approvals/Permits: None  
Responsible Entity: Town of Porter



## Public Infrastructure Improvements

### Project 15 - Stormwater Inflow and Infiltration Study

There are two sanitary sewer districts located within the WRA that are the jurisdiction of the Town of Lewiston Wastewater Pollution Control Center (WPCC). These districts, which include the Porter West Sewer Improvement Area in Subarea 1 and the Lakeshore Sewer Improvement Area in Subarea 2, experience ongoing inflow and infiltration problems during storm events that impact capacity at the WPCC. As such capacity issues are a significant concern, the Town of Porter will continue to work with the WPCC staff and will collaborate on a study of the sewer districts to identify and remedy sources of the inflow and infiltration.

Estimated Project Cost:	\$25,000
Potential Funding Sources:	NYSDOS, NYSDEC
Potential Project Partners:	NYSDEC, NYSDOS, Town of Porter, Town of Lewiston, Village of Youngstown
Potential Approvals/Permits:	To be determined as a part of the study
Responsible Entities:	Town of Lewiston and Town of Porter



## **SECTION V - TECHNIQUES FOR LOCAL IMPLEMENTATION**

This section of the LWRP sets forth the implementation strategies for the Town of Porter LWRP. This section identifies existing laws and sections of Porter Town Code that support implementation of the LWRP Policies. A full listing of existing local laws that support implementation of the LWRP policies can be found in Appendix J. Section V further outlines proposed laws, amendments and other Town actions necessary to support policy implementation. A management structure for implementation and consistency review is also presented, along with an overview of financial resources that may be necessary to implement the LWRP.

### **5.1. EXISTING LOCAL LAWS**

#### **Chapter 70, Building Code Administration and Enforcement**

This chapter of the Porter Town Code provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code and is implemented by the Town's Code Enforcement Office. Chapter 70 was adopted pursuant to Section 10 of the Municipal Home Rule Law, and all buildings, structures and premises, regardless of occupancy or use, are subject to its provisions unless otherwise provided for in other State or municipal codes or laws.

#### **Chapter 93, Flood Damage Prevention**

The purpose of Chapter 93 of the Town Code is to protect public health, safety, and welfare and minimize public and private losses due to flood conditions in specific areas. In conformance with the requirements of the National Flood Insurance Program, and to qualify for participation in this program, this law outlines the standards for construction in areas of special flood hazard and restrictions on encroachments and other activities in designated floodways. The law also sets forth a process for obtaining a permit for this development in the floodplain.

#### **Chapter 145, Sewers**

Chapter 145 requires landowners to connect into the public sanitary sewer system, where available, and sets forth requirements for the installation of private sanitary sewers in the Town. Chapter 146 also includes provisions for stormwater management and control of discharges in accordance with the State SPDES regulations.

#### **Chapter 156, Solid Waste**

This law includes requirements and provisions for the separation and recycling of metal, glass, plastic and paper products in the Town.



## **Chapter 160, Streets and Sidewalks**

Article 1 of Chapter 160 regulates driveway construction to ensure the proper construction of driveway culverts to make sure that drainage flows along Town roadways is not restricted.

## **Chapter 165, Subdivision of Land**

Chapter 165 authorizes the Porter Planning Board to review and approve plats for the subdivision of land in conformance with the Town of Porter Zoning Code and Comprehensive Plan. The subdivision regulations set forth application/review procedures, plan specifications, design standards and required land improvements (road, drainage and utilities) for the minor and major subdivision of land in the Town. In addition to outlining the process for subdivision, Chapter 165 sets forth design standards for public improvements preparation of lots for development.

## **Chapter 185, Water**

The purpose of Chapter 185 is to promote the general health, safety and welfare of the inhabitants of the Town through the regulation, supervision and control of the water supply furnished by the Town. Receipt of water from or connection to the water district requires approval from the Town Water Department. Chapter 185 regulates such things as fire hydrants, water meters, private service lines, tapping charges, and the installation and maintenance of water facilities, and backflow prevention.

## **Chapter 200, Zoning**

Chapter 200 regulates and restricts (by district) the location, construction, and use of buildings and structures, and the use of land in the Town of Porter. The Zoning Law establishes districts, as well as uses and dimensional requirements for each district. Chapter 200 regulates signs, stormwater management and wind energy conversion systems, and sets forth the procedures for obtaining special use permits, site plan approval and zoning amendments. Chapter 200 outlines the duties and procedures of the Code Enforcement Officer and Zoning Board of Appeals. The Zoning Law includes special districts and provisions for clustered development, senior housing and other Supplemental Regulations. The zoning districts found in the LWRA, and their corresponding allowable uses, are listed in more detail in Section II.

Waterfront Residential Zoning District – Section 200-10 of the Zoning Law outlines the provisions of the WR Waterfront Residential zoning district. The purpose of this district is to allow residential development along the shoreline of Lake Ontario. The district creates greater setbacks and smaller lot coverage to open views of the lake. It also allows marina uses that would provide public access to the lake. The WR zoning district extends along the east and west sides of Lower River Road in Subarea 1 and covers most of Subarea 2.

Niagara River Environmental Overlay – Section 200-20 of the Zoning Law outlines the provisions of the Niagara River Environmental Overlay. This overlay establishes the Niagara River frontage, located west of Lower River Road from the Village of Youngstown boundary to the Town boundary with the Town of Lewiston, as an environmental protection area. Pursuant to overlay provisions, a special use permit and site plan approval are required from the Planning Board for private boathouses, hunting blinds and other recreational structures that are proposed within the district. Such uses must be accessory to



dwelling located on the same parcel or on the west side of Lower River Road. Additionally, the regulations specify the issuance of any permits from the Army Corps of Engineers or the NYSDEC, as required.

Sewage Disposal Facilities – Section 200-82 of the Zoning Law requires that any use of a lot or building that involves the disposal of sewage or wastewater must employ an adequate sanitary disposal system. This system must be installed in accordance with the requirements and standards of the Niagara County Department of Health and maintained in working condition at all times. The submittal of detailed plans for proposed disposal systems and a permit from the Town of Porter Building Department is required prior to installation and use.

Signs – Section 200-83 of the Zoning Law regulates the use and installation of signs in the Town to protect property values and public and private investment, preserve and improve visual quality and community character, reduce hazards to motorists and pedestrians and generally protect public health, safety and welfare. The provisions set forth standards that regulate the height, size, location, appearance, lighting and maintenance of signs in the Town. Any sign that is not listed as allowable within designated zoning districts is prohibited, including billboard signage.

Stormwater Management – Section 200-84 of the Zoning Law establishes requirements and controls to protect and safeguard public health, safety and welfare. This section of the Law requires the submittal of a Stormwater Pollution Prevention Plan for certain development activities (as described in more detail in Section 2.9.3) that are subject to review and approval by the Code Enforcement Officer, Planning Board, Town Board or Zoning Board of Appeals, in accordance with New York State Pollution Discharge and Elimination System (SPDES) regulations.

Waterfront Access – Sections 200-90 and 200-91 of the Zoning Law provides an incentive to property owners along the waterfront to allow increased development density in exchange for the provision of public access to the waterfront. Section 200-91 specifically allows an increase in density to five units per acre for parcels with a minimum lot size of five acres, when 25 percent of the land is dedicated to the Town for public access to the water. This incentive is only available for lots that are served by public sanitary sewer, which would include lands in Subarea 1 along the Niagara River and the western portion of Subarea 2 (west of Four Mile Creek State Park) and requires Town Board approval prior to site plan review and approval.

## **5.2. PROPOSED LOCAL LAWS NECESSARY TO IMPLEMENT THE LWRP**

### **5.2.1. LWRP Consistency Review Law**

Actions to be directly undertaken, funded or permitted within the Local Waterfront Revitalization Area must be consistent with the policies set forth in the Town of Porter LWRP. Through the adoption of a Consistency Review Law, the Town can establish the legal framework necessary to ensure that direct and indirect actions proposed within the waterfront area are in keeping with the intent of the LWRP. The LWRP Consistency Review Law and Waterfront Assessment Form are included in Appendix A.



## 5.2.2. Zoning and Other Code Revisions

### Shoreline Environmental Overlay District Amendment

Currently, the Niagara River Environmental Overlay extends along the riverfront, between the west side of Lower River Road and the Niagara River shoreline. As written, the purpose of the Niagara River Environmental Zoning Overlay is to establish the Niagara River frontage in the Town of Porter as an environmental protection area. This zoning district, however, does not directly protect the riverfront environment; it regulates accessory structures through the issuance of special use permits. This overlay district needs to be amended to elaborate on and better strengthen environmental protections for this area, beyond the requirement of a special use permit and approvals from other appropriate regulatory agencies for accessory structures. Furthermore, this overlay should be expanded to apply protections to the Lake Ontario shoreline. This would enable the Town to better regulate development in the vicinity of the bluffs in both subareas and strengthen the coastal erosion hazard area provisions that currently apply along the lakeshore. For example, the overlay would protect established vegetation along both shoreline areas and require supplemental plantings, where necessary, to stabilize threatened areas. Water quality protections would also be included. This overlay could also be revised to acknowledge the designation of Lower Lake Road and Lake Road as segments of the Great Lakes Seaway Trail and National Scenic Byways and include restrictions aimed at protecting the natural, scenic and cultural characteristics of these roadways (which is a policy recommendation in the Town’s Comprehensive Plan).

### Pet Waste Management

Pet waste is a non-point source pollutant that can adversely affect local surface water quality and better management of this contaminant is needed. Chapter 81 – the Dogs law in the Town Code will be revised to include regulations that require the removal and proper disposal of pet wastes from the public lands and rights-of-way (see Appendix C).

## 5.3. OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP

The Town of Porter will establish and maintain partnerships with public and private agencies and organizations to carry out the projects listed in this LWRP and implement LWRP policies within Porter WRA. Also, State and federal agencies will propose and develop projects and will be involved in the approval of proposed project within the Porter WRA.

### Regional Actions and Programs

#### Niagara County Department of Health

- Adequate inspections of on-site septic systems and enforcement of County requirements and regulations
- Public education for proper septic system maintenance
- Technical and permitting assistance for on-site septic system management.

#### Niagara County Office of Community Renewal



- Technical and funding assistance for the Community Development Block Grant Program

#### **Niagara County Soil and Water Conservation Service**

- Assistance with the establishment of water quality monitoring and streambank erosion programs in the WRA, particularly for Four Mile and Six Mile Creeks.
- Assistance with the identification and eradication of invasive species in the WRA.
- Technical assistance and public educational guidance for water quality and other conservation-related issues.
- Invasive species management, including public education
- Assistance with water quality and stormwater management improvement projects, including public education
- Public education for proper septic system maintenance and use of agricultural fertilizers and pesticides in upland areas (including in areas outside the WRA that affect local creeks and streams)

#### **Town of Lewiston Water Pollution Control Center**

- Inflow and Infiltration Mitigation Study for the Porter West and Lakeshore Sewer Districts
- Coordination and collaboration with the Town of Lewiston to study and mitigate inflow and infiltration problems in the Porter West and Lakeshore Sewer Improvement Areas.

#### **Village of Youngstown**

- Collaboration on trail extension projects to improve public access
- Continued oversight of surface water uses within the special anchorage areas in the Niagara River

#### **Greater Buffalo Niagara Regional Transportation Council**

- Coordination and assistance for the development of an interconnected multi-use trail system and additional bike lanes in the WRA

#### **Buffalo Niagara Waterkeeper**

- Collaboration to establish a Riverwatch water quality monitoring program for Six Mile Creek and other prominent local streams and tributaries that are not monitored by NYSDEC.
- Establishment of a Riverwatch Water Quality Monitoring Program in the Town of Porter
- Assistance with the identification and eradication of invasive species in the WRA.
- Technical assistance and education guidance for implementing a series of environmental protection workshops on various topics of local concern in the Town of Porter WRA.
- Assistance with Environmental Protection Workshops

#### **New York Great Lakes Seaway Trail, Inc.**

- Assistance with the promotion and recognition of Lower River Road and Lake Road as important segments of the Great Lakes Seaway Trail



- Coordination and collaboration with the Town of Porter to improve the promotion and use of designated segments of the Seaway Trail and National Scenic By-ways, including improved signage and installation of informational kiosks.

#### **Niagara River Greenway Commission**

- Funding assistance for multi-use trail and other projects in the WRA that would extend and enhance the Niagara River Greenway system.

### **State Actions and Programs**

#### **Department of Agriculture and Markets**

- Technical and funding assistance with agricultural protection and implementation of the Town's Strategic Plan for Preserving Agricultural Lands and Revitalizing the Agricultural Economy.

#### **Department of Environmental Conservation**

- Review and evaluation of Six Mile Creek for designation as a State Designated Significant Coastal Fish and Wildlife Habitat
- Shoreline Erosion Study and Monitoring Program for Lake Ontario
- Support for shoreline erosion protection for the Fort Niagara Beach community
- Technical and funding assistance with planning studies to evaluate risk and/or design and construction of projects to address erosion protection along the Lake Ontario shoreline.
- Technical and funding assistance to address ongoing bluff erosion in the Fort Niagara Beach area.
- Prepare updates to the Coastal Erosion Hazard Area mapping for the Porter WRA.
- Technical and funding assistance with planning studies and/or the design and construction of projects targeted to control and mitigate potential localized flooding problems along the waterfront.
- Fisheries management to support recreational fishing and tourism
- Protect and enhance fish and wildlife habitat and populations in accordance with LWRP Policy 7. Determination of the Total Maximum Daily Load or identification of another appropriate strategy to address fish consumption advisories and achieve water quality standards in the Lake Ontario and lower Niagara River corridor, which impact the Porter WRA.
- Preparation of a TMDL determination for Lake Ontario and Lower Niagara River to address fish consumption advisories
- Monitoring of water quality in Six Mile Creek as part of the Priority Waterbodies inventory program.
- Review and approval for septic system installation and replacement in areas without public sanitary sewer service along the waterfront.
- Enforcement of Article 24 of the State's Environmental Conservation Law for protection of freshwater wetlands areas.
- Assistance with Invasive species management and the identification and eradication of invasive species within the Porter WRA.



- Technical assistance and education guidance for implementing a series of environmental protection workshops on various topics of local concern in the Town of Porter WRA.
- Administration of other local permits and approvals.
- Review of Type 1 and Unlisted actions pursuant to the State Environmental Quality Review Act.

#### *Environmental Facilities Corporation*

- Funding assistance for the planning, design and construction of sewer extensions or other sanitary sewer improvement projects in the Porter WRA.
- Assistance for water quality improvement projects that utilize green stormwater infrastructure.

#### *New York State Energy Research and Development Authority*

- Funding and technical assistance with energy efficiency studies and projects.

#### *Department of State*

- Funding and technical assistance for LWRP implementation of various planning, design and construction projects, as outlined in Section IV of this Program.
- Funding and technical assistance through the Environmental Protection Fund for
  - public access and waterfront recreation projects
  - construction and/or improvement of multi-use trails
  - review and assessment of the Niagara River corridor for designation as a Scenic Area of Statewide Significance, and
  - evaluation of Lower River Road for designation as a Scenic Area of Statewide Significance

#### *Department of Transportation*

- Maintenance and repair of Niagara Scenic Parkway and right-of-way and Lake Road
- Development of a multi-use trail system along the Niagara Scenic Parkway and Lake Road to interconnect existing State Parks along the waterfront with the redevelopment of the multi-use pathway along Lower River Road
- Technical assistance and funding for highway construction and maintenance improvements to the Niagara Scenic Parkway and State Routes 18 (Lake Road) and 18F (Lower River Road).
- Consultation with the Town before undertaking any improvements to bridges or State roads in the waterfront area to ensure identification and mitigation of local concerns in the WRA, including proper clearing of right-of-way vegetation.
- Funding assistance for the development of a multi-use pathway in along the Niagara Scenic Parkway to extend the regional trailway system and interconnect State parks in the vicinity.
- Coordination with the Town of Porter and authorization to install wayfinding signage along State roadways to promote recreational and cultural tourism.
- Administration of highway work permits and other local permits and approvals.

#### *Office of Parks, Recreation, and Historic Preservation*



- Establishment of formal public access connection between Four Mile Creek State Park and Porter on the Lake Town Park
- Support for and assistance with the development of a Multi-Use Trail system along the Niagara Scenic Parkway to connect all New York State Parks in or adjacent to the WRA
- Enhancement of Fort Niagara State Park for passive recreation
- Enhancement of Four Mile Creek State Park for improved public access and use
- Cooperative marketing to enhance tourism
- Technical assistance for the planning, development, construction, renovation or expansion of State-owned recreational facilities and uses undertaken therein.
- Funding approval under programs such as the Land and Water Conservation Fund and the Clean Water / Environmental Protection Fund for development of, or improvements to, waterfront parkland and recreational facilities.
- Assistance with and approval for the provision of formalized interconnectivity between Four Mile Creek State Park and Porter on the Lake Town Park.
- Consideration and approval of improved public access to Four Mile Creek Park for daily, non-camping use and visitation.
- Provision of funding for new or expanded public recreational facilities, including but not limited to parks, multi-use trails and areas for waterfront access.
- Protection of State and locally significant historic structures and resources.
- Certification of properties for historic designation status.
- Review of Type 1 actions that may affect historically designated properties in the WRA.

#### **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.

#### **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.
- Review of any subdivision of waterfront property on navigable waters to ensure the proper depiction of riparian lines that extend into offshore waters on real property surveys that must be filed with the Niagara County Clerk, pursuant to Section 334 of the New York State Real Property Law.

### **Federal Actions and Programs**

#### **U.S. Army Corps of Engineers, Buffalo District**

- Erosion mitigation of the north seawall at Fort Niagara State Park to protect historic structures at the Old Fort Niagara complex



- Permit decisions and assistance with funding for dredging, the construction or reconstruction of erosion protection structures, ice management or waterfront development/redevelopment issues.
- Enforcement and permit approval pursuant to Sections 401 and 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act for projects that require water quality certification or other approval (dock installation, fill placement in offshore waters, wetland disturbance, etc.).
- Freshwater wetlands protection, delineation and permitting for allowable disturbances.

#### **U.S. Federal Highway Administration**

- Provision of funding for transportation improvements, including but not limited to improvements that increase pedestrian and bicycle access or improve safety.
- Provide funding and technical assistance for enhance of the Great Lakes Seaway Trail and National Scenic Byway throughout the Porter LWRA.

#### **Small Business Administration**

- Funding and technical assistance for local businesses along the waterfront to stimulate economic development

#### **Department of Homeland Security, Coast Guard**

- Maintain navigational devices along the Niagara River, at the mouth of the River and in Lake Ontario.
- Support cross border recreational boating and fishing with clearly identified marine cross border check points.
- Work with the New York State Department of Transportation and NYS Office of Parks, Recreation and Historic Preservation to provide safe boating education courses and materials.

#### **Federal Emergency Management Agency**

- Updates to flood insurance rate mapping for the Town of Porter using the best available

#### **Environmental Protection Agency**

- Provide funding and technical assistance to implement the provisions of the Lake Ontario Lakewide Action and Management Plan and 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 Ontario and the Niagara River.

#### **US Department of Interior, Fish and Wildlife Service**

- Protect and enhance fish and wildlife habitat and populations in accordance with LWRP Policy 7.
- Provide funding and technical assistance for the development of a native fisheries restoration plan for the Niagara River and Lake Ontario.



- Issuance of permits for legitimate wildlife and conservation related activities (e.g., protection of endangered species, migratory birds).

## **5.4. MANAGEMENT STRUCTURE FOR IMPLEMENTING THE LWRP**

Both State and Federal Coastal Management Laws require State and Federal agencies to determine whether a proposed action that they may directly undertake, fund or approve within the boundaries of an approved LWRP is consistent with the policies and purposes of the LWRP. An action that is inconsistent with an LWRP may not be undertaken (except in extraordinary cases that meet the strict tests established for exceptions). To secure the significant benefits of an approved LWRP, a municipality must make a similar commitment to ensure local consistency with the LWRP.

All State and Federal actions proposed within the Town of Porter WRA will be reviewed in accordance with the guidelines established by the New York State Department of State, which are outlined in Sections 5.5 and 5.6 below, as the Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect and the Procedural Guidelines for Coordinating NYSDOS and LWRP Consistency Review of Federal Agency Actions. Actions directly undertaken, funded, or approved by the Town of Porter that are located within the Porter WRA shall be reviewed pursuant to the LWRP Consistency Review Law and Waterfront Assessment Form included in Appendix L. Town actions subject to the consistency review are described in the LWRP Consistency Review Law, together with the LWRP implementation and management structure and procedures.

### **5.4.1. Local Management and Coordination**

Various local officials and boards are responsible for management and coordination of the LWRP and are directly involved in ensuring that the reviews of town actions for consistency with the LWRP policies and purposes are completed for projects located within the WRA. These include:

#### **Town Board**

The Porter Town Board, or their designee, will prioritize and advance LWRP projects and direct the appropriate Town agency, or a grant writing consultant, to prepare applications for funding from State, federal, and other sources to finance LWRP projects. The Town Board also has the authority to make zoning amendments necessary to implement the LWRP.

#### **Planning Board**

The Town of Porter Planning Board has site plan and subdivision review and approval authority. For any project located within the WRA that requires such approval, the Planning Board will be the designated Town agency to undertake consistency review with the LWRP policies, projects and purposes. as a part of the review and approval process, in accordance with the adopted LWRP Consistency Review Law, and will consider recommendations provided by the Code Enforcement Officer as a part of this review. Upon the recommendation of the Code Enforcement Officer, the Planning Board will be responsible for determining the consistency of projects proposed within the WRA that require more extensive review, but not site plan or subdivision approval. In such cases, the Planning Board will consult with the Code Enforcement Officer for guidance and recommendations.



### Code Enforcement Officer

The Code Enforcement Officer (Building Inspector) will be responsible for the overall management and coordination of the LWRP. The Code Enforcement Officer, in consultation with the Town Planning Board as required, will inform the Town Board on implementation priorities, work assignments, timetables and budgetary requirements for the LWRP. The Code Enforcement Officer will also act in the capacity of liaison between the Town Board and Town agencies to further the implementation of the LWRP. The Code Enforcement Officer is responsible for reviewing the completeness of applications for town agency actions proposed within the WRA and for making recommendations to the appropriate Town agencies for consistency of actions with the LWRP policies, projects and purposes. The Code Enforcement Office, at their discretion, will refer consistency determination requests to the Planning Board for the review of projects proposed within the WRA that require more extensive review, but not site plan or subdivision approval. The Code Enforcement Officer will also coordinate with the New York State Department of State and other State agencies and/or federal agencies regarding their respective consistency review of actions proposed within the WRA.

### Zoning Board of Appeals

The Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to Porter LWRP Consistency Review Law. The Code Enforcement Officer/Building Inspector will be responsible for making recommendations to the ZBA. However, the Zoning Board of Appeals will hear and render decisions on variance applications and appeals involving activities within the WRA.

### Town Clerk

The Town Clerk will maintain, and make available to the public, a copy of the LWRP for use during normal business hours. Working with the Code Enforcement Office, the Clerk will distribute copies of the Waterfront Assessment Form (WAF), as necessary, to applicants proposing actions in the WRA. Also, the documentation generated for each consistency decision regarding agencies actions within the Porter WRA will be filed with the Town Clerk.

## **5.4.2. Local Regulatory Changes**

Zoning and local law changes necessary to implement the LWRP will be the responsibility of the Town of Porter Town Board, with the assistance of the Planning Board and other Town staff, as needed. Funding for these efforts would be included in the Town's annual budget.

## **5.5. GUIDELINES FOR NOTIFICATION AND REVIEW OF STATE AGENCY ACTIONS PROPOSED WITHIN THE PORTER WRA**

### **I. Purposes of Guidelines**

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (the Act) (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the



maximum extent practicable with the policies and purposes of the approved Town of Porter Local Waterfront Revitalization Program (LWRP). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.

- B. The Act also requires that state agencies provide timely notice to the Town of Porter whenever an identified action will occur within the area covered by the approved Porter LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist the Town of Porter in carrying out their review responsibilities in a timely manner.
- C. The New York State Secretary of State is required by the Act to confer with state agencies when notified by the Town of Porter government that a proposed state agency action may conflict with the policies and purposes of the approved Porter LWRP.

These guidelines establish a procedure for resolving such conflicts.

## II. Definitions

- A. Action means:
  - 1. A "Type I" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
  - 2. Occurring within the boundaries of the Waterfront Revitalization Area (WRA) within which the policies and purposes of the approved Town of Porter LWRP apply; and
  - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the Town of Porter LWRP.
- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of the approved Porter LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of the approved Porter LWRP, then the action must be one:
  - 1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
  - 2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
  - 3. That will result in an overriding regional or statewide public benefit.
- C. Coastal Assessment Form (CAF) is the form used by the State agency to assess the consistency of its actions proposed within the Town of Porter Waterfront Revitalization Area with the policies and purposes of the approved Porter LWRP.
- D. EIS or Environmental Impact Statement means a form used by an agency to assist it in determining the environmental significance or non-significance of actions, pursuant to 6NYCRR617 (SEQR).



- E. Local Waterfront Revitalization Program, or Porter LWRP, means the program prepared and adopted by the Town Board and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water, and man-made resources, proposed land uses and specific projects that are essential to program implementation.
- F. Secretary of State or Secretary is the head of the New York State Department of State, which is the state agency responsible for administering and coordinating activities essential for the implementation of the Coastal Management Program, including approved LWRPs.
- G. Code Enforcement Officer/Building Inspector of the Town of Porter will be responsible for the review of state agencies actions and for providing state agencies with findings to the appropriate state agency contact.
- H. Town means the Town of Porter
- I. Town Board is the government or legislative body of the Town of Porter that adopted the Porter LWRP.
- J. Waterfront Revitalization Area is the portion of the state's coastal area covered by the approved Porter LWRP.

### **III. Notification Procedure**

- A. When a state agency is considering an action as described in II. DEFINITION within the defined Waterfront Revitalization Area boundary of the approved Porter LWRP, the state agency shall notify the Code Enforcement Officer/Building Inspector.
- B. Notification of a proposed state agency action:
  - 1. Shall fully describe the nature and location of the action;
  - 2. Shall be accomplished by use of other existing state agency notification procedures, or through any alternative procedure agreed upon by the state agency and the Town of Porter government; and
  - 3. Should be provided to the Code Enforcement Officer/Building Inspector as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. The timely filing of a copy of a completed Coastal Assessment Form (CAF), available to State agencies, to the Code Enforcement Officer/Building Inspector should be considered adequate notification of a proposed action.
- C. If the proposed action will require the preparation of a draft environmental impact statement (EIS), the filing of this draft document with the Code Enforcement Officer/Building Inspector can serve as the state agency's notification to the Town.

### **IV. Local Government Review Procedure**

- A. Upon receipt of notification from a state agency, the Code Enforcement Officer/Building Inspector will be responsible for evaluating the proposed state agency action against the policies



and purposes of the approved Porter LWRP. Upon request of the Code Enforcement Officer/Building Inspector, the state agency should promptly provide whatever additional information is available which will assist the Code Enforcement Officer/Building Inspector to evaluate the proposed action.

- B. If the Code Enforcement Officer/Building Inspector cannot identify any conflicts between the proposed action and the applicable policies and purposes of the approved LWRP, the Code Enforcement Officer/Building Inspector should notify in writing the state agency of the finding. Upon receipt of the written finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the Code Enforcement Officer/Building Inspector do not notify the state agency in writing of the finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the approved Porter LWRP.
- D. If the Town of Porter notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of the approved Porter LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V. Resolution of Conflicts. below shall apply. The Town of Porter shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the Code Enforcement Officer/Building Inspector shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

## **V. Resolution of Conflicts**

- A. The following procedure applies whenever the Town of Porter has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP.
  - 1. Upon receipt of notification from the Town of Porter that a proposed action conflicts with its approved LWRP, the state agency should contact the Town of Porter Code Enforcement Officer/Building Inspector to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and Town of Porter representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the Town.
  - 2. If the discussion between the Town of Porter and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the Town shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all the identified conflicts have been resolved. The State agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
  - 3. If the consultation between the Town of Porter and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all the identified conflicts. This request must be



- received by the Secretary of State within 15 days following the discussion between the Town of Porter and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
4. Within 30 days following the receipt of a request for assistance, the Secretary, or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and Town of Porter.
  5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
  6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

## **5.6. PROCEDURAL GUIDELINES FOR COORDINATING NEW YORK STATE DEPARTMENT OF STATE (DOS) AND LWRP CONSISTENCY REVIEW OF FEDERAL ACTIONS**

### **I. Direct Federal Agency Activities**

- A. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed federal activities to the Town of Porter Code Enforcement Officer/Building and other interested parties.
- B. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed federal activity.
- C. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the Town of Porter has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.

If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Code Enforcement Officer/Building Inspector, DOS will contact the Town of Porter to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed federal activity.

- D. A copy of DOS' "concurrence" or "objection" letter to the federal agency will be forwarded to the Town of Porter Code Enforcement Officer/Building Inspector.

### **II. Activities Requiring Federal Licenses, Permits and Other Regulatory Approvals**

- A. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the Code



Enforcement Officer/Building Inspector and will identify the Department's principal reviewer for the proposed federal activity.

- B. Within thirty (30) days of receiving such information, the Code Enforcement Officer/Building Inspector will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed federal activity with the LWRP policies.
- C. When DOS and the Code Enforcement Officer/Building Inspector agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the Code Enforcement Officer/Building Inspector on receipt.
- D. Within thirty (30) days of receiving the requested information or discussing possible problems of a proposed federal activity with the principal reviewer for DOS, whichever is later, the Code Enforcement Officer/Building Inspector will notify DOS of the reasons why a proposed federal activity may be inconsistent or consistent with the LWRP policies.
- E. After the notification, the Code Enforcement Officer/Building Inspector will submit the Town's written comments and recommendations on a proposed federal activity to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the Town of Porter has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.
- F. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Town of Porter on a proposed federal activity, DOS will contact the Town of Porter Code Enforcement Officer/Building Inspector to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" to the applicant.
- G. A copy of the DOS' "concurrence" or "objection" letter to the applicant will be forwarded to the Town of Porter Code Enforcement Officer/Building Inspector.

### **III. Federal Financial Assistance to State and Local Governments**

- A. Upon receiving notification of a proposed federal financial assistance, DOS will request information on the federal financial assistance from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the Town of Porter Code Enforcement Officer/Building Inspector and will serve as notification that the proposed federal financial assistance may be subject to review.
- B. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the Code Enforcement Officer/Building Inspector. DOS may, at this time, request the applicant to submit additional information for review purposes.
- C. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major federal financial assistance.



- D. The Town of Porter Code Enforcement Officer/Building Inspector must submit the Town's comments and recommendations on the proposed federal financial assistance to DOS within twenty days (or other time agreed to by DOS and the Code Enforcement Officer/Building Inspector) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the Town of Porter has "no opinion" on the consistency of the proposed federal financial assistance with the LWRP policies.
- E. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Town of Porter, DOS will contact the Code Enforcement Officer/Building Inspector to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
- F. A copy of DOS' consistency decision letter to the applicant will be forwarded to the Town of Porter Code Enforcement Officer/Building Inspector.

## **5.7. FINANCIAL RESOURCES NECESSARY TO IMPLEMENT THE LWRP**

The Town of Porter recognizes that the implementation of the proposed projects identified under 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 Town's efforts to oversee conformance and enforcement of the LWRP, would come from general revenue sources and would be reflected in the Town's annual budget.

Capital costs reflect the costs incurred by the Town to complete specific projects. The costs for the projects identified in Sections IV and V are just estimative. A number of these projects, however, would require significant capital expenditures. The Town has successfully accomplished beneficial projects along the waterfront, and will continue to pursue outside funding and, where appropriate, creative financing mechanisms for these and similar efforts. Where applicable, the Town will 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 Town 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/Green Jobs Act of 2016,
- New York State Environmental Protection Fund,
- Empire State Development Corporation (ESD),
- 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 DEC Water Quality Improvement Program,
- NYSERDA Climate Smart Communities 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,
- Federal Transportation Act (Fixing American’s Surface Transportation – FAST or equivalent),
- Clean Water Revolving Fund for Water Pollution Control,
- Land and Water Conservation Fund,
- Niagara County Community Development Block Grant Funding, and
- Niagara River Greenway program.



## **SECTION VI – STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION**

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

### **6.1. STATE ACTIONS AND PROGRAMS WHICH SHOULD BE UNDERTAKEN IN A MANNER CONSISTENT WITH THE LWRP**

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the 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 list of State actions and programs is that list. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that an LWRP identifies those elements of the program that can be implemented by the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement 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 LWRP.

#### **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**

1.0 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.

**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.
  - 2.1 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.

**NIAGARA FRONTIER TRANSPORTATION AUTHORITY, regional agency**

- 1.00 Plans, finances, implements and delivers transit services in the region.
- 2.00 Continually identifying ways to increase transit ridership and revenue.
- 3.00 Identifying appropriate funding sources to meet the region's transportation needs.

**GREATER BUFFALO NIAGARA REGIONAL TRANSPORTATION COUNCIL**

**MPO for the counties of Albany, Rensselaer, Saratoga, and Schenectady.**

- 1.0 develops a long-range regional transportation plan to guide transportation decision making and activities.
- 2.0 develops a short-range program of projects to be implemented with federal transportation funds.

**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 by 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 Grater 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.*



## SECTION VII - LOCAL COMMITMENT AND CONSULTATION

### 7.1. LOCAL COMMITMENT

The Town of Porter initiated its efforts to prepare a Local Waterfront Revitalization Program (LWRP) in November of 2014, at which time the Town 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 Town and local community, including liaisons from the Town of Porter Planning Board, Parks and Recreation Department, the Town grants writer and a representative from the Village of Youngstown. The efforts of this Committee were supported by the New York State Department of State and the New York State Department of Environmental Conservation. This Committee met 10 times during the project to assist with the preparation of the LWRP.

To strengthen local commitment for the Town'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 Town's waterfront area. These meetings were held on April 3, 2017 and October 23, 2017. Both meetings were held at the Town of Porter Town Hall.



The first Public Information Meeting was held to introduce the LWRP project to the public and provide an opportunity for residents and stakeholders to offer input on the issues and opportunities they felt were



important in the waterfront area. This meeting was well attended, and numerous comments were gathered (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 (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.

Prior to the adoption of the LWRP, the Porter Town Board held a public hearing on the action. This hearing provided the public with an opportunity to hear a presentation on the draft LWRP, as well as to provide the Town Board with final input on the proposed program.

## **7.2. CONSULTATION**

During the course of preparing the Porter 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 Niagara County Department of Economic Development and Planning, Niagara County Health Department, the New York State Department of Environmental Conservation, and the surrounding municipalities (Town of Lewiston and Town of Wilson).

The draft LWRP was reviewed and accepted by the Porter Town Board 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 Niagara County and the Towns of Lewiston and Wilson. Comments received on the draft document were reviewed by the Town and the Department of State, and changes were made, as required, to reflect substantive comments. Thereafter, the final draft LWRP was adopted by the Porter Town Board, presented to the New York State Secretary of State for approval and submitted to the National Oceanic and Atmospheric Administration for concurrence.



## **APPENDIX A – TOWN OF PORTER LWRP CONSISTENCY REVIEW LAW AND WATERFRONT ASSESSMENT FORM**

### **TOWN OF PORTER LWRP CONSISTENCY REVIEW LAW**

Local Law No. \_\_\_\_\_ of the year 2020

Be it enacted by the Town of Porter Town Board as follows:

#### **General Provisions**

##### **I. Title.**

This local law will be known as the Town of Porter Local Waterfront Revitalization Program (LWRP) Consistency Review Law.

##### **II. Authority and Purpose.**

- A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
- B. The purpose of this local law is to provide a framework for agencies of the Town of Porter to incorporate the policies and purposes contained in the Town of Porter Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions within the Waterfront Revitalization Area (WRA); and to assure that such actions and direct actions by Town agencies are consistent with the LWRP policies and purposes.
- C. It is the intention of the Town of Porter that the preservation, enhancement and utilization of the unique waterfront of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: loss and degradation of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; adverse impacts to public recreation facilities and amenities; disruption of natural waterfront processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.
- D. The substantive provisions of this local law shall only apply when there is in existence a Town of Porter Local Waterfront Revitalization Program which has been adopted in accordance with



Article 42 of the Executive Law of the State of New York.

### III. Definitions.

- A. "Actions" include all the following, except minor actions:
- (1) projects or physical activities, such as construction or any other activities that may affect natural, manmade or other resources in the WRA or the environment by changing the use, appearance or condition of any resource or structure, that:
    - i. are directly undertaken by an agency; or
    - ii. involve funding by an agency; or
    - iii. require one or more new or modified approvals, permits, or review from an agency or agencies;
  - (2) agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;
  - (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect WRA resources or the environment; and
  - (4) any combination of the above.
- B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Porter.
- C. "Waterfront revitalization area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law, which is located within the boundaries of the Town of Porter, as shown on the coastal area map on file in the office of the Secretary of State and as delineated in the Porter Waterfront Revitalization Program.
- D. "Waterfront Assessment Form" or WAF means the form appended to this local law, used by an agency or other entity to assist in determining the consistency of an action with the Town of Porter Local Waterfront Revitalization Program.
- E. "Code Enforcement Officer" means the Building Inspector or Code Enforcement Office of the Town of Porter who is responsible for coordinating the review of actions proposed in the WRA for consistency with the Town of Porter LWRP.
- F. "Consistent" means that the action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.
- G. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rulemaking, procedure making and policymaking.
- H. "Environment" means all conditions, circumstances and influences surrounding and affecting the development of living organisms or other resources in the waterfront area.
- I. "Local Waterfront Revitalization Program" or "LWRP" means the Local Waterfront Revitalization Program adopted by the Town of Porter and approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act



(Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Porter.

J. "Minor actions" include the following actions, which are not subject to review under this local law:

- (1) maintenance or repair involving no substantial changes to an existing structure or facility;
- (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures locate within designated Coastal Erosion Hazard Areas or in areas designated by the Flood Damage Prevention Law (Chapter 93 of the Town Code) where structures may not be replaced, rehabilitated or reconstructed without a permit and, where required, modifications in accordance with the Law;
- (3) repaving or widening of existing paved highways not involving the addition of new travel lanes;
- (4) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- (5) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within Significant Coastal Fish and Wildlife Habitat areas;
- (6) granting of individual setback and lot line variances, except in relation to a regulated natural feature;
- (7) minor temporary uses of land having negligible or no permanent impact on WRA resources or the environment;
- (8) installation of traffic control devices on existing streets, roads and highways;
- (9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- (10) information collection including basic data collection and research, water quality and pollution studies, traffic counts, Building Inspection studies, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action;
- (11) official acts of a ministerial nature involving no exercise of discretion, including building permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code.
- (12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- (13) conducting concurrent environmental, building inspection, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- (14) collective bargaining activities;



- (15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- (16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- (17) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
- (18) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- (19) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
- (20) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- (21) adoption of a moratorium on land development or construction;
- (22) interpreting an existing code, rule or regulation;
- (23) designation of local landmarks or their inclusion within historic districts;
- (24) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to LWRA resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part; and
- (25) local legislative decisions, such as rezoning, where the Porter Town Board determines the action will not be approved.

#### **IV. Management and Coordination of the LWRP**

- A. The Town of Porter Code Enforcement Officer shall be responsible for overall management and coordination of the LWRP.
- B. The Code Enforcement Officer, in consultation with the Town Planning Board as necessary, shall inform the Town Board on implementation priorities, work assignments, timetables and budgetary requirements of the LWRP. The Code Enforcement Officer shall also act in the capacity of liaison between the Town Board and Town agencies to further the implementation of the LWRP.
- C. The Town of Porter Code Enforcement Officer shall advise and assist applicants and make consistency review recommendations to the appropriate agencies for the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative



- and other actions included in the program. No approval or decision shall be rendered for a proposed action in the Porter waterfront area without the issuance of a written determination of consistency.
- D. Code Enforcement Officer shall coordinate with the New York State Department of State regarding the consistency review of actions proposed by Federal agencies, local agencies and other State agencies. Coordination shall include the provision of an informal opinion on the proposed action to the NYSDOS, at their request, within 15 days of said request, regardless of a requirement for a local consistency decision.
  - E. The Code Enforcement Officer, with assistance as needed from the Town Planning Board, shall coordinate with the Town Grants Consultant and Town Engineer to assist the Town Board in making applications for funding from State, Federal, or other sources to finance projects under the LWRP.
  - F. The Code Enforcement Officer, with assistance from the Planning Board as required, shall prepare an annual report on progress achieved and problems encountered in implementing the LWRP and recommend actions necessary for further implementation to the Town Board and Waterfront Advisory Committee, if such a committee has been designated with LWRP oversight.
  - G. The Code Enforcement Officer shall perform other functions regarding the waterfront area and direct such actions or projects as the Town Board may deem appropriate to implement the LWRP.
  - H. In order to foster a strong relationship and maintain an active liaison among the agencies responsible for implementation of the LWRP, and to ensure that the LWRP continues to meet the needs of the community, the Code Enforcement Officer or official designee shall schedule, at least semi-annually, a LWRP coordinating workshop, including but not limited to representatives of the Town Board, Planning Board, Zoning Board of Appeals, and such other departments or individuals charged with LWRP implementation.

## **V. Review of Actions.**

- A. Whenever a proposed action is located in the waterfront revitalization area, the appropriate Town agency shall, prior to approving, funding or undertaking the action, make a determination that the action is consistent with the LWRP policy standards, which are summarized in Section J. below. No action in the waterfront revitalization area shall be approved, funded or undertaken by an agency without such a determination.
- B. The Code Enforcement Officer shall be responsible for coordinating the review of actions in the Town of Porter waterfront revitalization area with the LWRP and will advise, assist and make consistency recommendations for other Town agencies for the implementation of the LWRP and its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.
- C. Whenever the Town receives an application for the approval or funding of an action, or as early



- as possible in any agency's formulation of a direct action to be undertaken in the waterfront area, the application and all project information, along with a copy of the completed Waterfront Assessment Form (WAF) and Environmental Assessment Form, shall be provided to the Code Enforcement Officer for review for completeness. Where necessary, the Code Enforcement Officer will request additional materials or revisions to the application documentation to meet submittal requirements.
- D. The Code Enforcement Officer, in referring applications for approval, funding or direct action to an agency, shall provide recommendations for consistency determination. These recommendations shall indicate whether, in the opinion of the Code Enforcement Officer, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and objectives outlined in Section J, below, and shall elaborate in writing the basis for this opinion. The Code Enforcement Officer shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards and objectives or to greater advance them.
  - E. If an action requires the approval of more than one agency, decision making will be coordinated between the agencies to which agency will conduct the final consistency review and determination and, thereafter, act as the designated consistency review agency. Only one WAF per action will be prepared. If the agencies cannot agree on which one should take the lead, the Code Enforcement Officer shall designate the consistency review agency.
  - F. Upon the recommendations of the Code Enforcement Officer, the agency shall review the application documentation in accordance with this Law and the LWRP policy standards and consider whether the proposed action is consistent with the LWRP. Prior to making a final determination of consistency, the agency shall consider the consistency review recommendations of the Code Enforcement Officer. The Town agency shall render its written determination based on the information contained in the WAF, the Code Enforcement Officers recommendation and such other information as is deemed necessary to its determination. No approval or decision shall be rendered for an action in the waterfront revitalization area without a determination of consistency, as made by the designated agency.
  - G. The Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to this law. The Zoning Board of Appeals shall consult with the Town Code Enforcement Officer and consider written consistency recommendations of this entity prior to making a decision to grant any variance for any action proposed in the waterfront revitalization area and shall impose appropriate conditions on the variance to make the proposed activity consistent with the LWRP Policy standards and objectives.
  - H. Where an Environmental Impact Statement (EIS) is being prepared or required pursuant to SEQRA, the draft EIS must identify applicable LWRP policies standards summarized in J. below and must include a discussion of the effects of the proposed action on such policy standards. No agency shall make a final decision on an action that has been the subject of a final EIS and is



located in the waterfront area until the agency has made a written finding of consistency review, in accordance with the provisions of this Law.

- I. In the event the Code Enforcement Officer’s recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, said agency shall elaborate in writing the basis for its disagreement with the recommendation and state the manner and extent to which the action is inconsistent with the LWRP policy standards. Where an action is found to be inconsistent with one or more LWRP policy standards, such action shall not be approved, funded or undertaken unless modified to be consistent with the LWRP, as determined by the reviewing agency.
- J. Actions to be undertaken within the waterfront revitalization area shall be evaluated for consistency in accordance with the following LWRP policy standards, which are further explained and described in the Town of Porter LWRP, a copy of which is posted on the Town’s website and is on file in the Town Clerk's office and available for inspection during normal business hours. Applicants that undertake direct actions must also consult with the Town of Porter Code Enforcement Officer in making their consistency determination. All actions proposed within the Town of Porter waterfront area must be consistent with the LWRP policies outlined below.

<b>DEVELOPMENT POLICIES</b>	
<b>Policy 1</b>	Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses
<i>Policy 1A</i>	Promote uses that serve as a catalyst to private investment and are compatible with the character of the area
<b>Policy 2</b>	Retain, develop and promote water-dependent uses and facilities on or adjacent to coastal waters
<i>Policy 2A</i>	Promote water-enhanced uses that support and don’t compete for space with nearby water-dependent commercial and recreational uses
<b>Policy 5</b>	Encourage the location of development in areas where public services and facilities essential to such development are adequate.
<i>Policy 5A</i>	Residential development will be encouraged in areas located north and south of the Village of Youngstown where adequate public infrastructure exists to support it
<b>Policy 6</b>	Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.
<b>FISH AND WILDLIFE POLICIES</b>	
<b>Policy 7</b>	Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored to maintain their viability as habitats
<i>Policy 7A</i>	The Four Mile Creek Bay Significant Coastal Fish and Wildlife Habitat shall be protected, preserved and, where practical, restored to maintain its viability as habitat



<b>Policy 8</b>	Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.
<b>Policy 9</b>	Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources
<b>FLOODING AND EROSION POLICIES</b>	
<b>Policy 11</b>	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
<b>Policy 12</b>	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
<b>Policy 13</b>	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
<b>Policy 14</b>	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
<b>Policy 15</b>	Mining, excavation or dredging in the 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
<b>Policy 16</b>	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
<b>Policy 17</b>	Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible
<b>GENERAL POLICY</b>	
<b>Policy 18</b>	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
<b>PUBLIC ACCESS POLICIES</b>	
<b>Policy 19</b>	Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities
<b>Policy 20</b>	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



<b>RECREATION POLICIES</b>	
<b>Policy 21</b>	Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related used along the coast.
<i>Policy 21A</i>	Maintain, and where appropriate, expand water dependent recreational uses and facilities.
<b>Policy 22</b>	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.
<b>HISTORIC AND SCENIC RESOURCES POLICIES</b>	
<b>Policy 23</b>	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.
<b>Policy 25</b>	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.
<b>AGRICULTURAL LANDS POLICY</b>	
<b>Policy 26</b>	Conserve and protect agricultural lands in the State’s coastal area.
<b>ENERGY AND ICE MANAGEMENT POLICIES</b>	
<b>Policy 27</b>	Decisions on the siting and construction of major energy facilities in the Porter WRA will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.
<b>Policy 28</b>	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
<b>Policy 29</b>	The development of offshore uses and resources, including renewable energy resources, shall accommodate New York State’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.
<b>WATER AND AIR RESOURCES POLICIES</b>	
<b>Policy 30</b>	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.
<b>Policy 31</b>	State coastal area policies and management objectives of approved Porter Local Waterfront Revitalization Program 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
<b>Policy 32</b>	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.



<b>Policy 33</b>	Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.
<b>Policy 34</b>	Discharge of waste materials into coastal waters from vessels subject to State jurisdiction will be limited to protect significant fish and wildlife habitats, recreational areas and water supply areas.
<b>Policy 35</b>	Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.
<b>Policy 36</b>	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.
<b>Policy 37</b>	Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.
<b>Policy 39</b>	The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within the coastal area will be conducted in such a manner to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources
<b>Policy 41</b>	Land use or development in the coastal area will not cause national or State air quality standards to be violated.
<b>Policy 42</b>	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.
<b>WETLANDS POLICY</b>	
<b>Policy 44</b>	Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas

## VI. Enforcement.

The Town Attorney and Town Code Enforcement Officer shall be responsible for enforcing this local law. No action within the Town of Porter waterfront revitalization area, which is subject to review under this local law, shall proceed until a written determination has been issued from the designated agency that the action is consistent with the Town's LWRP policy standards. In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Code Enforcement Officer or any other authorized official of the Town shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

## VII. Violations.

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this local law shall have committed a violation, punishable by a fine not



exceeding five hundred dollars (\$500.00) for a conviction of a first offense and punishable by a fine of one thousand dollars (\$1,000.00) for a conviction of a second or subsequent offense.

For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.

- B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

### **VIII. Severability.**

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law, as a whole, or any part or provision hereof other than the provision so found to be invalid.

### **IX. Effective Date.**

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.



**TOWN OF PORTER  
WATERFRONT ASSESSMENT FORM**

**A. INSTRUCTIONS (Please print or type all answers)**

1. Applicants, or in the case of direct actions, Town of Porter Departments, shall complete this Waterfront Assessment Form (WAF) for proposed actions that are located within the Porter Local Waterfront Area and are subject to the consistency review law. This assessment is intended to supplement other information used by the Town of Porter in making a determination that the proposed action will be consistent with the policies of the Town of Porter Local Waterfront Revitalization Program. It is also helpful for making a determination of significance pursuant to the State Environmental Quality Review Act (SEQR).
  
2. Before answering the questions in Section C, the preparer of this form should review the policies and policy explanations contained in Section III of the Town of Porter Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Town Clerk's office. A proposed action should be evaluated as to its beneficial and adverse effects upon resources in the waterfront area and its consistency with the LWRP policy standards.
  
3. If any questions in Section C on this form are answered "yes", then the proposed action may contravene the LWRP policy standards, as contained in the Town of Porter Consistency Review Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a final determination of consistency with the LWRP policy standards and conditions. If an action cannot be certified as consistent with the LWRP policy standards, it shall not be undertaken.

**B. DESCRIPTION OF SITE AND PROPOSED ACTION**

1. Describe nature and extent of action: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  
2. Type of Town department action (check appropriate response):
  - a. Directly undertaken (e.g., construction, planning, regulation, land transaction)  
 \_\_\_\_\_  
 \_\_\_\_\_



b. Financial assistance (e.g., grant, loan, subsidy)

\_\_\_\_\_  
\_\_\_\_\_

c. Permit, approval, license or certificate:

\_\_\_\_\_  
\_\_\_\_\_

d. Agency/Town department undertaking the action:

\_\_\_\_\_  
\_\_\_\_\_

3. Name of applicant: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
Telephone number: ( ) \_\_\_\_\_  
Property tax number: \_\_\_\_\_  
Application No. (if applicable) \_\_\_\_\_

4. Will the action be directly undertaken or require funding or approval by a State or federal agency? Yes \_\_\_\_\_ No \_\_\_\_\_  
If yes, which State or federal agency? \_\_\_\_\_  
\_\_\_\_\_

5. Location of action (Street or Site Description and nearest intersection):  
\_\_\_\_\_  
\_\_\_\_\_

6. Size of site (acres): \_\_\_\_\_

7. Amount (acres) of site to be disturbed: \_\_\_\_\_

8. Present land use: \_\_\_\_\_

9. Present zoning classification: \_\_\_\_\_

10. Describe any unique or unusual landforms on the project site (i.e. bluffs, wetlands, other geological formations): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Percentage of site that contains slopes of 15% or greater: \_\_\_\_\_



12. Streams, lakes, ponds or wetlands existing within or continuous to the project area?  
 (a) Name \_\_\_\_\_  
 (b) Size (in acres) \_\_\_\_\_
13. Is the property serviced by public water? Yes \_\_\_\_ No \_\_\_\_
14. Is the property serviced by public sewer? Yes \_\_\_\_ No \_\_\_\_

**C. WATERFRONT ASSESSMENT** (Check either "Yes" or "No" for each of the following questions).  
 If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

- |    |  |            |           |
|----|--|------------|-----------|
| 1. | Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas found within the waterfront area as identified in the Porter LWRP? | <u>YES</u> | <u>NO</u> |
|    | (a) Significant fish or wildlife habitats?   | ___        | ___       |
|    | (b) Scenic resources of local or State-wide significance?  | ___        | ___       |
|    | (c) Important agricultural lands?  | ___        | ___       |
|    | (d) Natural protective features in a coastal erosion hazard area   | ___        | ___       |
|    |  |            |           |
| 2. | Will the proposed action have a significant effect upon:   | <u>YES</u> | <u>NO</u> |
|    | (a) Scenic quality of the waterfront environment?  | ___        | ___       |
|    | (b) Development of future or existing water-dependent uses?  | ___        | ___       |
|    | (c) Operation of the State's major ports?  | ___        | ___       |
|    | (d) Land or water uses within a small harbor area?   | ___        | ___       |
|    | (e) Designated State or federal freshwater wetlands?   | ___        | ___       |
|    | (f) Commercial or recreational use of fish and wildlife resources?   | ___        | ___       |
|    | (g) Existing or potential public recreation opportunities?   | ___        | ___       |
|    | (h) Structures, sites or districts of historic, archaeological or Cultural significance in the Town of Porter?   | ___        | ___       |
|    | (i) Stability of the shoreline?  | ___        | ___       |
|    | (j) Surface or groundwater quality?  | ___        | ___       |
|    |  |            |           |
| 3. | Will the proposed action involve or result in any of the following:  | <u>YES</u> | <u>NO</u> |
|    | (a) Physical alteration of land along the shoreline, underwater  |            |           |



	land or surface waters?	___	___
(b)	Physical alteration of two (2) acres or more of land located elsewhere in the waterfront area?	___	___
(c)	Expansion of existing public services or infrastructure in undeveloped or low-density areas of the waterfront area?	___	___
(d)	Siting or construction of an energy generation facility not subject to Article VII or VIII of the Public Service Law?	___	___
(e)	Mining, excavation, filling or dredging in surface waters?	___	___
(f)	Reduction of existing or potential public access to, or along, the shoreline?	___	___
(g)	Sale or change in use of publicly owned lands located on the shoreline or underwater?	___	___
(h)	Development within a designated flood or erosion hazard area?	___	___
(i)	Development on a beach, dune, bluff or other natural feature that provides protection against flooding or erosion?	___	___
(j)	Construction or reconstruction of erosion protective structures?	___	___
(k)	Diminished or degraded surface or groundwater quantity and/or quality?	___	___
(l)	Removal of ground cover from the site?	___	___
<b>3.</b>	<b>PROJECT</b>	<b><u>YES</u></b>	<b><u>NO</u></b>
(a)	If a project is to be located adjacent to shore:		
(3)	Will public access to the foreshore be provided?	___	___
(4)	Will it eliminate or replace a water-dependent use?	___	___
(5)	Will it eliminate or replace a recreational or maritime use or resource?	___	___
(b)	Is the project site presently used by the community neighborhood as an open space or recreation area?	___	___
(c)	Will the project protect, maintain and/or increase the level and type of public access to water-related recreation facilities?	___	___
		<b><u>YES</u></b>	<b><u>NO</u></b>
(d)	Does the project presently offer or include scenic views or vistas that are known to be important to the community?	___	___
(e)	Is the project site presently used for commercial or recreational fishing or fish processing?	___	___



- (f) Will the surface area of any local creek corridors or wetland areas be increased or decreased by the proposal? \_\_\_ \_\_\_
- (g) Is the project located in a flood prone area? \_\_\_ \_\_\_
- (h) Is the project located in an area of high coastal erosion? \_\_\_ \_\_\_
- (i) Will any mature forest (over 100 years old) or other locally important vegetation be removed by the project? \_\_\_ \_\_\_
- (j) Do essential public services or facilities presently exist at or near the site? \_\_\_ \_\_\_
- (k) Will the project involve surface or subsurface liquid waste disposal? \_\_\_ \_\_\_
- (l) Will the project involve transport, storage, treatment or disposal of solid waste or hazardous materials? \_\_\_ \_\_\_
- (m) Will the project involve shipment or storage of petroleum products? \_\_\_ \_\_\_
- (n) Will the project involve the discharge of toxics, hazardous substances or other wastes or pollutants into coastal waters? \_\_\_ \_\_\_
- (o) Will the project involve or change existing ice management practices? \_\_\_ \_\_\_
- (n) Will the project alter drainage flow, patterns or surface water runoff on or from the site? \_\_\_ \_\_\_
- (p) Will best management practices be utilized to control storm water runoff into coastal waters? \_\_\_ \_\_\_
- (q) Will the project cause emissions that would exceed federal or State air quality standards or generate significant amounts of nitrates or sulfates? \_\_\_ \_\_\_
- (r) Will the project affect any area designed as a tidal or freshwater Wetland? \_\_\_ \_\_\_
- (s) Will the project utilize or affect the quality or quantity of sole Source or surface water supplies? \_\_\_ \_\_\_

**D. REMARKS OR ADDITIONAL INFORMATION TO SUPPORT OR DESCRIBE ANY ITEM(S) CHECKED “YES” (Add any additional sheets necessary)**

---



---



---



---

---

---

---

---

---

---

---

---

---

If you require assistance or further information in order to complete this form, please contact the Porter Building Department.

**Please submit completed form, along with one copy of a site/plat plan to:**

Town of Porter Building Department  
3265 Creek Road  
Youngstown, NY 14147  
(716) 745-3730 x 7

Preparer's Name (Please print) : \_\_\_\_\_

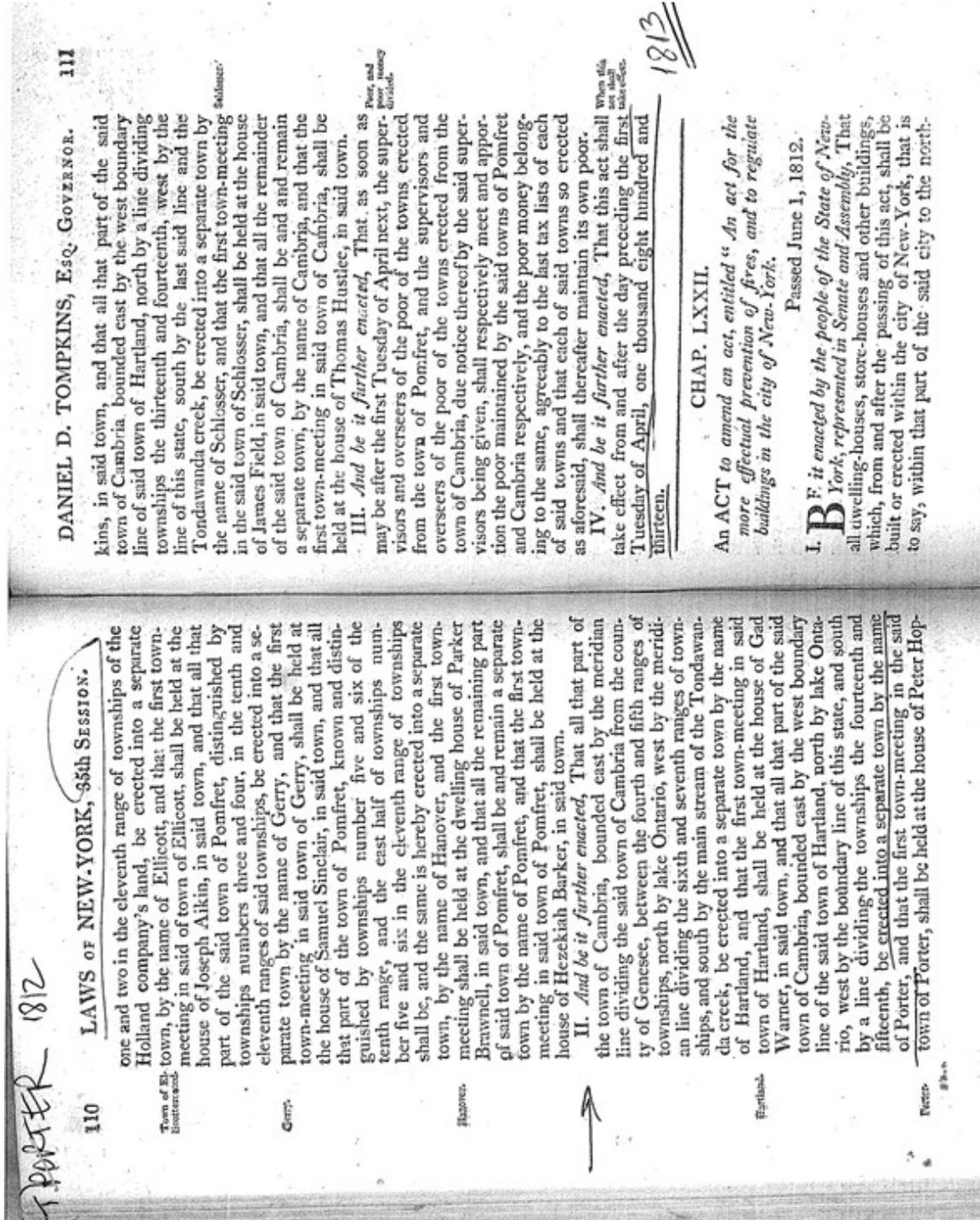
Affiliation: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

Date: \_\_\_\_\_



# APPENDIX B - LAWS OF NEW YORK DOCUMENTING THE CREATION OF THE TOWN OF PORTER



DANIEL D. TOMPKINS, ESQ. GOVERNOR.

kins, in said town, and that all that part of the said town of Cambria, bounded east by the west boundary line of said town of Hartland, north by a line dividing townships the thirteenth and fourteenth, west by the line of this state, south by the last said line and the Tondawanda creek, be erected into a separate town by the name of Schlosser, and that the first town-meeting in the said town of Schlosser, shall be held at the house of James Field, in said town, and that all the remainder of the said town of Cambria, shall be and remain a separate town, by the name of Cambria, and that the first town-meeting in said town of Cambria, shall be held at the house of Thomas Hustlee, in said town.

III. *And be it further enacted,* That, as soon as <sup>Poor, and poor money shall be</sup> may be after the first Tuesday of April next, the supervisors and overseers of the poor of the towns erected from the town of Pomfret, and the supervisors and overseers of the poor of the towns erected from the town of Cambria, due notice thereof by the said supervisors being given, shall respectively meet and appor-tion the poor maintained by the said towns of Pomfret and Cambria respectively, and the poor money belonging to the same, agreeably to the last tax lists of each of said towns and that each of said towns so erected as aforesaid, shall thereafter maintain its own poor.

IV. *And be it further enacted,* That this act shall take effect from and after the day preceding the first Tuesday of April, one thousand eight hundred and thirteen.

1812

CHAP. LXXII.

An ACT to amend an act, entitled "An act for the more effectual prevention of fires, and to regulate buildings in the city of New-York."

Passed June 1, 1812.

I. **B** F. *it enacted by the people of the State of New-York, represented in Senate and Assembly,* That all dwelling-houses, store-houses and other buildings, which, from and after the passing of this act, shall be built or erected within the city of New-York, that is to say, within that part of the said city to the north-

LAWS OF NEW YORK, 55th SESSION.

one and two in the eleventh range of townships of the Holland company's land, be erected into a separate town, by the name of Ellicott, and that the first town-meeting in said town of Ellicott, shall be held at the house of Joseph Aikin, in said town, and that all that part of the said town of Pomfret, distinguished by townships numbers three and four, in the tenth and eleventh ranges of said townships, be erected into a separate town by the name of Gerry, and that the first town-meeting in said town of Gerry, shall be held at the house of Samuel Sinclair, in said town, and that all that part of the town of Pomfret, known and distinguished by townships number five and six of the tenth range, and the east half of townships number five and six in the eleventh range of townships shall be, and the same is hereby erected into a separate town, by the name of Hanover, and the first town-meeting shall be held at the dwelling house of Parker Bravell, in said town, and that all the remaining part of said town of Pomfret, shall be and remain a separate town by the name of Pomfret, and that the first town-meeting in said town of Pomfret, shall be held at the house of Hezekiah Barker, in said town.

II. *And be it further enacted,* That all that part of the town of Cambria, bounded east by the meridian line dividing the said town of Cambria from the county of Genesee, between the fourth and fifth ranges of townships, north by lake Ontario, west by the meridian line dividing the sixth and seventh ranges of townships, and south by the main stream of the Tondawanda creek, be erected into a separate town by the name of Hartland, and that the first town-meeting in said town of Hartland, shall be held at the house of Gad Warner, in said town, and that all that part of the said town of Cambria, bounded east by the west boundary line of the said town of Hartland, north by lake Ontario, west by the boundary line of this state, and south by a line dividing the townships the fourteenth and fifteenth, be erected into a separate town by the name of Porter, and that the first town-meeting in the said town of Porter, shall be held at the house of Peter Hop-

PORTER 1812

110

Town of Ellicott

Gerry

Hanover

Hartland

Porter



## APPENDIX C - LOCAL LAWS NECESSARY FOR LWRP IMPLEMENTATION

### LOCAL LAWS IMPLEMENTING THE LWRP POLICIES

Policy #	Policy Category	Implementing Local Legislation
<b>1,2,3,4,5,6</b>	Development Policies	Chapter 70: Building Code Administration & Enforcement Chapter 93: Flood Damage Prevention Chapter 145: Sewers Chapter 160: Streets and Sidewalks Chapter 165: Subdivision of Land Chapter 185: Water Chapter 200: Zoning §5: Zoning Map §7: Permitted Uses Table §8: RA - Rural Agricultural Zoning District §9: LDR- Low Density Residential District §10: WR - Waterfront Residential §11: MDR - Medium Density Residential District §20: Niagara River Environmental Overlay §21: Cluster Developments §68: Dwelling Standards §73: Landscaping and Buffering §82: Sewage Disposal Facilities §84: Stormwater Management §91: Waterfront Access (Incentives) §106: Site Plan Review §107: Special Use Permit §110: Incentive Developments
<b>7,8,9,10</b>	Fish & Wildlife Policies	Chapter 165: Subdivision of Land Chapter 200: Zoning §20: Niagara River Environmental Overlay
<b>11,12,13,14,15,16,17</b>	Flooding & Erosion Policies	Chapter 70: Building Code Administration & Enforcement Chapter 93: Flood Damage Prevention Chapter 145: Sewers Chapter 165: Subdivision of Land Chapter 200: Zoning §10: Waterfront Residential §20: Niagara River Environmental Overlay §21: Cluster Developments §84: Stormwater Management §91: Waterfront Access (Incentives) §106: Site Plan Review



Policy #	Policy Category	Implementing Local Legislation
		§107: Special Use Permit §110: Incentive Developments
<b>18</b>	General Policy	Chapter 200: Zoning
<b>19,20</b>	Public Access Policies	Chapter 165: Subdivision of Land Chapter 185: Water Chapter 200: Zoning §10: WR - Waterfront Residential §20: Niagara River Environmental Overlay §21: Cluster Developments §91: Waterfront Access (Incentives) §106: Site Plan Review §110: Incentive Developments
<b>21,22</b>	Recreation Policies	Chapter 165: Subdivision of Land
<b>23,24,25</b>	Historic Resources & Visual Quality Policies	
<b>26</b>	Agricultural Land Policy	Chapter 165: Subdivision of Land Chapter 200: Zoning §5: Zoning Map §7: Permitted Uses Table §8: RA - Rural Agricultural Zoning District §9: LDR- Low Density Residential District §20: Niagara River Environmental Overlay §21: Cluster Developments §84: Stormwater Management §106: Site Plan Review §107: Special Use Permit
<b>27,28,29</b>	Energy & Ice Management Policies	Chapter 200: Zoning §46: Outdoor Wood-burning Furnaces §58: Wind Energy Conversion Systems (Commercial) §59: Wind Energy Conversion Systems (Non-Commercial) §86: Anaerobic Digestion Facilities
<b>30,31,32,33,34, 35,36,37,38,39, 40,41,42,43,44</b>	Water & Air Resources Policies	Chapter 145: Sewers Chapter 156: Solid Waste Chapter 165: Subdivision of Land Chapter 185: Water Chapter 200: Zoning §20: Niagara River Environmental Overlay §21: Cluster Developments §30: Car washes §33: Farm Ponds



Policy #	Policy Category	Implementing Local Legislation
		§40: Manure Lagoons §46: Outdoor Wood-burning Furnaces §50: Recreational Ponds §52: Solar Collectors §57: Vehicle Service (Fueling) Stations §58: Wind Energy Conversion Systems (Commercial) §59: Wind Energy Conversion Systems (Non-Commercial) §68: Dwelling Standards §69: Excavation, Site grading and Filling §71: Hazardous Materials in Residential Districts §73: Landscaping and Buffering §79: Property Maintenance §81: Refuse Storage Areas §82: Sewage Disposal Facilities §84: Stormwater Management §91: Waterfront Access (Incentives) §106: Site Plan Review §107: Special Use Permit §110: Incentive Developments §200: Air Quality



## CHAPTER 93, FLOOD DAMAGE PREVENTION (existing law)

§ 93-1

FLOOD DAMAGE PREVENTION

§ 93-3

### ARTICLE I Statutory Authorization and Purpose

#### § 93-1. Findings.

The Town Board of the Town of Porter finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Porter and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

#### § 93-2. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Regulate that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- D. Control filing, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- F. Qualify and maintain for participation in the National Flood Insurance Program.

#### § 93-3. Objectives.

The objectives of this chapter are:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;

- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To provide that developers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II  
**Terminology**

**§ 93-4. Word usage.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**§ 93-5. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**APPEAL** — A request for a review of the Local Administrator's interpretation of any provision of this chapter or a request for a variance.

**AREA OF SHALLOW FLOODING** — A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average annual depth of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain." For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

**BASE FLOOD** — The flood having a one-percent chance of being equaled or exceeded in any given year.

**BASEMENT** — That portion of a building having its floor subgrade (below ground level) on all sides.

**BUILDING** — See "structure."

**CELLAR** — Has the same meaning as "basement."

**CRAWL SPACE** — An enclosed area beneath the lowest elevated floor, 18 inches or more in height which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING** — A non-basement building built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-V30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

**FEDERAL EMERGENCY MANAGEMENT AGENCY** — The federal agency that administers the National Flood Insurance Program.

**FLOOD or FLOODING** —

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters.
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- B. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A(1) above.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)** — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

**FLOOD ELEVATION STUDY** — An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** — An official map of a community issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOODPLAIN or FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source (see definition of "flooding").

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

FLOODWAY — Has the same meaning as "regulatory floodway."

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR — The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Building

Inspector, Code Enforcement Officer, or employee of an engineering department.

**LOWEST FLOOR** — Lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

**MANUFACTURED HOME** — A structure, transportable in one or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

**MANUFACTURED HOME PARK OR SUBDIVISION** — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MOBILE HOME** — Has the same meaning as "manufactured home."

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

**ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD** — Has the same meaning as "base flood."

**PRINCIPALLY ABOVE GROUND** — That at least 51% of the actual cash value of the structure, excluding land value, is above ground.

**RECREATIONAL VEHICLE** — A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency

Management Agency in a Flood Insurance Study or by other agencies as provided in § 93-14B of this chapter.

**START OF CONSTRUCTION** — The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual "start of construction" means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings installation of pilings or construction of columns. "Permanent construction" does not include land preparation (such as clearing excavation, grading or filling) or the installation of streets or walkways or excavation for a basement, footings, piers or foundations or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** — A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**VARIANCE** — A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

**VIOLATION** — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

ARTICLE III  
**General Provisions**

**§ 93-6. Applicability.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Porter, Niagara County.

**§ 93-7. Basis for establishing areas of special flood hazard.**

A. The areas of special flood hazard for the Town of Porter, Community Number 360510, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map Panel Number: 36063C0014E, 36063C0018E, 36063C0019E, 36063C0036E, 36063C0037E, 36063C0038E, 36063C0039E, 36063C0041E, 36063C0042E, 36063C0043E, 36063C0044E, 36063C0156E, 36063C0158E, 36063C0160E, 36063C0177E, 36063C0180E, 36063C0181E, 36063C0182E, whose effective date is September 17, 2010, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

(2) A scientific and engineering report entitled "Flood Insurance Study, Niagara County, New York, All Jurisdictions" dated September 17, 2010.

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and or maps are on file at Town of Porter Town Hall, 3265 Creek Road, Youngstown, New York 14174.

**§ 93-8. Interpretation and conflict with other laws.**

A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

**§ 93-9. Penalties for offenses.**

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with

conditions of the permit shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Porter from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI of this chapter will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

**§ 93-10. Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Porter any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

ARTICLE IV  
**Administration**

**§ 93-11. Designation of Local Administrator.**

The Office of the Building Inspector is hereby appointed Local Administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

**§ 93-12. Floodplain development permit.**

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 93-7 without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee as set from time to time by resolution of the Town Board. In addition, the applicant shall be responsible for reimbursing the Town of Porter for any additional costs necessary for review inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500 to cover these additional costs.<sup>1</sup>

**§ 93-13. Application for permit.**

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form:

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the

---

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 93-16, Subsection C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 93-18, Nonresidential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 93-7 when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- F. A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

#### **§ 93-14. Duties and responsibilities of Local Administrator.**

Duties of the Local Administrator shall include, but not be limited to the following.

- A. Permit application review. The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:
  - (1) Review all applications for completeness, particularly with the requirements of § 93-13, Application for permit, and for compliance with the provisions and standards of this chapter.
  - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a

proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § 93-15, Subsection A, Subdivision proposals.

- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 93-13G, as criteria for requiring that new construction substantial improvements or other proposed development meet the requirements of this chapter.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard for the purposes of this chapter.

C. Alteration of watercourses.

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

## D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify. If requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

## F. Stop-work orders.

- (1) The Local Administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 93-9 of this chapter.
- (2) The Local Administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 93-9 of this chapter.

## G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 93-7, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this chapter.

- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
  - (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, and or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
- H. Information to be retained. The Local Administrator shall retain and make available for inspection copies of the following:
- (1) Floodplain development permits and certificates of compliance;
  - (2) Certifications of as-built lowest floor elevations of structures required pursuant to Subsection D(1) and (2) of this section and whether or not the structures contain a basement;
  - (3) Floodproofing certificates required pursuant to Subsection D(1) of this section, and whether or not the structures contain a basement;
  - (4) Variances issued pursuant to Article VI, Variance Procedures; and
  - (5) Notices required under Subsection C, Alteration of watercourses.

ARTICLE V  
**Construction Standards**

**§ 93-15. General standards.**

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 93-7.

- A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
- (1) Proposals shall be consistent with the need to minimize flood damage;
  - (2) Public utilities and facilities such as sewer, gas electrical and water systems shall be located and constructed so as to minimize flood damage; and
  - (3) Adequate drainage shall be provided to reduce exposure to flood damage.
- B. Encroachments.
- (1) Within Zones A1-A30 and AE on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
    - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
    - (b) The Town of Porter agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Porter for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Porter for all costs related to the final map revision.
  - (2) On streams with a regulatory floodway as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 93-7, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

- (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or
- (b) The Town of Porter agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Porter for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Porter for all costs related to the final map revisions.

**§ 93-16. Standards for all structures.**

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
  - (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
  - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
  - (3) Enclosed areas below lowest floor.
    - (a) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A, if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
      - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
      - [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

- (b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**§ 93-17. Residential structures.**

- A. Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 93-15, Subsection A, Subdivision proposals, and Subsection B, Encroachments, and § 93-16, Standards for all structures.
- B. Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- C. Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

- D. Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 93-7 (at least two feet if no depth number is specified).
- E. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

### **§ 93-18. Nonresidential structures.**

The following standards apply to new and substantially improved commercial industrial, and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 93-15, Subsection A, Subdivision proposals, and Subsection B, Encroachments, and § 93-16, Standards for all structures.

- A. Within Zones A1-A30, AE and AH, and also Zone A, if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure shall either:
  - (1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
  - (2) Be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
  - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
  - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2) of this section.
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2) of this section, including the specific elevation in relation to mean sea level) to which the structure is to be floodproofed.

- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

**§ 93-19. Manufactured homes and recreational vehicles.**

The following standards in addition to the standards in § 93-15, General standards, and § 93-16, Standards for all structures, apply as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- A. Recreational vehicles.
  - (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
    - (a) Be on site fewer than 180 consecutive days;
    - (b) Be fully licensed and ready for highway use; or
    - (c) Meet the requirements for manufactured homes in Subsections B, C and D of this section.
  - (2) A recreational vehicle is ready for highway use if it is on its wheels or packing system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.
- B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- C. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 93-7 (at least two feet if no depth number is specified).

ARTICLE VI  
**Variance Procedure**

**§ 93-20. Appeals Board.**

- A. The Zoning Board of Appeals as established by the Town of Porter shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations all relevant factors, standards specified in other sections of this chapter and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (12) The costs of providing governmental services during and after flood conditions, including search-and-rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
  - F. The Local Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

**§ 93-21. Conditions for variances.**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing § 93-20D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
  - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a "historic structure"; and
  - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
  - (1) The criteria of Subsections A, D, E and F of this section are met; and
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- F. Variances shall only be issued upon receiving written justification of:
- (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Notification.
- (1) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
    - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
    - (b) Such construction below the base flood level increases risks to life and property.
  - (2) Such notification shall be maintained with the record of all variance actions as required in § 93-14H of this chapter.



## PROPOSED AMENDED AND NEW LOCAL LAWS IMPLEMENTING THE LWRP POLICIES

### Chapter 200. Zoning

#### Article III. Special District/Development Regulations

##### § 200-\*\*. Lake Ontario environmental overlay district (proposed new law).

- A. Purpose. The purpose of this section is to establish the Lake Ontario shoreline in the Town of Porter as an environmental protection area and to provide special controls over land development located in sensitive areas within this overlay district.
- B. District boundaries. The Lake Ontario environmental overlay district includes all lands located between Lake Road and the mean low water line or all lands within 500 feet of the mean low water in areas where Lake Road extends further inland.
- C. Regulated activities in wetlands. No person shall conduct any of the following regulated activities within any designated wetland area within the Lake Ontario environmental overlay district.
  - (1) Any form of draining, dredging, excavation or removal of any natural materials directly or indirectly, from a wetland.
  - (2) Any form of dumping, filling or depositing of any material either directly or indirectly within a wetland.
  - (3) The erection or placement of any structures or man-made materials unless in compliance with permitting requirements outlined below.
  - (4) Any form of pollution, including but not limited to running an outfall or discharging sewage or other liquid wastes into a wetland.
  - (5) Any activity that impairs the natural function of wetlands, whether located within a wetland or not.
  - (6) Any activity regulated by §24-0701 of the New York State Environmental Conservation Law, as amended or changed, and by the Army Corps of Engineers regulations for activities within federal wetlands.
- D. Regulated activities on bluffs or high banks. No person shall conduct any of the following regulated activities on any bluff or high bank within the Lake Ontario environmental overlay district without direct approval or a permit from the Town of Porter or the New York State Department of Environmental Conservation.
  - (1) Excavating, grading or mining of bluffs is prohibited, except where:
    - a. The minor alteration of a bluff is done in accordance with conditions stated in a coastal erosion management permit issued for the construction of erosion protection structures;



- b. The normal maintenance of structures, or restoration of existing structures that are damaged or destroyed by events not related to coastal flooding and erosion, is authorized by the New York State Department of Environmental Conservation;
  - (2) New construction, modification or restoration of erosion protection structures, walkways and stairways.
  - (3) Disturbance of active bird nesting and breeding areas unless such disturbance is pursuant to a specific wildlife management activity approved by the New York State Department of Environmental Conservation.
  - (4) The construction or placement of any sewage disposal systems, including individual septic tanks or septic drainage or leach fields.
  - (5) Discharge of stormwater and/or construction and placement of stormwater runoff systems.
  - (6) Construction of new buildings or structures or additions and modifications to existing buildings and structure within 25 feet of the receding edge of a bluff or in areas with slopes exceeding 15 percent.
  - (7) Planting of stabilizing vegetation landward of the receding edge of bluffs and high banks, or in combination with other measures at the toe of a bluff or high bank, as a non-structural means of erosion protection is encouraged.
- E. Regulated activities on nearshore areas and beaches. No person shall conduct any of the following regulated activities on or within any beach or nearshore areas within the Lake Ontario environmental overlay district without direct approval or a permit from the Town of Porter or the New York State Department of Environmental Conservation.
- (1) Excavating, grading or mining that would diminish the erosion protection afforded by beaches or nearshore areas.
  - (2) All development is prohibited on beaches or within nearshore areas.
  - (3) A coastal erosion management permit is required for new construction, modification or restoration or restoration of docks, seawalls, bulkheads, and revetments.
- F. Review. All actions for land development proposed within the boundaries of the Lake Ontario Environmental Overlay District shall be reviewed and approved by the Town of Porter Planning Board, pursuant to §200-106 of this Chapter (Site Plan Review).

## **Chapter 200. Zoning**

### **Article III. Special District/Development Regulations**

#### **§ 200-20. Niagara River environmental overlay (amendment).**

- A. Purpose. The purpose of this section is to establish the Niagara River frontage in the Town of Porter as an environmental protection area and to provide special controls over land development located in sensitive areas within this area.



- B. District boundaries. The Niagara River environmental overlay district includes all lands located between the western right-of-way line of Lower River Road and the mean low water line of the Niagara River.
- C. Regulated activities in wetlands. No person shall conduct any of the following regulated activities with any designated wetland area along the Niagara River shoreline.
  - (1) Any form of draining, dredging, excavation or removal of any natural materials directly or indirectly, from a wetland.
  - (2) Any form of dumping, filling or depositing of any material either directly or indirectly within a wetland.
  - (3) The erection or placement of any structures or man-made materials unless in compliance with permitting requirements outlined below.
  - (4) Any form of pollution, including but not limited to running an outfall or discharging sewage or other liquid wastes into a wetland.
  - (5) Any activity that impairs the natural function of wetlands, whether located within a wetland or not.
  - (6) Any activity regulated by §24-0701 of the New York State Environmental Conservation Law, as amended or changed, and Army Corps of Engineers regulations for activities within federal wetlands.
- D. Regulated activities on high banks. No person shall conduct any of the following regulated activities with any high bank or bluff along the Niagara River shoreline.
  - (1) Clearing of or construction of on any land area within the overlay district, unless in compliance with permitting requirements outlined below.
  - (2) Discharge of stormwater and/or construction and placement of stormwater runoff systems.
- E. Permit requirement.
  - (1) No structure shall be erected or made use of except pursuant to a special permit.
  - (2) All structures and uses require a permit from the Army Corps. of Engineers and the New York State Department of Environmental Conservation.
  - (3) A site plan is required showing the use of the top of the high bank, the slope of the bank and the waterfront.
- F. Permitted uses.
  - (1) Private boat house.
  - (2) Private dock on a site with at least 50 feet of river frontage for not more than four boats for noncommercial use.
  - (3) Private hunting blind.
  - (4) Other private recreational structures.



- (5) The above uses shall be accessory uses to a dwelling on the same premises, east or west of Lower River Road.
- G. Height limitations. No structure shall extend above the ground level of the high bank of the Niagara River.
- H. Review. All actions for land development proposed within the boundaries of the Niagara River Environmental Overlay District shall be reviewed and approved by the Town of Porter Planning Board, pursuant to §200-106 of Article III of the Zoning Law.

## § \*\* PET WASTE (new)

### ARTICLE I

#### General Provisions

##### § \*\*-1. Purpose.

The purpose of the Chapter is to establish requirements to control the defecation of any domesticated pet and for the proper removal and disposal of pet solid waste on all public lands in the Town of Porter so as to protect public health, safety and welfare, and water quality, and to prescribe penalties for failure to comply.

##### § \*\*-2. Title.

The title of this Chapter shall be the “Pet Waste Law of the Town of Porter”.

##### § \*\*-3. Definitions.

As used in this Chapter, the following terms shall have the meaning indicated.

**Immediately** - The removal of all solid waste from a domesticated animal, without delay.

**Owner/Keeper** - Any person who shall possess, maintain, house or harbor any domesticated animal or otherwise have custody of any domesticated animal, whether or not the owner of such animal.

**Person** - Any individual, corporation, company, partnership, firm, association or political subdivision of this State subject to municipal jurisdiction.

**Pet** - Any domesticated animal (other than a guide dog or disability assistance animal) kept for pleasure or companionship.

**Pet solid waste** - Fecal waste matter expelled from the bowels of the pet; excrement.

**Proper disposal** - Placement of removed waste in a designated waste receptacle or other suitable waste collection container that is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

##### § \*\*-4. Conditions and restrictions.

All pet owners and keepers of a dog, horse or other domestic animal that soils, defiles, defecates are required to immediately and properly dispose of their pet’s solid waste that is deposited on any property or



right-of-way, public or private, which is not owned or possessed by said person, and is done without the permission of the owner of said property.

**§ \*\*-5. Exemptions.**

Any owner or keeper who requires the use of a guide dog or other disability assistance animal shall be exempt from the provisions of this section while such animal is being used for that purpose and who, at that time, is not accompanied by another person who has no sight impairment.

**§ \*\*-6. Enforcement.**

The provisions of this Chapter shall be enforced by any employee of the Town of Porter. and the Niagara County Sheriff's Department and the New York State Police Department, who patrol and protect the Town of Porter.

**§ \*\*-7. Penalties for offenses.**

Any failure to comply with the provisions of this Chapter shall be deemed a violation, and the violator subject to a fine not to exceed \$250, 15 days imprisonment, or both.

**§ \*\*-8. Effective date.**

This Chapter shall take effect on \_\_\_\_\_, 2020.



## APPENDIX D - NYSDEC HABITAT RATING FORM FOR FOUR MILE CREEK BAY

### COASTAL FISH & WILDLIFE HABITAT RATING FORM

---

Name of Area: **Fourmile Creek Bay**  
 Designated: **October 15, 1987**  
 County: **Niagara**  
 Town(s): **Porter**  
 7½' Quadrangle(s): **Sixmile Creek, NY; Fort Niagara, NY-ONT**

---

Score	Criterion
9	Ecosystem Rarity (ER) Relatively small, undisturbed, emergent marsh and deep aquatic beds, unusual in Niagara County. Tributary stream is typical of the local area.
0	Species Vulnerability (SV) No endangered, threatened or special concern species reside in the area.
4	Human Use (HU) Recreational fishing use by local residents and State Park visitors, significant at the county level.
4	Population Level (PL) One of about 4 Niagara County tributaries having significant concentrations of salmonids; also an important spawning and nursery area for resident and lake-based warmwater fish populations.
1.2	Replaceability (R) Irreplaceable

---

$$\text{SIGNIFICANCE VALUE} = [(ER + SV + HU + PL) \times R] = 20$$

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM  
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM

**BACKGROUND**

New York State's Coastal Management Program (CMP) includes a total of 44 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local waterfront revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative, along with its accompanying map, constitutes a record of the basis for this significant coastal fish and wildlife habitat's designation 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 parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant coastal habitats policy.

## **DESIGNATED HABITAT: FOURMILE CREEK BAY**

### **LOCATION AND DESCRIPTION OF HABITAT:**

Fourmile Creek Bay is located four miles east of the mouth of the Niagara River, on the Lake Ontario shoreline, in the Town of Porter, Niagara County (7.5' Quadrangles: Fort Niagara, Ont.-N.Y.; and Sixmile Creek, N.Y.). The fish and wildlife habitat is an approximate 20 acre wetland estuary located north of the Robert Moses Parkway, in Fourmile Creek State Park. The habitat encompasses all of the area below mean high water, including deep aquatic beds and emergent marsh. The mouth of Fourmile Creek is often closed off by a large sand and gravel bar in summer. Above the Parkway, the creek is a relatively small, medium gradient, warmwater stream, with a silt and gravel substrate. The land area surrounding Fourmile Creek Bay is generally undeveloped, dominated by a broad band of mature deciduous forest.

### **FISH AND WILDLIFE VALUES:**

Fourmile Creek Bay is one of the few sizeable areas of undisturbed coastal wetland remaining in Niagara County. Despite its small size relative to wetlands around eastern Lake Ontario, this area provides valuable habitat for a variety of fish and wildlife species. Probable or confirmed breeding bird species include green-backed heron, mallard, wood duck, belted kingfisher, and a variety of passerine birds. In addition, this area serves as a feeding area for herons and waterfowl during spring and fall migrations. Other wildlife species inhabiting the bay include muskrat, raccoon, and painted turtles. Fourmile Creek Bay is a productive warmwater fisheries habitat, which is relatively uncommon in this section of Lake Ontario. The area supports sizeable resident populations of brown bullhead, rock bass, largemouth bass, northern pike, and other panfish. Fourmile Creek is also one of about 4 tributary streams in Niagara County which have significant runs of steelhead (rainbow trout) in the spring (late February-April), and runs of steelhead, brown trout, and salmon in the fall (September-November). These salmonid populations are the result of an ongoing effort by the NYSDEC to establish a major salmonid fishery in the Great Lakes through stocking. In 1982 and 1984, respectively, approximately 6,000 and 16,000 steelhead were released in Fourmile Creek Bay. The relatively small, but diverse fisheries of this area provide valuable opportunities for recreational fishing by residents of northern Niagara County and visitors to Fourmile Creek State Park. Access to the area for bankfishing is readily available from within the park.

### **IMPACT ASSESSMENT:**

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

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

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

- ! destroy the habitat; or,
- ! significantly impair the viability of a habitat.

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

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

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

The range of parameters which should be considered in applying the habitat impairment test include 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).

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

Any activity that substantially degrades water quality, increases turbidity or sedimentation, reduces flows, or increases water level fluctuations in Fourmile Creek Bay would adversely affect many fish and wildlife species. Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides), could adversely impact on the fish and wildlife resources of the area. Elimination of wetland vegetation, including submergent beds, through dredging, filling, or bulkheading, would result in a direct loss of valuable habitat area.

Barriers to fish migration,

whether physical or chemical, could have a significant impact on fish populations in this area. Development of motorboat access to Lake Ontario from the bay could adversely affect fish and wildlife in a variety of ways, including increased human disturbance of the habitat during fish spawning and nursery periods (late

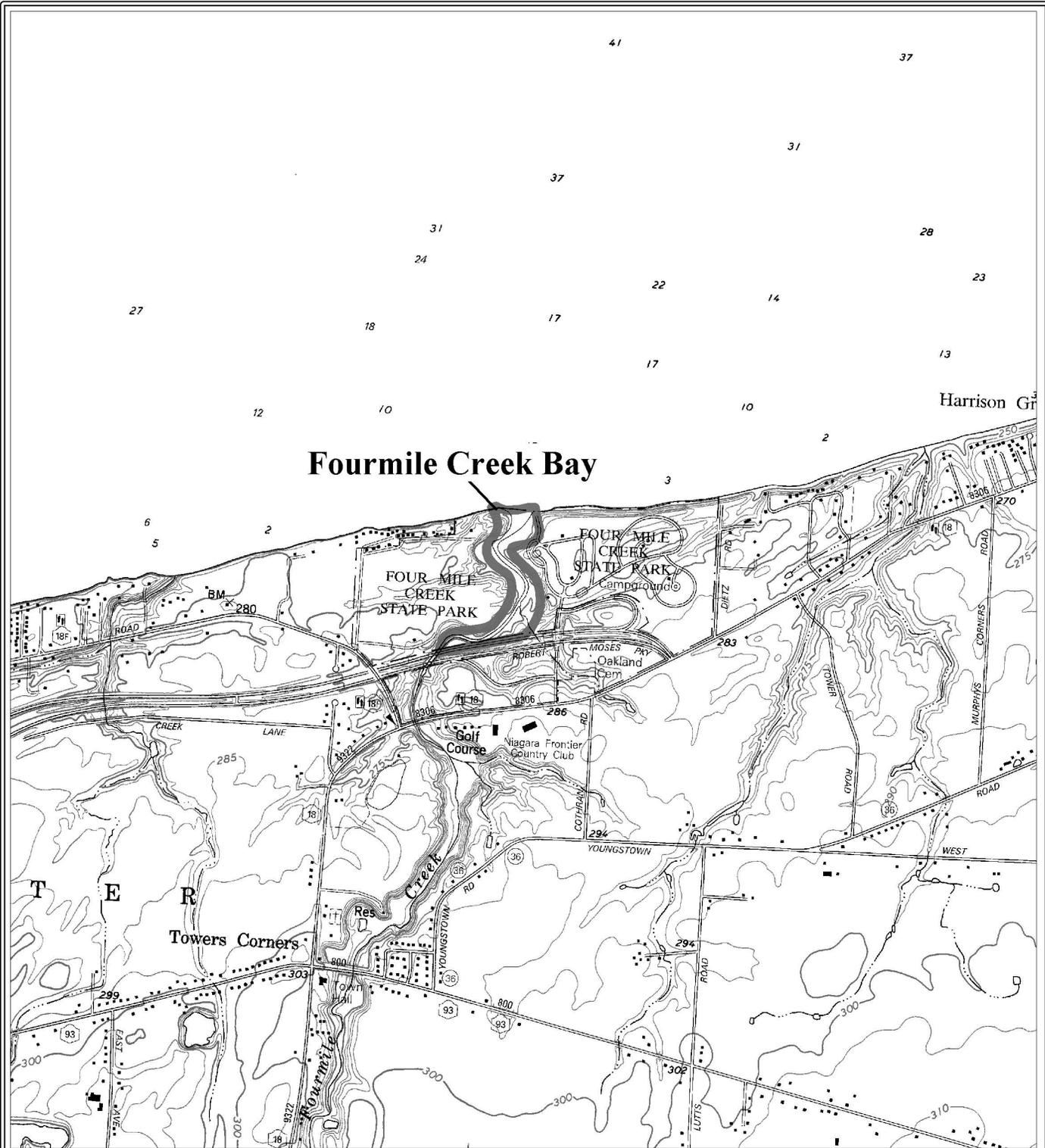
February-July for steelhead and most warmwater species, and September-November for most salmonids) and wildlife breeding seasons (April-July for most species). Existing woodlands bordering Fourmile Creek Bay should be maintained for their value as cover, perching sites, and buffer zones.

## **KNOWLEDGEABLE CONTACTS:**

Tom Hart or Greg Capobianco  
Division of Coastal Resources & Waterfront Revitalization  
NYS Department of State  
162 Washington Avenue  
Albany, NY 12231  
Phone: (518) 474-6000

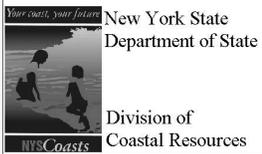
Terry Moore, Wildlife Manager  
or Steve Mooradian, Fisheries Manager  
or Jim Pomeroy, Environmental Protection Biologist  
NYSDEC - Region 9  
128 South Street  
Olean, NY 14760  
Phone: (716) 372-8676

NYSDEC - Information Services  
700 Troy-Schenectady Road  
Latham, NY 12110  
Phone: (518) 783-3932



# Significant Coastal Fish and Wildlife Habitats

Fourmile Creek Bay





## APPENDIX E - RELEVANT ENVIRONMENTAL PROTECTION REPORTS, BROCHURES AND MANUALS

### FISH SAFE TO EAT

In 2012, the Buffalo Niagara Waterkeeper prepared “A People’s Guide to Eating Fish Caught in Western New York”, which includes the tables below.

Lower Niagara River after Niagara Falls		
 Common fish	 Low Risk	 High Risk
Atlantic Salmon	4	X
Black Crappie	4	X
Bluegill	4	X
Bowfin	4	X
Brown Bullhead	4	X
Brown Trout (under 20")	1	X
Brown Trout (over 20")	X	X
Channel Catfish ♦	X	X
Chinook Salmon ♦	1	X
Coho Salmon (under 25") ♦	4	X
Coho Salmon (over 25") ♦	1	X
Common Carp ♦	X	X
Freshwater Drum (Sheepshead)	4	X
Lake Trout (under 25") ♦	1	X
Lake Trout (over 25") ♦	X	X
Largemouth Bass ♦	4	X
Muskellunge	4	X
Northern Pike ♦	4	X
Pumpkinseed	4	X
Rainbow Trout (Steelhead)	1	X
Redhorse Sucker	4	X
Rock Bass	4	X
Smallmouth Bass ♦	1	X
Smelt	4	X
Walleye ♦	4	X
White Bass	4	X
White Perch ♦	X	X
White Sucker	1	X
Yellow Perch	4	X
<b>All other fish species</b>	4	X

♦ Avoid or eat less of these fish. These fish are known to naturally build up more chemical pollution in their bodies than others. To learn more about these fish, read page 19.

**X** = DO NOT EAT      **1** = 1 meal per month      **4** = 4 meals per month (Up to 1 meal each week)



## Lake Ontario in New York State

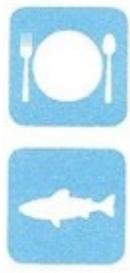
Common fish	Low Risk	High Risk
Atlantic Salmon	4	X
Black Crappie	4	X
Bluegill	4	X
Bowfin	4	X
Brown Bullhead	4	X
Brown Trout (under 20")	1	X
Brown Trout (over 20")	X	X
Channel Catfish ♦	X	X
Chinook Salmon ♦	1	X
Coho Salmon (under 25") ♦	4	X
Coho Salmon (over 25") ♦	1	X
Common Carp ♦	X	X
Freshwater Drum (Sheepshead)	4	X
Lake Trout (under 25") ♦	1	X
Lake Trout (over 25") ♦	X	X
Muskellunge	4	X
Northern Pike ♦	4	X
Pumpkinseed	4	X
Rainbow Trout (Steelhead)	1	X
Redhorse Sucker	4	X
Rock Bass	4	X
Smallmouth Bass ♦	4	X
Smelt	4	X
Walleye ♦	4	X
White Bass	4	X
White Perch (West of Point Breeze) ♦	X	X
White Perch (East of Point Breeze) ♦	1	X
White Sucker	1	X
Yellow Perch	4	X
<b>All other fish species</b>	4	X

♦ Avoid or eat less of these fish. These fish are known to naturally build up more chemical pollution in their bodies than others. To learn more about these fish, read page 19.

**X** = DO NOT EAT

**1** = 1 meal per month

**4** = 4 meals per month (Up to 1 meal each week)



Also, the NYS Department of Health posts online Western Region Fish Advisories<sup>6</sup> that are periodically updated.

<sup>6</sup> [https://www.health.ny.gov/environmental/outdoors/fish/health\\_advisories/regional/western.htm](https://www.health.ny.gov/environmental/outdoors/fish/health_advisories/regional/western.htm)



# Your Septic System

If you are a suburban or rural resident, you probably depend on a septic system to treat and dispose of your household wastewater. The purpose of a septic system is to treat liquid wastes from your house in order to prevent contamination of your well and nearby lakes and streams.

When a septic system is...

Suitably located... properly designed... carefully installed... and adequately maintained

You will have a waste disposal system that is...

Effective... Economical... and Safe!

Maintenance is the key to a lasting septic disposal system. Read and use this folder to learn:

1. how a septic system works
2. why and how to adequately maintain your septic system
3. how to keep your own maintenance record

## How Your System Works

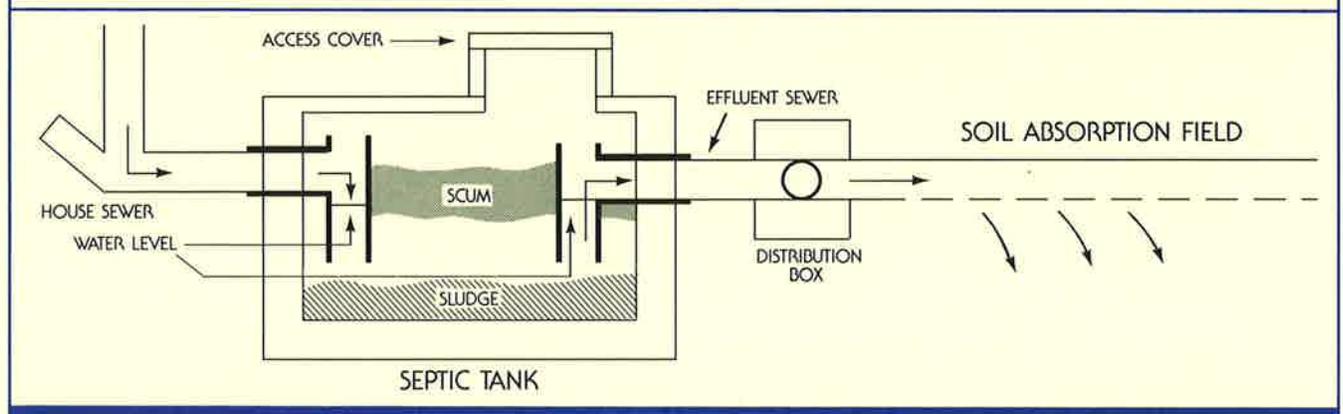
A septic system has two basic working parts:

### Septic Tank

Wastewater flows from the house into the septic tank. Here heavy solids settle and are partially decomposed by bacteria to form sludge. Light solids and grease float to the top forming a scum layer.

### Soil Absorption Field

Partially treated wastewater is discharged from the septic tank through perforated pipes into an absorption field. Here, the water is further purified by filtration and decomposition by microorganisms in the soil. This is the last line of defense to prevent polluted water from entering lakes, streams, and groundwater.



# Why Maintain Your Septic System

Wastewater leaving your house comes from the tub or shower, wash bowl, toilet, kitchen sink, clothes washer and dishwasher. It carries chemicals, solids, grease, dirt, and bacteria and viruses which can cause disease. A good septic system treats and disposes of this wastewater. A failing septic system cannot perform these tasks, so pollution of drinking water wells and streams and lakes can result.

Even a properly designed and operated septic system will eventually fail unless the sludge and floating scum are periodically pumped from the tank, damaging materials kept out of the tank, and other protection measures are followed. Routine maintenance and a little common sense protects your investment and insures against the high cost of premature failure.

## Pumping Out Your Septic Tank

Generally, septic tanks should be cleaned out every 3-5 years, depending on the size of the tank and the amount and quality of solids entering the tank. As a rule of thumb, the clean-out interval is determined on the basis of 100 gallons of tank capacity per person per year. For example, a 1000 gallon tank used by a family of two should be cleaned after 5 years [ $1000 \div (100 \times 2)$ ]. **Note:** Use of a garbage disposal increases solids loading by about 50%.

Checking sludge and scum build-up can be an unpleasant task. The best suggestion for most homeowners in determining a maintenance schedule is simply to have the tank pumped at regular intervals. The cleaning of a tank is usually done by a commercial septic tank cleaning service, which must have a permit from the New York State Department of Environmental Conservation in order to perform this service.

## Finding Your Septic System

In order to maintain your system, the tank needs to be accessible for pumping and the drainfield should be protected. Locating your system is not always an easy task. If the access manhole to the tank is at ground level, there is no problem. Unfortunately, these manholes are often buried under lawns.

To locate your system, go into the basement or crawl space and find where and in what direction the sewer pipe goes out through the wall. The tank can be traced back from the drainfield by checking the yard for an area

where the grass doesn't grow or grows very well, or for slightly depressed or mounded areas. Any likely site can be probed with a thin metal rod.

If you are unable to find the tank, your local septic tank pumper will find it when he comes to pump out the tank solids. You may want to have the manhole extended up to just below ground level and marked clearly with a stake, rock or a birdbath. Do not plant a shrub or tree to mark the location. Once your septic system is uncovered, be sure to make a map.

### HELPFUL SOURCES OF ADDITIONAL INFORMATION

- SS-1 — *What to Do if Your Septic System Fails*
- SS-2 — *Maintaining Your Septic System: Special Considerations for Shoreline Property Owners*
- SS-3 — *How to Conserve Water in Your Home and Yard*
- SS-4 — *Your Septic System: What You Need to Know When Buying or Selling a House*
- SS-5 — *Your Septic System: Considerations When Building or Remodeling a Home*

# Evaluate Your Septic Practices

As a homeowner, you have a tremendous impact on the efficiency of your septic system. Evaluate your maintenance practices based on the suggestions below.

## Safe Disposal

- Do not put substances such as motor oil, gasoline, paints, thinners and pesticides in drains. These materials may pollute the groundwater and are toxic to the microorganisms which maintain an active system.
- Moderate use of household cleaners, disinfectants, detergents or bleaches will do little harm to the system, but remember that where there is a high density of septic systems, there may be a cumulative impact on groundwater from household cleaners.
- Fats, grease, coffee grounds, paper towels, sanitary napkins, disposable diapers, etc., will clog your septic system.

## Protect the Absorption Field

- Keep automobiles and heavy equipment off the absorption field.
- Grass cover and shallow rooted plants are beneficial over an absorption field, but the deep roots of trees and shrubs stress and may plug nearby drain tiles. Do not fertilize the soil above the drainfield.
- Grass on the surface of an absorption field should be mowed regularly to promote evaporation and transpiration.

## Conserve Water

- Remember to consider the capacity of your septic system when installing new appliances or plumbing.
- Limit the water entering the tank. Use water saving fixtures. Repair toilet float valves, leaks and dripping faucets. Spread clothes washing over the entire week. Do not connect rooftop drains, a basement sump pump, or footing drains to the septic tank.

## Avoid Septic Tank Additives

- Yeasts, bacteria, enzymes or chemicals are sold with the claim that they help a system work better; however, there is **no** scientific evidence that additives are effective. In fact, some cleaners can allow the solids in an overloaded tank to be re-suspended and clog the drainage lines and soil absorption field.
- Additives are not an alternative to proper maintenance and do not eliminate the need for routine pumping of your septic tank.
- Commercial biological additives are not needed to begin decomposition after pumping because the sludge residue contains active microorganisms.

# Record Keeping

1. Make a rough sketch locating your septic tank and absorption field in relation to surrounding reference points. Begin by sketching your house, driveway, water well, and other landscape features such as trees, rocks, or fences.
2. Measure and record distances from your house to the cover of your septic tank and to the corner of your absorption field, if possible. As long as the distances are correct, do not be concerned whether or not the drawing is to scale.
3. Keep this information on file as a permanent record for use in maintenance and to pass on to subsequent owners.

YOUR MAP

## Maintenance Record

Keeping a record of your septic system maintenance experience will help you anticipate when the next cleaning may be needed.

Date	Work Done	Firm	Cost

**Size of Tank**

\_\_\_\_\_ gallons

### Your Septic System Installer

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Phone \_\_\_\_\_  
 Date Installed \_\_\_\_\_

### Your Septic System Pumper

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_  
 Phone \_\_\_\_\_

*This publication was developed by Cornell Cooperative Extension as part of an educational project supported by a grant from the Water Resources Institute at Cornell University with funds provided by the New York State Legislature through the New York State Department of Agriculture and Markets.*

**PROJECT TEAM:**

A. MEYER, Dutchess County    M. KEITH, Putnam County    J. SAUMIER, Rockland County    M. SHORTLIDGE, Westchester County

# Home Owner's Guide

*12 simple strategies for  
sustainable waterfronts  
& landscape practices  
for healthy shorelines.*

Recent studies have shown shoreline properties are in demand, and the value of these properties depends upon the water quality. What you and your neighbors do to protect and improve the water quality will protect your investment. This guide addresses three main ways to protect the water quality of your waterfront property. If we all use these best management practices, we can all enjoy the beauty and health of living by the water for years to come.



# Changes to our Nearshore Environment

Look around, what once were cottages and camps are giving way to year-round homes as many more and more people want to enjoy the beauty and tranquility of living along the water.

With this shift, the landscape is dramatically changing. Cottages are being cleared for larger homes. Driveways are being paved, and trees being removed to make way for fertilized lawns and viewsapes. The cumulative effects of these changes over the years has also mean significant changes to the health of our near-shore environment.

The fact is, people prefer clean water and will pay more to live around areas with better water quality. This guide was created to help homeowners make decisions to protect investments and sustain water good quality for years to come.



## 12 simple strategies for sustainable waterfront living & landscapes to protect water quality



### MINIMIZE RUN OFF

1. **Reduce Impermeable Surfaces**
2. **Limit Lawn Size**
3. **Use Water Wisely**



### ELIMINATE POLLUTANTS

4. **Use Phosphorus Free Fertilizer**
5. **Be Smart About Lawn Care**
6. **Maintain Your Septic**
7. **Minimize Erosion**



### CAPTURE & INFILTRATE

8. **Plant a Rain Garden**
9. **Use Native Plants**
10. **Install a Rain Barrel**
11. **Protect From Invasive Species**
12. **Become a Water Steward**

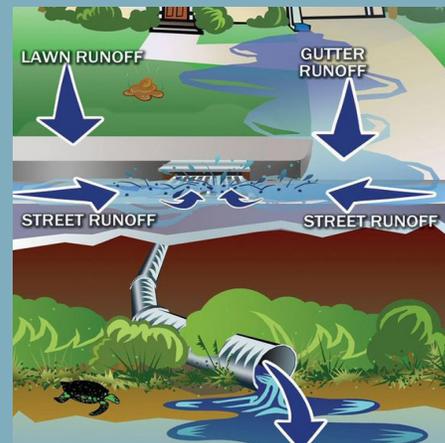
# Stormwater Runoff



Stormwater runoff from developed areas is the greatest threat to the water quality in our water bodies. Stormwater runoff is not just a problem along roads and commercial areas. Residential properties generate runoff as well.

## What is stormwater runoff ?

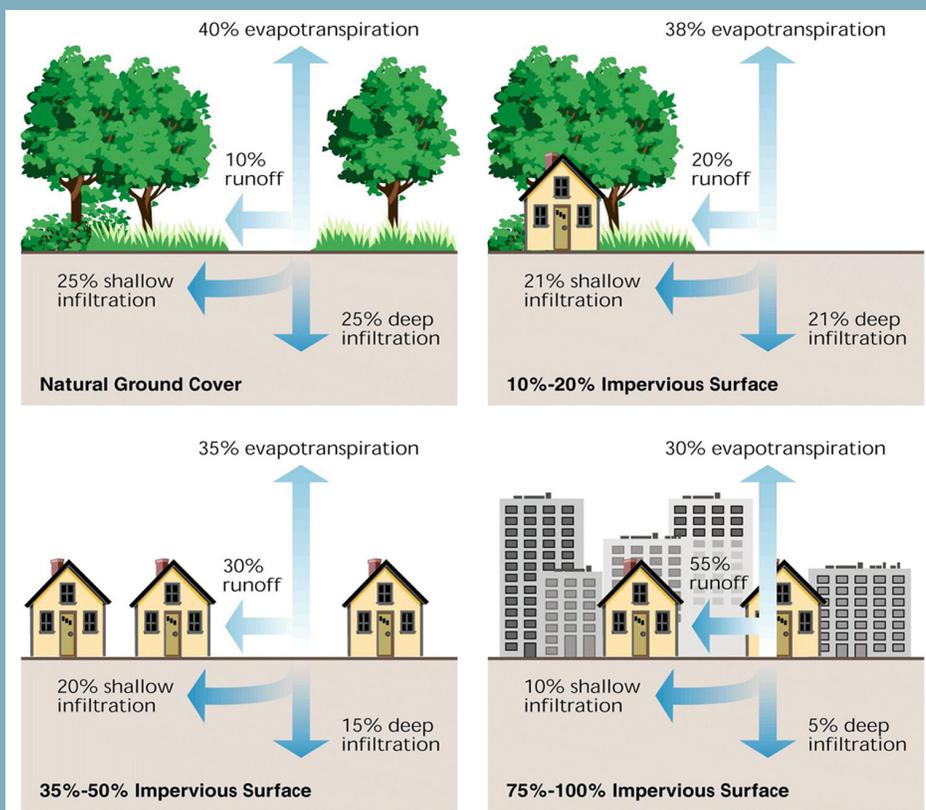
After a rain event, water falls on natural surfaces and infiltrates into the ground and eventually into the groundwater. Water falls on impermeable surfaces, such as roads and parking lots, can not soak into the ground, but instead moves across these surfaces.



## What are the effects of stormwater runoff?

- Sediments can cloud water, affecting plants, fish, and other aquatic life.
- Sediments can form deltas, impeding navigation and water access, and provide ideal habitat for invasive species.
- Excess nutrients can cause increases in algal blooms.
- Bacteria and pathogens can make water unsafe for drinking and swimming.
- Debris - including plastic bags - can suffocate or disable aquatic life; such as ducks and turtles.
- Household hazardous wastes; such as motor oil and paint poison aquatic life.
- Road salt from winter increases chloride levels.

**All of these effects lead to loss in water quality - which can increase the cost to treat our water and make it safe for recreation**



As impermeable surfaces increase & water can not soak into the ground, runoff across the surface increases. These surfaces increase velocity of the runoff and also pick up pollutants. Oils, salt, and sediment carrying phosphorous or other chemicals are picked up by the water as it travels and deposits into the water-body.



Runoff carrying sediments formed this delta. When the stream reaches a water-body, the water slows, and the sediment settles out in the lake at the mouth of the stream / bay.



Simple  
Step #1

# Reduce Impermeable Surfaces

Permeable surfaces allow water to infiltrate and soak into the ground. Impermeable surfaces do just the opposite. When water hits this kind of surface, instead of soaking in, it runs off. This is what creates stormwater runoff. The larger the area of impermeable surface, the greater the volume of stormwater runoff.

## Ways to lessen your impermeable footprint:

- Grass pavers are another form of permeable paving. A patio or driveway made of grass pavers will closely resemble a lawn. Lay stone pathways or stepping stones across your lawn instead of poured concrete or asphalt paths. Rooftops are impermeable too - so keep your home a modest size and build up - not out - on the waterfront.
- Keep paved driveways as small as possible. Use permeable surfaces for driveways and overflow parking areas that aren't needed on a regular basis. While gravel driveways may start off permeable, over time the compaction makes them nearly as impermeable as asphalt.



**Grass Paver System**

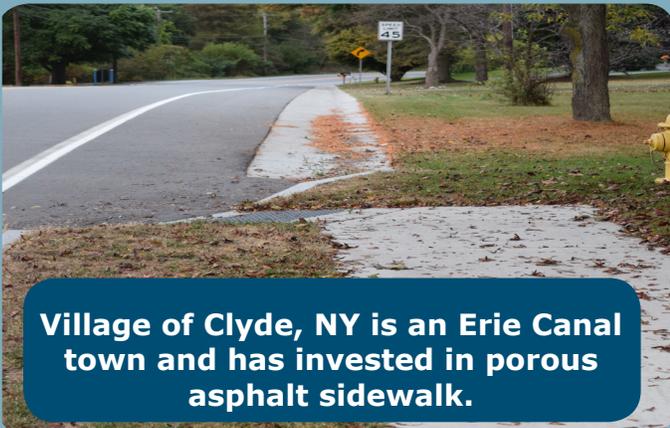


**Photo: HT Builders, Permeable Pavers**

- Try one of the newer permeable pavement technologies. There are permeable paver systems, asphalt, and concrete - so you can get just about any look you want. Prices vary - and while all options are generally more expensive than traditional pavements, it is definitely money well spent.

- Routing rooftop runoff to naturally vegetated areas will also reduce runoff volume, as well as improve water quality by slowing runoff.

Porous asphalt allows water to drain through the pavement surface into a stone recharge bed and infiltrate into the soils below the pavement. This conveyance is used on areas where water concentrates on a slope and can help direct the sheeting flow to one path while reducing erosion along the shoulder.



**Village of Clyde, NY is an Erie Canal town and has invested in porous asphalt sidewalk.**



**porous asphalt**

**standard asphalt**

# Limit Lawn Size

Simple  
Step #2



## Lawns absorb less rainfall than natural areas.

Look at the forest all around us. Natural wooded areas have multiple layers of vegetation. A canopy of tall trees, an under-story of smaller trees and shrubs, and a groundcover of ferns and other plants. Branches and the leaf litter from all these plants build up on the forest floor over time and break down into a layer, called duff, that covers the ground.

Duff protects the soil from the impact of rain, keeping the soil in place instead of letting it erode away. The roots of plants and trees in the forest also hold the duff in place. Water soaks into the ground, filtering pollutants and replenishing groundwater.

Without the branches and leaves of trees and shrubs to intercept the rainfall and lessen its impact, rain hits the ground hard and runs off across the surface.

### New Construction Considerations:

1. Grading a lot to create a lawn removes the natural topography of the land. The low spots or the area where water would naturally collect, have lost time to soak in.
2. Plan accordingly, only create as much lawn area as you need. Avoid heavy machinery and equipment that can compact the soils during construction.
3. Leave grass clippings on your lawn to recycle nutrients and increase organic matter if watering is needed, water in the morning and use mulching lawnmower blades for composting.

# Use Water Wisely

Simple  
Step #3



## If you have an irrigation system:

- Water your lawn and garden in the morning or evening when temperatures are cooler to minimize evaporation.
  - Adjust sprinklers so only your lawn is watered and not the house, sidewalk, or street.
  - Install a rain sensor on your irrigation controller so your system won't run when it's raining.
  - Choose shrubs and ground-covers instead of turf for hard-to-water areas such as steep slopes and isolated strips.
- Spread a layer of organic mulch around plants to retain moisture.
  - Use drip irrigation for shrubs and trees to apply water directly to the roots where needed.
  - Choose drought resistant plants where ever possible.
  - If watering is needed, water in the morning.

**Try to landscape with  
native plants for  
stormwater zones**



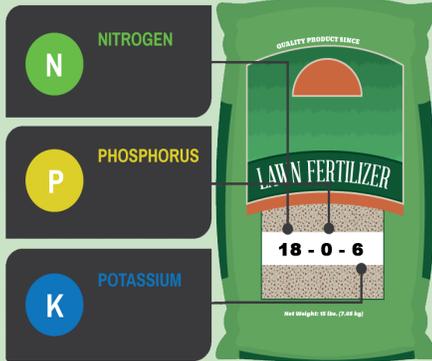


## Simple Step #4

# Use Phosphorus Free Fertilizer

### What do I look for?

The three numbers in fertilizer bags show the N-P-K nutrient analysis. The middle number is the phosphate (phosphorus) content. A "zero" in the middle means it is phosphorus-free.



### Will phosphorus-free fertilizer keep my lawn green & healthy?

**Yes!** Phosphorus is an essential nutrient for initial plant growth, but not necessary for mature established plants. The majority of lawns already contain the necessary amount of phosphorus for grass to grow.

Nitrogen and Potassium are the "maintainers." Limiting phosphorus will help with pollution run-off into nearby water-bodies.



### Establish a No Mow Zone

Do not fertilize or mow adjacent to waterways by leaving a "ring of responsibility" of at least 20 feet. Leave a "buffer zone"—a strip of unmanaged grasses or natural vegetation—to grow around the shoreline, or plant a wildflower garden and add a variety of ornamental grasses. This vegetation will help prevent soil erosion and will also remove and retain some of the pollutants that would otherwise enter water-bodies.



### Other Benefits Include:

- Offer food and shelter for local wildlife;
- Stabilize soil to reduce erosion;
- Filter pollutants and sediments out of the soil;
- Absorb nutrients from the stormwater;
- Deter nuisance species;
- Privacy from waterway users; and
- Savings in time and money for maintenance.

### New York State Nutrient Runoff Law

In 2012 New York State enacted a law that requires phosphorus-free fertilizer be used on all lawns unless you are establishing a new lawn or a soil test shows that your lawn does not have enough phosphorus. In

addition, you may not apply fertilizer within 20 feet of a water-body unless there is a 10 foot plant buffer; or where the fertilizer is applied by a device with a spreader guard, deflector shield or drop spreader and is applied at least three feet from surface water, the application of any lawn fertilizer between December 1 and April 1.

The law also requires retailers to display phosphorus-containing fertilizers separately from non-phosphorus fertilizers and to post an educational sign where the phosphorus-containing fertilizers are displayed. The law does not apply to agricultural fertilizer or fertilizer for gardens.

**For more information on the Dishwater Detergent and Nutrient Runoff Law, visit [www.dec.ny.gov/chemical/67239.html](http://www.dec.ny.gov/chemical/67239.html)**

# Be Smart About Lawn Care

Simple  
Step #5



## Mow Your Way to Clean Water.

Lawn care practices can have a big impact on water quality and the environment. Fertilizers, leaves, grass clippings, animal waste, and eroded soil are all sources of phosphorus. These materials are swept or washed into the street or even the nearest storm drain, where they end up in a nearby waterway.



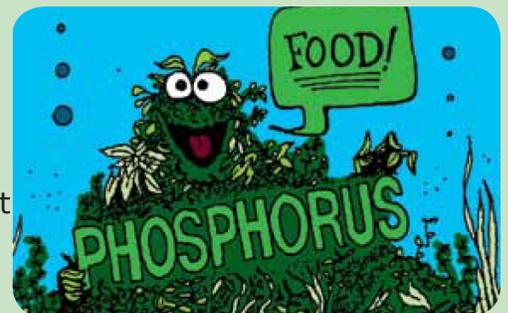
### Follow These Steps:

- Mow higher. Keep grass length to 2½ – 3 inches. It is healthier for your lawn and it means you can mow less often!
- Pick up pet waste. Pet waste can contain harmful bacteria as well as phosphorus. Flush it in the toilet or place it in the garbage.
- Build healthy soil using compost and other natural amendments. Healthy soils are more resistant to disease and insect problems.
- Learn about Integrated Pest Management (IPM). Use pesticides sparingly & only when needed. More information about IPM: <http://albany.cce.cornell.edu/gardening/pests-ipm>

# Phosphorus & Water Quality

## What is Phosphorus?

Phosphorus is a natural element and an essential nutrient for plant growth but is found only in small amounts in lakes and streams. Even small increases in phosphorus can have a devastating impact on the water quality of our waterways. Increased phosphorus can stimulate algae and excessive plant growth. Boating, fishing & swimming can become difficult and waterfront property values can also be negatively impacted.



## Green and Gross



Excess phosphorus can lead to an explosion of algal growth. 1 lb of phosphorus can produce up to 500 pounds of wet algae! Most algae are harmless, but exposure to toxins and other substances produced by Harmful Algal Blooms (HAB) can make people and animals sick. HABs can impact drinking water, and cause discolored water, floating scum, and unpleasant odors that can reduce the value of a lake or river. HABs are sometimes called blue-green algal blooms even though they can be various colors.

If you think you see a harmful algal bloom, **call 518-402-8179** or- fill out a Suspicious Algal Bloom Report Form, available for download at [on.ny.gov/hab](http://on.ny.gov/hab) and submit it with any pictures to [HABsInfo@dec.ny.gov](mailto:HABsInfo@dec.ny.gov)



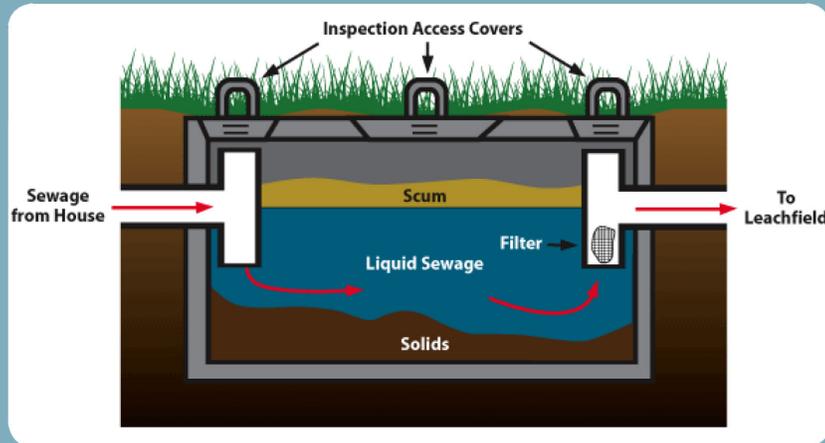
## Simple Step #6

# Maintain Your Septic

Maintaining your on site wastewater treatment system (OWTS) - or septic system - not only protects water bodies and nearby groundwaters from being contaminated, but also protects your health and your investment in your home. Typical pollutants found in household wastewater include nitrogen, phosphorus, and disease-causing bacteria and viruses. A properly designed, constructed, and maintained system can provide long-term, effective treatment of household wastewater. A failing system is very expensive to fix.

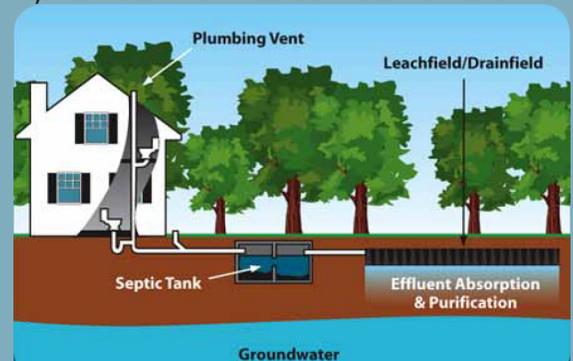
- Pooling water or muddy soil around the tank or drain field or in your basement.
- Bad smell coming from area of tank.
- Toilet or sink backs up when you flush or do laundry.
- Bright green grass over the drain field.

*If you notice any of these signs - call a professional to have your system looked at right away.*



**1.** Regularly inspect your system and pump your tank as necessary. It's a good idea to have your system inspected every 2-3 years. In general, it should be pumped every 3-5 years. If you don't pump your tank routinely, the solids in the bottom can build up and make their way out into your leach field, clogging it and eventually ruining it.

**2.** Don't dispose of household hazardous wastes in sinks or toilets. Avoid paints, chemicals, cleaners, gasoline, oil, or other toxic materials that could kill the good bacteria in your system. Avoid things that can clog pipes. Avoid frequent use of a garbage disposal. Normal use of antibacterial products such as hand-soap is fine but excessive use might kill too many beneficial bacteria in your system. Septic additives are not needed.



## A typical septic system has 4 main parts:

- A pipe from the home that carries the wastewater into the tank;
- A tank that holds the water long enough for the solids to settle out to the bottom and the oil and grease to float to the surface;
- A drain field where the water from the tank is discharged;
- The soil where the microbes provide the final treatment.

**3.** Care for your drain field. Plant only grass or groundcover with shallow roots over or near your drain field. Deep roots could clog and damage the drain field. Don't drive or park vehicles on the drain field either. Keep roof drains, sump pump drains, and other surface water runoff away.

**4.** Use water efficiently. Using less water means less water going through your septic system. This helps reduce stress on your system.

**It is very important to keep a detailed record of all inspections, pumpings, permits, repairs, and any other maintenance to your system**

# Minimize Erosion

Simple  
Step #7

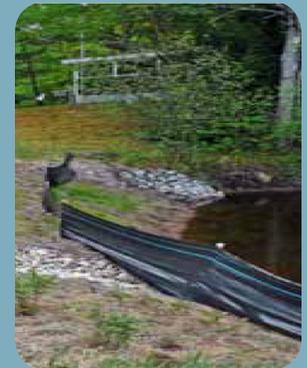


**Be sure to have an erosion control plan in place before you begin any construction. Depending on the type of project, you might need to:**



- Preserve existing vegetation where possible to prevent erosion. Avoid parking or driving heavy machinery near trees as soil compaction can damage their roots.

- Build a gravel access drive to limit compaction of your site and to limit the mud that is tracked out to the street from vehicles leaving the site.



**Silt Fence**

- Properly install a silt fence or straw bales to trap sediment on the downslope side and protect soil piles with silt fences and by keeping them covered with tarps or plastic. Locate the piles away from the road or nearby water to lessen the chance of sediment being transported off-site.

**Soil erosion can happen slowly, gradually washing away top soil, or can happen quickly in heavy rain events.**

- Replant the area as soon as possible so that there is not bare soil. Cover lawn areas with 4-6" of topsoil and then hydro-seed or mulch with straw & seeds.

- Fence the construction area to limit activity to only the necessary area of the site. This will help reduce erosion and unnecessary soil compaction of the rest of your property, and divert runoff around disturbed areas to minimize erosion.

## **LIVING SHORELINES: a nature-based approach to managing shoreline erosion.**

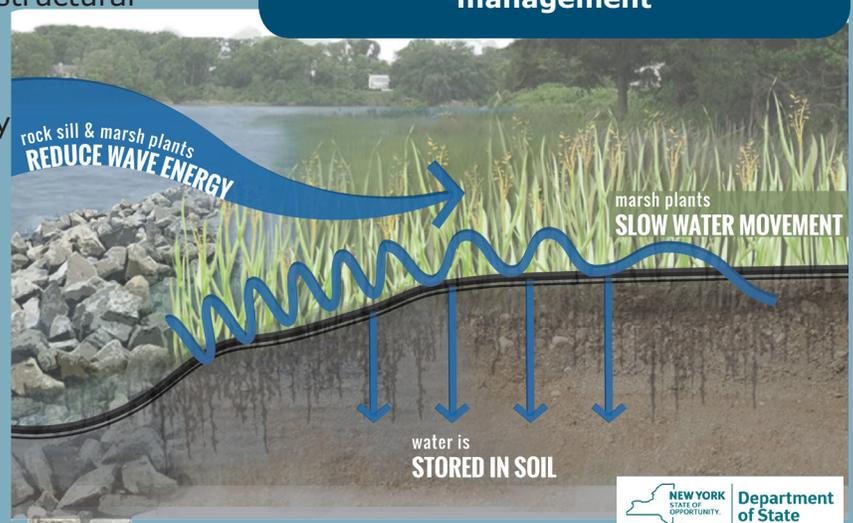
Of the 19.5 million people that call New York home, over 97% live in coastal counties. Living along the dynamic coastline means recognizing and addressing coastal risks, such as rising water levels, storm surges, flooding, and erosion.

Living shorelines incorporate natural and nature-based features alone or in combination with structural components. Compared to purely structural approaches, such as bulkheads and revetments, living shorelines improve habitat connectivity across the water-land interface and support natural processes.

Living shorelines can be designed to mimic some of the functionality of natural protective features, such as living reefs or marshes. During a small or moderate coastal storm, living shorelines can act like a buffer by reducing wave energy and storing excess water.

For more information <http://opdgig.dos.ny.gov/#/storyTemplate/11/1/1>

**LIVING SHORELINES provide multiple benefits beyond erosion management**





## Simple Step #8

# Plant a Simple Rain Garden

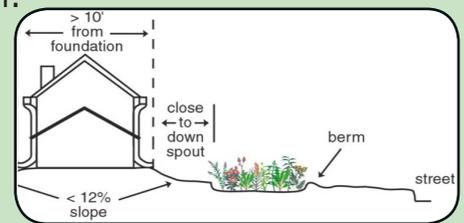


Help keep water clean by filtering stormwater runoff before it enters local waterways. Rain gardens help alleviate problems with flooding and drainage.

A rain garden is a vegetated depression that collects rainwater. This allows the rain that falls on rooftops, driveways and patios to infiltrate into the ground instead of becoming runoff.

### Getting Started:

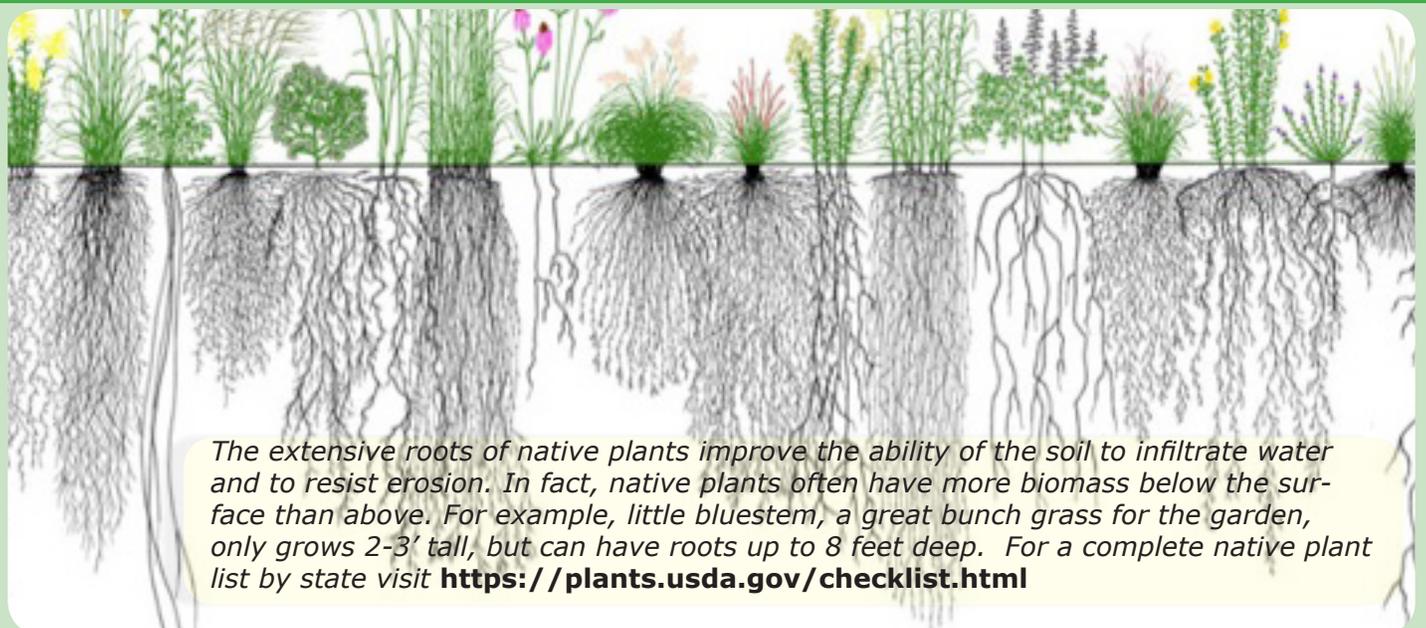
The first step is sizing and siting your rain garden. You want to pick a location on your property that you can direct a



downspout or other source of runoff to. A typical homeowner rain garden is around 100-300 sq. ft. and 4-8 inches deep. Just how big your rain garden should be will depend on your soils, slope, and the size of the area that drains to the garden.

## Go Native!

## Simple Step #9



The extensive roots of native plants improve the ability of the soil to infiltrate water and to resist erosion. In fact, native plants often have more biomass below the surface than above. For example, little bluestem, a great bunch grass for the garden, only grows 2-3' tall, but can have roots up to 8 feet deep. For a complete native plant list by state visit <https://plants.usda.gov/checklist.html>

# Install a Rain Barrel

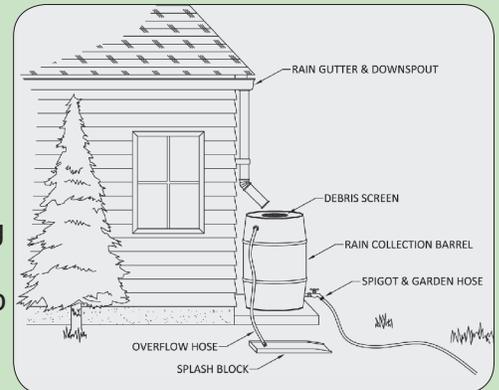
Simple  
Step #10



Photo: CCE Onondaga County

Rain barrels are a simple way to capture and recycle the rain washing off your roof. Building a rain barrel is an easy way to save money, and personalize the look and utility of the barrel to match your own taste.

Lawn and garden watering make up nearly 40% of total household water use during the summer. A rain barrel collects water and stores it for when you need it most—during periods of drought—to water plants, wash your car, or to top a swimming pool. It provides an ample supply of free



“soft water” to homeowners,

containing no chlorine, lime or calcium making it ideal for gardens, flower pots, and car and window washing.

## The Benefits of Using Native Plants

Native plants come in just about every size, shape, and color. You can design a native plant garden for interest in all 4 seasons, or a theme garden.

With all the benefits that native plants provide, you can feel good about enjoying the beautiful landscape all around you.

### Native plants:

- Help protect New York’s biodiversity by providing food and habitat for birds, butterflies, and other wildlife.
- Save you time and money. Natives have evolved in our environment over many years and are already adapted to survive here; they are low maintenance and don’t need lots of fertilizer, pesticides, and watering.
- Help reduce stormwater runoff. The deep roots of natives absorb and filter runoff more effectively than the short roots of many turf grasses and other ornamental plants.



Use the Guide to native plants in NYS: [http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/factnatives.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/factnatives.pdf) and purchase from the Wayne County Soil and Water Conservation District’s annual Forever Green Tree and Shrub sale.



## Simple Step #11

# Prevent the Spread Invasive Species

Invasive species arrived by ships carrying aquatic organisms in their ballast water. Exotic insects can get into wood, shipping palettes and crates that are shipped around the world, and ornamental plants can escape into the wild and become also become invasive.

### Here are some tips to stop the spread:

Whether boating, birding, biking, or hiking – please take care to avoid carrying any “hitchhiking” plants or animals with you.

- Use native or non-invasive plants in ornamental ponds and water gardens.
- Check and remove all clinging plants from watercraft, gear, and equipment after each use.
- Avoid boating, paddling, or swimming through dense plant beds.
- Never release aquarium plants into the wild.
- Clean, drain, and dry all boating, angling, & recreational gear before moving between waterways.
- Never transport uncertified bait-fish between waters and always dispose of unwanted bait in the trash, not the ground.



**STOP AQUATIC HITCHHIKERS!**  
Be A Good Steward. Clean. Drain. Dry.  
[StopAquaticHitchhikers.org](http://StopAquaticHitchhikers.org)

For more information: <http://fingerlakesinvasives.org/>



Water Chestnut Nuts



Hydrilla *Verticillata*



Starry-Stonewort

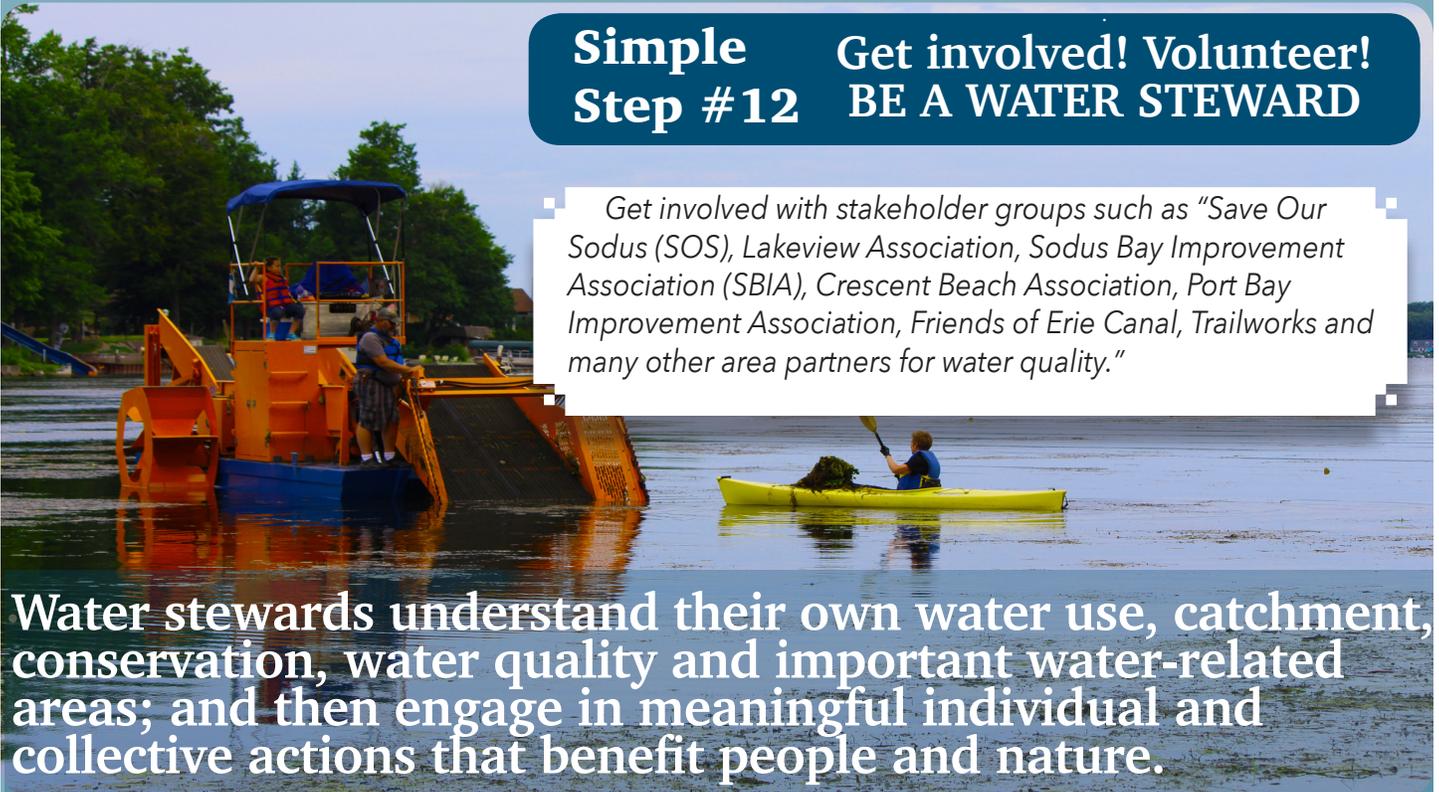


Yellow Floating Heart



## Simple Step #12 Get involved! Volunteer! BE A WATER STEWARD

Get involved with stakeholder groups such as “Save Our Sodus (SOS), Lakeview Association, Sodus Bay Improvement Association (SBIA), Crescent Beach Association, Port Bay Improvement Association, Friends of Erie Canal, Trailworks and many other area partners for water quality.”



Water stewards understand their own water use, catchment, conservation, water quality and important water-related areas; and then engage in meaningful individual and collective actions that benefit people and nature.

## SHORELINE STABILIZATION TECHNIQUES

The shoreline is a valuable and important area. It provides a rich, active habitat for fish and wildlife, and cleans stormwater runoff before it enters the water. The shoreline provides structural integrity to the water's edge, protecting it from erosion. The shoreline also gives us a relaxing place to fish, boat and contemplate nature.



Shoreline erosion is a natural process that occurs on lakes, streams, rivers and along the coast. It is the gradual, although sometimes rapid, removal of sediments from the shoreline. It is caused by a number of factors including storms, wave action, rain, ice, winds, runoff, and loss of trees and other vegetation. Although erosion is not intrinsically harmful, when it is augmented to the point where it affects natural resources, water quality, ecosystems, and property loss, it is generally undesirable.

Some commonly practiced shoreline modifications and erosion control methods can actually increase the rate of erosion as well, resulting in costly structural damage as well as property loss. Others may aid in the destruction of the shoreline's natural environment. This guide addresses the problems with some of these common practices and offers alternative methods. The Department encourages the use of "soft" or natural shoreline protection methods over "hard" or structural methods. These methods are much easier on the environment; imitate natural systems, can interact naturally within the ecosystem, as well as save you a significant amount of money. We have included advice and information for various shoreline stabilization methods. Please be aware that permits are necessary for the installation of most of these methods.

### **Some basic principles of shoreline protection**

To best preserve the shoreline environment, stabilization methods should follow these basic principles:

- Imitate nature

The native vegetation usually found at the shoreline strengthens its structural integrity and prevents the land from breaking apart. The deep roots of these plants bind the earth together while their foliage and branches protect from the erosion caused by rainfall and winds. Removing these plants can cause the shore to weaken and easily crumble into the water.

- Keep slopes gentle

The gradual slope of a natural shoreline absorbs the energy of waves. A steep, eroded slope or retaining wall allows waves to crash into the shore, drastically increasing erosion and causing that wave energy to cause damage on adjacent shorelines.

- Employ “soft armoring” whenever possible.

By “soft armoring” we refer to live plants, logs, root wads, vegetative mats, and other methods that eliminate or reduce the need for “hard armoring”, such as rock rip-rap, stone blocks, sheet-pile or other hard materials. Soft armor is alive and so can adapt to changes in its environment as well as reproduce and multiply. It also provides habitat for fish and wildlife. Vegetation can be kept trimmed so as not to block the view - after all, that’s why many of us choose to live near the water!

- Mix it up

Regardless of the type of natural shoreline encountered, you will undoubtedly see a wide diversity of materials: live trees, dead branches, stumps, rocks of many shapes and sizes, silt, sand, cattails, grasses, flowering plants, etc. By imitating this variety, you can maintain or reproduce the natural value of the shoreline and have an effective, resilient, and eye-pleasing shoreline. Working with these natural and locally available materials can also dramatically cut project costs. In the end, a mix of techniques may yield the best project, uniquely fit for your situation. If your area is already developed, it is a good idea to look to nearby undeveloped shoreline areas for examples of a more natural state.

- Keep it small and simple.

In some instances, only a portion of your shoreline area may be eroding. If this is the case, a small or mixed rip-rap and vegetation project may suffice. Keep in mind that healthy trees are often the cornerstones of a stable shoreline.

## **How can a natural shoreline protect against erosion?**

In its natural state, the shoreline area is perfectly engineered to protect against erosion.

Take the example below:



- The native vegetation usually found in the shoreline area strengthens its structural integrity and prevents the land from breaking apart. The deep roots of these plants bind the earth together, while their foliage and branches reduce erosion caused by rainfall and winds. Clearing these plants causes the shore to weaken and easily crumble into the water.
- The gradual slope of the natural shoreline area has developed to absorb the energy of waves. A steep, eroded slope or retaining wall allows waves to crash into the shore, drastically increasing erosion.

This is the same shoreline, after a considerable amount of erosion:



Although this may not exactly reflect your shoreline, this picture represents the general effects of erosion.

## How does the shoreline area provide a habitat for fish and wildlife?

A Natural Shoreline Area:



- Fish and frogs often spawn in the silt at the bottom of the shore and littoral zone. The littoral zone lies just past shoreline area towards the water.
- Vegetation provides nesting spots for birds and food for insects, waterfowl and aquatic mammals.
- Fallen logs and branches provide shelter and hunting areas for fish and mammals, while turtles use them to sunbathe.
- A shoreline's natural vegetation acts as a filter, preventing sediment and unnecessary nutrients from entering the waterbody. This runoff leads to poor water quality and upsets the balance needed for a healthy shoreline habitat. In the case of lawns, this runoff can include fertilizers, pesticides, lawn clippings and pet waste. Geese are attracted to lawns, and their waste can add to this runoff.
- Turtles and amphibians have free access to land, while retaining walls (seen below) block this access, preventing mating and spawning

This is the very same shoreline, after landowner had installed a retaining wall:



The effects are clearly seen, as the lush ecosystem is quickly destroyed.

## Harmful Shoreline Alterations

The following types of alterations and shoreline protection lead to increased erosion, structural damage and the destruction of the shoreline ecosystem:

### Bulkheads and Retaining walls

Normally a natural, gradual slope will absorb the energy of the wave. Bulkheads and retaining walls cause waves to crash into the shore. Much of the energy of these waves is sent downwards into the water at the base of the wall. The dirt or “substrate” is slowly dug out from under the wall’s foundation, eventually causing it to lean and then tumble into the water. Additionally, water draining from upland builds up behind the wall, pushing the wall from behind, especially during freeze-thaw cycles. Construction of a bulkhead or retaining wall can also increase the erosion rates on neighboring properties.



The effect of a bulkhead on adjacent un-bulkheaded property  
Courtesy of US Fish and Wildlife Service

From an environmental standpoint, retaining walls are by far the most destructive method of stabilization. With retaining walls, the vegetated area that would normally provide shelter, places to feed, breeding and nesting areas is cleared and built over, quickly and completely destroying the ecosystem.

Not only are retaining walls the most expensive and environmentally harmful option, but when it eventually collapses you’ll be left with a staggering repair bill. This is especially troublesome in cases where structures such as houses, garages, etc. are built close to the wall. If the wall fails, you may find the accompanying structure going down with it. No matter how extensive, the collapse of a retaining wall is inevitable.



A retaining wall failure



A very extensive but failed retaining wall

If you already have a retaining wall installed, you may want to completely remove the wall and rework the area using one of our recommended methods. However, in some locations, you may not be able to utilize one of these options. If this is the case, the Department may recommend that you build the wall further back (landward) from the existing wall, rather than building a new wall further out into the water.

### **Permanent Docks**

Docks can interrupt the flow of sediment along the shore and cause unnatural buildups, affecting the rate of erosion. They can also block the sunlight needed for healthy vegetation. For these and other reasons, it is best to minimize the size and number of docks. Temporary and seasonal docks are an optimal tradeoff, requiring a small amount of labor for seasonal installation.

## **Artificial Sand Beaches**

It is important to retain the natural substrate composition. Many people either dump sand to create a beach area, or clear the natural vegetation. Sand beaches are vulnerable to erosion and kill the vegetation underneath. The sand is easily washed away by receding wave action. If a sandy surface is desired, it should be placed well away from the zone affected by wave action, with a wide vegetated buffer strip. Removing the native vegetation, and too many fallen logs and branches both increases the rate of erosion and harms the waterbody's ecosystem. The roots from the vegetation hold the shore together and provide food and shelter for aquatic mammals, birds, turtles and insects.



## **Lawns and lawn chemicals**

Manicured lawns are devoid of the vegetation that normally prevents a shoreline from eroding. The grass used for these lawns lacks a deep root system, which is essential to a stable shoreline. A combination of waves and weather will begin to eat away at the lawn, causing it to break apart and crumble into the water.

Lawn chemicals, such as fertilizers and herbicides, can enter a waterbody and affect its chemical balance, contributing to unsightly and unhealthy algal blooms or in severe cases, fish kills.

To prevent these problems: Either replace the lawn with native vegetation or maintain a “buffer zone” to separate the lawn from the water.

### **How to create a buffer zone:**

A buffer zone is a strip of vegetation at the water's edge. The wider the buffer zone the better, but a buffer extending at least 50 feet back should be enough, although for cold water lakes, at least 100 feet will be necessary. Of course, even the smallest buffer is better than nothing. The simplest way to create a buffer zone is to stop mowing a strip of your lawn at the water's edge. Native vegetation should then begin to return in this area. You may choose to plant certain types of plants for either their look, or their effectiveness in stabilizing the shore. Supplement grass with deeply rooted woody vegetation. Since native species

vary in different areas across the state, we recommend that you check with your local Soil and Water Conservation Service for suggestions.



A manicured lawn eroded by wave action

### **Walkways or Roads**

When a walkway or road is built alongside the shore, stormwater runoff will drastically increase, significantly contributing to erosion. Normally, the ground absorbs rainwater. As with lawns, any walkways or roads should be properly buffered from the water as described above.

### **Recommended Shoreline Protection Methods**

We recommend using "softer" approaches for your shoreline protection. These methods can be more cost efficient (having lower maintenance costs), more durable and resilient, aesthetically pleasing, and environmentally friendly to the commonly used "hard" or structural methods. Some landowners also prefer these methods because they help the shoreline blend in with its natural surroundings.

It is common for contractor to recommend installing a concrete retaining wall. Although it may seem like a practical solution, we highly recommend that you consider one of our recommended methods. Retaining walls are not only the most expensive option, but have a tendency to collapse, requiring extensive repairs. They also have a negative impact on the environment.



Courtesy of Claire Prine, DEC Region 8

## RE-VEGETATION

**Where it works:** Re-vegetation works in the case of lawns or bare shorelines with low to moderate erosion. This is not for shorelines with extensive damage or strong wave action.

**Basic idea:** This method involves re-planting native vegetation that will naturally stabilize the shoreline. The deep roots of these plants bind the earth below tightly, effectively protecting your shoreline from erosion.

**Cost:** Low

**Difficulty:** Easy, can be done by landowner

### With bare shorelines:

In cases where the shoreline is bare, you will have to plant the vegetation yourself. Plant in late fall or early spring for a greater success rate. This will absorb initial wave action.

## LIVE STAKING

**Where it works:** Slopes with light erosion; can be used in conjunction with other methods for areas with heavier erosion.

**Basic idea:** Take cuttings of woody plants (live stakes) like willow and dogwood and drive them into the dirt or substrate of the eroded area. They will sprout roots and grow. Typically this is best to do in early spring or late winter.

**Cost:** Low.

**Difficulty:** Easy, can be done by landowner

### 1. Collect and prepare stakes.

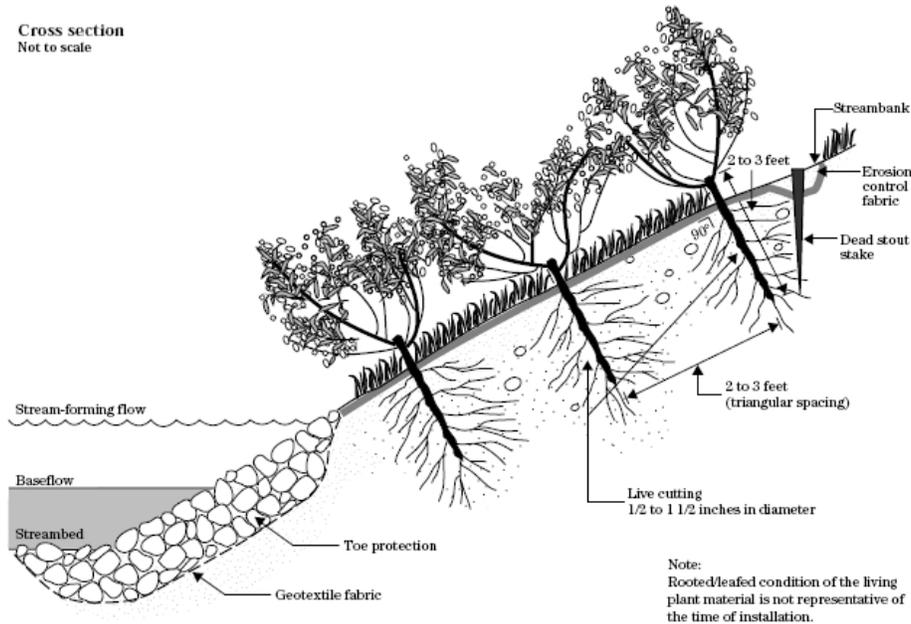
Stakes must be cut (1 foot or more in length) with shears from dormant, mature stems and must be used within 8-10 days. Trim the side branches without damaging the bark, and cut the bottom of the stake at an angle.



Courtesy of USDA - Robbin B. Sotir & Associates

## 2. Drive stakes.

Using a dead blow hammer, drive the willow or dogwood stakes gently into the ground forming a right angle to the slope (see diagram). If the soil is too packed, pre-form the hole with a steel rod. The stakes should be snugly planted, with about 70% buried and 30% exposed. Place the stakes in a triangular pattern at about 2 to 3 feet apart, with a maximum of 4 stakes per yard. Geotextile fabric or jute mesh is optional but may be needed to hold off further erosion until the live stakes begin to grow. Simply cut and lay the fabric over the area prior to driving any stakes. Anchor the fabric by burying the end in the substrate, behind the live stakes. Rip Rap at the toe is optional.



Courtesy of USDA - NRCS EFH Chapter-16

## CONTOUR WATTLING (LIVE FASCINES)

**Where it works:** Slopes with light erosion

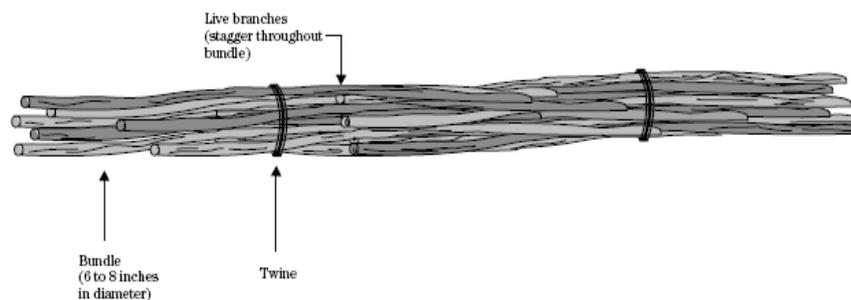
**Basic idea:** Lay live bundles of stems and branches in trenches on the shoreline, and cover them with soil. They are held in place with both wooden and live stakes. They will sprout roots and grow.

**Cost:** Low

**Difficulty:** Easy to moderate depending on level of site prep needed.

### 1. Collect and prepare bundles

The bundles are made of fresh plant cuttings. They should be straight, 6 to 8 inches in diameter and 5 to 30 feet in length depending on the site conditions. Plant cuttings should range in age, size and species with the growing tips facing the same direction. Willows and dogwoods work particularly well for this application. You do not need to trim the side branches of the cuttings. When tied together, the bundles should be 6 to 8 inches in diameter. You can use hemp or manila binder twine or other degradable fabric to bind the bundles, spacing the ties about a foot apart.



Courtesy of USDA - NRCS EFH Chapter-16

### 2. Dig trenches and lay bundles

Dig trenches starting at the base of the slope, and continuing up the shoreline, spacing them about 3 feet apart. The trenches should match the width of your bundles and their depth should be about half the diameter of the bundle, ie, 3-4 inches. Lay your bundles in the trenches.



Courtesy of USDA - Robbin B. Sotir & Associates

### 3. Secure bundles

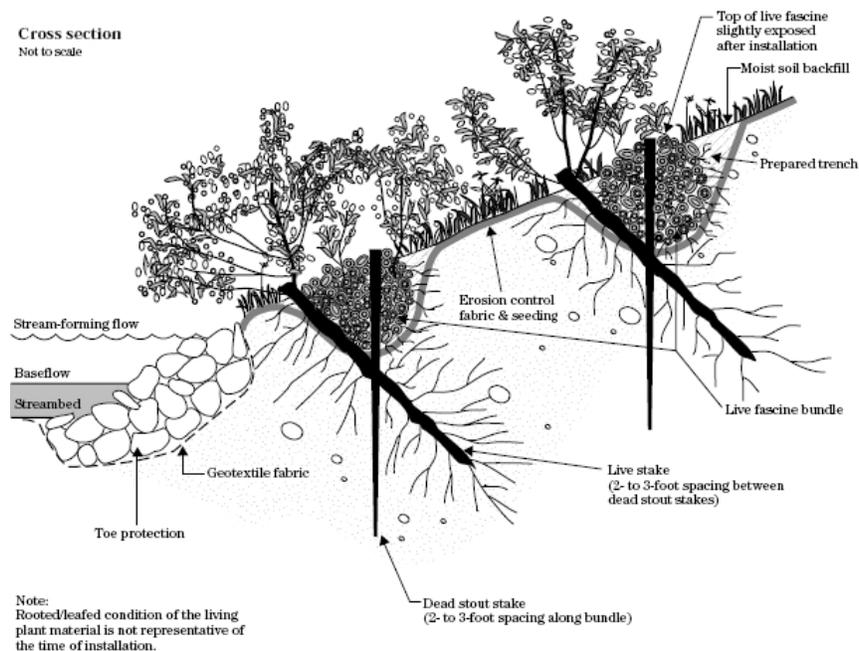
Secure the bundles into place by driving 2 to 3 foot long wooden stakes through the bundle and into the soil below. Space the stakes 2 to 3 feet apart and make sure there are at least 2 to 3 inches of the stake sticking out of the top of the bundle. Then cover the bundles with soil, but leave a small portion of the top of the bundle exposed. Some large live black willow stakes can be placed along with the dead stakes to secure the bundle, helping to re-vegetate the slope.



Courtesy of USDA - Robbin B. Sotir & Associates

### 4. (Optional) Lay straw, mulch or fabric

On flatter slopes, lay straw or mulch between the bundles. On steeper slopes, lay a jute or coir (coconut fiber) fabric. The fabric should run under the bundles, with the bundles staked into the fabric. Fabric would need to be installed prior to step 3.



Courtesy of USDA - NRCS EFH Chapter-16

## BRUSH LAYERING

**Where it works:** On badly eroded slopes

**Basic idea:** Holes are dug into the side of the slope, and plant cuttings are inserted at an angle, and grow outward, while the roots grow into the slope.

**Cost:** Low

**Difficulty:** Moderate

**Instructions:**

1. Cut Branches

Cut fresh, dormant branches (up to 12 feet long and 1/4 to an 1 inch in diameter) from your chosen species, preferably willow or dogwood. Trim off the side branches.

2. Dig the first bench

Dig out the first bench towards the bottom of the slope. The bench should be dug into the slope, about 10 to 25 degrees off horizontal (see diagram)

3. Place the cuttings

There should be several layers of cuttings on each bench, each layer being about an inch thick. Lay the first layer with the bottom ends touching the back of the excavated area and the tips pointing up out of the slope. The cuttings should be crisscrossed. Cover this layer with dirt and start the next. Repeat this process until the desired amount of layers is reached. Then dig the next bench and repeat steps 1-3.

4. Lay mulch or straw

Lay mulch or straw on the exposed soil between the benches.

**BRUSH MATTING**

**Where it works:** On badly eroded slopes

**Basic idea:** This involves creating a "brush mattress" out of live plant cuttings, which lies on the eroded area. It will take root and grow.

**Cost:** Low

**Difficulty:** Moderate

**1. Choose the plant**

Brush mattresses are made of any woody plant that will sprout roots from its stem. Mostly people use the willow, but some species of dogwood and viburnum will work as well. The plants should be 2 to 3 years old, flexible, and about 5 to 10 feet long. The diameter of the branches should be 1/2 to 1 1/2 inches.

**2. Prepare the slope**

The slope you will lay the mattress on must be flat to make sure every part of the mattress is in contact with the soil. The area should be about 5 to 18 feet in length. Make sure the soil is loose enough for the mattress to take root.

### 3. Dig a trench

Dig a trench along the length of the toe of the slope, where your brush mattress will end. The end of the mattress will be tucked in here. OPTIONAL but recommended: Create a live fascine (see "Contour Wattling" section above) and lay it in the trench.

### 4. Drive the stakes

It is recommended that you use a combination of live and dead stakes. The stakes should be 2 to 4 inches thick and 24 to 36 inches long. Drive them into the slope in rows, spaced 18 inches apart, running from the bottom to the top of the slope (see diagram). If you chose to include a live fascine, the stakes at the bottom of the rows should be staked right through the fascine.

### 5. Lay the branches

Now lay your branches between the rows of stakes, creating a layer 2 to 4 inches thick.

Brushmattress during installation  
(Robbin B. Sotir & Associates photo)



Courtesy of USDA

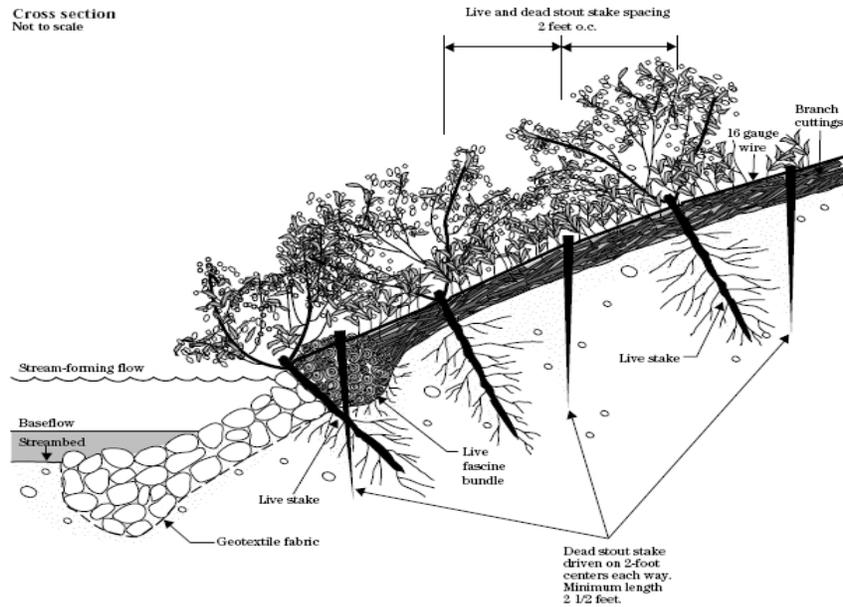
### 6. Tie them down

Choose either wire or twine. If using wire, use 16 gauge. With twine, use machine bristle coir that's about 1/5 to 1/2 inch thick with a breaking strength of 70 to 100 pounds. The wire or twine runs diagonally across the stakes (see diagram) and is tied to each stake in a clove hitch. Rip Rap at the toe is optional.

An installed brushmattress system  
(Robbin B. Sotir & Associates photo)



Courtesy of USDA



Courtesy of USDA - NRCS EFH Chapter-16

## EROSION CONTROL MATTING

**Basic idea:** A sheet of special three-dimensional biodegradable erosion-control geotextile fabric is laid down over the exposed slope of the shoreline. Grass seeds are planted throughout the matting and then covered with soil. The grass becomes intertwined with the mat or blanket and stabilizes the shore.

**Where it works:** Moderate slopes up to 1 vertical to 2 horizontal along roadways or on slopes along waterways.

**Cost:** Low to moderate depending on area to be covered and site-preparation necessary.

**Difficulty:** Moderate to difficult, depending on slope preparation necessary and site characteristics.

**1. Prepare the slope.** Remove all soil clumps and rocks. The prepared area must exactly match the dimensions of project. **Optional** - Spread seeds under the area you will be laying the mat.

**2.** The erosion-control blankets come in rolls. Lay the blankets.

Each blanket is usually 3 to 4 feet wide. Starting at the top, roll each blanket down the slope. Each blanket should overlap the next by about 3 to 4 inches.

**3. Staple the blanket down**

Drive special soil staples down the center of each blanket, spaced about 3 to 5 feet apart.

**4. Spread soil over the blanket**

Thoroughly spread a layer of about 1/2 to 3/4 inches of soil into the mat, this helps the seeds take root.

**5. Spread the seeds**

Spread the seeds over the mat. Spreading seeds under the mat is another recommended option. Do this prior to laying the mat.

## Shoreline Protections Methods recommended under certain conditions

The following methods involve hard armoring, and should only be used if the methods above will not work on your property. The softer methods above are preferred by the Department as they are superior in preventing erosion and maintaining a healthy shoreline environment. If a hard armoring method is indeed required, the sloped rip-rap or rip-rap vegetation combination provide superior protection of the shoreline than vertical cement or block walls and still provide some habitat for wildlife. All these methods will require a permit from the Department.

Figure 16-33 Rock riprap revetment system



Courtesy of USDA - NRCS EFH Chapter-16

### STONE RIP-RAP

**Where it works:** Shorelines where underlying soil is stable.

**Basic idea:** A layer of stones is laid along a slope face or bank and prevents erosion caused by wave action.

**Cost:** Moderate to high

**Difficulty:** Moderate

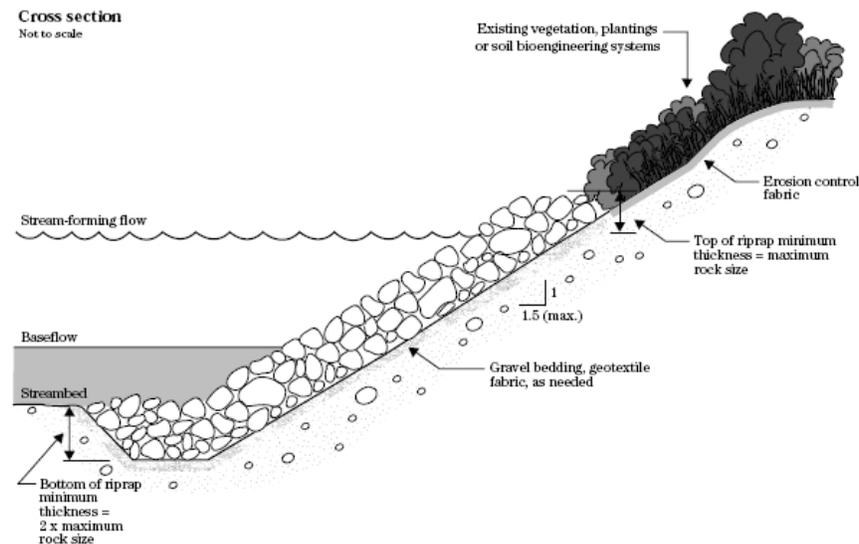
**1. Prepare the Slope.** Vegetative stabilization methods are preferred on flatter slopes and that the use of stone rip-rap should generally be limited to slopes greater than one vertical to three horizontal, where vegetative stabilization methods are not as effective. The slope must be graded to a maximum of no more than a one foot vertical rise for every 1.5 feet of horizontal distance. (Some DEC regions require a 1:2 slope depending on site conditions.) The soil must be stable. If you need to fill the area, use a fill with stones smaller than 6 inches. Make sure the slope is tightly compacted before placing the Rip-Rap.

**2. Lay the rip-rap.** Rip rap is hard quarry-cut stone such as limestone or granite chunks, typically 12-18" in length, having at least two fractured faces. These rocks lock in place against each other. Refrain from using rounded field stones because they will slide down the slope. There should be two layers. The first layer is called the "filter layer" The stones should be no larger than 3 inches in diameter. If you choose to use a filter fabric,

place this underneath the filter layer. The top layer or the “armor layer” and takes the initial impact from the waves. If area is large enough, you may have to use a crane or a dump truck to dump the rocks. If the project is small enough you may be able to do this manually.

**Note:** If there are live trees or other significant native vegetation on the eroded slope, we highly recommend that these be left in place and the rip rap be laid around them taking care not to damage the bark or vegetation.

**Figure 16-32** Rock riprap details



Courtesy of USDA - NRCS EFH Chapter-16

## VEGETATED RIP-RAP (JOINT-PLANTING SYSTEM)

**Where it works:** Waterways or inland lakes where underlying soil is stable.

**Basic idea:** This is a combination of live staking and rip-rap. The rip-rap prevents wave action from eroding the shore while the roots of the plants bind the earth below. The plants cover the rocks, providing shade for fish and wildlife and eventually making for a very nice spot to fish. Some landowners also prefer the look of a more natural shoreline.

**Cost:** Moderate to High. Much cheaper if rip-rap is already in place.

**Difficulty:** High

### 1. Prepare the slope

The slope should be 2 to 1 (Horizontal to Vertical). Cover the area with a filter fabric or jute mesh. Spread the rocks over the fabric, making sure not to damage it.

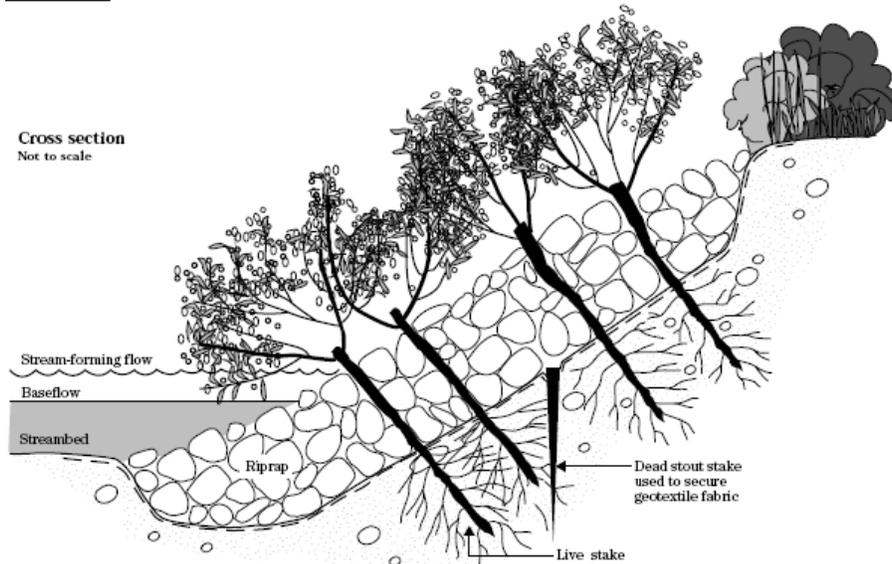
### 2. Prepare the live stakes

Stakes must be cut long enough to be able to drive into the dirt below the rocks with the growing tips protruding above the rocks. Cut with shears from dormant, mature stems and must be used within 8-10 days. Trim the side branches without damaging the bark, and cut the bottom of the stake at an angle.

### 3. Insert the live stakes

They should be inserted perpendicular to the slope. The growing tips should face upward, protruding through and above the rocks. You can use a steel rod (re-bar) to puncture through the fabric and create a hole in the soil below. Use a dead blow hammer to drive the stakes into the soil. There should be two to four stakes per square yard.

**Figure 16-16** Joint planting details



NRCS EFH Chapter-16

An installed joint planting system  
(Robbin B. Sotir & Associates photo)



Courtesy of USDA

### VEGETATED GABION MATTRESS

**Basic idea:** A gabion mattress is an elongated, mattress shaped cage filled with rocks. Vegetated gabion mattresses involved branches or cuttings inserted through rocks in the cage.

**Where it works:** Moderate slopes to resist wave action, ice and surface erosion.

**Cost:** High

**Difficulty:** High. We recommend that you do not attempt this yourself. A professional contractor, heavy equipment and engineer are required.

### **VEGETATED CRIBBING (LIVE CRIBBING)**

**Basic idea:** Interlocking planks of wood act as a sort of live retaining wall, but with less of an environmental impact. Vegetation is planted between the planks. This does not work well on high banks with heavy wave action.

**Where it works:** Unvegetated slopes with a lot of backfill and little wave action

**Cost:** Moderate to high

**Difficulty:** Moderate. We recommend that you do not attempt this yourself. A professional contractor, heavy equipment and engineer are required.

### **Sources**

1. "The Shoreline Stabilization Handbook" Northwest Regional Planning Commission. St. Albans, Vermont.
2. USDA NRCS Engineering Field Handbook, Part 650, Chapter 16, Streambank and Shoreline Protection. December 1996.

July 2010

# Invasive Species of Lakes Erie and Ontario

by

**Helen Domske**  
Coastal Education Specialist  
New York Sea Grant  
2003

**Charles R. O'Neill, Jr.**  
Invasive Species Specialist  
New York Sea Grant

## Introduction

An unusual form of pollution is impacting Lakes Erie and Ontario but has nothing to do with industrial discharges, municipal sewage or chemical rain. Instead, this pollution is in the form of non-native plants and animals that have entered the Great Lakes ecosystem and caused dramatic changes. These species go by many names: exotic, nonindigenous, invasive, nuisance. But, by whatever name they are called, these are species that have been transported, most often by human activities – intentionally or unintentionally – into a geographic region outside their native range and are now reproducing in the wild in their new environment. An ability to spread throughout an ecosystem, limiting food and habitat and competing with or even displacing native species, has earned the name *invasive species*. Because these species often have harmful impacts on their new home, they are often referred to as *aquatic nuisance species*. In the rest of this publication, we will use the term *invasive species*, with the understanding that the species highlighted are invasive, nonindigenous, and nuisances.

Invasive species have been called biological pollution due to their ability to negatively impact the ecosystem and the native populations of flora and fauna that it supports. The combined effect of these species has been to change the food webs in Lakes Erie and Ontario, as well as to alter trophic levels from the lowliest plankton to the top predatory fishes. Aquatic invaders can have a catastrophic impact on the ecosystem by displacing native species, sometimes to the point of local extinction (extirpation), thereby reducing biological diversity. For example, several native species of mussels in Lake St. Clair have been exterminated, and populations in some areas of Lake Erie are jeopardized, by the zebra mussel. The ecological and economic impact of invasive species should not be minimized. In fact, the impacts of invasive species are seen by many scientists to be as great a threat as, if not greater than, loss of habitat in the Great Lakes.

Invasive species in the Great Lakes include fishes, mollusks, crustaceans, other invertebrates and plants, as well as disease-carrying organisms, and have been entering the lakes since the advent of canals in the early-1800s. The opening of the St. Lawrence Seaway in the late-1950s, allowing large, ocean-going ships to enter the Great Lakes carrying millions of gallons of freshwater ballast water – which can contain a multitude of invasive species – accelerated this process.

More than 145 different plants and animals have invaded the Great Lakes in the past 200 years. Some of these, such as the sea lamprey and the zebra mussel, have had economic as well as ecological impacts. The Great Lakes have been especially hard hit by the invasion of invasive species due to the presence of numerous canals and international ship traffic. Ballast water transfers from such ships have introduced invasive species such as zebra and quagga mussels, spiny waterfleas, Eurasian ruffe and the round goby.



**New York Sea Grant**  
229 Jarvis Hall  
SUNY at Buffalo  
Buffalo, NY 14260  
Tel: (716) 645-3610  
Fax: (716) 645-3612  
E-mail:  
SGBuffal@cornell.edu

**New York Sea Grant**  
Morgan II  
SUNY College at  
Brockport  
Brockport, NY 14420  
Tel: (585) 395-2638  
Fax: (585) 395-2466  
E-mail:  
SGBrockp@cornell.edu

New York's Sea Grant  
Extension Program  
provides Equal Program  
and Equal Employment  
Opportunities in  
association with Cornell  
Cooperative Extension,  
U.S. Department of  
Agriculture and U.S.  
Department of Com-  
merce, and cooperating  
County Cooperative  
Extension Associations.

The construction of the Erie Canal (officially opened in 1825) served as a major pathway for invasive species introductions from the Atlantic Ocean and the Hudson River into the Great Lakes via Lake Ontario. Niagara Falls historically served as an impenetrable barrier to the dispersal of invasive species from Lake Ontario to Lake Erie and the upper Great Lakes. The construction of the Welland Canal (opened in 1829 and enlarged in 1919) served to link Lake Ontario to the upper lakes, providing an invasive species bypass around the falls. Another important pathway was the opening of the St. Lawrence Seaway in 1959, which greatly enhanced large ship traffic into the Great Lakes and provided an avenue for introductions of invasive aquatic species from across the globe.

Some introductions of invasive plants and animals, however, had no links to canals or shipping. A number of invasive species entered the Great Lakes through the release of aquarium pets, fish aquaculture operations, bait-bucket releases and even intentional releases that proved to be environmental mistakes. The common carp is an example of an intentional release that went awry. Common carp were originally stocked to increase potential food resources for immigrants to the Great Lakes region. Once released to natural environments, these benthic fishes uprooted native aquatic vegetation, caused excessive turbidity and competed with native fish for food and habitat. In some cases, stocking of nonindigenous fish was implemented to control the spread of other invasive species such as alewives and smelt. While the stocking of Pacific salmonids has successfully reduced the numbers of those nonindigenous forage fishes, such introductions have contributed significantly to the overall artificiality of the modern Great Lakes ecosystem.

## Invasive Species of Lakes Erie and Ontario

### Zebra Mussel (*Dreissena polymorpha*) and Quagga Mussel (*Dreissena bugensis*)

During the late 1980s, zebra and quagga mussels were introduced into the Great Lakes as veligers (larvae) from freshwater ballast discharged from freighters that originated in the Black and Caspian Sea regions of eastern Europe and western Asia. These small, bivalve mussels have the ability to filter huge amounts of water (up to two liters per day per adult mussel) in order to draw in the plankton they use as food. Zebra and quagga mussels primarily consume phytoplankton (microscopic plant life) which forms the base of the aquatic food chain, although they can also consume small zooplankton (tiny aquatic animals) and bacteria. This filtering, and subsequent removal of plankton from the lakes, has created a dramatic increase in water clarity. Although the clearer lake water is seen as an aesthetic benefit to some, the loss of nutrients it represents significantly reduces the food that is available for fish and other organisms.



D. Schloesser

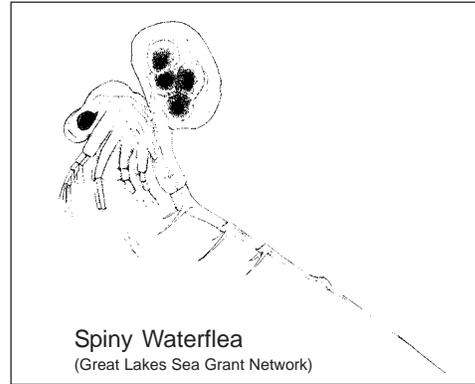
Zebra and quagga mussels are referred to as *biofoulers* because of their ability to attach to solid underwater substrate, like rocks, piers, intake pipes, and boat hulls using tough elastic strands called *byssal threads*. In addition to the ecological damage they cause, hundreds of millions of dollars have been spent to clean up fouled pipes and keep the mussels from fouling drinking water treatment, industrial and power plant intakes.

Zebra and quagga mussels have spread beyond the Great Lakes region, reaching as far down the Mississippi River as New Orleans, Louisiana. A female mussel can produce up to 1,000,000 eggs per year and the veligers are dispersed by waves and water currents. The veligers settle out of the water column, attach, and form colonies up to several hundred thousand mussels per square meter (1.2 square yards).

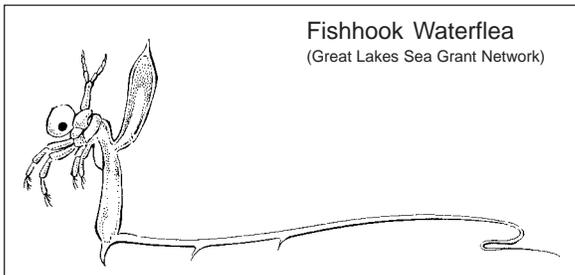
Although quagga mussels are similar to zebra mussels, they have the ability to survive in deeper, colder water than zebra mussels and, in areas with low concentration of plankton, can survive on bacteria better than zebra mussels. In many areas of Lakes Erie and Ontario, the original settlements of zebra mussels have been displaced by quagga mussels.

## Spiny Waterflea (*Bythotrephes cederstroemi*) and Fishhook Waterflea (*Cercopagis pengoi*)

Although one of the smallest invaders (5 - 15 mm), the spiny waterflea, also known as "B.C.", has had a big impact on the Lake Erie ecosystem. These tiny invertebrates are not insects, but small, predatory crustaceans with a long, barbed tail spine that protects them from predators while they compete with fishes, like young yellow perch, for zooplankton. A native to Great Britain and northern Europe, spiny waterfleas were first discovered in Lake Ontario in 1982. These creatures entered the lakes via ballast water discharges and spread to all five Great Lakes within a few years. They are able to reproduce rapidly; during warm summer months, each female can produce up to 10 offspring every two weeks.



Scientists are now concerned about a similar species, commonly called the fishhook waterflea, that was found in Lake Ontario in 1998. Within four years, *C. pengoi* has spread to Lakes Erie and Michigan and the Finger Lakes. Many researchers theorize that the fishhook waterflea has the potential to have greater impacts on Lakes Erie and Ontario food webs than has the spiny waterflea. Both species of waterfleas are a nuisance to anglers, who often find cotton-like globs of the creatures on fishing lines and nets. Some anglers have had to cut their lines and lose fish. The food web impacts (energy sink or source) are still unknown.



## Sea Lamprey (*Petromyzon marinus*)

The sea lamprey is a predatory, eel-like fish, native to the coastal regions of the Atlantic Ocean. It was first discovered in Lake Ontario in the 1830s, and is thought to have migrated from its native habitat in the Atlantic drainage from the Hudson River through the Erie Canal or by attaching itself to boats plying the Erie and St. Lawrence Canal systems. The lamprey did not arrive in Lake Erie until 1921, two years after the enlargement of the Welland Canal. Fortunately, Lake Erie does not have the same high populations of sea lampreys as the larger, deeper lakes.



The sea lamprey attaches itself to the sides of its target fish (important sportfish such as trout and salmon) using a sucking disk, while sharp teeth in its circular mouth cut through the skin of the fish. The lamprey then sucks the blood and body fluids from the fish. Often pictured firmly attached to the sides of a valuable lake trout or whitefish, lampreys have been blamed for the decline in these and other Great Lakes fish species. A single adult lamprey can be responsible for the death of up to 40 pounds of fish in its lifetime. An attack by a sea lamprey results in the death of six

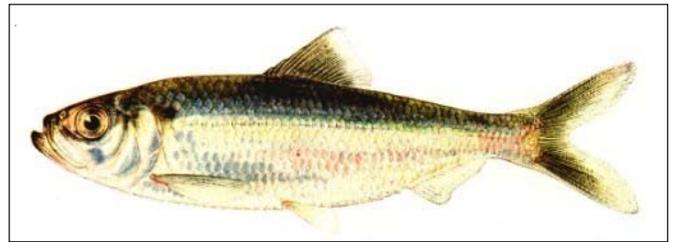
out of seven prey fish, directly by the loss of bodily fluids or from a secondary infection that occurs at the wound site. Fish that survive lamprey attacks are weakened and are more vulnerable to future attacks by lampreys or capture by more powerful predators. Many anglers have caught a trout or salmon that displays one or several scars from previous lamprey attacks.

Adult lampreys spawn in the Spring and Summer on gravel beds in Great Lakes tributaries, dying upon laying their eggs. After hatching, small worm-like lamprey larvae drift downstream and burrow into sand and silt, where they live on algae and detritus until they emerge some four to six years later as six inch parasites. They then swim downstream to the Great Lakes where they begin feeding on their fish hosts.

The binational Great Lakes Fishery Commission relies on constructed stream barriers that don't interfere with the passage of other fish species, and the use of chemical lampricide treatments in spawning streams around the Great Lakes to control lamprey populations. The lampricide treatments have proven to be very effective, but are quite costly – each year, millions of dollars are spent for lampricide treatments. An innovative male catch-sterilization-and-release program has also been used to reduce populations. Unfortunately, as many of the environmental conditions of tributaries surrounding the Great Lakes improve, new habitat is created for sea lamprey. Research continues on alternative lamprey control methods, including the innovative use of pheromone attractants that could be used to draw sea lamprey into traps or towards unsuitable stream spawning sites. Despite treatments, sea lamprey populations remain strong in a number of locations around the Great Lakes.

### **Alewife (*Alosa pseudoharengus*)**

Alewives, a small, silvery fish, were first discovered in Lake Ontario in 1873. It is unclear whether they were native to Lake Ontario, or expanded their range through the Erie Canal into the Great Lakes Basin from the Atlantic drainage. If they were, in fact, native to Lake Ontario, their populations must have been controlled by Atlantic salmon and lake trout until the late 1800s. It is also theorized that the alewife may have actually been stocked into the lake accidentally, misidentified as juvenile shad (the two look very similar in their early life stages).

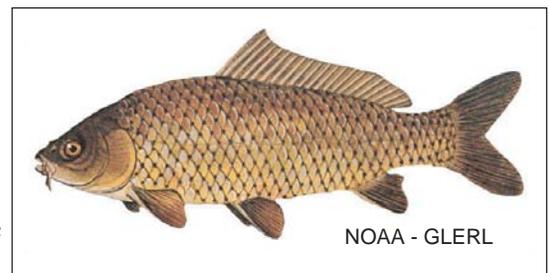


Alewives have proven themselves to be superior competitors to native fish because they are able to out-compete fishes like lake herring, bloaters, and whitefish for food. They also feed readily on young of native fish species, including lake trout, yellow perch, walleye and whitefish. The alewife population in Lake Erie and Lake Ontario has become the primary food resource of adult Pacific salmon and lake trout.

In the absence of predators, alewives have the ability to dramatically increase their population levels to unnaturally high levels, often resulting in huge die-offs that foul beaches. Alewives are also very sensitive to cold water temperatures, and die-offs typically occur during extreme winters or when there are upwellings of colder bottom waters in the lakes. This trait makes alewives an unstable, albeit nutritious, food resource for salmon and trout.

### **Common carp (*Cyprinus carpio*)**

The common carp, found in the Great Lakes today, comes from the Caspian Sea and parts of Asia. The carp was originally stocked in the basin in the late 1800s by the U.S. Fish Commission as a source of “cheap” food for the future (carp quickly fell out of favor as a food species). The fish were commonly stocked in farm ponds where they often escaped into nearby ecosystems during periods of flooding. Once released into the Great Lakes Basin, carp spread quickly and easily – in fact, the common carp can now be found in every state in the continental U.S.



The common carp is a very hardy fish, capable of surviving in less than optimal habitats. As a result of their feeding behavior (they pull out plants and root around in the bed of lakes and streams) they degrade lakes by causing excessive turbidity (cloudiness caused by disturbed silt), which can lead to declines in submerged aquatic plants and organisms, waterfowl, and important native fish species.

Common carp are also prolific breeders, inflicting substantial competition for habitat on other, more desirable species. It is also hypothesized that common carp prey on the eggs of other, native, fish species, reducing breeding stocks of native populations. Carp have a remarkable ability to negatively alter their aquatic environment and are generally considered a nuisance species wherever they occur.

## Round Goby (*Neogobius melanostomus*)

One of the newest invasive fish species in the Great Lakes, the round goby, is an aggressive fish that out-competes native fish such as sculpins for food and territory. Originally from the Black and Caspian Seas region, round gobies were first discovered in the Great Lakes (St. Clair River) in 1990, by Dr. David Jude of the University of Michigan. These benthic fish have a highly developed sensory system that allows them to find food and avoid predation much better than the native species with which they are competing. Round gobies are also capable of feeding at night, which gives them an advantage over many native fish that are restricted to feeding when light is present.



In addition to their aggressive nature and adaptive behaviors, round gobies are also capable of spawning several times each year. Males grow larger than females and the males guard the nests filled with eggs. This parental care helps to reduce predation on the eggs and increase survival rates. These reproductive strategies have helped round goby populations proliferate throughout the Great Lakes basin.

Although some people see the zebra mussel-eating goby as a beneficial invader, some researchers are concerned that gobies may move the contaminants found in the flesh of zebra mussels (bioaccumulated there as a result of the mussels' voracious filter feeding) up the food chain, where the toxins have the potential to impact valuable game fish such as smallmouth bass. Research continues on this link between round gobies and toxins from zebra and quagga mussels. There may also be a zebra mussel - round goby link to the recent outbreak of avian botulism plaguing Lake Erie.

## Purple loosestrife (*Lythrum salicaria*)

When European settlers moved to the Great Lakes region, they brought with them a number of familiar plants. These included useful species for use as food (both for humans and for livestock), decoration (flowers), and medicinal purposes. Unfortunately, some of the plants that migrated along with the early settlers have also proven to be detrimental to the health of the Great Lakes ecosystem. Included in this group is purple loosestrife. This emergent aquatic plant, a native of Eurasia, was first introduced into North America in the early 1800s, most likely as both an ornamental plant and a medicinal herb, and as a stowaway in the form of seeds in the solid (soil) ballast used to stabilize ships making trans-Atlantic crossings in that era. Seeds were also probably mixed in with the fodder and bedding that the settlers brought with them for their [imported] livestock. The plant is also favored by American beekeepers for the production of honey. By the late-1800s, purple loosestrife was found throughout much of the northeastern portion of the United States and southeastern Canada. The construction of the Erie Canal (and numerous other regional canals in the mid- and late-1800s) opened most of the Great Lakes Basin to loosestrife colonization by the end of the 19th century. Today, loosestrife can be found in every continental state except Alaska and Florida. In the 1930s, purple loosestrife began to aggressively colonize St. Lawrence River flood plains; it has since become a major nuisance plant in most of its North American range.



Purple loosestrife is a very aggressive colonial plant. One mature plant can produce more than a million seeds per growing season; the plant can also be established from stem or root fragments. Loosestrife seeds are known to be spread in the feathers and fur of birds and other wildlife that have been up against the plants. Seeds and plant parts can also be spread by wind, river and stream flow, floods, and mixed in with soil and vegetation disturbed by development activities. Purple loosestrife is generally thought of as a colonizer of disturbed habitats (the disturbance stresses local vegetation populations and gives loosestrife a competitive advantage over slower growing native plants). The plant has also, however, been found to be

able to slowly colonize undisturbed areas and drier lands, creating an emerging threat to agriculture and damaging crop and pasture land productivity.

Once purple loosestrife becomes established in a wetland, it can out compete native vegetation such as cattails, sedges and rushes, and can form monospecific stands in which as much as half of the native wetland vegetation biomass can be displaced. Loosestrife has little value as a food source for waterfowl and wetland animals, and dense stands of loosestrife can eliminate the cover value of native vegetation. The loss of native vegetation can result in the loss of the native wetland wildlife, as well. Loosestrife can also reduce the productivity of shallow waters utilized as spawning habitat for native fish. Some stands of loosestrife in shallow waters can even be thick enough as to block the passage of small boats.

Small, newly introduced patches of purple loosestrife can be controlled by hand pulling, by treatment with broad-spectrum herbicides, or by flooding. Such control methods are generally ineffective or too costly or physically difficult to be used against well-established stands of the plant. Mowing is not effective since new plants can be established from stem fragments; burning is ineffective unless the fire is intense enough to kill the



plant's roots. Although more than 100 species of insect feed on purple loosestrife in its native range, no North American insects have been found to parasitize the plant. Such insects serve to keep loosestrife from becoming the dominant plant in its native range. Years of research into control of loosestrife by insect predation has resulted in five species of insect being approved as biological control agents, including a root-mining weevil, two leaf-eating beetles (*G. californiensis*, shown at left), a flower-feeding weevil and a seed-feeding weevil. While more study of bio-control remains to be

done, initial results at such test locations as the Montezuma National Wildlife Refuge have been very positive.

### **Water Chestnut (*Trapa natans*)**

The water chestnut is a rooted, invasive aquatic plant that has both floating and submersed leaves. It was first introduced to North America around 1874 as a water garden plant and for the food and medicinal value of its four-horned, nut-like fruit. The first record of the plant growing wild was in the Charles River (Massachusetts) in 1879. The first Great Lakes Basin introduction of water chestnut was in Collins Lake (near Scotia, New York) around 1884. Since then, the plant has spread to other waters in New York and the Northeast. During the past twenty years, water chestnut has spread throughout central New York via the interconnected river/NYS barge canal system from Cross Lake to Oneida Lake and into the Oswego River Corridor. *Trapa* has been found along the south shore of Lake Ontario in Sodus Bay since the 1960s. It can also be found in New York's Hudson and Mohawk Rivers and in the Lake Champlain watershed.

Water chestnut grows in freshwater lakes and ponds, as well as in slow moving streams and rivers. It prefers shallow, calm, nutrient-rich waters, where its cord-like stems can reach lengths of up to 16 feet. The plant is a fierce competitor when growing in shallow waters that have soft, muddy bottoms. If uncontrolled, water chestnut can develop nearly impenetrable mats across wide areas of water, creating a hazard for boaters. Thick growths of the plant can severely limit light penetration into the water. The floating canopy of vegetation shades the floor of the waterbody, cutting off sunlight to native plants and degrading the natural functioning of aquatic ecosystems. Dramatic drops in dissolved oxygen content of infested waterbodies have been observed, apparently due to such shading of native vegetation. This can potentially contribute to fish kills. Water chestnut also out competes native vegetation, is of little food value to waterfowl and wildlife, and may diminish native species use of an invaded area. The sharp spiny nuts can be physically hazardous to swimmers walking on the bed of an infested waterway.



Water chestnut control general consists of mechanical harvesting of the floating mats using weed harvesters or hand pulling from canoes or kayaks. Repetitive harvesting of small areas of waterbodies can be effective at controlling water chestnut populations but, unless all of the plants, including root structure, is removed, regrowth will often take place after termination of harvesting activities, providing only a short-term solution.

Not only does the management of water chestnut result in the expenditure of public and private funds, but the presence of water chestnut in a lake or river can seriously harm property values along the infested areas as the use of the water resource is degraded. It has been shown that invasive plants can degrade shoreline property values by more than \$12,000 per lot along heavily infested portions of lakes and rivers.

Invasive plant experts believe that the spread of water chestnut can be slowed and existing infestations managed by aggressive public education programs in addition to mechanical harvesting and hand pulling.

### **Eurasian Watermilfoil (*Myriophyllum spicatum* L.)**

Eurasian watermilfoil, a rooted aquatic weed native to Europe and Asia, has become one of the most widely dispersed invasive aquatic plants. It can now be found in 45 states and three Canadian provinces. Milfoil was first identified in a pond in the Washington, DC, area in 1942. It is believed to have been introduced into the United States intentionally, most likely as a water garden and aquarium plant. It was introduced into ponds and streams across the county by intentional plants. Colonies spread in place by stolons (stemlike branches). New milfoil plants typically grow from small fragments and the plant is quickly spread throughout connected waters via currents. Recreational boats and harvesting activities are major causes of milfoil fragmentation and distribution throughout waterbodies. Milfoil fragments can also be transported from infested to uninfested waterways on trailered boating equipment.



Milfoil will colonize shallow areas of lakes and ponds, and low energy areas of rivers and streams. It has a particular competitive advantage in disturbed waterbodies such as those with excessive nutrient loading, high levels of recreational boat use, or substantial physical disruption. Milfoil exhibits very rapid growth (reaching the surface in waters as deep as 20 feet in a single season), starting earlier in the spring growth than native aquatic plants and quickly reaching the surface. The plant forms dense vegetative canopies that shade the native vegetation, resulting in a decline of both native plant abundance and diversity. Milfoil has little value as a waterfowl food source, and a high densities can reduce the abundance and diversity of invertebrates which serve as food for fish. Dense beds of milfoil can impair recreational use of a waterbody, reduce fish spawning and foraging habitat, and out compete native vegetation. The die off of old milfoil can deplete dissolved oxygen levels in a waterbody. Dense milfoil populations can restrict boating, fishing and swimming, and can become uprooted and foul beaches.

Generally speaking, there is no way to completely eradicate Eurasian watermilfoil once it has become established in a waterbody. Because it is not indigenous to North America, this weed has no natural biological controls (such as insects or microbes) that would hold down its populations in its native range. Stakeholders can help minimize the spread of Eurasian watermilfoil by ensuring that all fragments of the plant are removed from boats and trailers before leaving infested waters, disposing of the fragments in the garbage or on dry land where they cannot be moved into any streams or lakes. Environmentally friendly controls include bottom barriers, suction harvesting, hand pulling (of small, new infestations), and raking the lake bottom to remove roots, stems, and fragments. Mechanical harvesting does not remove the roots, and can be considered as only a temporary reduction in the amount of vegetative material (much like mowing a lawn).

## **The Future Outlook**

It is hoped that governmental agencies in the U.S. and Canada will continue their efforts to prevent new invasive aquatic species from entering the Great Lakes. Ballast water management efforts (mainly exchange of freshwater ballast for saltwater ballast 200 miles offshore prior to entry into the St. Lawrence River) are already underway but have not yet proven to be totally effective at keeping out new invaders. New technologies for ballast water management are being researched. Stakeholders need to become aware of this biological pollution and join in efforts to limit the introduction and spread of invasive organisms. Simple actions like inspecting and cleaning boats and trailers, eliminating bait bucket transfers and stopping the

introduction of plants and animals from home aquariums, will do a great deal to reduce the spread of invasive aquatic species.

Whether intentional or accidental, the introduction of invasive species has had both an economic and ecological impact on the Great Lakes. As stakeholders, we must take steps to reduce the spread of invasive species and become informed about these species. Education and outreach are important elements, along with research, monitoring, and management that must be utilized in the battle to stop the spread and mitigate the impacts of invasive nonindigenous species on our environment.

## Other Invasive Species in (and Coming to) Lakes Erie & Ontario

Blueback herring (*Alosa aestivalis*) - Ontario only  
Asian clam (*Corbicula fluminea*)  
New Zealand mud snail (*Potamopyrgus antipodarum*) - Ontario only  
Killer shrimp (*Dikergammarus vilosus*) - Potential  
Ponto-Caspian amphipod (*Echinogammarus ischnus*)  
Eurasian ruffe (*Gymnocephalus cernuus*) - Potential  
Tube-nosed goby (*Proterorhinus marmoratus*) - Potential  
Rudd (*Scardinius erythrophthalmus*)

## Additional Information

**The following web sites provide information on invasive aquatic species:**

National Aquatic Nuisance Species Clearinghouse: <http://www.aquaticinvaders.org>  
Sea Grant Nonindigenous Species: <http://www.sgnis.org/>  
U.S. Fish and Wildlife Service Invasive Species Program: <http://nas.er.usgs.gov/>

## References

- Jude DJ. 2001. Round and Tubenose Gobies: 10 Years with the Latest Great Lakes Phantom Menace. *Dreissena!*: The Digest of the National Aquatic Nuisance Species Clearinghouse. NY Sea Grant. Brockport NY.
- Great Lakes Fishery Commission. 2000. Sea Lamprey: A Great Lakes Invader. GLFC Factsheet. Ann Arbor MI.
- O'Neill CR, MacNeill DB. 1991. The Zebra Mussel (*Dreissena polymorpha*) an Unwelcome North American Invader. NY Sea Grant. Coastal Resources Factsheet. Brockport NY.
- Pultz J. 1995. Exotics of Lake Ontario. NY Sea Grant Factsheet. Oswego NY.
- Thompson DQ, Stuckey RL, Thompson EB. 1987. Spread, Impact, and Control of Purple Loosestrife (*Lythrum salicaria*) in North American Wetlands. US Fish and Wildlife Service. Jamestown, ND.
- Vermont Agency of Natural Resources. 1998. Water Chestnut: Water-nut Family (*Trapaceae*). Vermont Invasive Exotic Plant Factsheet. Waterbury VT.

This paper is a result of research funded by a National Oceanic and Atmospheric Administration grant to the Research Foundation of the State University of New York of the New York Sea Grant Institute. The U. S. Government is authorized to produce and distribute reprints for governmental purposes notwithstanding any copyright notation that may appear hereon. The views expressed herein are those of the authors and do not necessarily reflect the views of NOAA or any of its sub-agencies.



New York Sea Grant  
229 Jarvis Hall  
SUNY at Buffalo  
Buffalo, NY 14260  
Tel: (716) 645-3610  
Fax: (716) 645-3612  
E-mail:  
SGBuffal@cornell.edu

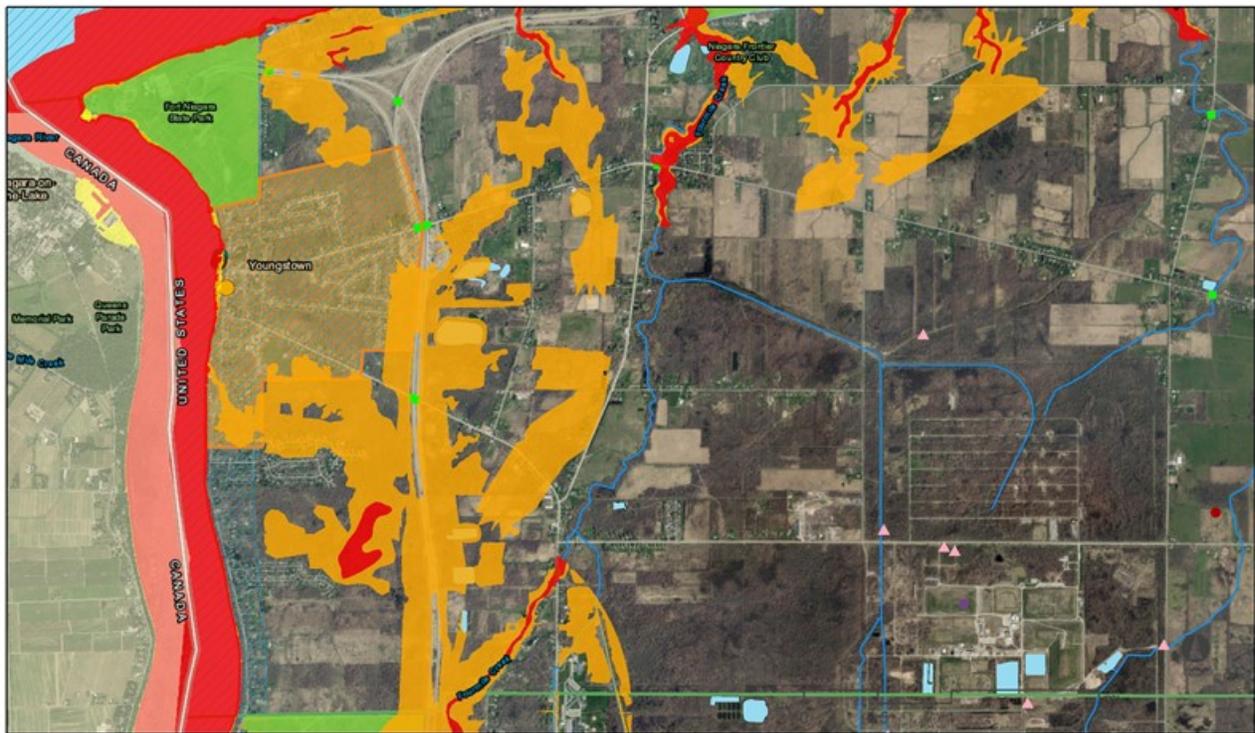
New York Sea Grant  
Morgan II  
SUNY College at  
Brockport  
Brockport, NY 14420  
Tel: (585) 395-2638  
Fax: (585) 395-2466  
E-mail:  
SGBrockp@cornell.edu



## APPENDIX F - RESILIENCY AND ECONOMIC DEVELOPMENT INITIATIVE (REDI) INFORMATION AND MAPPING

In response to the extended pattern of flooding along the shores of Lake Ontario and the St. Lawrence River, Governor Cuomo created the Resiliency & Economic Development Initiative (REDI) to increase the resilience of shoreline communities and bolster economic development in the region. Five REDI regions, comprised of eight counties (Niagara and Orleans, Monroe, Wayne, Cayuga and Oswego, and Jefferson and St. Lawrence) were established to identify local priorities, at-risk infrastructure and other assets, and public safety concerns.<sup>7</sup>

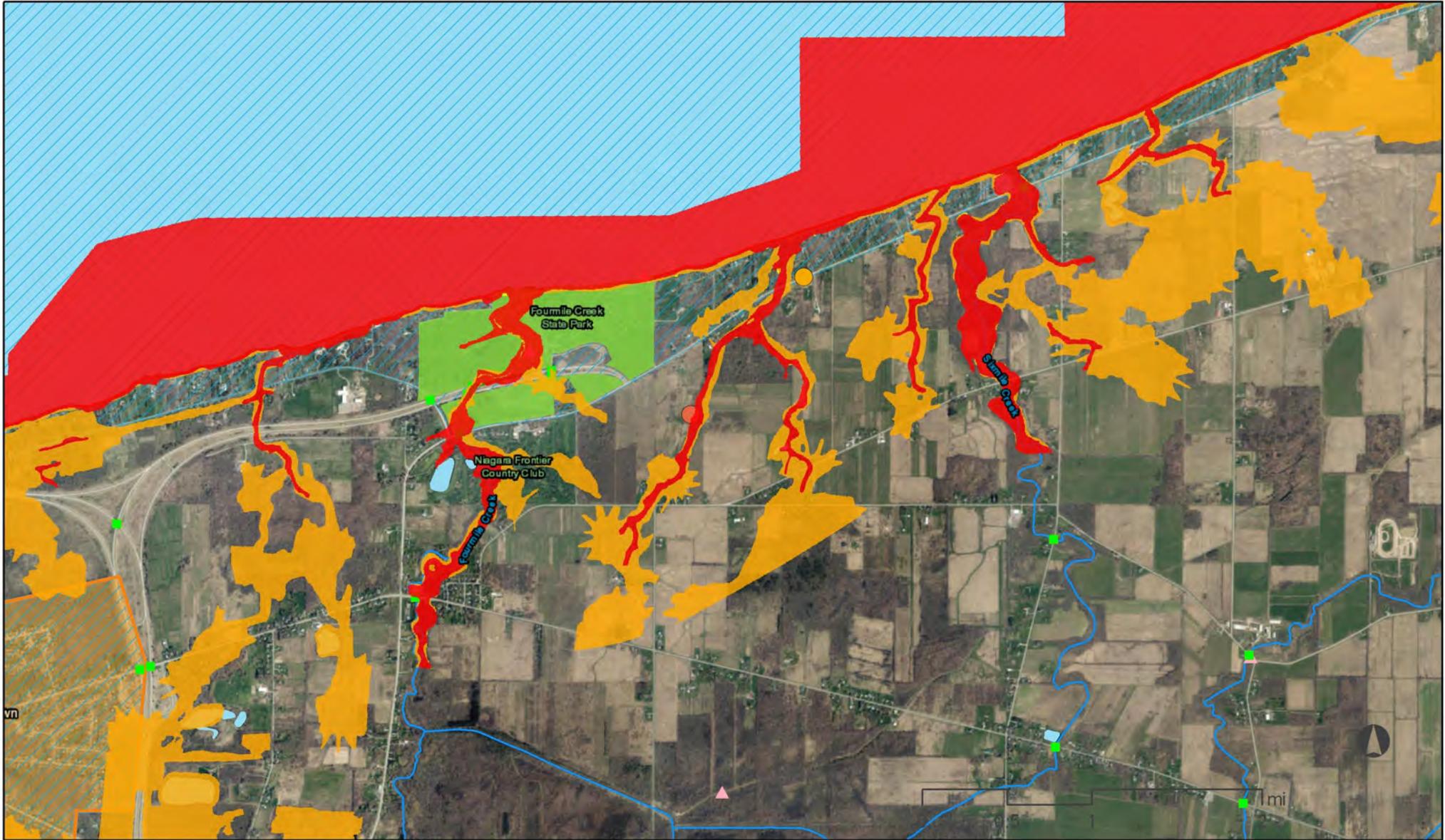
REDI



The New York Department of State (DOS) gives no warranty, expressed or implied, as to the accuracy, reliability, or completeness of data shown on this map product. DOS does not assume responsibility for the use or application of any information represented on this map nor responsibility for any error, omission or other discrepancy between the electronic and printed versions of documents.

<sup>7</sup> <https://www.governor.ny.gov/programs/lake-ontario-resiliency-and-economic-development-initiative-redi>

# REDI (2)



- |   |   |   |   |   |
|---|---|---|---|---|
| <span style="color: red;">■</span> Extreme          | <span style="color: red;">▲</span> Facilities that Discharge to Water Point | <span style="color: brown;">●</span> 07 - State Significant Municipal                                 | <span style="color: red;">●</span> 2005 - 2009    | <span style="border: 1px solid black; width: 10px; height: 10px; display: inline-block;"></span> Counties_Shoreline |
| <span style="color: orange;">■</span> High          | <span style="color: red;">●</span> 01 - State Significant Industrial        | <span style="color: orange;">●</span> 09 - PCI / State Significant (Private/Commercial/Institutional) | <span style="color: orange;">●</span> 2010 - 2014 | <span style="border: 1px solid orange; width: 10px; height: 10px; display: inline-block;"></span> Villages          |
| <span style="color: yellow;">■</span> Moderate      | <span style="color: purple;">●</span> 03 - EPA Major Industrial             | <span style="color: teal;">●</span> 1994 - 1999   | <span style="color: yellow;">●</span> 2015 - 2018 | <span style="border: 1px solid green; width: 10px; height: 10px; display: inline-block;"></span> Towns              |
| <span style="color: green;">■</span> NYSDOT_Bridges | <span style="color: orange;">●</span> 05 - EPA Major Municipal              | <span style="color: brown;">●</span> 2000 - 2004  | <span style="color: green;">■</span> State Parks  |   |



## Resiliency and Economic Development Guidance

In order to build resilience, reduce the risk of future property damage, and minimize habitat impacts, the DEC has compiled general guidelines for coastal design and development projects. The goal of these guidelines is to share technical data, regulatory guidance, best practices, and available resources for development along the dynamic shorelines of the Great Lakes and St. Lawrence River.

These guidelines can be found in our [Great Lakes and St. Lawrence River Coastal Development Fact Sheet](#) (PDF). DEC has compiled various tools and datasets that can aid property owners in the design and permitting of Coastal Development. The links to this information can be found in the "Additional Resources" section at the bottom of this page.

### REDI Fact Sheet

For any questions regarding DEC Permits for coastal development, please contact your Regional Permit Administrator. Contact information for the Regional Permit Administrators in each Region can be found at: [DEC Regional Permit Administrators](#).

### Additional Resources

#### NYS Permitting and Regulatory Standards:

- [New York Department of Environmental Conservation](#): Determine if your project will need a permit and learn about the application process.
- [New York Department of State \(DOS\)](#) (leaves DEC website): Frequently Asked Questions for the Coastal Management Program. Determine if your project is in the coastal area, if your project will need a consistency review and learn what you need to do if you have a consistency determination. Other factors to consider when planning and constructing your project.
- [US Army Corps of Engineers \(USACE\)](#) (leaves DEC website): Permit information and contact information for your area to make the determination if you need a permit.
- [Federal Emergency Management Agency \(FEMA\)](#) (leaves DEC website): Permit requirements for floodplain development - click on Navigation and type in Permit for Floodplain Development.
- [DOS Building codes](#) (leaves DEC website): NYS code enforcement and administration regulations.



*Click the image to open the Great Lakes and St. Lawrence River Coastal Development Fact Sheet (PDF)*

#### Wetland Considerations:

(links leave DEC Website)

- [Great Lakes Wetland Support Tool](#): Interactive map showing wetland areas.
- [NYS Designated Wetlands](#): Interactive map showing State regulated wetlands.

### **Floodplain Management Guidance:**

(links leave DEC Website)

- [National Flood Insurance Program](#): (click on Navigation and type in National Flood Insurance Program) Explains the need for insurance to reduce the impact of flooding costs.
- [Special Flood Hazard Area](#): (click on Navigation and type in Special Flood Hazard Area) Provides National Flood Insurance Program guidance and requirements.
- [Flood Insurance Rate Map](#): (click on Navigation and type in Flood Insurance Rate Map) Defines and gives guidance on Flood Insurance Rate Map (FIRM) which is an official map by FEMA of specific communities which have special hazard areas and/or the risk premium zones applicable to a certain community.
- [CRRRA Flood Risk Management Guidance](#): Guide to ongoing efforts to address climate change-related considerations in building and planning.
- [FEMA Coastal Work Map Viewer](#): Interactive map of work in process for coastlines.

### **Maps:**

(links leave DEC Website)

- [FEMA Floodplain Maps](#): (click on Navigation and type FEMA Flood Map Service Center) A service to create a map of a specific location that has been mapped by FEMA with flood elevations.
- [Local Geology](#): A US Geological Survey (USGS) map of the scanned geological surveys of the United States.
- [Lake Ontario Image viewer](#): USACE ArcGIS Online map of Lake Ontario oblique image of the shoreline.
- [Lake Water Level Viewer](#): Interactive map of the Great Lakes water levels.

### **Digital Data:**

(links leave DEC Website)

- [GIS Inventory](#): Available data layers from the New York State Department of Environmental Conservation.
- [GIS Inventory](#): Available data layers of imagery from New York State.
- [NOAA Shoreline Data Explorer](#): Interactive map with shoreline imagery.

### **Data Analysis:**

(links leave DEC Website)

- [Great Lakes Water Level updates](#): USACE Weekly data on the Great Lakes Basin water levels.
- [Sediment transport Analysis](#): Interactive USACE Sediment map showing recent conditions with increased shore protection.

## **Planning for Shoreline Stabilization**

### **Natural and Nature Based Features Design**

(links leave DEC Website)

- [Nature-Based Solutions](#): Guide of nature-based solutions and included cases studies to identify solutions using Nature-Based shoreline protections.
- [Streambank Bioengineering](#): Bioengineering approaches to shore restoration with plants and earth embankment stabilization.
- [Lake Ontario Natural and Nature Based Viewer](#): USACE interactive map to distinguish which land could be a natural or nature-based shoreline solution opportunity.

### **Structural Based Features Design**

- [USACE Erosion Protection Design Manuals](#): (leaves DEC website) Engineer manuals for coastal design.
- [USACE Revetment and Seawall Design Manual](#): (leaves DEC website) Design of Coastal Revetments, Seawalls, and Bulkheads.
- [NYS Coastal Erosion Control Design](#): Guidelines for repairs and planning for coastal properties.

### **Other considerations for design**

- [USACE Sediment](#): (leaves DEC website) Managing and planning for sediment erosion control of shorelines.
- [Climate Smart Communities](#): NYS program to help local governments in planning for changing climate.