

Village of Middleport Local Waterfront Revitalization Program

Adopted:
Village of Middleport Board of Trustees, August 19, 2002

Approved:
NYS Secretary of State Randy A. Daniels, January 27, 2003

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STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

February 27, 2003

RANDY A. DANIELS
SECRETARY OF STATE

Honorable Julia A. Maedl
Mayor
Village of Middleport
24 Main Street
P.O. Box 186
Middleport, NY 14105-0186

Dear Mayor Maedl:

It is with great pleasure that I inform you that I have approved the Village of Middleport Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive management program that promotes the balanced preservation, enhancement, and utilization of the valuable resources of the waterfront area.

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

I look forward to working with you, as you endeavor to revitalize and protect your waterfront.

Sincerely,

Randy A. Daniels

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VILLAGE OF MIDDLEPORT

**Resolution Accepting the Village of Middleport
Local Waterfront Revitalization Program As Complete and Ready for Public Review
And Authorizing Submission to the New York State Department of State**

WHEREAS, the Village of Middleport entered into a contract with the New York State Department of State to initiate the preparation of a Local Waterfront Revitalization Program, pursuant to Article 42 of the Executive Law; and

WHEREAS, the Draft Local Waterfront Revitalization Program (LWRP) and related local laws have been completed in accordance with said contract, under the guidance of the Village Waterfront Advisory Committee, the Village Attorney, the Village Board of Trustees; and

WHEREAS, the LWRP was subject to a required 60-day review period and modifications were made to the draft program document in response to comments received from this review; and

WHEREAS, the Village of Middleport Board of Trustees, as Lead Agency under the provisions of the State Environmental Quality Review Act, has prepared an environmental assessment form and evaluated the impacts of this action in accordance with the requirements of Part 617 of the implementing regulations of Article 8 of the New York State Environmental Conservation Law; and

WHEREAS, the Board has determined that there will be no adverse impacts upon the natural, institutional, economic, developmental or social resources of the Village, and have therefore, issued a negative determination of significance, which has been filed and published.

NOW, THEREFORE, BE IT RESOLVED, that the Village of Middleport Board of Trustees hereby accepts and adopts the Draft Local Waterfront Revitalization Program for the Village of Middleport; and

BE IT FURTHER RESOLVED, that the Village of Middleport Board of Trustees hereby directs the Village Attorney or appropriate designee to transmit the adopted LWRP and a copy of this resolution, to the New York State Secretary of State for approval pursuant to Article 42 of the New York State Executive Law - the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

State of New York)

) ss:

County of Niagara)

I, Rebecca A. Schweigert, Clerk-Treasurer of the Village of Middleport, New York, do hereby certify:

That, at a regular meeting held in the Village Hall on August 19, 2002, the Board of Trustees of the Village of Middleport, Niagara County, New York, by unanimous vote, adopted the above resolution, as stated in the minutes dated August 19, 2002.

In witness Whereof, I have hereunto set my hand and affixed the corporate seal of the Village of Middleport this 20th day of August, 2002.

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Rebecca A. Schweigert
Clerk-Treasurer

Village of Middleport
Niagara County, New York

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SECTION I

LOCAL WATERFRONT REVITALIZATION AREA BOUNDARY

SECTION I - Waterfront Revitalization Area Boundary

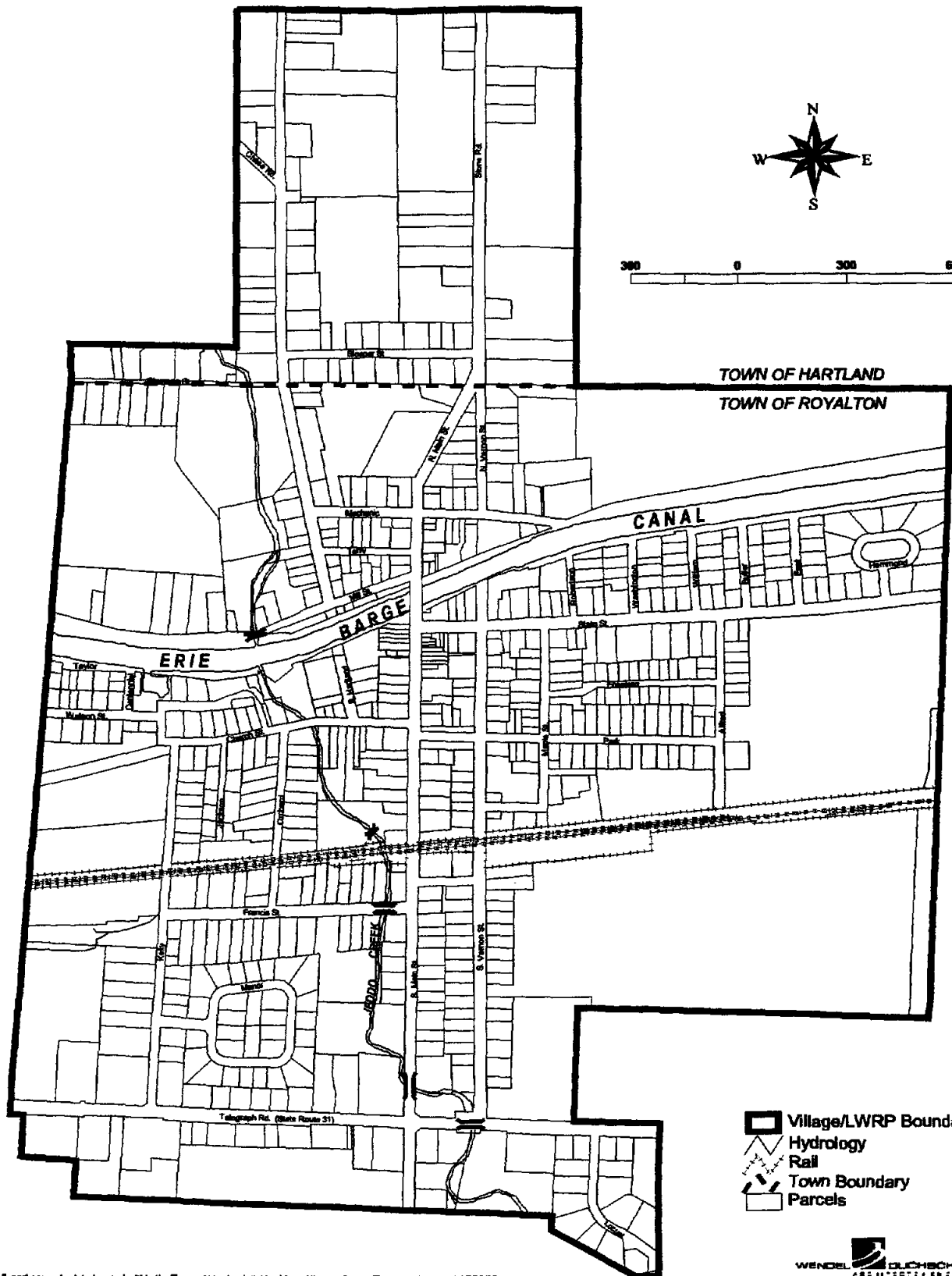
The boundary of the Village of Middleport Local Waterfront Revitalization Area (LWRA) coincides with the Corporate Boundary Line for the Village of Middleport and encompasses all of the land area within the Village limits. As shown on Map 1, the LWRA boundary is as follows:

Starting at the most northwesterly point of the Village limits, approximately 200 feet west of North Hartland Street, the LWRA boundary line follows the municipal boundary line east for a distance of approximately 1,250 feet to a point approximately 350 feet east of North Main Street. At this point the boundary runs south for a distance of approximately 1,300 feet, then progressing in an easterly direction, parallel with the Town boundary for a distance of approximately 1,300 feet. At this point, approximately 1,450 feet west of the boundary line between Niagara County and Orleans County, the LWRA boundary runs south for an approximate distance of 2,250 feet, then west for a distance of approximately 1,250 feet, then south for approximately 400 feet to intersect with Telegraph Road (State Route 31). Here the boundary runs east, along Telegraph Road, for an approximate distance of 300 feet, then south for approximately 550 feet, then west approximately 75 feet, then northwest for approximately 350 feet, then north for approximately 50 feet to a point approximately 300 feet south of Telegraph Road. The boundary then proceeds westerly, paralleling Telegraph Road, for a distance of approximately 1,700 feet, then north for approximately 150 feet, then west for approximately 200 feet, then north again for approximately 150 feet to intersect with Telegraph Road. Here the LWRA boundary follows Telegraph Road west for approximately 50 feet, and then runs north-northeasterly direction for approximately 2,600 feet to Sherman Road. The boundary then runs north a distance of approximately 150 feet from Sherman Road, and then east, paralleling Sherman Street for an approximate distance of 600 feet. Here the boundary heads north for approximately 1,200 feet to the point of beginning.

VILLAGE OF MIDDLEPORT

LOCAL WATERFRONT REVITALIZATION AREA BOUNDARY

MAP 1



Source:
 Village of Middleport property data located within the Town of Hartland digitized from Niagara County Tax maps by Wendel 7/22/99;
 Village of Middleport property data located within the Town of Royalton obtained from digital files current to 7/22/99 provided by Niagara County Real Property Services

WENDEL ELSCHESHER
 ARCHITECTS & PLANNERS
 January 2000

Map 1 - Waterfront Revitalization Boundary

SECTION II

INVENTORY AND ANALYSIS

SECTION II Inventory And Analysis

A. Regional Setting and Community Characteristics

The Village of Middleport is located in the eastern central portion of Niagara County (Map 2), and is situated within both between the Towns of Hartland and Royalton. This municipality was incorporated in 1859 and encompasses 0.87 square miles in land area. The Village is developed with a mix of residential, commercial, industrial, agricultural and open space land uses, and is bisected by the Erie Canal. The character of the area is essentially rural. The population of the Village is relatively stable and the majority of Village residents' commute to areas outside the Village for employment.

The Village was developed in conjunction with the construction of the Erie Barge Canal, which was completed in 1825, and was a major center for trade and commerce in the late 1800's. The first settlement in the area was established in 1806, about one mile away from the present day business district. With the construction of the canal, activity moved to the waterfront to benefit from the opportunities for waterborne transport of locally produced products and commerce. Folklore has it that the name Middleport was derived from the fact that the Village was midway between Lockport and Newport (now known as Albion) on the canal.

As one of the original canal communities, Middleport grew to become completely self-sufficient. In 1825, the Middleport branch of the U.S. Post Office was built. Continuous growth enabled the Village to incorporate. At one time up to sixteen industries flourished along Jeddo Creek (formerly known as Wildcat Creek). Many of these factories used the creek water in their manufacturing process and for power. The Erie Canal, along with the New York Central Railroad (which constructed a rail line through the Village), played an important part in Middleport becoming a major trade center by the late 1800's.

Over the years, due to the growth of the railroad industry and construction of overland vehicular transportation corridors, use of the canal has shifted, with transport and commerce giving way to increasing recreational use. Today the quaint Village of Middleport houses about 2,000 residents and is a popular tourist destination along the Erie Canal. The canal waterfront and Jeddo Creek are no longer used for industrial and manufacturing purposes. The canal is now bordered by private residences, farmland, and a right-of-way area that is used for public recreation. Commercial businesses have centralized along Main Street and State Street, adjacent to the canal. The only business that remained on the canal shoreline was the Basket Factory, which operated as a restaurant and marina (this facility closed down in 2000). In line with the shift in the use of the canal from transportation oriented activities to recreational use, one of the Village's long range goals is to further promote tourism in the area through the provision of improved services and recreational opportunities along the waterfront. Another goal is the revitalization of the central business district.

B. Upland Uses

1. Existing Land Use

Land uses in the Village of Middleport include residential, commercial and industrial development, with some minor agricultural activity. The Village has a central business district (CBD), which is situated along Main Street and State Street, south of the canal, with residential development distributed around the Village center. Industrial uses, and additional commercial uses, are located in the southern half of the Village (see Map 3).

Single-family residential is the predominant land use in the Village of Middleport. There are 557 single-family homes and more than 200 multi-family housing units in the area. Most of the housing stock is in good condition even though over half of the homes (58.7 percent) were built before 1939. Very few new homes have been constructed in the Village during the last ten years. With the exception of the canal right-of-way, the majority of the waterfront along the Erie Canal is developed with private residences. Although allowed by zoning, there are no overnight accommodations or bed and breakfast establishments in the Village. The closest bed and breakfast use is located west of the Village on Peet Street, in the Town of Royalton. The lack of such facilities restricts tourism opportunities in the area for boaters and other

visitors. A more structured plan for tourism and economic development will help to promote these types of uses.

The CBD loosely encompasses the area between the southern shoreline of the canal, Vernon Street, Park Avenue and South Hartland Street (see Map 5). This area contains a number of institutional buildings, such as the Village Hall, police station, fire department, post office, and two churches, as well as a variety of commercial businesses. The CBD is connected to the northern portion of the Village by a lift bridge that crosses the Erie Canal. Commercial businesses in the district include two banks, three restaurants, professional offices, a beauty salon and a bait and tackle shop. There are a total of 20 private storefronts in this area. Other institutional uses in the Village lie outside the CBD, including the public utility substations, churches, and the Royalton-Hartland Central School District property.

Most of the buildings in the CBD are two-story mixed-use structures with apartments on the upper levels, above the commercial storefronts. The buildings and facades are generally in fair to good condition, although a cluster of buildings on the eastern side of Main Street, at the corner of State Street, is in poor condition. Two of these buildings have fire damage on the second and third floors. The facades of these buildings are in need of restoration, including new paint and windows. In all, five of the 14 storefronts on the eastside of Main Street are vacant. A local grassroots organization is actively working to help improve commercial activity in the CBD, with a major focus on the restoration of the fire-damaged structures.

The real estate market in Middleport is stable and land and commercial space are relatively inexpensive. The CBD, however, has a high commercial vacancy rate. In an effort to boost tourism in the Village and benefit from the close proximity of the canal, measures must be taken to improve the reuse and redevelopment of the underutilized properties in this area.

The streetscape in the CBD was renovated in recent years as part of a road reconstruction project sponsored by the New York State Department of Transportation. The sidewalks were replaced and ornamental red brick pavers and new aesthetic light fixtures were installed. These improvements have aided in enhancing the physical quality of the CBD for tourists and local residents alike.

A second commercial area in the Village is located along Telegraph Road (State Route 31), west of Main Street. This area contains several types of neighborhood and business retail uses that have developed in a strip pattern. The commercial businesses situated along this corridor (to the east and west of Main Street) include an auto supply store, a gas station, a motor repair shop, a farm equipment retailer, restaurants, a convenience store, and other consumer services.

As shown on Map 3, large areas of open space exist in the Village, primarily north of the canal. The land area south of the canal is built out and very little open area exists here, aside from some limited areas of public parkland. With the exception of the narrow right-of-way corridors situated immediately along the shoreline, the only significant parcels of open space located along the canal include Margaret Droman Park, which is owned by the State, and two large privately owned parcels situated on the west side of South Hartland Street.

Industrial land use is predominant along the railroad corridor that runs parallel to and one-half mile south of the canal. Businesses in this area include metal machining and fabricating companies, fruit processing, building fabrication, and agricultural warehousing and farm supply companies. The three largest industrial operations in the Village are FMC Agricultural Products Group, which manufactures pesticides and herbicides, Niagara Foods, and Barden Homes. Several smaller industrial uses are located in the vicinity of Kelly Avenue and the railroad line and on Telegraph Road. The Avery Hall Corporation, which is located at the corner of State Street and Vernon Street, and Sigma Motors, which is located directly north of the Main Street lift bridge, are the only industrial land uses situated in close proximity to the canal. Both of these businesses conduct light industrial activities. Neither of these businesses nor any of the other industrial uses in the Village utilize the canal for commerce. The railroad line, which links the Village with the cities of Buffalo and Rochester, is actively used by local industries for transport.

There is no transitional boundary between the industrial and residential uses in the Village. Open storage garages and bays abut residential properties in several instances. Certain industrial uses are located adjacent to Jeddo Creek, in areas that are essentially residential or commercial in nature.

There are three parcels located in the northern portion of the Village that are used for growing crops. These parcels total 34 acres in area; the largest of the three is situated immediately north of the canal. These parcels contain Hilton soils, which are designated Class 2 and considered valuable for crop production. Although agriculture is a dominant use in the outlying area and region, there are no other farmlands within the Village limits and agriculture is not a prominent use in the Village.

There are certain sites in the Village that are considered underutilized, deteriorated or abandoned. They consist mostly of current and former industrial properties that are located along the north side of the railroad tracks, both east and west of Main Street. They include: the area in the lumberyard, located between Main Street and Orchard Street, which is presently utilized for storage and warehousing; an abandoned industrial area situated south of Park Avenue, just west of the school district property (between Maple Street and Alfred Street); the CMSB Magnetics property on Telegraph Road, which is not utilized to its full potential; and the Haas property, which is situated south of the FMC facility, on Telegraph Road. These sites have the potential for redevelopment and reuse. The Village anticipates that these areas will be revitalized and maintained for industrial use.

Another important site that requires revitalization is the former Basket Factory restaurant and marina. This facility, which closed in early 2000, has a longstanding history in the Village and was a thriving commercial business that attracted visitors to the area. It is important to the economy of the Village and the tourist industry for this site to be reopened.

2. Zoning and Other Land Use Regulations

The Village of Middleport regulates land use through their Zoning Ordinance and Official Zoning Map and through their Site Plan Review Regulations. The Village has no subdivision regulations. The Zoning Ordinance classifies three use districts: Residence, Business, and Industrial. The Residence classification has two subcategories to regulate development density, R-1 and R-2 (see Map 10). R-1 districts are the most restrictive in the Village, allowing only one and two-family dwellings, churches, parks, schools and traditional home occupations.

Buildings in R-1 districts may not exceed 35 feet in height nor cover more than 30 percent of the total lot area. The minimum required lot width is 75 feet and minimum lot area is 7,500 square feet. Off-street parking is required, but the ordinance does not specify the number of spaces required per dwelling unit. The Ordinance also establishes setback requirements for yards.

The R-2 classification allows multiple-family dwellings in addition to the uses permitted in an R-1 district. Buildings in an R-2 District may not exceed 40 feet in height nor cover more than 40 percent of a total lot area. The minimum lot dimensions in an R-2 district are the same as in an R-1 District.

The Business classification (B-1) allows residential uses, as well as retail and wholesale shops, restaurants, hotels, theaters, commercial recreation centers, motor vehicle sales and service, and other non-nuisance types of activities. Buildings in a Business District may not exceed 35 feet in height nor cover more than 40 percent of the total lot area. The dimensional requirements for lots are the same as the residential districts, but the yard setback requirements are less restrictive. There are no parking requirements for B-1 district uses, contained in the Zoning Ordinance.

The Industrial classification has two subcategories: F-1(Industrial) and L-1(Light Industrial). The F-1 zone permits a range of uses, including nuisance industries. There are no restrictions on building height, but yard setback restrictions are established for parcels zoned F-1 that border residential lots. There are no parking requirements for F-1 district uses.

To alleviate potential nuisance conditions and allow for more transitional uses, the L-1 classification allows for less intrusive manufacturing uses. This classification permits light manufacturing, warehousing, office and other such uses, that are more compatible with residential uses.

The Village's Site Plan Review Regulations require applicants to submit site plans for review of projects over a certain size to allow for the review of stormwater management systems, flood damage and erosion control (where required), and to control site and roadway access and design, landscaping and the overall use of the site.

An available tool for future land use planning is the adoption of a waterfront recreation zoning district or an overlay district to plan and manage land use activity along the waterfront, better control aesthetics in the CBD, and to improve public access to the waterfront. This district could be designed to restrict certain types of uses, promote and enhance opportunities for water-related recreational uses, and protect existing uses. Standards could also be established to regulate development and redevelopment activities through the specification of criteria for approving projects along the canal (or within the district). In considering such zoning, and the extent thereof, the Village Board must weigh the restrictions involved against any potential negative impacts or limitations on the future use of existing properties in the area.

3. Land Ownership Patterns

Much of the land in the Village of Middleport is held in private ownership. With the exception of the shoreline right-of-way corridors situated along both sides of the Erie Canal (which measure approximately 8,450 linear feet in total length and vary between 25 and 125 feet wide), the waterfront area along the canal is fully developed and held in private ownership. This public right-of-way is owned and maintained by the New York State Thruway and Canal Corporation (see Map 4). The Canal Corporation also owns two parcels that are contiguous to the north shore right-of-way, just east of the lift bridge, one of which is used as parkland; the other is vacant land.

The Village of Middleport owns a number of properties in and around the CBD. These include:

- A 35,000 square-foot parcel located at the foot of South Hartland Street, along the canal, which is developed with a parking lot containing the Village Department of Public Works garage (the Village leases an adjacent section of the right-of-way from the State Canal Corporation that is used as public park area);
- A 3,900 square-foot parcel located on the west side of the terminus of South Hartland Street, which is used for public park and access purposes;
- the Village Hall, the Village Fire Department, the Village Library and an additional public parking lot, all situated in the CBD;
- the area north and south of Park Avenue, which is utilized as a public commons area;
- a 1.2-acre undeveloped property situated on the west side of North Hartland Street; and
- a 4.5-acre parcel of undeveloped land located between Mechanic Street, North Main Street and North Hartland Street.

The New York State Department of Transportation owns a 5,835 square-foot lot, situated approximately 50 feet west of Jeddo Creek. The lot is used to provide maintenance access to the canal spillway and sluiceway. New York State Electric and Gas also owns a 1,800 square-foot parcel that is situated between the two parcels that are owned by the State Canal Corporation, on the north side of the canal. This is the site of an operating substation. Niagara Mohawk Power Corporation also owns two parcels in the vicinity of South Main Street and South Street. The larger of the two contains a power sub-station. In addition, the Royalton-Hartland Central School District owns the large property located in the eastern portion of the Village, north of the railroad tracks.

4. Water-Dependent and Water-Enhanced Uses

The marina at the former Basket Factory restaurant is the only water-dependent use on the canal in the Village of Middleport. All of the developed uses that abut the shoreline of the canal are water-enhanced, as they derive added value from their waterside location. These water-enhanced uses primarily include residential dwellings and public parkland.

Looking to the future, the northeastern shoreline of the canal is an area that is sited for the expansion of water dependent uses. The Village would like to see this area utilized for water-related recreational use and other such uses that would promote tourism and the improved use of the canalside facilities.

5. Tourism

With the rise in the use of the Erie Canal for recreational boating, fishing and tourism, the Village of Middleport has become more popular as a tourist destination. This is a trend that the Village would like to build upon. At present, visitors to the Village enjoy the ambiance of the central business district and the shoreline amenities (as described in greater detail in Section D). Through advertisements in tourism literature produced by the Niagara County Department of Planning, Development and Tourism, among other things, tourism interest in the area is increasing. By implementing a number of improvements in the waterfront area, the Village hopes to capture an even greater number of visitors in years to come.

The shoreline of the canal is developed with uses that are enhanced by their waterside location. The State right-of-way along the banks of the canal contains a former towpath for barges and vessels, which has been revitalized by the State as the Canalway Trail. Local organizations have improved portions of the shoreline right-of-way on the canal with picnic tables, community bulletin boards, and landscaping (which they maintain).

Tourism along the canal is seasonal, with boating occurring from early May to late October. The Village would like to enhance opportunities for tourism along the shoreline and in the CBD during this active season through the provision of additional amenities, such as bicycle rentals, canoe rentals, play equipment for children, more picnic tables and benches, and additional public restrooms and improved shower facilities. These ideas are tied with the Village's desire to improve certain properties for public use along Front Street on the north shore of the canal, just east of the lift bridge. This area includes Margaret Droman Park, which is a part of the State right-of-way; a privately owned undeveloped parcel, which could be acquired for parkland purposes by the Village; the adjoining area of vacant land that is owned by the State Canal Corporation; and the former Lone Star hotel property, which the Village would also like to acquire for reuse as a public facility, possibly a comfort station, canal tourism center or related commercial use. This area possesses the greatest potential for shorefront revitalization in the Village and could be redeveloped as a contiguous public recreation area. In addition, the area where the Village's Department of Public Works garage is located, adjacent to the canal, could be more effectively utilized for public recreation if this garage were relocated in the future to another site in the Village.

The New York State Canal Recreationway Commission prepared a plan for the canal in 1995. This Plan identified service ports along the canal and offered a number of recommendations for these ports. With respect to the Village of Middleport, which was identified as Service Port #4, the Plan proposes certain Canalway Trail support facilities to include telephone service, trash drops and informational signage, as well as boat fenders and tie ups. The Plan further recommends a canal service package of planning improvements for the area that include upgrading and expanding existing electric and water service, providing restrooms and shower facilities, improving lighting and informational signage, improving the rear facades of buildings that face the canal, and orienting commercial activities toward the canal. The Village is considering and supports many of these improvements as a means of improving the canal environment for local use and tourism.

In July of 1999, legislation was signed to establish the Western Erie Canal Heritage Corridor, which includes the canal area that extends from Wayne County to Erie County. This legislation requires that a planning commission be formed to guide the preparation of a plan for implementing and managing the Heritage

Corridor, and the resources contained therein, in an effort to increase economic development and heritage tourism.

C. Surface Waters and Surface Water Uses

Surface waters in the Village of Middleport include Jeddo Creek and the Erie Canal. Jeddo Creek is a small creek that flows in a northerly direction through the Village. The headwaters for this creek are located approximately 4.5 miles south of the Village limits, in the Town of Royalton. Jeddo Creek continues north, beyond the Village, converging with Johnson Creek and ultimately discharging to Lake Ontario. Within the Village, this creek is a small channel with intermittent flow, and provides very limited opportunities for fishing and passive recreation. Outside the Village, the Creek is utilized for farmland irrigation. In the early part of the last century, a dam and reservoir were constructed on Jeddo Creek, approximately one mile south of the Village, to provide public water supply, but this water source is no longer utilized. This reservoir has restricted the volume of water that flows through the Village, south of the canal. Canal water that is diverted through the spillway enhances the creek flow to the north of the canal (the spillway is discussed in greater detail in subsection 2, below).

The Erie Canal extends through the Village of Middleport for an approximate distance of 1.25 miles. This portion of the canal is a man-made channel that has an average width of 100 feet and a depth of 12 feet. The banks of the canal are armored to guard against shoreline erosion. The New York State Canal Corporation owns 8,448 linear feet of shoreline, which spans both sides of the canal. This area is maintained as a right-of-way area that ranges from 25 to 125 feet in width.

The canal was constructed in 1825 to provide a means of waterborne commerce across the State. Today, the canal supports a growing tourist and recreational boating industry and is the only navigable waterway in the Village.

1. Marinas, Docks and Bulkheads

As previously noted, there is one marina located along the canal, west of the lift bridge. This marina was operated by the Basket Factory restaurant and can accommodate eight boats measuring up to 40 feet in length. It is primarily utilized by recreational boaters. Vessels can tie up to a series of wooden docks that are connected to the shoreline by planking that encircles three of the four sides of the facility. The shoreline of this marina is not protected with bulkheading. There are also three wooden docks located on the southern shoreline of the canal, east of the lift bridge. These docks are owned and maintained by adjacent landowners and extend a maximum of 10 feet into the canal from the shoreline.

A concrete seawall exists to the east and west of Main Street on both sides of the canal to protect against bank erosion. This seawall extends approximately 500 feet in each direction. In certain locations near the lift bridge this wall is showing signs of deterioration that present potential public hazards. The State Canal Corporation should survey the seawalls to the west of the lift bridge and make repairs, where required, to remedy existing public safety hazards and improve the area for vessel docking. Any seawall repairs that fall within the right-of-way area for the lift bridge would be the responsibility of the New York State Department of Transportation. Maintenance on the lift bridge was last performed in 1996.

In the vicinity of the lift bridge, metal cleats have been installed by the State at 50-foot intervals along the wall for public use. The most popular area for vessel docking is along the southern side of the canal, west of the lift bridge. This area includes a 30-foot wide right-of-way area that is developed with lawn and picnic tables. Transient boaters frequent this location, docking for up to weeks at a time. Boat docking also occurs along the north shore of the canal, west of the lift bridge, and along both shorelines to the east of the bridge.

The lift bridge operator in the Village keeps records of the number of vessels that dock in the Village. During the 1999 season, 1111 vessels were recorded. This is an increase over the previous three years, with 1,036 reported in 1998, 776 vessels in 1997, and 999 vessels in 1996. Based on these data, it appears that vessel activity in the Village during the summer season is increasing.

As previously noted, the Village leases a portion of the canal right-of-way, on the south shore to the west of the lift bridge. Here are provided eight electrical hook-ups, a water connection, and picnic tables for public use. Small showers and restrooms are also provided for the public in the nearby Village Department of Public Works garage. In addition, a community bulletin board is maintained on both sides of the canal and local organizations have installed additional picnic tables for public use.

Improved docking facilities on both sides of the canal, as well as improved public amenities (such as public restrooms and showers) are needed to boost tourism and public use of the waterfront, and to better accommodate the increasing number of vessels that frequent the Village. Potential locations need to be identified and examined to determine what is most feasible. A long range goal would be to acquire a large parcel of waterfront property for the construction of a public marina. The most feasible site for such a project is the 20-plus acre property located on the northeastern shoreline, which is presently actively farmed.

2. Vessel Use, Navigation, and Canal Maintenance

The Erie Canal is open from early May to mid November. The lift bridge operates daily from 7:30 AM to 10:30 PM. These hours of operation are more restrictive from mid October to November. The lift bridge operator rotates between the bridges at the Village of Middleport and the Village of Gasport. When not at the Middleport bridge, the operator can be hailed by radio or telephone. This lack of presence at the Middleport bridge affects use of the canal, and better coverage should be considered by the State Canal Corporation. There are no navigation charts available for the canal section near Middleport, although the State Canal Corporation does publish a series of maps that identify the location of lift bridges, locks and fueling stops.

A spillway is utilized to control the water level in the canal, which is located on the southern shoreline at Jeddo Creek, west of the Main Street lift bridge. This spillway device consists of an approximate 30-foot wide opening in the canal wall that conveys water to Jeddo Creek to reduce the potential for flooding. Water flows over this spillway and down an approximate 40-foot sluiceway, reaching the creek just south of the mouth of the stone culvert that carries creek waters beneath the canal. There is also a 6-foot by 3-foot sluice gate that can be utilized under extreme conditions to discharge a greater volume of water to Jeddo Creek. The spillway and sluice gate are maintained by the State Canal Corporation.

The State Canal Corporation conducts annual surveys of the canal corridor to determine places where silt has accumulated and where shoreline erosion is occurring. Silt and sediment are carried into the canal from Tonawanda Creek. The shoreline of this creek is unprotected and sediments from bank erosion are carried in suspension by high velocity flows. In areas of the canal where the gradient is more stable and flows subside, the sediments settle out and deposit on the canal bottom. The only location that has required dredging in the Village of Middleport has been near the entrance to the Basket Factory marina, on the southern side of the canal, west of the lift bridge. Here the sediment accumulations along the canal bottom are disturbed by the wakes of passing boats and redeposited at the entrance to the marina. Signage has been installed to direct boaters to control their speeds in this area in an effort to control this problem. The area was last dredged in 1987 and no current problems have been reported. Dredge spoil is disposed of at an upland disposal site located approximately two miles east of the Main Street lift bridge, in the Town of Bridgeway, in Orleans County.

Certain Statewide boating regulations are in force along the Erie Canal, including speed limitations, requirements for the use of personal flotation devices and vessel waste treatment and disposal restrictions. The vessel speed limit in the canal is 10 miles per hour. The New York State Police Troop A and the Niagara County Sheriff's Department are the agencies responsible for enforcing these regulations. In the event of a violation, canal personnel will contact either of these agencies which can launch a patrol boat in response to the call. There are no police boats temporarily or permanently docked in the canal. Although the County Sheriff's Department does not usually patrol the canal, the towpath (Canalway Trail) is used by law enforcement vehicles to monitor vessel speeds.

There is a vessel waste pump out station on the northern canal shoreline, immediately west of the Main Street lift bridge. This pump is hand operated and is actively utilized. The discharge of vessel waste is only

permitted from vessels equipped with a US Coast Guard certified Type 1 marine sanitary device. However, these devices are illegal in vessels that exceed 65 feet in length. Several types of deodorizers to treat this sewage are illegal as well.

D. Public Access and Recreation

Public parkland in the Village of Middleport includes Rotary Park, the Erie Canalway Trail and the canal right-of-way corridors, a small Village Commons, and Margaret Droman Park. There is also a small parcel that is used for picnicking along the southern canal right-of-way, which is leased by the Village (see Map 4).

The Village Commons is essentially a wide public commons area that extended along both sides of Park Street, between Main Street and South Vernon. It contains some monuments at the west end and lawn and trees along its length (Map 4). The Village Tourism and Beautification Committee has placed benches along this area for public use. The Village Commons is also the site of Art Festival ceremonies, and is quite unique and picturesque.

The Middleport Rotary Park, which is located south of Telegraph Road in the southeastern corner of the Village, is a community park owned and maintained by the Village of Middleport. This park is approximately 5 acres in size and is actively utilized by the Middleport Boy Scouts. This park has a sheltered picnic area, playground, and an outdoor skating rink. This park also contains undisturbed woodlands and open space and is known for its wildlife viewing opportunities. A Village-owned public recreational building, known as the "Scout House," is maintained at this site and is used by senior citizens, boy scouts and other local groups, as well as other public gatherings. At present, the Village has no plans for additional improvements at this site.

A towpath on the north side of the canal is a designated portion of the Erie Canalway Trail. This trail system comprises a network of 220 miles of existing multi-use, recreational trails that stretch across New York State. The segment that extends through the Village is part of the 70-mile long Erie Canal Heritage Trail, which runs from Lockport to Fairport. The Canalway trail in Middleport is unpaved, approximately 10 feet wide, and runs along the north side of the canal right-of-way. It is utilized for hiking, bicycling, cross-country skiing, and horseback riding. This trail is closed to motorized vehicles. There are several metal cleats for docking boats and electrical hookups on the canal seawall along the trail for public use. The trail is also marked with signage that details the historic significance of the Canal and public information panels, which are maintained by the Middleport Tourism and Beautification Committee. It should be noted that use of the Canalway Trail is interrupted at the lift bridge, where users must exit the path to cross Main Street. As a safeguard, the crosswalk in this area should be stripped with paint and signage should be affixed to the bridge to alert motorists to the location of the walk and potential movement of pedestrians and bicyclists. Furthermore, the lift bridge is constructed at a higher grade than the path, which impedes handicapped accessibility.

There is a small park situated on the northern side of the canal, east of the lift bridge, which is a part of the State right-of-way for the canal. This park, known as Margaret Droman Park, provides pedestrian and bicycle access to the Canalway Trail. It contains a large area of open lawn with no other amenities. This property has the potential for improvements to boost its public use and enjoyment. Future improvements at this site should be tied to other proposed improvements for this area of the shoreline, as discussed in Section B.5.

The entire shoreline of the Erie Canal is unobstructed by fencing and easily accessible. Several well-used formal and informal points of public access exist along the canal (Map 5), which allow entrance to the Canalway Trail and/or provide opportunities for fishing. There are no playgrounds, sun shelters or benches along either side of the canal shoreline to benefit users, although a few picnic tables are located in certain areas along both sides.

The Canalway Trail, Margaret Droman Park, and other frequently used shoreline areas should be further improved with such amenities. The area immediately north of the Village parking lot, on the west side of Main Street, has a picnic area. A shower and restroom, for use by transient boaters, is also provided in the nearby Department of Public Works garage. It is the Village's desire to provide an improved public restroom and shower facilities at this location in the future, and possibly additional amenities of this type on the north side of the canal.

The Canalway Trail is a favorite spot for viewing boats, bike riding, walking and running. Bicycling is disrupted briefly when crossing Main Street where no curb ramps exist. For safety reasons this is acceptable, though, because it discourages crossing the road at high speeds. State Street and the southern portion of Main Street, from Telegraph Road to the canal, are shared roadways for bicycle use. As indicated in the New York State Canal Recreationway Plan, these sections of NYS Route 31 have been officially designated as route segments of the Canal Scenic Byway (known as NYS Bike Route #5). Bicyclists utilizing this bike route can gain access to the Canalway Trail in Middleport.

The marina at the Basket Factory restaurant provides opportunities for recreational fishing and scenic viewing. The marina is easily accessible from a parking area that is principally utilized by restaurant patrons. This facility is also accessible to pedestrians and bicyclists as well. The marina does not have a boat launch ramp; the closest boat launch to the Village is located two miles to the east, on State Route 31E (there is also a boat launch ramp in the Village of Gasport). A boat launch ramp in the Village would help to improve opportunities for tourism and increased recreation. The Basket Factory property, the terminus of Centennial Street, and Margaret Droman Park are three potential sites for such a facility. However, sufficient parking is an important consideration. Thus, the feasibility of providing a boat ramp in the Village and, ultimately, an appropriate location must be determined. In the future, should the Village acquire any large parcels of waterfront property, as discussed in Section C.1, a boat launch ramp could be included as a part of the site development plans.

As previously noted, the Erie Canal is actively utilized during the spring, summer and fall for recreational boating and fishing. Fishing occurs from in-water vessels and from numerous points along the shoreline. Essentially, a fishing line can be dropped from just about any location. During the winter the canal is drained when floodgates located off Fiegel Road in the Town of Pendleton are closed. The minimal amount of water in the canal basin allows its use for winter recreation, although there is no easy means of access to the canal basin, and there are currently no plans by the Village to provide access or promote such use. Ice-skating, ice hockey, hiking and snow mobiling are activities that occur regularly within or along the canal. An annual 5-K foot race is also sponsored along the Canalway Trail. In addition, the canal is utilized for the disposal of excess snow generated from plowing activities in the CBD.

In general, there is a need for additional public parkland and passive recreational opportunities in the Village. There is also a need to improve publicly owned waterfront lands to enhance their use by the public. The Village needs to examine whether and how certain public lands can be better utilized for passive and active recreation, including the 1.2-acre site on the east side of North Hartland Street and the 4.5-acre area of undeveloped open space located between Mechanic Street, North Main Street and North Hartland Street (see Map 4). There are also certain private lands located in close proximity to the canal that could either be acquired by the Village or privately improved to increase recreational opportunities and boost tourism. In addition, the Village needs to improve opportunities for tourism during the active season along the canal. Canoeing and rowing should be promoted. Canoe rentals, as well as bicycle rentals, could be offered to enhance opportunities for this activity. The school district and local clubs should also be encouraged to utilize the canal for rowing activities.

E. Historic and Cultural Resources

The first settlers in the Middleport area arrived in 1806 and lived one-mile southwest of the current village limits. The first store in the Village, which still stands, was established in 1822, three years before the completion of the Erie Canal, at a location where Main Street crosses the canal. Between 1830 and 1840 a tannery, a blacksmith shop, a tailor and the first blast furnace in the Village also established business along the canal. The Village was officially incorporated in 1859. The Main Street lift bridge was constructed in 1912, replacing the Vernon Street Bridge as the primary crossing (the old bridge was removed in 1994). There are a number of buildings and sites of local and national significance in the Village of Middleport, including one that is listed on the National Register of Historic Places and two that are listed on the State Register. Although only three have made the National or State registers, many others are locally significant and worthy of recognition (see Map 6).

James Northam established the first store in the Village (c. 1822), at 5 Front Street on the north shore of the canal, just east of the lift bridge (which is the site of the former Lone Star hotel). At present the property has no local or state historic designation, but is the oldest structure in the Village and is a significant local landmark and

canal heritage resource. The structure is 708 square feet, and is privately owned. It is a deteriorated state and in need of renovation to preserve the existing structure. As discussed in Section B.5, this is the site that the Village would like to acquire for renovation as a public facility.

The Universalist Church (circa 1841), at 46 Main Street, was constructed using an early pioneer technique of three-inch rock and mortar gathered from Lake Ontario. This site is listed on the State Register of Historic Places. Another stone and mortar building of significance (circa 1859) was constructed at 5 Vernon Street. The home of Philip Freeman (circa 1820), which is located at 106 Telegraph Road, is also listed on the State Register of Historic Places. This structure is not only the oldest in the Village, but it is rumored that at one time it was a stop along the Underground Railroad. The Village Post Office, which is located on Main Street, at the corner of Church Street, was constructed as a part of the New Deal's Works Progress Administration in 1940. This structure is the only building in the Village that is listed on the National Register of Historic Places. The 12 buildings on the eastern side of Main Street were built in 1880 after the original structures were destroyed by fire. The Fireman's Building across Main Street was constructed soon after, in 1891.

There are certain other buildings of local historic significance in the Village. These include the Basket Factory restaurant building (circa 1893) and marina, which is located further west of Main Street on Watson Avenue, and was once used to manufacture baskets. The marina was originally a holding pond for logs that were used in the manufacturing process, and were floated (transported) on the Erie Canal. Next to the Basket Factory restaurant is a power substation that was constructed in 1908 to help operate a trolley between Rochester, Lockport and Buffalo. Other buildings worth mention include St. Stephen's Church on Vernon Street, the United Methodist Church on the corner of Vernon Street and Park Avenue, and the Town and Country Inn (formerly the American Hotel) on Vernon street.

The majority of the oldest existing buildings of historic significance in the Village are located in the CBD, in close proximity to the canal. With such a high number of historically significant structures clustered in one area, it is recommended that this area of the Village be considered for designation as an historic district. This would afford these structures more prominence and protection with regard to reuse and redevelopment. There are currently no standards or restrictions in place to protect the historic significance of these structures.

The Village of Middleport is also characterized by numerous archaeological resources. In this regard, the New York State Office of Parks, Recreation and Historic Preservation has identified the entire area as a zone of archaeological sensitivity.

F. Scenic Resources

The scenic resources in the Village of Middleport consist of man-made structures in the CBD, tree-lined streets, quaint residential neighborhoods, and scenic views from the shoreline of the canal. The historic business district is the most significant piece of heritage in the Village. The combination of the attached two-story structures and the streetscape design is an important scenic feature in the Village. The storefronts in the CBD were constructed in the late 1800's and several of the homes along Main Street are original structures, built in the early to late 1800's. These homes have seen very little exterior alteration since their construction. A Village Commons area is located along Park Avenue, which contains several veterans and civil service monuments, adding additional aesthetic value to the Village center. There are also numerous points along the shoreline that have impressive, unobstructed views of the canal. There are no locations along the canal that offer degraded views.

G. Public Infrastructure

1. Water Supply

The Village of Middleport obtains 40 percent of the potable water supply, or an estimated 0.10 million gallons per day (MGD), from the Niagara County Water District (NCWD). The NCWD draws water from the west branch of the Niagara River, which is filtered and treated with a combination of chlorine and a

corrosion inhibitor at the District's water treatment plant in the Town of Wheatfield. The Village obtains the remaining 60 percent of the potable water supply, which is estimated at 0.15 MGD, from a public supply well located southwest of the Village. Water from the Village's well is treated with chlorine prior to distribution. Between the Village's well and Niagara County Water District's supply, there is adequate capacity to service the Village with a daily average day flow of 0.25 MGD.

A Wellhead Protection Plan was prepared and adopted by the Village of Middleport in 1996 to preserve and protect the quality of the Village's groundwater. This plan identifies potential sources of contamination and establishes steps to preserve and protect groundwater resources. In addition, this plan requests that neighboring governments and agencies of the county and state consider Middleport's wellhead protection area when making decisions (Village of Middleport Groundwater Protection Committee, 1996).

The Village of Middleport water distribution system was originally constructed in 1911. This system utilizes a series of water mains that measure between three inches and ten inches in diameter. Storage within the distribution system is managed by a 70,000-gallon standpipe that is located just outside the Village, on Griswold Street. A major upgrade to this system was completed in 1991, when approximately one-third of the Village waterlines were replaced. The remainder of the system is adequate to accommodate present water service needs, although additional upgrades may be required in the future. At present, no new upgrades are proposed.

The water distribution system supplies water to all residents and businesses in the Village, as well as four homes in the Town of Hartland, three homes in the Town of Royalton, and a number of industries. These industries include Niagara Foods, FMC, NORCO, Avery Hall, E & M Machinery, Barden Homes, and Sigma Motors.

2. Wastewater Disposal and Stormwater Drainage

The Village of Middleport is serviced by separate sanitary and stormwater sewer systems. The Village Wastewater Treatment Plant, which is located just north of the Village in the Town of Hartland, services the entire Village of Middleport, as well as eight homes in the Town of Hartland, two homes in the Town of Royalton, and several industries (as noted above). According to the Federal Pre-treatment Program, Niagara Foods and FMC are significant Industrial Users.

The majority of the Village sanitary sewer system was built between 1920 and the 1960's. This system carries sanitary sewerage to the Village wastewater treatment plant, which has an average flow at this facility is 0.4 MGD, with a permitted design capacity for 0.7 MGD pursuant to the State Pollution Discharge Elimination Permit (SPDES). All treated effluent from this plant is discharged through an outfall into Jeddo Creek. Although the plant has had no problems in meeting the actual flow rates or effluent constituent requirements set by the SPDES permit, approximately eight times a year, during heavy rainfall events, the plant flows exceed the 0.7 MGD volume threshold due to infiltration and inflow problems throughout the Village. At times, this results in the discharge of contaminated wastewater into Jeddo Creek. This problem was identified and studied approximately 20 years ago. The results of this study indicated that the sewer lines throughout the Village would need rehabilitation or replacement to address the problem. Due to the extensive costs associated with such an undertaking, this problem has not been rectified. An up to date study needs to be conducted to determine the extent and intensity of the infiltration and inflow problems, the impacts to Jeddo Creek and appropriate means of mitigation. In addition, suitable avenues for financial assistance must be identified to help the Village adequately address this situation.

Stormwater runoff in the Village is managed through a stormwater drainage system. Stormwater is collected along certain roadways in the Village by curb inlets and manholes, and carried through culvert piping to outfalls along Jeddo Creek and the Erie Canal. Stormwater also reaches the creek and canal through overland sheet flow. In other areas of the Village stormwater is conveyed through drainage piping to drainage swales and ditches that discharge to outlying areas. As indicated in Section K. below, there are certain locations where storm drainage problems occur, however, the existing system is adequate to address the Village's overall stormwater disposal needs.

3. Solid Waste Disposal

The Village of Middleport has a contract with Modern Disposal to collect all recyclables and municipal solid waste (MSW) within the Village limits. In accordance with this contract, each household is allowed to dispose of one large bulk item, six bags of MSW and recyclables every week. All refuse is disposed of at the Modern Disposal Landfill in Model City, in the Town of Lewiston, New York. Modern Recycling handles all recyclable items. The Village of Middleport also recycles yard waste under their contract.

4. Transportation Systems

Main Street (State Route 31E and 271), State Street (the continuation of State Route 31E) and Telegraph Road are the principal roadways that service the Village of Middleport. These streets fall under the jurisdiction of the New York State Department of Transportation and serve as trucking routes. Telegraph Road falls under the jurisdiction of the NYSDOT to the west of Main Street and that of Niagara County to the east. Since 1994, segments of each of these roads have been either resurfaced or replaced. A large stretch of Telegraph Road was recently upgraded and resurfaced. The Main Street lift bridge is the only means of egress over the Erie Canal in the Village.

Public transportation in the Village of Middleport is provided by Rural Niagara Public Transportation service under their Rides Unlimited program. They provide bus service, via designated Route 2A, between Middleport and Lockport. This bus line makes a number of stops between these two destinations providing access to the Middleport Senior Citizens facility, Lockport Memorial Hospital, the Social Services office and the Metro Bus transfer point in Lockport. An extension of the Route 2 line continues through Lockport, terminating at Niagara County Community College. This system provides public access, through ride transfer and additional service lines, to the Cities of Buffalo and Niagara Falls, and other destinations in Niagara County.

The rail line that bisects the Village is operated by CSX for the commercial transport of freight. This line is active and provides a connection between the City of Rochester and the City of Buffalo. The rail line that runs through Middleport is also utilized by a private operation that runs a tourist train between Medina and Lockport at various times throughout the year. Although this train does not currently stop in Middleport, a depot for passenger services may be a potential consideration in the future.

H. Water Quality

Jeddo Creek and the Erie Canal are classified by the New York State Department of Environmental Conservation (NYSDEC) as Class C surface water bodies. The best usage for Class C surface waters is fishing. These waters are suitable for primary and secondary contact recreation as well, although certain factors may limit its use for these purposes. In addition, the Erie Canal is classified as a protected stream and, therefore, NYSDEC regulates stream crossing and stormwater discharges into the canal. Jeddo Creek is classified as an unprotected stream and, therefore, NYSDEC does not regulate stream crossings or stormwater discharges into the creek. Jeddo Creek and the canal are the discharge points for stormwater drainage, which is conveyed to these waterbodies through outfall pipes. Outfalls are typically considered point source locations for the introduction of pollutants carried in stormwater. Depending on the type of development present, stormwater runoff can be a source of metals, organic compounds, nutrients or other contaminants, in addition to pathogens. Measures can be implemented to reduce contaminant loadings in the effluent. This approach typically involves expensive structural devices that address a relatively small portion of the entire contributing watershed area, but can be effective for localized water quality problems. At present, there is no indication that the quality of the stormwater effluent delivered to Jeddo Creek and the Erie Canal is degraded to the extent that it would require this type of mitigation. A more feasible means of improving the quality of stormwater flows in the Village would be to institute a best management approach, as discussed below.

The primary impact to water quality in the Village 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. – unchannelized flow from paved surfaces, buildings and construction sites) which carries animal wastes, 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" such as public education initiatives (reducing fertilizer and pesticide applications, proper disposal of pet wastes, automobile waste oils, etc.) and other non-structural means. This approach is relatively inexpensive as compared to the costs of employing structural measures to mitigate point source pollution.

Vessel waste discharges are another potential source of water pollution, particularly in areas where vessels are docked in higher concentrations. Vessel waste discharges can adversely impact water quality, fish and wildlife habitats, and human health. The discharge of vessel waste is only permitted from vessels equipped with a US Coast Guard certified Type 1 marine sanitary device. However, these devices are illegal in vessels that exceed 65 feet in length. As indicated in Section C.2, there is a vessel waste pump out station on the northern canal shoreline, immediately west of the Main Street lift bridge. This pump is hand operated and is actively utilized by local and transient boaters in the area.

I. Topography, Geology and Soils

The Village of Middleport is located in the Ontario Plains, just north of the Niagara escarpment and south of Lake Ontario. According to the Niagara County Soil Survey (USDA Soil Conservation Service, 1972), the Village is primarily comprised of glacial till with sandstone and limestone fragments deposited shortly after the ice age. The majority of the soil in the region is comprised of Hilton silt loam, which is usually found parallel to the Niagara escarpment. These soils are considered valuable for raising crops. The current elevation of this area ranges from approximately 460 feet above mean sea level in the northern portions of the Village to 540 feet above mean sea level to the south.

The topography in the Village of Middleport is essentially level, with minimal gradient. There are no areas with steep slopes or slopes that would warrant development concerns. The only area that exhibits any topography is along the canal, where the side slopes have been built up in some areas.

J. Natural Resources

1. Wetlands and Habitats

Significant natural resources in the Village of Middleport include Jeddo Creek and the Erie Canal. The US Fish and Wildlife Service National Wetland Inventory classifies the Erie Canal and one area of Sherman Street near Jeddo Creek, just west of North Hartland Street, as potential wetland habitats (Map 7). The Army Corps of Engineers regulates all activities that occur or are proposed within or near a potential wetland area. The Sherman Street area wetland is an extension of a larger area of wetlands situated outside the Village, in the Town of Hartland. These wetlands are a remnant of the former Mill Pond that once existed in this area. The current land use in the vicinity of these wetlands is residential and open space. There are no State-designated wetlands within the Village limits. There are also no State-designated Significant Coastal Fish and Wildlife Habitats identified within the Village boundaries. In addition, no aquifers underlie the area.

The headwaters of Jeddo Creek are located within the Town of Royalton, south of the Middleport Reservoir. As it passes on its course north through the southeastern portion of the Village, the creek is channeled through a large culvert under the railroad tracks located north of Francis Street. The Creek resurfaces on the north side of the tracks and continues north to Church Street where it is again diverted through a culvert under this roadway. At the Erie Canal, Jeddo Creek is directed approximately 50 to 60 feet under the canal through a 6-foot by 12-foot stone culvert. Jeddo Creek then flows north to Sherman Street and exits the Village through an area that is designated as a Federally protected wetland

(as noted above). As Jeddo Creek flows north on its route to Lake Ontario, it is utilized for irrigation by local farmers in the area.

A small tributary stream flows from the southwest into the Village and converges with Jeddo Creek. This stream has been channeled through a 30-inch drainage culvert along the full length of Francis Street into the creek. As indicated in Section K. below, this has resulted in stormwater drainage problems in this area.

2. Fish and Wildlife

According to NYSDEC records, no threatened, endangered or species of special concern have been identified within the Village. The United States Fish and Wildlife Service also indicated that no endangered or threatened species were found in the Erie Canal or Jeddo Creek (Chris Lowe, USFWS, 10/13/99). From November 1998 to May 1999 the Fish and Wildlife Service identified several types of fish near the Village of Gasport. Due to Middleport's proximity to Gasport, it can be assumed that these species are common in the Middleport area as well. They include: Large and Small Mouth Bass, Suckers, Black Crappy, Johnny Darter, Blue Gill, Northern Pike, Pumpkin Seed (Sunfish), Gizzard Shad and Carp.

In 1996, a study was initiated to restore Atlantic salmon to the Johnson/Jeddo Creek system. One thousand eight hundred tagged pre-smolt Atlantic Salmon (approximately 6.4 inches) were stocked in the West Jeddo Creek area at Mill Road, in the Village of Middleport. In addition, Atlantic salmon fry (approximately 30 mm to 1.2 inches) and Atlantic salmon pre-smolt were stocked throughout the Johnson/Jeddo Creek system (US Fish and Wildlife Service, 1996). Currently, the U.S. Fish and Wildlife Service is working with other governmental agencies to determine if these Atlantic salmon will survive.

Due to the large quantity of mayflies found along the bottom of the Erie Canal, it was determined by the USFWS that the Erie Canal has good water and soil quality. In addition to the above information, Mr. Lowe stated that the following species were identified within Jeddo Creek: Green Side Darter, Fan tailed Darter, Sucker, Rock Bass, Blue Gill, Minnows Creek, Chubs, and Daces.

K. Flooding and Erosion

The Village of Middleport contains flood zones that have been designated by the Federal Emergency Management Agency (FEMA) as areas subject to flood hazards. These areas or flood zones are depicted on the FEMA Flood Insurance Rate Maps developed for the Village. The flood zones are established based upon the degree to which an area is susceptible to flood damage. The three general flood zones that exist within the Village include:

- "A" Zone – (also called the area of special flood hazard) is that area of land that would primarily experience still water flooding, without significant wave activity, during the 100-year storm;
- "B" Zone – those areas that fall between the limits of the 100-year flood and the 500-year flood, or certain areas that are subject to 100-year flooding with average water depths of less than one foot or where the contributing drainage area is less than one square mile (B Zones also include areas protected by levees from the base flood);
- "C" Zone – areas of minimal flooding.

These natural flood zones or plains are flat areas that surround streams and are periodically inundated with water due to overbank flow. As shown on Map 7, Jeddo Creek and the tributary to Jeddo Creek are surrounded by 100-year floodplains. These floodplains are relatively wide and extend out a few hundred feet in certain areas. There are minimal areas of B Zone in the Village, which fringe the A Zone areas that are located south of the railroad tracks. Most of the land area in the Village is designated as C Zone.

The most extensive areas of floodplain in the Village are situated in the vicinity of Francis Street and south of Telegraph Road. The drainage culverts that have been installed along Francis Street and Kelly Avenue are undersized and cannot accommodate stormwater runoff from heavy rainfall events. As a result, localized flooding occurs along Francis Street. The drainage lines in this area must be upgraded to eliminate this flooding problem. The Village is currently exploring potential sources of funding assistance to mitigate this problem. Although the 100-year floodplain borders Jeddo Creek and its tributary stream, no other known flooding conditions exist within the Village.

Development in the floodplain in the Village of Middleport is regulated under Chapter 102 of the Village Code – Flood Damage Prevention. Chapter 102 was adopted in response to revisions to the National Flood Insurance Program (effective October 1, 1986) to establish and maintain eligibility for flood insurance coverage for Village residents. This law is designed to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Pursuant to Chapter 102, any development action that is proposed within the regulated flood zones requires a permit from the Zoning Enforcement Officer in the Village and must be in compliance with the standards outlined under the law.

As discussed in Section C.2, a spillway has been constructed along the south wall of the Erie Canal, west of the lift bridge. This spillway conveys water from the canal to Jeddo Creek to control the water level in the canal and reduce the potential for flooding in the immediate vicinity. In the event of extreme flood conditions, a sluice gate has also been installed to allow for the discharge of increased volumes of water to Jeddo Creek.

There are no known erosion problems in the Village. The banks of the Erie Canal are fortified with a seawall and stone revetments so erosion along this facility is not a problem. Although the overall integrity of this wall is intact, there are locations where spalling and weathering are occurring. This has resulted in large cracks and gaps in the wall that currently present a public safety hazard and could lead to more extensive deterioration and structural problems in the future if weathering continues without repair.

Erosion is not a significant problem along Jeddo Creek. The banks of this creek are fairly well intact, and no problem areas have been identified in the Village. The Basket Factory marina has no erosion protection. The shoreline of this area is heavily vegetated and it does not appear to be experiencing erosion problems.

L. Environmental Hazards and Constraints

In response to a Freedom of Information Act request, NYSDEC searched the Region's Solid Waste, Environmental Remediation, Spills Management and Solid and Hazardous Program files to identify spill sites in the Village of Middleport. Thirty-five spill sites were identified within the Village. Thirty-one of these sites are in compliance with New York remediation requirements and the remaining sites are small and minor in nature (e.g., small gasoline spills or tank leaks). Extensive records were found for the FMC Corporation.

The FMC Corporation, which is currently a formulation and packaging facility, is located on 91 acres in the southeastern portion of Middleport. This facility manufactured lime, arsenic and lead based pesticides, sulfur dust, dinitrocresol, dithiocarbamate pesticides, M-4 thickener, carbofuran, and karbutilate (CRA, 1999). During the course of operations, constituents of arsenic, lead and other chemical compounds were released, via air and water transmissions, into the surrounding environment. Since 1985, no pesticides are manufactured at this location.

A draft FMC RCRA Facilities Investigation (RFI) was prepared for the FMC Corporation site to determine the nature and extent of releases of hazardous waste or hazardous constituents from all sources at the facility (Conestoga-Rovers & Associates - CRA, 1999). As detailed in the RFI report, numerous soil and water samples were taken throughout the Village of Middleport to determine the full extent of contamination. As shown in Table 1, many of the properties surrounding the FMC Corporation facility were found to be contaminated. In addition, contaminants were discharged to Jeddo Creek through a drainage culvert. Table 1 indicates areas where contaminants were identified at levels that exceeded the screening criteria. Please note that this table does not

represent all samples taken from the areas with contamination, but only those that had contaminant levels above the soil, sediment, groundwater and surface water screening criteria.

According to NYSDEC, higher contaminant concentrations have been identified in a few sections of Tributary No. 1 to Jeddo Creek (also known as Jeddo Creek) (M. Hinton, NYSDEC, October 7, 1999). These concentrations are due to a decrease in velocity, which has allowed settling to occur. According to the CRA report, over the past 30 plus years, FMC has implemented a variety of operational, interim and final corrective measures to mitigate environmental concerns identified during a number of investigations dating back to 1973. These remedial activities have had some positive impacts on the environment. Many of these activities have limited the potential for human exposure to site-related chemicals in soils on and off the site, sediments in Jeddo Creek, surface waters, and groundwater. The Village has been dealing with the problems at the FMC site for many years now and is fully aware of the extent of these problems. They support the actions of the NYSDEC in mitigating the environmental hazards and do not consider the continued use and operation of the FMC site a threat to public health or safety.

TABLE 1

Areas Sampled	Primary Contaminates Found Above Soil Screening / Sediment Screening Criteria	Primary Contaminates Found Above Surface Water Screening Criteria	Primary Contaminates Found Above Groundwater Screening Criteria
OFF-SITE			
Northwest Conrail Property	Arsenic and chlorinated pesticides		
FMC Surrounding Properties	Arsenic and lead		
Culvert 105	Arsenic and chlorinated pesticides		
Jeddo Creek (also know as Tributary No. 1 to Jeddo Creek)	Arsenic and chlorinated pesticides		
Jeddo Creek (in Orleans County)	Arsenic		
FMC CORPORATION (ON -SITE)			
FMC Corporation	Ethylene thiourea (ETU), chlorinated pesticides, arsenic and lead	Arsenic	Ethylene thiourea (ETU), total ammonia, methylene chloride and arsenic

M. Summary of Issues and Opportunities

1. Issues

- There is a need to better promote tourism in the Village through the implementation of shoreline improvements and the provision of additional public amenities. The lack of sufficient public restrooms and other such amenities is prohibitive to tourism.
- Tourism improvements should focus on the "active" canal season, when bicycle and canoe rentals and other shoreline improvements will benefit the public most.
- There is a need for additional public parkland and passive recreational opportunities in the Village. There is also a need to improve certain publicly owned lands to enhance existing recreational opportunities. The Village needs to examine how certain public lands can be better utilized, and how some privately owned lands in close proximity to the canal could be acquired to improve recreational opportunities and public access.
- There are no bed and breakfast establishments in the CBD or in close proximity to the canal. Bed and breakfast establishments and other such places of lodging for boaters and upland visitors alike are beneficial for boosting tourism.
- The Zoning Ordinance and site plan review regulations are the primary means of land use control in the Village; there are no adopted subdivision regulations. To properly guide the development of the large areas of open space in the northern section of the Village or other redevelopment actions in the area, the Village will use its site plan review regulations. Subdivision activity in those areas will also be regulated by the Planning Board in accordance with Village Law 7-728 for Subdivision Review, Approval of Plan and Development of Plat Fields.
- The Canalway Trail and the adjoining pocket park areas, as well as the greenspace corridor along the south side of the canal, lack adequate amenities such as play equipment for children, protective shelters for inclement weather, benches and other such useful items. These types of improvements are necessary to enhance public use of these areas.
- The Canalway Trail is interrupted at the lift bridge, where users must exit the path the cross Main Street. The crosswalk in this area should be stripped with paint and signage should be affixed to the bridge to alert motorists on Main Street of the location of the crosswalk and the potential movement of pedestrians and bicyclists.
- The real estate market in Middleport is stable and land and commercial space are inexpensive. However, the CBD has a high commercial vacancy rate. Provisions must be made for the reuse and/or redevelopment of underutilized properties in the business district.
- With such a high number of historically significant structures clustered in close proximity to one another in the CBD, it is recommended that this area of the Village be designated as an historic district. This

would afford these structures more prominence and protection with regard to reuse and redevelopment. There are currently no standards or restrictions in place to protect the historic significance of these structures.

- There is a need to address the inflow and infiltration problem that impacts the wastewater treatment plan in order to improve water quality in Jeddo Creek.
- The drainage culverts along Francis Street and Kelly Avenue are improperly sized, resulting in flooding during heavy rainfall events. This infrastructure must be upgraded to eliminate localized flooding.
- Jeddo Creek and the Erie Canal are classified by NYSDEC as Class C waters. The best usage for Class C surface waters is fishing. Although these waters are suitable for primary and secondary contact recreation, their use is limited for these purposes.
- The lift bridge operator rotates between the bridges at the Village of Middleport and the Village of Gasport. This lack of presence at the Middleport bridge affects the use of the canal, and better coverage is required. The State Canal Corporation should address this issue.
- Portions of the seawall along the canal, particularly in the vicinity of the lift bridge, are deteriorating and in need of repair. There are locations where spalling and weathering have occurred resulting in large cracks and gaps in the surface area. This presents a public hazard and should be addressed by the State Canal Corporation, who is responsible for canal maintenance.
- Improvements should be made to accommodate rowing activities along the canal. This would benefit the high school as well as local rowing clubs and enthusiasts. Rowing is a sport that is increasing on the canal and Middleport should be involved in improving opportunities for this activity.
- To improve pedestrian activity in the Village sidewalks should be installed in the vicinity of the CBD, where they currently do not exist. Sidewalk improvements should also be undertaken, where required, to improve public safety.

2. Opportunities

- Local roadways in the Village carry minimal volumes of traffic. This condition allows ample opportunities for bicycling and walking. Route 31 is a designated bikeway that provides access to the Canalway Trail. These opportunities should be better promoted.
- The CBD offers an adequate amount of parking, including both curbside and off street lots. The streetscape is also designed at a pedestrian scale that induces sidewalk commerce. The future addition of benches in this area will improve these opportunities.
- There are currently a number of open space areas along the canal to serve visiting boaters. Many of these areas are within walking distance of the CBD.

- The Village DPW garage is currently located in close proximity to the canal, in an area that provides public open space. The Village will investigate feasible options for the long-term relocation of this facility to enable this area to be more effectively utilized for waterfront recreation.
- The Village of Middleport should collaborate with the State Canal Corporation on waterfront improvement projects along the right-of-way area in an effort to secure grant funding for project implementation.

REGIONAL SETTING

MIDDLEPORT, NEW YORK

MAP 2



LAKE ONTARIO

NIAGARA RIVER

VILLAGE OF
MIDDLEPORT

NIAGARA COUNTY
ORLEANS COUNTY

ORLEANS COUNTY
GENESEE COUNTY

NIAGARA COUNTY
ERIE COUNTY

ERIE COUNTY
GENESEE COUNTY

WENDEL DUBOCHER
ARCHITECTS

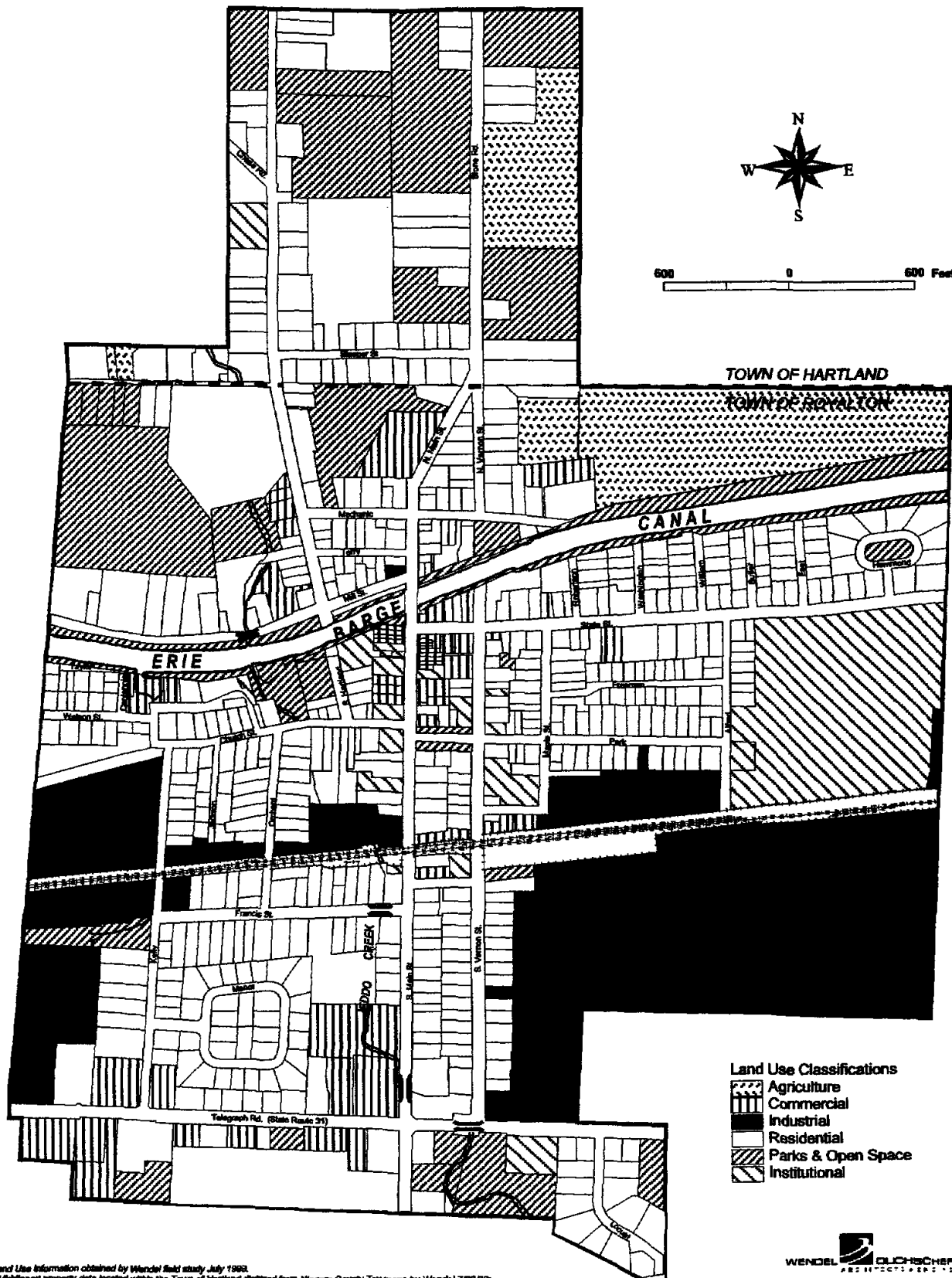
January 2000

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Map 2 - Regional Setting

VILLAGE OF MIDDLEPORT EXISTING LAND AND WATER USES

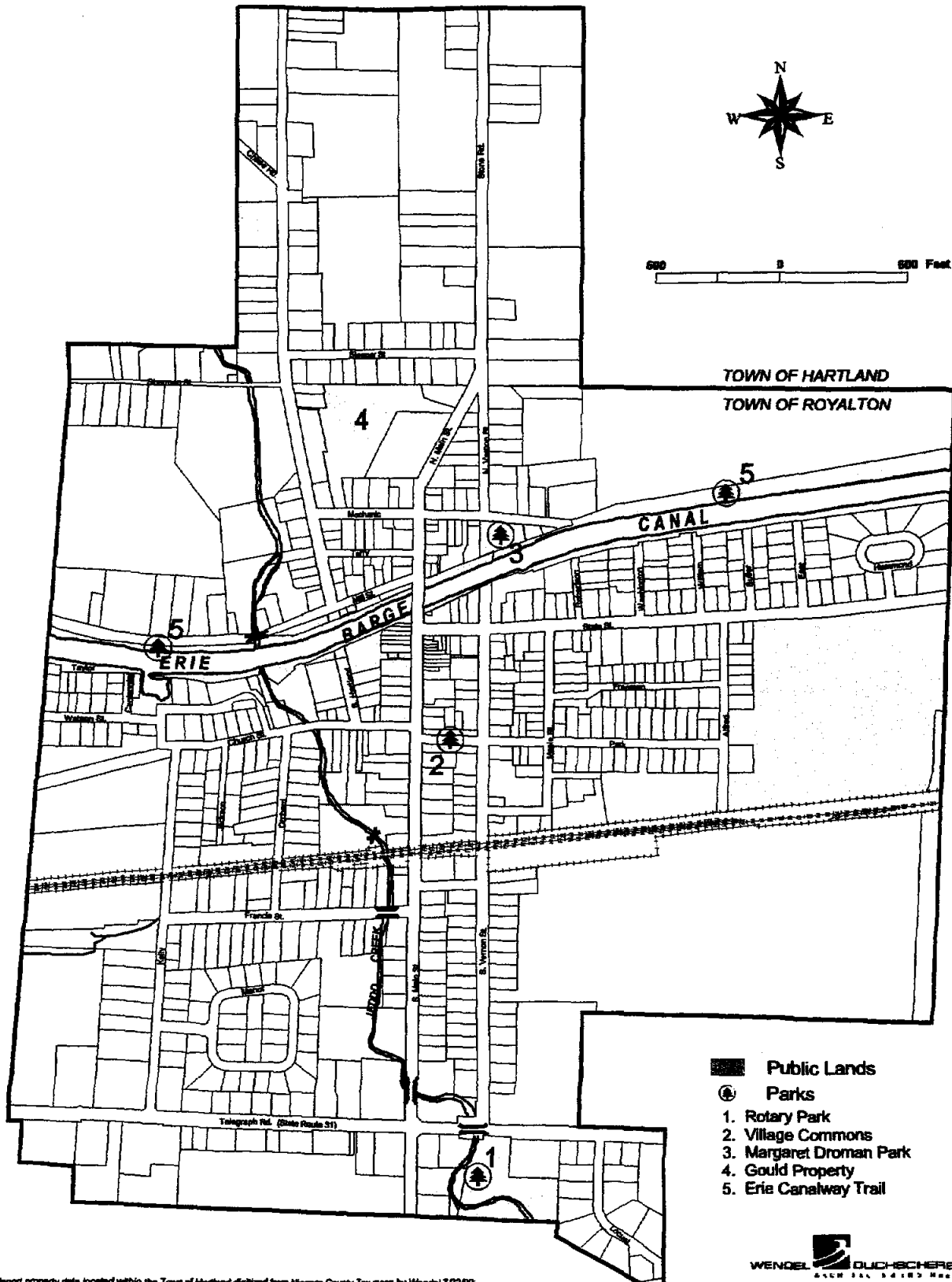
MAP 3



Map 3 - Existing Land and Water Uses

VILLAGE OF MIDDLEPORT PUBLIC LANDS

MAP 4



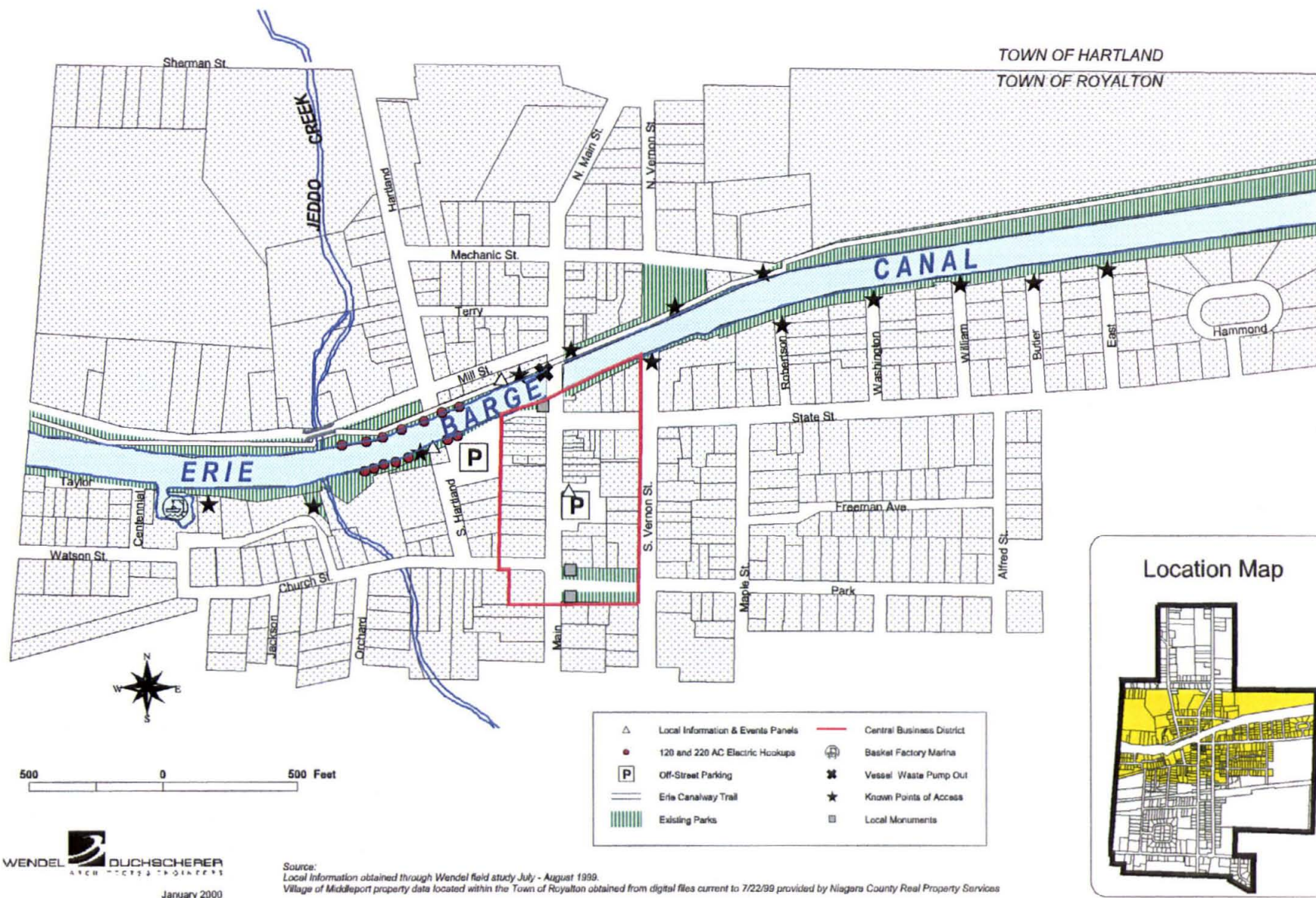
Source:
Village of Middleport property data located within the Town of Hartland digitized from Niagara County Tax maps by Wendel 7/22/99;
Village of Middleport property data located within the Town of Royalton obtained from digital files current to 7/22/99 provided by Niagara County Real Property Services

WENDEL  DUCHSCHERER
ARCHITECTS & ENGINEERS

January 2000

Map 4 - Public Lands

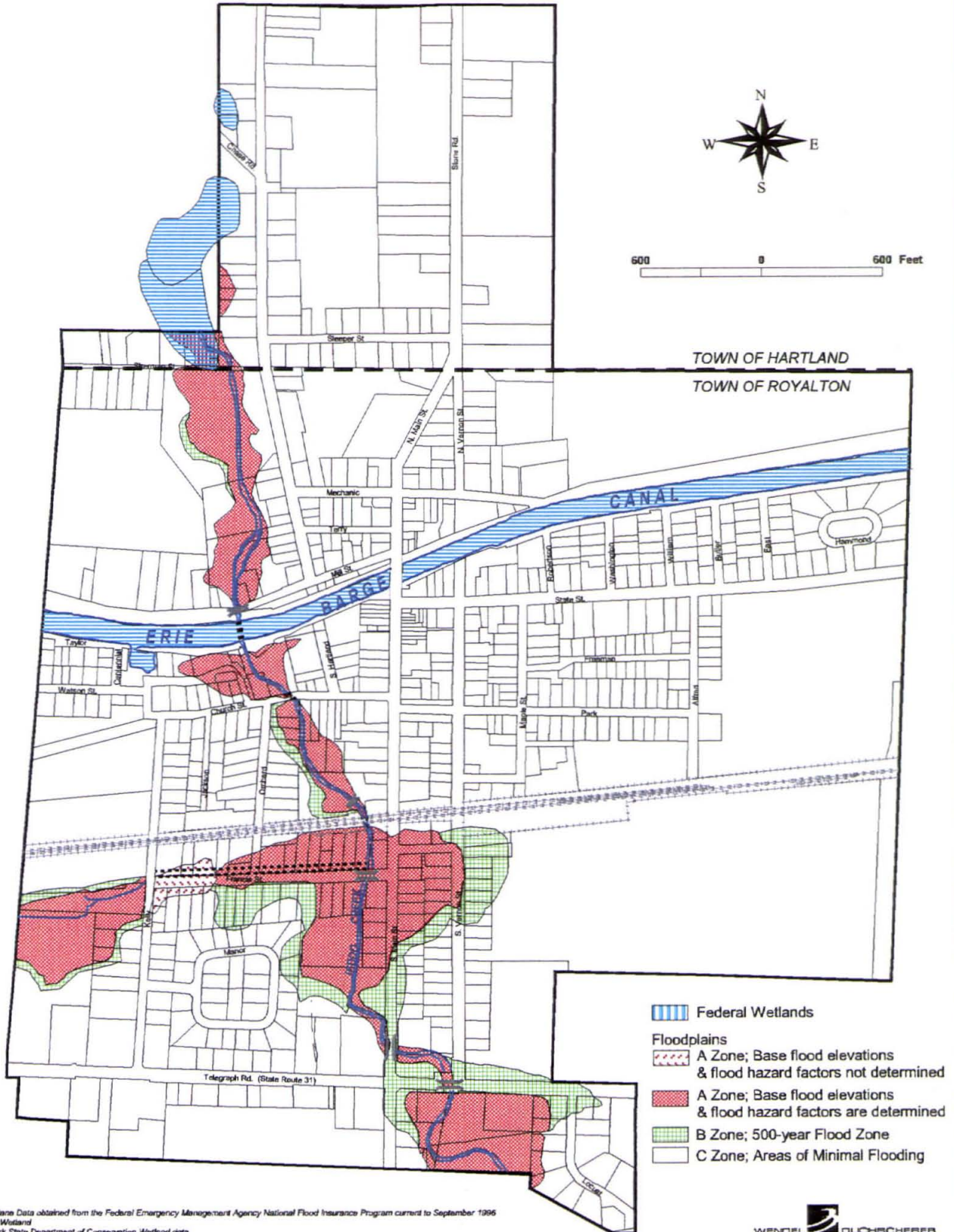
VILLAGE OF MIDDLEPORT WATERFRONT AMENITIES AND RESOURCES



Map 5 - Waterfront Amenities and Resources

VILLAGE OF MIDDLEPORT DEVELOPMENT CONSTRAINTS

MAP 7



Map 7 - Development Constraints

SECTION III

LOCAL WATERFRONT REVITALIZATION PROGRAM POLICIES

SECTION III – Local Waterfront Revitalization Program Policies Overview

Section III presents the waterfront revitalization policies and their associated standards that are to be used in guiding appropriate development and actions for the Village of Middleport. These policies consider the physical, economic, environmental and cultural characteristics of the Village. They are comprehensive and reflect existing laws and authority regarding development and environmental protection. Together, these policies and their standards are to be used to determine an appropriate balance between economic growth and development and preservation that will permit the beneficial use of the waterfront resources in the Village without undo impacts. The following is a list of the Village of Middleport LWRP Policies:

Community Character

Policy 1 - Foster a pattern of development in the Village of Middleport that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development

Economic Development

Policy 2 – Protect existing water-dependent uses in the Village of Middleport and promote the siting of new water-dependent uses in suitable locations

Policy 3 – Protect existing agricultural lands in the Village of Middleport

Policy 4 – Protect sustainable use of living marine resources in the Village of Middleport

Waterfront Natural Resources

Policy 5 – Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands and rare ecological communities

Policy 6 – Protect and improve water resources

Policy 7 – Minimize loss of life, structures and natural resources from flooding and erosion

Environmental Protection

Policy 8 – Protect and improve air quality

Policy 9 – Promote appropriate use and development of energy and mineral resources

Policy 10 – Minimize environmental degradation from solid waste and hazardous substances and wastes

Recreation and Cultural Resources

Policy 11 – Improve public access to the waterfront and the use of public lands

Policy 12 – Enhance visual quality and protect outstanding scenic resources

Policy 13 – Preserve historic resources

COMMUNITY CHARACTER

POLICY 1 Foster a pattern of development in the Village of Middleport that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development

The community character of the Village of Middleport is defined by a pattern of Village residential and commercial development that is clustered around an historic business center and the Erie Canal. The long standing planning goals of the Village are aimed at preserving and enhancing the character of the central business district and its relationship to the Canal, and providing opportunities for the growth and expansion of the economic base of the Village that are compatible with the existing scale of development and the availability of services in the community.

This policy is intended to foster a pattern of development that provides for economic prosperity and the beneficial use of waterfront resources in the Village of Middleport. The primary components of the desired development pattern are: strengthening activity in the central business district, encouraging water-dependent uses along the Canal that support tourist related activities, protecting and improving stable residential areas, improving recreational opportunities, and preserving and protecting open space and significant natural resources. Development that does not reinforce the traditional pattern of development in the Village would adversely impact the community character of the area.

Policy Standards

1.1 Concentrate development and redevelopment in order to revitalize deteriorated and underutilized uses and strengthen the traditional waterfront focus of the area in and adjacent to the central business district.

New development or redevelopment should be located where infrastructure is adequate or can be upgraded to accommodate such development. The scale of development or redevelopment along the waterfront, and in other sections of the Village, should be appropriate to the setting and character of the Village and highlight existing resources, such as the local history and important natural or man-made features to reinforce community identity. The waterfront should be designed and developed as a focus for activity that draws people to the area and links the Canal to the central business district (CBD). Development and redevelopment decisions should be compatible with community and regional needs, as well as market demands. In addition, the environmental quality of degraded areas should be restored and environmental constraints should be recognized as a limiting factor to the development or redevelopment of certain areas.

Revitalization efforts in the Village should focus on reducing the high vacancy rates in the CBD. The reuse and redevelopment of underutilized properties is vital to the economic vitality of this area and to improving tourism activity. The former Basket Factory Restaurant property and the former Lone Star Hotel site should be revitalized to improve and promote public access and tourism, and to help foster additional revitalization efforts. In addition to the CBD, revitalization efforts should be focused on the existing and former industrial properties located on the north side of the railroad corridor, both east and west of Main Street.

All development or uses should recognize the unique qualities of the waterfront by:

- using building and site design to make beneficial use of the Canal location and associated waterfront resources;
- minimizing consumption of waterfront lands that does not meet the intent of this policy or that would result in potential adverse impacts on natural resources;
- incorporating recreational activities, public access, open space and other such amenities into waterfront designs, as appropriate, to enhance the subject site and the surrounding community, and to increase visual and physical access to the Canal;
- attracting people to the waterfront, as appropriate to the use;
- reinforcing community identity by highlighting local history and important natural and man-made features;
- ensuring that design and siting of uses and structures complements the surrounding community and landscape, particularly the central business district;
- using indigenous plants as components of landscape design to improve habitat and water quality, and to lessen water demands; and
- using appropriate signage and other amenities to promote tourist activities.

1.2 Ensure that development or uses make beneficial use of their waterfront location.

The amount of waterfront area and associated resources in the Village of Middleport is limited. Thus, all uses proposed for the waterfront should relate to the unique qualities of the area and should be appropriate for the location. When planning waterfront development or redevelopment, the waterfront location should be reflected in the siting, design and orientation of the development. Water-dependent uses should be promoted where appropriate and given precedence over other types of development at suitable waterfront sites. Existing water-dependent uses should be protected. Development that is not dependent on a waterfront location or that cannot make beneficial use of such a location should be discouraged. Water-enhanced uses may be encouraged where they are compatible with surrounding development and are designed to make beneficial use of their location along the Canal.

Water-dependent uses and water-enhanced uses should be sited and designed to:

- attract people to or near the waterfront and provide opportunities for access;
- provide public views to or from the water;
- link the waterfront to the central business district;
- minimize consumption of waterfront land; and
- not cause significant adverse impacts to community character and surrounding land and water resources.

Uses should be avoided that would:

- result in unnecessary and avoidable loss of significant waterfront resources;
- ignore the waterfront setting as indicated by design or orientation; and
- not, by nature, derive economic benefit from a waterfront location.

1.3 Maintain and enhance natural areas, recreation and open space lands.

Natural areas, open space and recreational land produce public benefits that may not be immediately tangible. In addition to scenic and recreational benefits, these lands may also support habitat for commercially or ecologically important fish and wildlife, provide watershed management for flood control benefits, and serve to recharge ground water. Special consideration should be given to protecting stands of large trees, unique forest cover types and habitats, and old fields. The expansion of infrastructure into undeveloped areas should be avoided where such expansion would promote development that is detrimental to waterfront resources, important natural resources, or the character of the Village community.

1.4 Minimize the adverse impacts of new development or redevelopment on the waterfront.

To enhance community character and maintain the quality of the waterfront and central business district in the Village of Middleport, the potential adverse impacts of new development and redevelopment on existing land uses, the natural environment and the local economy should be addressed and mitigated, as required. Development should reflect existing site characteristics, limit disturbance of land and water, and foster visual compatibility with surrounding areas. The size and scale of development or redevelopment should be compatible with the rural character of the central business district, the adjacent canal corridor and the Village as a whole. Waterfront development and redevelopment should be integrated with the central business district and adjacent upland areas by providing physical linkages between these areas, matching uses to community needs, and limiting exclusion of the Canal area from the surrounding community.

Potential economic impacts should be minimized as follows:

- prevent deterioration of the waterfront and the surrounding area by not allowing derelict and dilapidated conditions to prevail;
- avoid uses that detract from community character of the Village;
- prevent the isolation of community uses and people from the waterfront; and
- protect and enhance the economic base of the community and promote diverse economic activity.

1.5 Protect and improve stable residential areas.

The existing residential neighborhoods in the Village are important to the overall character and economic functioning of the area. New uses in stable residential neighborhoods should be avoided when their size or scale would significantly impact the character of the area. New construction, redevelopment and associated screening, such as fences and landscaping, should not reduce or eliminate vistas that connect local residents or visitors to the waterfront or views that are otherwise important to the surrounding area.

ECONOMIC DEVELOPMENT POLICIES

POLICY 2 Protect existing water-dependent uses in the Village of Middleport and promote the siting of new water-dependent uses at suitable locations

Maritime activity in the Village of Middleport has traditionally concentrated along the Erie Canal. Policy 1 promotes a continuation of this traditional pattern of development and supports the development of an economic base to promote and maintain the maritime character of the area. The intent of this policy is to protect existing water-dependent uses along the Canal waterfront by ensuring adequate provision of infrastructure for their efficient and orderly operation. This policy is also intended to address the management of conflicts, congestion and competition for space in the use of the waterfront and its adjoining surface waters.

Policy Standards

2.1 Protect existing water-dependent uses.

Actions should be avoided that would interfere with or adversely impact existing water-dependent uses (e.g., marinas and docks, fishing facilities, tour and charter boat establishments, ferry services, public and quasi-public utility uses, and marine education facilities). Such uses should be protected and promoted. Water-dependent uses in the Village of Middleport include the marina at the Basket Factory restaurant.

2.2 Minimize adverse impacts of new and expanding water-dependent uses and provide for their safe operation.

The adverse impacts of new and expanding water-dependent uses should be minimized.

Water-dependent uses should be sited in locations where:

- waterside and upland access, as well as upland space for parking and other support facilities, is adequate;
- the necessary infrastructure exists or is easily accessible, including adequate shoreline stabilization structures, roads, water supply and sewage disposal facilities, vessel pump out services, and waste disposal services;
- water quality classifications are compatible with the use; and
- the need for dredging is minimized.

New or expanding marinas should:

- incorporate marine services and boat repair, as feasible, to meet a range of boating needs;
- not encroach upon navigation channels or channel buffer areas;
- incorporate public access to the Canal through the provision of access from the upland, boat ramps, and transient docking facilities;
- limit discharges of vessel wastes by providing pump out facilities; and
- avoid or minimize adverse impacts on natural resources and the character of the surrounding area.

2.3 Improve the economic viability of water-dependent uses.

Certain water-dependent uses contain and are supported by non water-dependent uses that are complementary and supportive to the water-dependent use and do not impair the ability of such use to function. These non water-dependent uses often mix easily with water-dependent uses, provide beneficial support, and positively affect the character of the working waterfront.

Non water-dependent accessory or mixed use developments may be allowed, provided:

- accessory uses are subordinate and functionally related to the principal water-dependent use and contribute to sustaining the water-dependent use;
- mixed uses subsidize the water-dependent use and are accompanied by a demonstrable commitment to continue operation of the water-dependent use;
- 1. uses are sited and operated so as not to interfere with the principal operation of the site for a water-dependent use; and
- uses do not preclude future expansion of a water-dependent use.

Locations that exhibit important natural resource values, such as wetlands and fish and wildlife habitats, should be avoided.

Other uses may be incorporated in the waterfront, particularly water-enhanced and marine support services, provided these uses:

- improve the working waterfront and its character;
- do not interfere with the efficient operation of another water-dependent use; and
- make beneficial use of a canalside location through siting and design to increase public enjoyment of the waterfront.

2.4 Allow water-enhanced uses that complement and improve the viability of water-dependent uses.

In addition to water-dependent uses, certain uses that are enhanced by a waterfront location may be appropriate to locate along the Canal in the Village of Middleport. Water-enhanced uses are activities that do not require a location on the waterfront to function, but such a location could add to the public enjoyment and use of the area. Water-enhanced uses are generally of a recreational, cultural, commercial or retail nature. Water-enhanced uses should be compatible with water-dependent uses, provide beneficial support, and have a positive impact on the waterfront. Water-enhanced uses should also be in concert with the character of the Village's central business district.

2.5 Promote the efficient management of surface waters and underwater lands.

Lack of effective water use management contributes to congestion and competition for space within harbors, canals, surface waters and underwater lands. As a result, natural resources can be degraded and communities are not able to take advantage of tourism and economic growth opportunities.

To promote effective water use management, traditional land use planing techniques can be applied to the water surface in the following manner:

- if warranted, water use zones should be established for uses such as docks, moorings, navigation channels and any special recreational areas (bathing, water skiing, personal watercraft, etc.);
- to insure safety, vessel speed zones can be established and zones for bathing, water skiing and other recreational uses should be located away from marinas and commercial boating facilities;
- marinas, in-water structures and surface water uses should not encroach upon navigation channels;
- uses that are not water-dependent (i.e., decks and platforms) should not be allowed on or over surface waters; and
- the establishment of future use zones and the siting of in-water structures should be done in a manner that minimizes potential impacts on sensitive resources such as wetlands and fish and wildlife habitats.

POLICY 3 Protect existing agricultural lands in the Village of Middleport

This policy is not applicable in the Village of Middleport because the Village contains a very limited amount of farmland. This farmland is associated with farming operations situated outside of the Village and, as such, is not an important part of the Village economy.

POLICY 4 Protect the sustainable use of living marine resources in the Village of Middleport

Living marine resources play an important role in the social and economic well being of waterfront communities. The commercial and recreational use of living marine resources constitutes an important contribution to the economy of the State. The continued recreational use of living marine resources in the Village of Middleport depends on maintaining long-term health and abundance of fisheries resources and their habitats, and on ensuring that the resources are sustained in usable abundance and diversity for future generations. This requires the State's active management of fisheries, protection and conservation of habitat, restoration of habitats in areas where they have been degraded, and maintenance of water quality at a level that will foster the occurrence and abundance of these resources. Allocation and use of the available resources must: 1) be consistent with the restoration and maintenance of healthy stocks and habitats, and 2) maximize the benefits of resource use so as to provide valuable recreational experiences and viable business opportunities for commercial and recreational fisheries.

Policy Standards

4.1 Ensure the long-term maintenance and health of living marine resources.

Native stocks should be protected and managed, and indigenous fish and wildlife and other marine living resources should be restored to sustainable populations. Protection of native stocks includes protecting the genetic integrity of recognizable native populations that can be placed at risk by inappropriate stocking. Native stocks also need to be protected from adverse impacts due to the introduction of non-indigenous species. Furthermore, the occurrence and abundance of marine resources should be fostered through the protection, enhancement and restoration of habitats and water quality.

4.2 Provide for and promote the recreational use of marine fisheries.

To better promote the use of marine resources in the Canal, adequate infrastructure should be provided to meet recreational fishing needs, including fishing piers, dockage, parking and livery services.

WATERFRONT NATURAL RESOURCES

POLICY 5 Protect and restore the quality of ecological resources throughout the Village of Middleport

There are certain natural resources in the Village of Middleport that warrant protection and restoration. These resources, which include the Erie Canal, Jeddo Creek, wetland areas, and discrete plant and animal populations, contribute to the quality of life in the Village and the diversity of the local ecosystem. The quality and biological diversity of the local ecosystem also depends on more common, broadly distributed natural resources, such as the extent of forest cover and the population of resident and overwintering birds, which collectively affect the system.

Policy Standards

5.1 Protect and restore ecological quality throughout the Village of Middleport, including freshwater wetland resources.

There are no State-designated significant coastal fish and wildlife habitats in the Village of Middleport. There are, however, certain areas that should be restored and protected as habitat for fish and wildlife. Stream corridors and wetlands provide numerous benefits including, but not limited to, habitat for wildlife, erosion and flood control, natural pollution treatment and filtration, groundwater protection, and aesthetic open space. To further the protection and restoration of these resources, the excavation of wetlands or the placement of fill in these areas should be avoided. Adequate buffers should be provided and maintained between wetlands and adjacent uses to ensure protection of their character, quality, value and function.

Although Jeddo Creek is not a large and actively flowing stream corridor, it does provide certain ecological value to the area. This creek should be protected from adverse impacts that would degrade water quality, impede flow, alter its natural habitat characteristics or impair its ability to function as an intermittent stream. Wherever possible, Jeddo Creek should be enhanced and restored as an ecological resource.

5.2 Protect and restore freshwater wetlands

Wetlands provide numerous benefits, including, but not limited to, habitat for fish and wildlife, erosion and flood control, natural pollution treatment, groundwater protection, and aesthetic open space.

The following measures can further the protection or restoration of wetlands:

1. compliance with the statutory and regulatory requirements of the Freshwater Wetlands Act and Stream Protection Act; and
2. prevention of the net loss of wetlands by:
 - a) avoiding placement of fill or excavation of wetlands;
 - b) minimizing adverse impacts resulting from unavoidable fill, excavation or other activities;

- c) providing compensatory mitigation for adverse impacts that may result from unavoidable fill, excavation or other activities remaining after all appropriate and practicable minimization has been accomplished; and
- d) providing and maintaining adequate buffers between wetlands and adjacent or nearby uses and activities in order to ensure protection of the character, quality, value and function of the wetlands area.

Where destruction or significant impairment of habitat values cannot be avoided, potential impacts of land use or development should be minimized through appropriate mitigation. Use mitigation measures that are likely to result in the least environmentally damaging alternative. Mitigation includes:

1. avoidance of potential adverse impacts, including:
 - a) avoiding ecologically sensitive areas
 - b) scheduling activities to avoid vulnerable periods in life cycles or the creation of unfavorable environmental conditions
 - c) preventing fragmentation of intact habitat areas;
2. minimization of unavoidable potential adverse impacts, including:
 - a) reducing the scale or intensity of the use or development
 - b) designing projects to result in the least amount of potential adverse impacts
 - c) choosing alternative actions or methods that would lessen potential impacts; and
3. specific measures designed to protect habitat values from impacts that cannot be sufficiently avoided or minimized to prevent habitat destruction or significant habitat impairment.

POLICY 6 Protect and improve water resources

The purpose of this policy is to protect the quality and quantity of surface and groundwater in the Village of Middleport. Water quality considerations include the management of both point and non-point source pollution and wellhead protection measures. Water quality protection and improvement must be accomplished by managing new, and remediating existing, sources of water pollution.

Policy Standards

6.1 Prohibit direct or indirect discharges that would cause or contribute to the contravention of water quality standards and targets.

Prevent point source discharges to local surface waters and manage or avoid land uses that would:

- exceed established and applicable effluent requirements or cause or contribute to the contravention of water quality classifications and use standards; or
- adversely affect the quality of receiving waters.

Ensure effective treatment of sanitary waste and industrial discharges by:

- maintaining efficient operation of sanitary wastewater and industrial waste treatment facilities;
- providing effective secondary treatment for sanitary sewage;

- modifying existing sewage treatment facilities to provide improved nitrogen removal capacity;
- incorporating treatment beyond secondary, when funding is available to the extent economically feasible, with particular focus placed on nitrogen removal, as part of new or upgraded wastewater treatment plant design;
- reducing demand on treatment facilities by:
 - reducing infiltration of excess water in collection and transport systems,
 - eliminating unauthorized collection system hookups,
 - pre-treating industrial waste,
 - limiting discharge volumes and pollutant loadings to or below authorized levels,
- installing low-flow water conservation fixtures in all new development and when replacing fixtures in existing development; and
- controlling the loadings of toxic materials into the surface waters of the Canal or Jeddo Creek by including limits on toxic metals as part of wastewater treatment plant effluent permits and by enforcing existing pre-treatment requirements.

6.2 Minimize non-point source pollution of local surface waters and manage activities that cause non-point source pollution.

Minimize sources of non-point source pollution to surface waters by using the following approaches, which are presented in order of priority.

1. Limit non-point sources of pollution by:
 - a) reducing or eliminating the introduction of materials that may contribute to non-point source pollution;
 - b) minimizing activities that would increase off-site stormwater runoff and the transport of pollutants;
 - c) controlling and managing stormwater runoff to minimize the transport of pollutants, restore degraded natural stormwater runoff conditions, and achieve a no-net increase of runoff where unimpaired stormwater runoff conditions exist;
 - d) retaining or establishing vegetation to maintain or provide soil stabilization and filtering capacity;
 - e) preserving natural hydrological conditions to maintain natural surface water flow characteristics and retain natural watercourses and drainage systems (where present); and
 - f) where natural drainage systems are absent or incapable of handling the anticipated runoff demands, developing open vegetated drainage systems as a preferred approach, with long and indirect flow paths to decrease peak runoff flows, and using closed drainage systems only where site constraints and stormwater flow demands make open systems infeasible.
2. Reduce pollutant loads to surface waters by managing unavoidable non-point sources and using appropriate best management practices as determined by site characteristics, design standards, operational conditions, and maintenance programs.

6.3 Reduce non-point source pollution using management measures appropriate to specific land use or pollution source categories.

1. Urban land uses
 - a) For new development, manage total suspended solids in runoff to remain at pre-development loading levels.
 - 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 the use of chemicals and nutrients.
 - d) For roads, highways and bridges, minimize to the greatest extent practical, the runoff of contaminants to surface waters.
2. Marinas
 - a) Site and design marinas such that currents will aid in flushing of the marina basin or the renewal of basin water regularly.
 - b) Assess potential impacts to water quality as a part of marina siting and design activities. Any new marina project shall utilize appropriate vessel pumpout technologies.
 - c) Properly manage stormwater runoff, discharges of hazardous substances, and solid waste disposal.
3. Floatables and litter
 - a) Prohibit all direct and indirect discharges of refuse or litter into waters of the Canal and Jeddo Creek, or upon public lands contiguous to and within 100 feet of the Canal or creek waters.
 - b) Limit the entry of floatable materials to surface waters through the proper containment and prevention of litter.
 - c) Remove and dispose of floatables and litter from surface waters and the shoreline of the Canal.
 - d) Implement pollution prevention and education programs to reduce the discharge of floatables and litter in the Canal and Village storm drains.
4. Agriculture
 - a) Control soil erosion and contain sediment in order to avoid entry of soils into canal waters.
 - b) Manage nutrient loadings and pesticide applications by applying only the amounts needed for crop growth, by applying these materials only when economically appropriate and in a safe manner, and avoiding applications that will result in loadings to canal waters.
 - c) Manage irrigation and use of chemicals to avoid contamination of return flows laden with fertilizers, pesticides and their residues, or accumulated salts, and prevent contamination of canal waters by avoiding backflow of waters used to apply chemicals through irrigation.

6.4 Protect and enhance surface water quality.

1. Protect the water quality of the Canal and Jeddo Creek based on an evaluation of physical factors (pH, dissolved oxygen, dissolved solids, nutrients, odor, color and turbidity), health factors (pathogens, chemical contaminants, and toxicity), and aesthetic factors (oils, floatables, reuse and suspended solids).

2. Minimize the disturbance of streams, particularly Jeddo Creek, including their beds and banks in order to prevent erosion of soil, increased turbidity, and irregular variation in velocity, temperature, and level of water.
3. Protect the surface water quality of the Canal and Jeddo Creek from the adverse impacts associated with excavation, fill, dredging and the disposal of dredged materials.

6.5 Protect and conserve the quality and quantity of groundwater resources

1. Prevent contamination of groundwater resources by limiting discharges of pollutants to maintain water quality according to water quality classification and by limiting land use practices that are likely to contribute to the contravention of surface and groundwater quality classifications for potable water supplies.
2. Prevent the depletion of existing potable water supplies by allowing for the recharge of groundwater resources.

POLICY 7 - Minimize the loss of life, structures and natural resources from flooding and erosion

This policy seeks to protect life, structures and natural resources from the hazards of flooding and erosion. The policy reflects State flooding and erosion regulations and provides measures for the reduction of hazards and protection of resources. The Village of Middleport contains flood zones that have been designated by the Federal Emergency Management Agency and are depicted on Map 7. The Village participates in the National Flood Insurance Program and development in the floodplain is regulated under Chapter 102 of the Village Code – Flood Damage Prevention. This law is designed to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Pursuant to Chapter 102, any development action that is proposed within the regulated flood zones requires a permit from the Village Zoning Enforcement Officer and must be in compliance with the standards outlined in the law (see Appendix C).

In the Village of Middleport, the Erie Canal is a man-made cut channel and, as such, is not prone to flooding. The provisions of this policy are, however, applicable to the flood areas adjacent to Jeddo Creek.

In the Village of Middleport, localized flooding is a problem along Kelly Street and Francis Street, where undersized drainage culverts cannot accommodate the volume of stormwater runoff generated from significant rainfall events. Infrastructure improvements are required in this area to mitigate this problem. Erosion has not been a significant problem in the Village to date.

Policy Standards

7.1 Minimize potential loss and damage by locating development and structures away from flooding and erosion hazards.

1. Use hard structural erosion protection measures for control of erosion only where:
 - a) vegetative approaches to control erosion are not effective;

- b) construction of a hard structure is the only practical design consideration and is essential to protecting upland uses;
 - c) the proposed hard structural erosion protection measures are limited to the minimum scale necessary and are based on sound engineering practices; and
 - d) practical vegetative methods have been included in the project design and implementation.
2. In all areas of special flood hazards the following standards are required.
- a) Anchoring
 - All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement of the structure.
 - All manufactured homes shall be installed using methods and practices that minimize flood damage. Manufactured homes must be elevated and anchored to resist floatation, collapse and lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 - b) Construction materials and methods
 - All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - c) Utilities
 - Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
 - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
 - On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - d) Subdivision proposals
 - All subdivision proposals shall be consistent with the need to minimize flood damage.
 - All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.
 - All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

- Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.
- e) Encroachments
- All proposed development in riverine situations where no flood elevation data is available (unnumbered A zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in Development Permit review procedures. This may require the submission of additional data to assist in the determination.
 - In all areas of special flood hazard in which base flood elevation data is available pursuant to the provisions of Subsections 12B and 13D(4) of the Village of Middleport Flood Damage Prevention Law, and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
 - In all areas of the special flood hazard where floodway data is provided or available, the requirements of this policy shall apply.
3. In all areas of special flood hazards where base flood elevation data has been provided, the following standards are required.
- a) New construction and substantial improvements of any residential structure shall comply with the following:
- Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
 - Have fully enclosed areas below the lowest floor that 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:
 - 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
 - the bottom of all such openings shall be not higher than one foot above the lowest adjacent finished grade
 - openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- b) New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation, or be floodproofed to the base flood level.
- If the structure is to be elevated, fully enclosed areas below the base flood elevations shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- 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
 - the bottom of all such openings shall be not higher than one foot above the lowest adjacent finished grade
 - openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - If the structure is to be floodproofed:
 - a licensed professional engineer or architect shall develop and/or review structural designs, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relations to mean sea level) to which the structure is floodproofed.
 - The Zoning Enforcement Officer shall maintain on record a copy of all such certificates noted in this policy.
- c) Construction standards for areas of special flood hazards without basement flood elevations, include the following:
- new construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated at least two feet above the highest adjacent grade next to the proposed foundation of the structure.
 - fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - a minimum of two openings having a total new area of not less than one square inch for every square foot of enclosed area subject to flooding
 - the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade
 - openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.
4. Minimize loss of structures and natural resources in floodways

Located within areas of special flood hazards are areas designated as floodways. The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site (as outlined in Subsections 102-6 and 102-12B of the Flood Damage Prevention Law), all encroachments, including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

7.2 Manage navigation channel infrastructure to limit adverse impacts on natural processes.

Design construction and maintenance for the Erie Canal to prevent destabilization of adjacent areas by:

- using dredging setbacks from established channel edges and designing finished slopes to ensure their stability;
- locating channels away from erodible features, where feasible, and
- preventing adverse alteration of basin hydrology.

7.3 Expend public funds for the management or control of flooding only in areas that will result in proportionate public benefit.

The expenditure of public funds for flooding and erosion control projects:

- should be limited to those circumstances where public benefits exceed public costs;
- is prohibited for the exclusive purpose of flooding and erosion protection for private development; and
- may be apportioned among each level of participating governmental authority according to the relative public benefit accrued.

ENVIRONMENTAL PROTECTION

POLICY 8 Protect and improve air quality

This policy provides for the protection of the air quality in the Village of Middleport.

Policy Standards

8.1 Comply with State standards that control and prevent the degradation of air quality in the Village.

New land uses and development in the Village of Middleport should comply with the following:

1. Limit pollution resulting from new or existing stationary air contamination sources consistent with:
 - attainment or maintenance of any applicable air quality standards,
 - applicable New Source Performance Standards,
 - applicable control strategy of the State Implementation Plan, and
 - applicable Prevention of Significant Deterioration requirements.
2. Recycle or salvage air contaminants using best available air cleaning technologies.
3. Limit pollution resulting from vehicle or vessel movement or operation, including actions that directly or indirectly change transportation uses or operation, consistent with attainment or maintenance of applicable ambient air quality standards, and applicable portions of any control strategy of the State Implementation Plan.

4. Restrict emissions of air contaminants to the outdoor atmosphere that are potentially injurious to human, plant and animal life, or that would unreasonably interfere with the comfortable enjoyment of life or property.

8.2 Limit sources of atmospheric deposition of pollutants, particularly from nitrogen sources.

State air quality standards regulate sources of nitrogen pollution. For actions with a potential impact on air quality, the Village shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to the atmospheric deposition of pollutants in the region, particularly nitrogen sources.

8.3 Limit discharges of atmospheric radioactive material to a level that is as low as practicable.

State air quality standards regulate radioactive materials and pollutants. For actions with a potential impact on air quality, the Village shall provide necessary information, as appropriate, to the State to enable the State to effectively administer its air quality statutes pertaining to atmospheric radioactive material.

8.4 Capture and recycle chlorofluorocarbon compounds during service and repair of air-conditioning and refrigeration units to the greatest extent practicable.

State air quality standards regulate chlorofluorocarbon pollutants. For actions with a potential impact on air quality, the Village shall assist the State, whenever possible, in the administration of its air quality statutes pertaining to chlorofluorocarbon compounds.

POLICY 9 - Promote appropriate use and development of energy and mineral resources

This policy calls for the conservation of energy resources in the Village of Middleport and addresses alternative energy sources. It provides standards to ensure maximum efficiency and minimum environmental impacts when siting energy facilities, presents standards to minimize the impact of large fuel storage facilities and sets standards for land excavation and dredging.

Policy Standards

9.1 Conserve energy resources and promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation.

The conservation of energy should be an important part of prudent future planning. Energy efficiency can be achieved through several means that fall under the jurisdiction of local governments, including:

- promoting an increased use of public transportation to the extent feasible, where practical;
- integrating modes of transportation (pedestrian, bicycle, auto and waterborne);
- promoting energy efficient design in new developments; and
- promoting greater energy generating efficiency through upgrades of existing public facilities.

9.2 Consider energy use and environmental impacts in the siting of energy generating facilities.

Energy generating facilities may be sited in the Village of Middleport where a clear public benefit is established using the following factors:

- there is a demonstrated need for the facility;
- the facility will satisfy additional electric system or capacity needs;
- available alternative methods for power generation and alternative sources of energy cannot reasonably meet the public need;
- upgrades of existing facilities cannot reasonably meet the public need; and
- the facility incorporates feasible public recreational uses.

New energy generating and transmission facilities should not be sited so as to adversely impact commercial or recreational navigation, wetlands and important habitats, and historic and scenic resources.

9.3 Minimize adverse impacts from fuel storage facilities.

In accordance with the standards of Title 17, Article 23 of the Environmental Conservation Law and the Federal Safety Standards (40 CFR Part 193):

- ensure that production, storage and retention of petroleum products in the Village of Middleport is performed in accordance with State DEC regulations;
- Liquefied natural gas facilities must be safely sited and operated; and
- Natural resources must be protected by complying with local, county and state regulations and oil spill contingency plans.

9.4 Ensure that mining, excavation and dredging do not cause an increase in erosion, an adverse effect on natural resources or degradation of visual resources.

This sub-policy regulates land excavation and dredging activities in the Village of Middleport. Due to the disruptive nature of these activities caution must be exercised to ensure these activities do not adversely affect natural resources or disturb the human environment. The impact on visual resources is also important since the scenic character of the waterfront is important to the vitality of the Village.

POLICY 10 - Minimize environmental degradation from solid waste and hazardous substances and wastes

The intent of this policy is to protect people from sources of contamination and to protect the waterfront resources of the Village of Middleport from degradation through proper control and management of wastes and hazardous materials. Attention is also required to identify and address sources of soil and water contamination resulting from landfill and hazardous waste sites and in-place sediment contamination in the Village of Middleport.

Policy Standards

10.1 Manage solid waste to protect public health and control pollution.

- Solid wastes are those materials defined under ECL §27-0701 and 6 NYCRR part 360-1.2.

- Plan for proper and effective solid waste disposal prior to undertaking major development or redevelopment activities that generate solid waste.
- Prevent the discharge of solid wastes into the Village environment by using proper handling, management and disposal practices.

10.2 Manage hazardous wastes to protect public health and control pollution.

1. Hazardous wastes are those materials defined under ECL §27-0901 and 6 NYCRR Part 371.
2. Manage hazardous wastes in accordance with the following priorities:
 - a) eliminate or reduce the generation of hazardous wastes to the maximum extent practicable;
 - b) recover, reuse or recycle remaining hazardous wastes to the maximum extent practicable;
 - c) use detoxification, treatment or destruction technologies to dispose of hazardous wastes that cannot be reduced, reused or recycled; and
 - d) phase out land disposal of industrial hazardous wastes.
3. Remediate inactive hazardous waste disposal sites.
 - a) Expedite the remediation of substances hazardous to developed areas in the Village to permit redevelopment of these sites.
 - b) Select a remediation remedy at a particular site to ensure that the public health and the environment will be protected. The future use of a site may determine the selected cleanup levels.

10.3 Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.

1. Substances hazardous to the environment are defined under ECL §37-0101. Toxic pollutants are defined under ECL §17-0105.
2. Prevent the release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources in the Village.
3. Report, respond to, and take action to correct all unregulated releases of substances hazardous to the environment.
4. Prevent environmental degradation due to persistent toxic pollutants and limit discharges of bioaccumulative substances.
5. Avoid the resuspension of toxic pollutants and hazardous substances and the re-entry of bioaccumulative substances into the food chain from existing environmental sources.
6. Prevent and control environmental pollution due to release of radioactive materials as defined under 6 NYCRR Part 380.

7. Protect public health, public and private property, and fish and wildlife from the inappropriate use of pesticides.
 - a) Pesticides are those substances defined under ECL §33-0101 and 6 NYCRR Part 325.
2. Limit use of pesticides to effectively target actual pest populations as indicated through integrated pest management.
 - c) Prevent direct and indirect entry of pesticides into waterways.
 - d) Minimize exposure of people, fish and wildlife to pesticides.

10.4 Prevent and remediate the discharge of petroleum products.

- Prevent discharges of petroleum products by following methods approved for the handling and storage of such products, and by using approved design and maintenance principles for storage facilities.
- Clean up and remove any petroleum discharge that occurs in the Village or Village waters.

10.5 Site solid and hazardous waste facilities to avoid potential degradation of coastal resources.

Preclude the impairment of canal resources from solid or hazardous waste facilities by siting these facilities so that they are not located or would not adversely affect agricultural lands, surface waters and sources of potable water, fish and wildlife habitats and wetlands.

RECREATION AND CULTURAL RESOURCES

POLICY 11 Improve public access to the waterfront and the use of public lands

Along many stretches of the Erie Canal, physical and visual access to waterfront lands and waters is limited for the general public. Limitations on reaching or, in certain locations, viewing the waterfront are further heightened by a general lack of opportunities for recreation at those sites that do provide public access. Existing residential development has made much of the waterfront inaccessible and new development can potentially reduce or eliminate remaining opportunities to provide meaningful public access along the Canal, particularly on the south side. In addition to the loss of opportunities for physical access, visual access has also been effected due to the reduction of vantage points or outright blockage of views. Given the lack of adequate public access and recreation, this policy incorporates measures necessary to provide enhanced access along the Canal waterfront. The need to maintain and improve existing public access and facilities is necessary to ensure that the use of these sites and facilities is optimized in order to accommodate existing and future demand.

The Village of Middleport has a number of access points along the Canal, some of which provide passive recreational opportunities. The main objective of the Village is to improve these facilities, to provide increased public access to the waterfront and enhance recreational opportunities for residents and visitors. Areas of particular importance include the area in the vicinity of the Village Department of Public Works (DPW) building, where shoreline improvements, as well as improvements to the existing amenities in the DPW garage, are warranted to improve public

access opportunities. In addition, on the north side of the Canal, the area immediately west of and including Margaret Droman Park requires improvements to promote and enhance opportunities for public access and recreation.

The Village of Middleport will take the necessary steps to maximize the appropriate use of the Canal waterfront and ensure public access in a manner that will not adversely impact significant natural resources. The Village will also make every effort to encourage and ensure that existing Canal infrastructure, which is owned and/or operated by the New York State Canal Corporation, will be maintained in a manner that will promote safe and improved public access and recreation along the Canal.

Policy Standards

11.1 Promote appropriate physical access and recreation along the Canal and throughout the Village.

Improving public access to the Erie Canal in the Village of Middleport is very important. Public access and recreation facilities can attract tourists, improve the quality of life for residents and help to enhance the economic vitality of the Village. The following standards should be utilized to guide future decision making with regard to public access and the expansion of recreational opportunities along the Canal waterfront.

1. Provide a level of public access and recreational uses that take into account proximity to the central business district, public demand, the type and sensitivity of natural resources that may be affected, accessibility, the needs of special groups such as the elderly or persons with disabilities, and the potential for adverse impacts to adjacent land uses.
2. Provide convenient, well-defined physical public access to and along the Canal for water-related recreation and throughout the Village for general recreational needs.
3. Protect and maintain existing public access and recreational facilities.
 - a) Prevent any on-site or adjacent development project or activity from directly or indirectly impairing physical access and recreation or adversely affecting the quality of such access.
 - b) Prevent physical deterioration of existing access and recreation facilities due to lack of maintenance or overuse.
 - c) Protect and maintain the supporting infrastructure for public access and recreational facilities.
4. Provide additional physical public access and recreational facilities where appropriate throughout the Village.
 - a) Promote the acquisition of additional public lands to meet existing public access and recreational needs.
 - b) Provide for public access and recreational facilities on non-public waterfront lands as a secondary use.
 - c) Provide for public access from streets that terminate at the Canal.
 - d) Provide access and recreational opportunities to all members of the public whenever access or recreation is directly or indirectly supported through federal or state projects or funding.
 - e) Any transfer of public land holdings immediately adjacent to the Canal should retain a public interest that will be adequate to preserve public access and recreational opportunities.

5. Provide and improve physical access linkages between public access sites, open space and Canal waters.
6. Provide physical public access to water-related recreation facilities on the waterfront whenever development or activities are likely to affect the public's use and enjoyment of public waterfront lands and waters. Provide incentives for private development and redevelopment projects that provide public access and/or water-related recreational facilities.
7. Restrict public access and recreation only where it may be incompatible with public safety and the protection of natural resources.

11.2 Provide public visual access to the Canal and adjacent shoreline open space at all sites where physically practical.

To the greatest extent possible, views of the Erie Canal should be expanded to allow full appreciation of this resource and to increase the attractiveness of the waterfront for residents and tourists. The following standards should be applied with respect to increasing visual access to the Canal.

1. To avoid loss of existing visual access:
 - a) limit physical blockage of existing visual access to the Canal by development or activities due to the scale, design, location or type of structures;
 - b) protect view corridors provided by streets and other public areas leading to the Canal; and
 - c) protect visual access to open space areas associated with natural resources.
2. To minimize adverse impacts on visual access:
 - a) provide for view corridors to the shoreline in those locations where new structures would block views of the Canal from upland public vantage points;
 - b) use structural design and building siting techniques to preserve or retain visual access and minimize obstruction of views; and
 - c) visual access requirements may be reduced where natural vegetative cover blocks potential views.
3. To increase visual access to the canal:
 - a) provide interpretative exhibits at appropriate locations for visual access to enhance public understanding and enjoyment of the Canal, its scenic features and associated water-dependent uses;
 - b) allow vegetative or other screening of uses that detract from the visual quality of the waterfront; and
 - c) clear excess or overgrown vegetation along the waterfront in areas where practical and environmentally acceptable.

11.3 Preserve public interest in the use of lands and waters held in public trust by the State and other governmental entities.

1. Access and reasonable recreational use of navigable waters and public trust lands under water should be provided.

2. Provide for free and substantially unobstructed passage along the shoreline of the Canal.
3. Provide for free and unobstructed use of all navigable waters for navigation, recreation and other public trust purposes, including the incidental rights of public anchoring.
4. Allow obstruction of public use in navigable waters, including navigation:
 - a) for water-dependent uses involving navigation and commerce that require in-water structures or activities as part of the use; and
 - b) for commercial recreational boating facilities, provided that the loss of navigable waters and use of underwater lands is offset by sufficient public benefit.
5. Piers and docking facilities must not interfere with the use of public trust lands.

11.4 Provide access and recreation that is compatible with natural resource values.

Limit public access and recreational activities where uncontrolled public use would lead to impairment of the canal or Jeddo Creek.

POLICY 12 Enhance visual quality and protect outstanding scenic resources

Waterfront landscapes possess inherent scenic qualities. The presence of water and the ever-changing views and visually interesting working landscape draw people to the water's edge. Due to their importance, scenic resources should be considered in balancing the wise use and conservation of the waterfront.

Policy Standards

12.1 Protect and improve the visual quality of the Village of Middleport.

The visual quality of the Village landscape is a major contributor to the community character of the Village of Middleport. The Village includes the historic central business district, which is the strongest visual element, along with characteristic residential areas, the well-defined Canal corridor, and open space. In addition, the Village contains a variety of cultural elements in the landscape. These resources should be protected and enhanced. In addition, wetlands, shorelines in natural condition, and open space along the upland all contribute to scenic quality. Structures or activities that introduce visual interruptions to the natural landscape along the shoreline, such as intrusive artificial light sources or massive structural intrusion into open areas, should be avoided.

12.2 Protect and enhance the visual quality of the Village central business district.

The Village's central business district offers a special visual ambience that should be preserved and enhanced. Many of the structures in this district are historic or worthy of historic designation. Efforts should be made to improve and enhance the visual quality of the central business district through appropriate streetscape design, characteristic signage and other aesthetic improvements. Such efforts would aid in

boosting the attractiveness of this area, thereby making the district a more inviting location for tourism and economic activity and improving its overall connection to the waterfront.

POLICY 13 - Preserve historic resources in the Village of Middleport

The historic resources in the Village of Middleport are a reminder of the community's early development and its rich waterfront tradition. As identified in Section II.E, historic structures in the Village include: the James Northam boathouse, the Universalist Church, the Philip Freeman house, the Village Post Office, the group of twelve structures on the east side of Main Street in the central business district, the Basket Factory Restaurant, St. Stephens Church, the United Methodist Church, and the Town and Country Inn. The historic and architectural value of these resources has been recognized by the listing of three properties on the State and National Register of Historic Places. Others have been locally designated as historically significant. Furthermore, the New York State Archaeological Sensitivity Map (NYSOPRHP, 1992) identifies the entire Village of Middleport as a zone of archaeological sensitivity.

In addition to the above noted historic structures (also see Map 6), historic resources that would be covered under this policy include those structures, districts, areas and sites that are listed or designated as follows:

- any historic resource in a federal or state park established solely or in part to protect and preserve the resource;
- any resource on, nominated to be on, or determined to be eligible for listing on the National or State Register of Historic Places;
- any cultural resource managed by the New York State Natural and Historic Preserve Trust or the New York State Natural Heritage Trust;
- any archaeological resource that is on the inventories of archaeological sites maintained by the New York State Department of Education or the Office of Parks, Recreation and Historic Preservation; and
- any locally designated historic or archaeological resources protected by a local law or ordinance.

Historic resources and archaeological sites are tangible links to the past development of the Village. They are important components in defining the community's distinctive identity and heritage. Therefore, the effective preservation of historic resources must also include efforts to restore and revitalize important resources, where appropriate. The intent of this policy is to preserve these resources in the Village of Middleport.

In identifying those elements that are important in defining the character and value of an historic resource, designation information, available documentation and original research should be used. Important character-defining elements of the resource should be identified in terms of:

- time, place and use;
- materials, features, spaces and spatial relationships;
- setting within the physical surroundings and community; and
- association with historic events, people or groups.

The value of the historic resource should be determined as indicated by:

- its membership within a group of related resources, that would be adversely impacted by the loss of any one of the group;
- the rarity of the resource in terms of the quality of its historic elements or in the significance of it as an example; or
- the significance of events, people or groups associated with the resource.

Policy Standards

13.1 Maximize the preservation and retention of historic resources in the Village.

1. The historic character of significant resources identified in the Village shall be preserved by protecting historic materials and features as follows:
 - a) evaluate the physical condition of important materials and features;
 - b) stabilize materials and features to prevent further deterioration;
 - c) protect important materials and features from inadvertent or deliberate removal or damage; and
4. ensure the protection of historic elements through a program of non-intrusive maintenance of important materials and features.
2. Repair historic materials and features using recognized preservation methods when physical condition warrants such repair.
3. Foster uses that maximize retention of the historic character of a resource and minimize alterations so as to preserve and retain the character of the structure.
 1. Alterations should not obscure, destroy or radically change character defining spaces, materials, features or finishes in order to reduce adverse impacts to the resource.
 2. Alterations may include selective removal of features that are not historic elements of the resource and its setting and that detract from the overall historic character of the resource.
 3. Minimize potential negative impacts on the historic character of the resource due to necessary updates to systems in order to meet health and safety code requirements or to conserve energy.
 4. In constructing new additions, use appropriate design and construction to minimize adverse impacts to historic character and allow for the visual compatibility of the new and old sections of structure.
4. The loss of historic resources or the historic character of the area shall be minimized when it is not possible to completely preserve the resource.
 - a) Historic structures should be relocated only when the resources cannot be preserved in place.
 - b) Demolition of a resource should only be allowed where alternatives for retention are not feasible.
5. Avoid potential adverse impacts of development and redevelopment on adjacent or nearby historic resources.
 - a) Historic resources should be protected by ensuring that development is compatible with the historic character of the affected resource.

- b) Potential development should be designed to a size, scale, proportion, mass and with a spatial relationship compatible with the historic resource.
 - c) Potential development should be designed using materials, features, forms, details, textures and colors compatible with similar features of the historic resource.
6. Limit adverse cumulative impacts on historic resources.
- a) Minimize the potential adverse cumulative impact on an historic resource, which is a member of a group of related resources, that may be adversely impacted by the loss or diminution of any one of the members of the group.
 - b) Minimize the potential cumulative impacts of a series of otherwise minor interventions on an historic resource.
 - c) Minimize potential cumulative impacts from development adjacent to the historic resource.

13.2 Protect and preserve archaeological resources.

1. When a development action is proposed in the Village of Middleport a cultural resource investigation will be conducted.
 - a) A site survey will be undertaken to determine the presence or absence of cultural resources in the project area.
 - b) If cultural resources are discovered as a result of the initial survey, a detailed evaluation will be conducted to provide adequate data to allow for a determination of the significance of the archaeological resources.
2. If the potential for impacts to an archaeological resource exists, adverse impacts shall be minimized by:
 - a) redesigning the project,
 - b) mitigating direct impacts on the resources, or
 - c) recovering significant data/resources prior to construction.
3. Disturbance or adverse impacts to any archaeological resources situated on or under lands owned by the State of New York shall be avoided. These resources may not be appropriated for private use.
4. With respect to activities that involve excavation in the Village of Middleport, public agencies and utilities should contact the New York State Office of Parks, Recreation and Historic Preservation to determine appropriate protective measures for archaeological resources.

SECTION IV
PROPOSED LAND AND WATER USES
AND PROPOSED PROJECTS

SECTION IV - Proposed Land and Water Uses & Projects

The proposed land and water uses and proposed projects for the Village of Middleport waterfront area are described in this section of the LWRP. Map 8 illustrates the proposed land and water uses for the Village as well as the location of proposed projects.

A. Proposed Land and Water Uses

1. Proposed Land Uses

Land uses in the Village of Middleport are proposed in a manner that will continue the existing style of development throughout the Village and maintain the existing character of the community. Land use changes are designed to protect waterfront resources, promote tourism, improve the compatibility of community land use, properly accommodate future development, and provide for a more balanced tax base.

Land uses along the Canal should serve the recreational needs of the community and enhance tourist opportunities; thus industrial use is no longer suitable for this area. The waterfront should be redeveloped with recreational and commercial uses that complement the central business district and the recreational character of the waterfront area.

An important site on the waterfront that requires focus is the former Basket Factory restaurant property. This site has a longstanding history with the Village and should be revitalized to provide economic and tourism benefits to the community. In addition, revitalization efforts should be concentrated on the north shore of the Canal, immediately east of North Main Street. Here land use should be primarily reserved for commercial and recreation activities that tie in with the Canal and the nearby Margaret Droman Park. In particular, the site of the former Lone Star Hotel, the adjoining property to the east (which is part of the State right-of-way) and the adjacent vacant land to the east (which adjoins Margaret Droman Park) should be improved for public access and recreation.

Efforts should be undertaken to improve and enhance economic activity in the central business district. This area contains a number of important historic resources that should be preserved to maintain the quality and character of this area of the Village. Aesthetic improvements, such as signage and landscaping, are recommended for this area. The overall objective is to improve the connection between the waterfront and the business district and enhance tourism in the area.

A mix of light industrial uses should be encouraged to locate in the vicinity of the railroad corridor, to the east and west of Main Street, with commercial uses situated along Main Street. Land use south of the railroad corridor should remain medium density residential use. The property currently occupied by the FMC Corporation should continue to be used for industrial activity, whether occupied by one large industry or a combination of uses.

Medium density residential should remain the prominent use in the area and support commercial uses in the central business district and along Telegraph Road. Restaurants, banking, professional offices, overnight accommodations, entertainment, retail, arts and crafts, and other personal service businesses should be

encouraged to locate within this area to serve both residents and tourists, alike. Main Street and State Street should continue as the center for civic activity and commerce for residents, and provide a gateway and activity center for tourists who enter the Village along the Canal. The re-use of existing buildings in the central business district, certain of which are historic, is encouraged to preserve community character and promote an inviting atmosphere for tourism and economic activity.

Telegraph Road (State Route 31) should function as a secondary commercial service area for residents and as a gateway for visitors traveling to or through the Village along this roadway. Telegraph Road, is also a minor arterial which also provides regional access for commercial trucking. Land uses along Telegraph Road should continue to consist of a mix of commercial and retail uses and medium density residential. Businesses that are appropriate for Telegraph Road include neighborhood retail services, professional offices, restaurants and entertainment. In addition, the area can support a limited amount of wholesale and light industrial use, as shown on Map 8.

Existing parks and recreation areas should be preserved and enhanced along the Canal and new park space should be created along the east side of Jeddo Creek, immediately south of the Canal. Parkland uses should be expanded in the area around Margaret Droman Park, on the north side of the Canal as well. The State Canal Corporation currently owns Canal right-of-way in this area that could be utilized and improved for passive recreation to enhance and compliment tourist use of the Canal.

North of Mechanic Street, land uses should remain low to medium density residential. The existing open space should be allowed to develop as a mix of housing types (both single family residences and multi-family uses) to provide for a greater variety of housing needs. The large parcel of Village-owned property, which is situated between North Main Street and North Hartland Street, should be developed as parkland for active recreation.

There are two parcels in the northern section of the Village that are designated as open space. The first is a 2.2-acre landlocked parcel on the west side of North Hartland Road, which is bisected by Jeddo Creek. Most of this site is located within the 100-year flood plain, which severely limits its development potential. The other parcel is a 1.2-acre Village-owned property, also on the west side of North Hartland Road. This property could be improved for passive recreational use by the Village; due to environmental constraints on the western portion of the site, it has limited value for active recreational use. There are also two large parcels of agricultural land that, although designated for residential use, are considered as potential sites for future public or private recreation should the opportunity or need arise. These sites include a 9-acre farm property located on the east side of Stone Road in the Town of Hartland, and a 21.2-acre farm property located proximate to the Hartland-Royalton Town boundary, in the Town of Royalton. This site is favored for future recreational use because it could be linked to the use of the Canal and adjoining right-of-way.

2. Proposed Water Uses

Recreational boating is, and should continue to be, the primary water use along the Canal. The growth in the number of visitors to the Village of Middleport who arrive by boat, as observed by local officials, will likely continue. As described in the inventory and analysis, a key component of the Village's waterfront revitalization strategy is to take advantage of the recreational tourism potential of the Erie Canal. To this

end, projects proposed for the area should be oriented around improving and increasing recreational amenities along the Canal and revitalizing the central business district.

B. Proposed Projects

The shoreline east and west of the Main Street lift bridge should be used for transient docking and improved with new water and power connections and play equipment to make the Canal a more inviting area for recreation and tourism. The Erie Canalway trail, along the northern shoreline towpath, should also be improved to enhance public use. In addition, other capital improvements should be made in the Village to improve economic activity and the overall quality of life (see Map 9).

1. Margaret Droman Park Improvements

Margaret Droman Park is a state-owned two-acre waterfront parcel that presently consists of a large grassy area with little or no amenities. This park would be improved with playground equipment, a picnic shelter and picnic tables, grills, and landscaping. Water and electric hook ups and a rowing dock could also be installed parallel to the shoreline to serve motorized and non-motorized boats, canoes, and crew boats for rowing competition. A small formal parking lot would be established along Mechanic Street for four or five cars. The development of this park would be tied to improvements to adjoining properties (as outlined below) to enhance tourist activities and it would serve local residents who currently lack opportunities for passive recreation along the north side of the Canal.

Preliminary estimates indicate that the improvements to this park would cost in the range of \$90,000, which includes site preparation and landscaping costs, as well as the cost of equipment.

2. Northam Boathouse (former Lone Star hotel building)

This project is the acquisition and expansion of a 708 square-foot building adjacent to Margaret Droman Park, using a 1.4-acre vacant property owned by the Canal Corporation to support the expansion of the building. This building, c.1820, was the first store to open in the Village and is a significant Erie Canal and Village landmark. The building and accompanying improvements are intended to serve as a multi-purpose recreation and visitor service facility. The facility is envisioned to provide public restrooms and showers to tourists, bicycle or canoe rentals to all visitors, storage for rowing equipment and as an information center for promoting regional attractions. The docks proposed in Margaret Droman Park will compliment canoe rentals and rowing activities envisioned which are much needed in the area.

Preliminary estimates for the renovation of the Lone Star building are in the range of \$200,000, depending on the extent of interior and exterior work required to renovate this structure for public use.

3. Paonessa Property Acquisition

There is a vacant parcel of land on the north side of the Canal, between Margaret Droman Park and the Northam Boathouse that should be acquired by the Village for recreational use. This property would allow for the continuation of parkland uses that would compliment the use of the boathouse property.

It is estimated that the purchase of this property would cost approximately \$6,000.

4. Public Works Rest Station Renovation

The public shower facilities currently maintained by the Village in their Public Works garage on the south side of the canal require renovation. The facility has been overburdened with boating visitors in recent years. The project would require a facelift and expansion of the interior including the installation of ceramic tile to replace the concrete floor, additional shower stalls, toilets and sinks, a new entrance door, an upgrade of the interior lighting, and the installation of a ventilation system. A long-term goal for this site is to relocate the public works operation to a more suitable location, away from the waterfront, and redevelop this site for recreational use.

Preliminary estimates for this renovation work are in the range of \$40,000, which would include a 560 square-foot expansion of the existing restroom area.

5. Francis Street Storm Sewer improvements

The installation of 1300 feet of new oversized drainage culverts along Francis Street and Kelly Avenue is needed to replace undersized culverts that are unable to handle stormwater runoff during heavy rainfalls. At present the street floods during rainfalls of two-inch or more or during a fast snowmelt, which occurs very often year after year.

Preliminary cost estimates for the remediation of the flooding problems that occur in the Francis Street and Kelly Avenue area are in the range of about \$750,000.

6. Gould Property Park Development

The Gould property is a 4.5-acre parcel on Mechanic Street that is owned by the Village. Currently this property consists of open, undeveloped meadow. It is proposed for development as a community park with two ball diamonds, a soccer field, play equipment and a walking/fitness and skating trail, as well as restrooms, and a picnic area and pavilion. Improvements would also include all site preparation and drainage, security lighting and landscaping. The actual site arrangement and variety of amenities for this site would be determined through the preparation of a concept plan for the facility. This project would provide recreational facilities to Village residents, particularly those living north of the Canal, which are presently only available at the high school or outside the Village.

The preliminary cost estimate for the improvements at the Gould property is \$325,000.

7. North Hartland Road Property

The Village owns a 1.2-acre property, which is located on the western side of North Hartland Road, near Chase Road. This site consists of undeveloped open space. The western half of the site contains federally designated wetlands. Due to the environmental constraints, this site would be utilized for passive recreational purposes. It would be improved with a small picnic area and utilized for bird watching or other limited passive activities.

The estimated cost of improving this site is \$7,500.

8. Car Top Boat Launch Site

To enhance boating activity on the Canal in the Village, a launch site for non-motorized vessels should be developed. Currently, the best location for this facility would be the Basket Factory restaurant site. This property has a small marina and it could easily accommodate a launch. Limited parking is available, however parking is not sufficient for trailers. The launch would likely consist of a floating dock that could be attached to the fixed docking structure at the marina. This would require retrofitting of the existing dock, and also ensure that the site is handicapped accessible.

The estimated cost of the car top boat launch site is \$130,000.

9. Canalway Trail Improvements

The Canalway Trail is interrupted at the Main Street lift bridge. A crosswalk should be painted across this roadway. In addition, to alert motorists of the potential for passing bicyclists and pedestrians, a crosswalk sign should be affixed to the bridge.

The estimated cost of this project is \$2,500.

10. Canal Wall Repair

This project would call for the repair of the entire extent of the seawall along both sides of the Canal to fix spalling and weathering. The repairs made should be coordinated with the Village's proposed improvements to Margaret Droman Park to accommodate the proposed parallel boat dock, electrical hook ups and water hook ups. The Canal is owned and operated by the New York State Canal Corporation, therefore, these repairs are the responsibility of that agency and no costs have been estimated.

11. Overlay District for the Central Business District

The Village of Middleport has a significant area of waterfront, which is in close proximity to the central business district. This area contains important cultural and scenic resources that require proper planning. To enable the Village to benefit from the location of the central business district in close proximity to the Canal, district improvements, such as streetscape design, signage and landscaping, as well as regulatory standards, would be designed as a part of the overlay. The overlay district would allow for the preservation of historic structures, proper landscaping and aesthetic controls and shoreline improvements to enhance the character of the area.

The estimated cost of preparing an overlay district for the Village is in the range of \$20,000.

12. Historic District Designation

The Village of Middleport should take appropriate steps to designate the central business district, between Church Street and State Street (including the post office property), to be of local historic significance and pursue having this area designated as an historic district on the New York State Register of Historic Places. Such a designation would help to protect character and historic integrity of the area from the adverse impacts

of proposed development projects. In addition, this designation would allow property owners to utilize special State tax credits and incentives for funding rehabilitation projects and restoration programs. The Village also has the option of providing their own incentives or programs to property owners in the district.

13. Repair and Replacement of Sidewalks

Numerous locations throughout the Village are in need of sidewalk repairs. There are also locations where sidewalks should be installed to enhance pedestrian opportunities in the area and provide easier access to the central business district. Focus would initially be placed on areas in the vicinity of the waterfront where the installation of sidewalk or sidewalk repairs would improve public access. No cost estimates have been determined for this project; the cost of sidewalk repair and replacement or direct installation is typically estimated on a square footage basis. Currently, replacement costs about \$1.25 per square foot and installation about \$4.25 per square foot.

14. Sanitary Sewer and Wastewater Treatment Plant Improvements

The project would encompass the study, and physical replacement of problematic sewer lines to reduce infiltration and inflow that has placed an excess burden upon the wastewater treatment plant. These replacements would reduce flows to the plant that would in turn free up capacity to accommodate any future commercial or industrial use. The Plant is also in need of upgrades to filtrate nitrogen and phosphorus nutrients. These filtration improvements would improve water quality in Jeddo Creek north of the Canal that serves as the plant's outfall.

The preliminary cost estimate for the infiltration and inflow repair work is \$2,600,000. This is based on cost estimates developed as part of an Infiltration and Inflow Analysis report prepared for the Village in 1974 and revised to reflect present day costs.

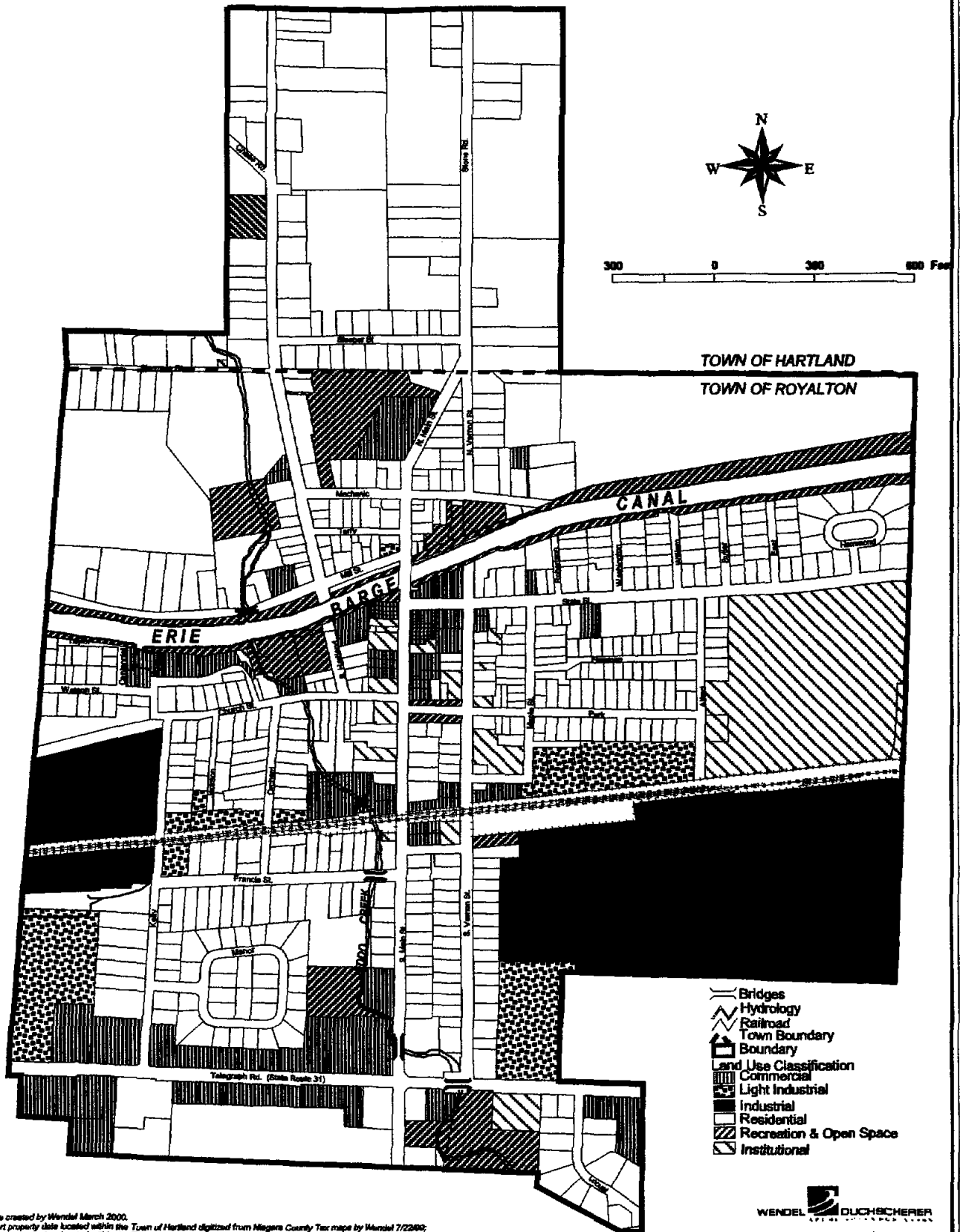
15. Economic Development Plan

In an effort to improve the vitality of the central business district and more effectively promote tourism and attract a greater number of visitors to the area, an economic revitalization strategy must be developed. This economic development plan would capitalize on existing assets and determine what types of businesses are desired and would benefit the area, how the existing zoning relates to the identified needs and what actions should be taken to make the changes necessary to rejuvenate the business district.

It is estimated that the preparation of this plan would cost in the range of \$20,000.

PROPOSED LAND AND WATER USES FOR THE VILLAGE OF MIDDLEPORT

MAP 8



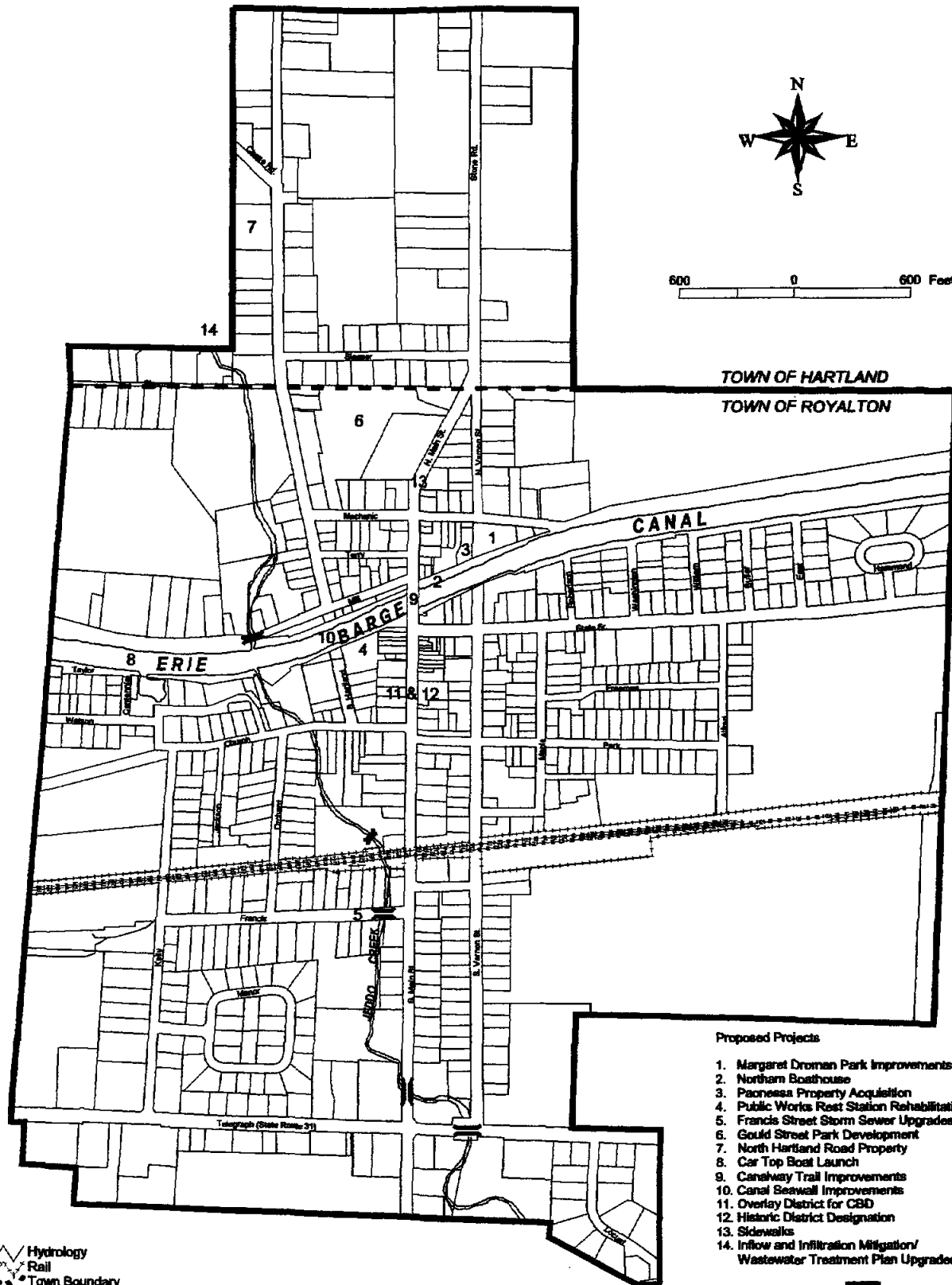
Source:
Proposed Land Use created by Wendel March 2000.
Village of Middleport property data located within the Town of Hartland digitized from Niagara County Tax maps by Wendel 7/2000;
Village of Middleport property data located within the Town of Royalton obtained from digital file current to 7/2000 provided by Niagara County Real Property Services

WENDEL DUCHSCHERER
ARCHITECTS & PLANNERS
January 2000

Map 8 - Proposed Land and Water Uses

VILLAGE OF MIDDLEPORT PROPOSED PROJECTS

MAP 9



WENDEL  DUCHESNEAU
CONSULTANTS

January 2000

Map 9 - Proposed Projects

SECTION V
TECHNIQUES FOR IMPLEMENTATION

SECTION V - Techniques for Local Implementation

A. Local Laws and Regulations

This section describes the techniques for implementation of the Village of Middleport LWRP. It describes the land use controls that have been enacted by the Village to implement the policies and projects of the LWRP.

1. Environmental Quality Review Law (Chapter 88)

This law requires that no action can be carried out without full compliance with the requirements of Chapter 88 and the SEQRA regulations (6 NYCRR Part 617).

2. Flood Prevention Damage Law (Chapter 102)

The purpose of this chapter of the Village Code is to protect public health, safety, and welfare and minimize 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 development permit for this development in the floodplain.

3. Mobile Homes and Trailers Law (Chapter 127)

This law sets forth specific requirements and regulations governing the occupancy and maintenance of mobile homes, mobile home parks, travel trailers and trailer camps. It establishes development standards and other supplementary regulations, and outlines the permitting process for such actions.

4. Property Maintenance Law (Chapter 143)

This law required that all owners or occupants of land in the Village of Middleport *must keep their grass cut and maintained*. This law establishes penalties for failure to comply.

5. Sewers Law (Chapter 150)

Chapter 150 requires that all persons in the Village of Middleport must connect to the sewer system. Once connected, no person can introduce pollutants into the treatment works that would interfere with regular operation of the wastewater treatment plant, pollute receiving waters, or pollute the atmosphere. This section of Village Code also outlines the permits required to use the sewerage system, the types of restricted wastes, and guidelines for industrial usage.

6. Solid Waste Law (Chapter 158)

In compliance with the mandates of the New York State Solid Waste Management Act of 1988, the Village adopted Chapter 158. This law establishes a curbside collection program for recyclables in the Village and defines what materials must be recycled, and the proper preparation and disposal methods to be utilized.

7. Streets and Sidewalks Law (Chapter 163)

The repair, maintenance, and construction of streets and sidewalks are governed under Chapter 163. The types of materials to be used, who is responsible for funding these projects, and how the work is to be carried out are all defined of this chapter of the Village Code.

8. Trees Law (Chapter 178)

This law establishes a Tree Board, in an advisory capacity to conduct tree censuses and report their findings, as deemed necessary, to the Village Board. This law also requires that maintenance, planting, trimming, removal, and other activities pertaining to trees or shrubs located within the Village rights-of-way on any street, park or other public property shall be performed under the supervision of the Superintendent of Public Works, and not by private persons.

9. Zoning (Chapter 200)

This chapter regulates and restricts, by district, the location, construction, and use of buildings and structures, and the use of land in the Village of Middleport. This law specifies the process for obtaining building permits and certificates of occupancy, as well as the duties of the designated Code Enforcement Officer. Chapter 200 also establishes the Zoning Board of Appeals and outlines their duties. It also contains regulations specific to the siting of wireless telecommunications towers and facilities.

To implement the policies and provisions of the Village of Middleport Local Waterfront Revitalization

Program, amendments were made to the Village Code (see Appendix A). These amendments promote tourism, enhance activity in the central business district, protect environmental and scenic resources, and promote general well being in the Village. The amendments are as follows:

a. Light Industrial (I-1) District

The Village amended Chapter 200 of the Village Code to adopt a Light Industrial zoning classification to allow for less intensive manufacturing uses. Previously, the Zoning Ordinance contained only one industrial district, which allowed for a wide range of uses that were more intensive and not suitable for areas that abut residential neighborhoods. To alleviate potential nuisance conditions and allow for more transitional uses, this new classification permits light manufacturing, warehousing, office and other such uses, that are more compatible with residential uses.

b. Zoning Map Revisions (see Map 10)

The Village's zoning map was revised to rezone parcels near the Canal and Jeddo Creek for development suitable to their waterfront locations, scenic qualities and environmental constraints. Other lands along the railroad corridor were also rezoned to allow for lighter manufacturing and commercial uses.

10. Local Consistency Review Law

Actions to be directly undertaken, funded or permitted within the local waterfront revitalization area must be consistent with the policies of the Village of Middleport LWRP. Through the adoption of a consistency review law, the Village established the legal framework required for the review of direct and indirect actions with the LWRP.

11. Site Plan Review Regulations

The Village adopted site plan review regulations to properly oversee future land development activities. Applicants are required to submit site plans for review for projects over a certain size to allow for the review of stormwater management systems, flood damage and erosion control (where required), and to control site and roadway access and design, landscaping and the overall use of the site.

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

1. Park and Shoreline Improvements

The Village shall oversee the acquisition, design, renovation and construction of the proposed parks and facilities outlined in Section IV of the LWRP. The Village should also collaborate with the New York State Canal Corporation to initiate the proposed park improvements on lands owned by that agency, as well as directing all necessary repairs to Canal infrastructure (as outlined below).

2. Land Annexation

To improve the Village tax base and provide public infrastructure to existing residential development that is in need of adequate water and sewer services, the Village will seek to annex a small area of the Town of Royalton. This area is located east of the Village boundary, between the railroad corridor and Town boundary line.

3. New York State Canal Corporation

The maintenance of sea walls and protective barriers on the Erie Canal is the responsibility of the New York State Canal Corporation. The repair of the wall, particularly in the vicinity of the lift bridge, is required (as outlined in Section IV).

The New York State Canal Corporation also is responsible for promoting the Erie Canal. Future publications of Destinations along the Canal should include promotional insights about the Village of Middleport to assist the Village with its efforts to boost tourism.

The New York State Canal Corporation should work closely with the Village of Middleport to initiate the improvement and revitalization of certain waterfront lands that are currently owned by the State. Such efforts, as outlined in Section IV, would allow the Village to enhance the use of the waterfront and promote tourism.

At present, the lift bridge operator for the Village of Middleport rotates between the Village and the Village of Gasport bridges. The State Canal Corporation should work with the Village to install a full time operator at the Middleport bridge to allow for better coverage during the summer boating season.

4. Niagara County Industrial Development Agency

In order to continue to provide adequate employment and economic opportunities in the Village of Middleport, the Niagara County Industrial Development Agency is encouraged to promote the development of appropriate industrial lands in the Village of Middleport.

5. Village of Middleport Beautification Committee

The Village of Middleport Beautification Committee has successfully operated for over five years performing landscaping and maintaining community information boards along the Canal. Their foremost stewardship is anticipated to continue towards the design and upkeep of existing and proposed canal-side facilities and amenities.

C. Management Structure Necessary to Implement the LWRP

The review of proposed actions for consistency with the policies and provisions of the Village of Middleport LWRP will be undertaken by the Village agency that receives the application for funding or approval. Prior to undertaking, approving, permitting or funding any Type I or Unlisted action in the Village of Middleport, as defined by the Village's Environmental Quality Review Law, the respective agency shall review the submittal Waterfront Assessment Form to determine if the action is consistent with the LWRP. Appendix D contains a copy of the Local Waterfront Revitalization Program Consistency Review Law, which more fully sets forth the local review process (a copy of the Waterfront Assessment Form can be found in Appendix B). All State actions proposed within the Village shall be reviewed in accordance with the guidelines established by the New York State Department of State (see Appendix E).

D. Financial Resources Necessary to Implement the LWRP

The implementation of the proposed projects identified under Section IV will require an undetermined amount of public funding. The Village shall work diligently to secure funding through grants programs and other funding assistance programs to the greatest extent possible.

The Village is obligated to fund a portion of the construction and renovation costs of proposed improvements on Village owned property. There are grants available from state and federal agencies that the Village hopes to obtain and leverage local funds against.

The State of New York, particularly the New York State Canal Corporation, funds the continued maintenance of the Canal and adjoining lands. These actions are necessary to support the growing tourism and boating activities along the Canal in Middleport and Statewide.

MAP 10



SECTION VI

STATE ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION

SECTION VI - State Actions and Programs Likely to Affect Implementation

State actions will affect and be affected by implementation of the LWRP. Under State Law certain State actions within or affecting the local waterfront area must be "consistent" or "consistent to the maximum extent practicable" with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State agencies is also likely to be necessary to implement specific provisions of the LWRP.

The first part of this section identifies the actions and programs of State agencies that should be undertaken in a manner consistent with the LWRP. This is a generic list of actions and programs, as identified by the NYS Department of State; therefore, some of the actions and programs listed may not be relevant to this LWRP. Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRP's. The lists of State actions and programs included herein are informational only and do not represent or substitute for the required identification and notification procedures. The current official list of actions subject to State consistency requirements may be obtained from the NYS Department of State.

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

A. STATE ACTIONS AND PROGRAMS WHICH SHOULD BE UNDERTAKEN IN A MANNER CONSISTENT WITH THE LWRP

1. STATE AGENCIES

OFFICE FOR THE AGING

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

DEPARTMENT OF AGRICULTURE AND MARKETS

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Programs.
- 4.00 Permit and approval programs:
 - 4.01 Custom Slaughters/Processor Permit
 - 4.02 Processing Plant License
 - 4.03 Refrigerated Warehouse and/or Locker Plant License

DIVISION OF ALCOHOLIC BEVERAGE CONTROL/ STATE LIQUOR AUTHORITY

- 1.00 Permit and Approval Programs:
 - 1.01 Ball Park - Stadium License
 - 1.02 Bottle Club License
 - 1.03 Bottling Permits
 - 1.04 Brewer's Licenses and Permits
 - 1.05 Brewer's Retail Beer License
 - 1.06 Catering Establishment Liquor License
 - 1.07 Cider Producer's and Wholesaler's Licenses
 - 1.08 Club Beer, Liquor, and Wine Licenses
 - 1.09 Distiller's Licenses
 - 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
 - 1.11 Farm Winery and Winery Licenses
 - 1.12 Hotel Beer, Wine, and Liquor Licenses
 - 1.13 Industrial Alcohol Manufacturer's Permits
 - 1.14 Liquor Store License
 - 1.15 On-Premises Liquor 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

DIVISION 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.

DEPARTMENT OF BANKING

- 1.00 Permit and approval programs:
 - 1.01 Authorization Certificate (Bank Branch)
 - 1.02 Authorization Certificate (Bank Change of Location)
 - 1.03 Authorization Certificate (Bank Charter)
 - 1.04 Authorization Certificate (Credit Union Change of Location)
 - 1.05 Authorization Certificate (Credit Union Charter)
 - 1.06 Authorization Certificate (Credit Union Station)
 - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
 - 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
 - 1.09 Authorization Certificate (Investment Company Branch)
 - 1.10 Authorization Certificate (Investment Company Change of Location)
 - 1.11 Authorization Certificate (Investment Company Charter)
 - 1.12 Authorization Certificate (Licensed Lender Change of Location)
 - 1.13 Authorization Certificate (Mutual Trust Company Charter)
 - 1.14 Authorization Certificate (Private 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 De Novo Branch Office)
 - 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
 - 1.22 Authorization Certificate (Savings and Loan Association Branch)
 - 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
 - 1.24 Authorization Certificate (Savings and Loan Association Charter)
 - 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
 - 1.26 Authorization Certificate (Trust Company Branch)
 - 1.27 Authorization Certificate (Trust Company-Change of Location)
 - 1.28 Authorization Certificate (Trust Company Charter)

- 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
- 1.30 Authorization to Establish a Life Insurance Agency
- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

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 CORRECTIONAL SERVICES

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

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

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

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.

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-Re-packer of Drugs and/or Devices
 - 2.08 Storekeeper's Certificate

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
 - 4.01 Capital projects for limiting air pollution
 - 4.02 Cleanup of toxic waste dumps
 - 4.03 Flood control, beach erosion and other water resource projects
 - 4.04 Operating aid to municipal wastewater treatment facilities
 - 4.05 Resource recovery and solid waste management capital projects
 - 4.06 Wastewater treatment facilities
- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
 - (a) Water Quality Improvement Projects
 - a) 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.
- 8.00 New York Harbor Drift Removal Project.
- 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

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 or 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 Extermination of Undesirable Fish

Lands and Forest

- 9.27 Certificate of Environmental Safety (Liquid Natural Gas and 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 State Pollutant Discharge Elimination System (SPDES) Permit
- 9.56 Approval - Drainage Improvement District
- 9.57 Approval - Water (Diversions for) Power
- 9.58 Approval of Well System and Permit to Operate
- 9.59 Permit - Article 15, (Protection of Water) - Dam
- 9.60 Permit - Article 15, Title 15 (Water Supply)
- 9.61 River Improvement District Approvals
- 9.62 River Regulatory District Approvals
- 9.63 Well Drilling Certificate of Registration
- 9.64 401 Water Quality Certification
- 10.00 Preparation and revision of Air Pollution State Implementation Plan.
- 11.00 Preparation and revision of Continuous Executive Program Plan.
- 12.00 Preparation and revision of Statewide Environmental Plan.
- 13.00 Protection of Natural and Man-made Beauty Program.
- 14.00 Urban Fisheries Program.
- 15.00 Urban Forestry Program.
- 16.00 Urban Wildlife Program.

ENVIRONMENTAL FACILITIES CORPORATION

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

FACILITIES DEVELOPMENT CORPORATION

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

OFFICE OF GENERAL SERVICES

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land, grants of easement and issuance of licenses for land underwater, including for residential docks over 5,000 square feet and all commercial docks, 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 of the Education Law regarding the 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.

DEPARTMENT OF HEALTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Approval of Completed Works for Public Water Supply Improvements
 - 2.02 Approval of Plans for Public Water Supply Improvements.

- 2.03 Certificate of Need (Health Related Facility - except Hospitals)
- 2.04 Certificate of Need (Hospitals)
- 2.05 Operating Certificate (Diagnostic and Treatment Center)
- 2.06 Operating Certificate (Health Related Facility)
- 2.07 Operating Certificate (Hospice)
- 2.08 Operating Certificate (Hospital)
- 2.09 Operating Certificate (Nursing Home)
- 2.10 Permit to Operate a Children's Overnight or Day Camp
- 2.11 Permit to Operate a Migrant Labor Camp
- 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
- 2.13 Permit to Operate a Service Food Establishment
- 2.14 Permit to Operate a Temporary Residence/Mass Gathering
- 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
- 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
- 2.17 Shared Health Facility Registration Certificate

DIVISION OF HOUSING AND COMMUNITY RENEWAL AND ITS SUBSIDIARIES AND AFFILIATES

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

HOUSING FINANCE AGENCY

- 1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 2.00 Affordable Housing Corporation

JOB DEVELOPMENT AUTHORITY

- 1.00 Financing assistance programs for commercial and industrial facilities.

MEDICAL CARE FACILITIES FINANCING AGENCY

- 1.00 Financing of medical care facilities.

OFFICE OF MENTAL HEALTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:

- 2.01 Operating Certificate (Community Residence)
- 2.02 Operating Certificate (Family Care Homes)
- 2.03 Operating Certificate (Inpatient Facility)
- 2.04 Operating Certificate (Outpatient Facility)

OFFICE OF MENTAL RETARDATION AND DEVELOPMENT DISABILITIES

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

DIVISION OF MILITARY AND NAVAL AFFAIRS

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

NATURAL HERITAGE TRUST

- 1.00 Funding program for natural heritage institutions.

NIAGARA FRONTIER TRANSPORTATION AUTHORITY (regional agency)

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

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

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.
- 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

- 1.00 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.

**THRUWAY AUTHORITY /CANAL CORPORATION/CANAL RECREATIONWAY COMMISSION
(regional agency)**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land and other resources under the jurisdiction of the Thruway Authority, Canal Corporation, and Canal Recreationway Commission.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.
- 3.00 Permit and approval programs:
 - 3.01 Advertising Device Permit
 - 3.02 Approval to Transport Radioactive Waste
 - 3.03 Occupancy Permit
 - 3.04 Permits for use of Canal System lands and waters.
- 4.00 Statewide Canal Recreationway Plan

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 branchlines 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.

URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Corporation.
- 2.00 Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:
 - (a) Tax-Exempt Financing Program
 - (b) Lease Collateral Program
 - (c) Lease Financial Program
 - (d) Targeted Investment Program
 - (e) Industrial Buildings Recycling Program
- 3.00 Administration of special projects.
- 4.00 Administration of State-funded capital grant programs.

DIVISION OF YOUTH

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

B. STATE PROGRAMS NECESSARY TO FURTHER THE LWRP

1. Department of Environmental Conservation

Funding assistance with design and construction of projects targeted to mitigate localized flooding problems in the Village. Also, funding assistance to address inflow and infiltration problems with the Village of Middleport wastewater treatment plant.

2. Environmental Facilities Corporation

Funding assistance for the planning, design and construction of improvements required to address the infiltration and inflow problems with the Village of Middleport wastewater treatment system.

3. Department of State

Funding approval for LWRP implementation of various planning, design and construction projects, as outlined in Section IV of this Program.

4. Urban Development Corporation

Assistance is needed for the preparation of economic feasibility studies for the reuse of various deteriorated and unutilized structures, as well as for the siting of boating facilities.

5. Thruway Authority / Canal Corporation / Canal Recreation Commission

Approval for the leasing of open space shoreline lands for use and development as public parkland in the area adjacent to the central business district. The State Canal Corporation is also instrumental in initiating necessary capital improvements to the Canal corridor in the Village and collaborating with the Village on projects to improve public access to the waterfront.

6. Office of General Services

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.

7. Office of Parks, Recreation, and Historic Preservation

Funding approval under programs such as the Land and Water Conservation Fund and the Clean Water/Clean Air Bond Act for development of waterfront parkland. Also, assistance with the establishment of an Historic District in the central business district, and with funding for the preservation and rehabilitation of historic structures and parkland development in the area.

APPENDIX A

Amendments to the Village of Middleport Zoning Ordinance

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

Town

Village

of Middleport

Local Law No. 3 of the year 2002

A local law amending the Zoning Ordinance of the Village of Middleport
(Insert Title)

Be it enacted by the Village Board of the
(Name of Legislative Body)

County

City

Town

Village

of Middleport as follows:

The Zoning Ordinance as adopted on March 7, 1955, and as amended from time to time, and as codified as Chapter 200 of the Village of Middleport Code is hereby amended by adding the following section:

§200-13.5 SITE PLAN REVIEW

A. When required; exceptions.

Site plan review and approval shall be required for all uses, buildings and structures requiring a building permit prior to the issuance of a building permit or certificate of occupancy. This section shall not apply to one or two family dwellings, and their permitted accessory structures and uses.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

B. Procedure for review and approval.

Where site plan review is required, the enforcement officer of this chapter shall refer the application, site plan and supporting data to the Village Board. The Board shall review the application, site plan and supporting data and, at a regular meeting of the Board, after determining that all requirements have been met, shall approve, approve with modification or disapprove the site plan. Approval of any site plans so deemed shall remain in effect for a period of not more than one year unless a successful application for a building permit has been made within that period or an extension has been granted by the Board.

C. Submission of site plan and supporting data.

The property owner or his agent shall submit five copies of a site plan and supporting data prepared by and bearing the official seal and signature of a licensed architect, landscape architect, civil engineer or land surveyor, which shall include the following information, presented in drawn form at a scale approved by the enforcement officer of this chapter and accompanied by a written text:

1. Survey of the property, showing existing topographic features, including contours, large trees, buildings, structures, streets, property lines, utility easements, rights-of-way and land use, and the zoning and ownership of surrounding property.
2. A site plan showing proposed lots, blocks, building locations and land use areas.
3. Traffic circulation, parking and loading spaces and pedestrian walks.
4. Landscaping plans, including site grading, drainage existing and proposed landscape materials, including trees and shrubs, and their locations, identification of those materials to be removed, existing and proposed structures and all greenspace areas designed as part of the site environment. Natural site features and vegetation shall be preserved and integrated into the proposed site wherever feasible.

5. Preliminary engineering plans, including street improvements, storm drainage system, public utility extensions, water supply, sanitary sewer facilities, outdoor lighting and the location of existing and proposed fire hydrants.

6. Preliminary architectural drawings for buildings to be constructed.

7. Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.

8. In addition to the required site plan and supporting data indicated above, the Village Board may require a property owner or his agent to provide additional supporting data or plans the Board deems necessary and pertinent to carry out its responsibility for site plan review as provided in this chapter.

D. Criteria for review recommendations.

1. The Village Board shall review the site plan and supporting data and take into consideration the following:

a. Harmonious relationship between proposed uses and existing uses.

b. Maximum safety of vehicular circulation between the site and street network.

c. Adequacy of interior and exterior traffic circulation and parking and loading facilities, with particular attention to vehicular and pedestrian safety.

d. Adequacy of landscaping and setbacks in regard to achieving maximum compatibility with and protection of adjacent property and land uses.

e. Aesthetic considerations.

f. Compliance with other Village Laws and Ordinances.

g. Density of improvements of the site.

2. Should changes or additional facilities be required by the Village Board, approval of the site plan shall be conditional upon satisfactory compliance by the property owner with the changes or additions. The Board may withhold approval until required site plan changes have been made and filed.

3. In cases where any action of the Zoning Board of Appeals is required, the site plan shall be the subject of a preliminary review by the Village Board, in accordance with the review procedure set forth above, before action is taken by the Zoning Board of Appeals. After such action by the Zoning Board of Appeals, the Village Board shall conduct a final review of the site plan.

4. The Village Board may take the following actions with respect to a submitted site plan: (i) approve, or (ii) approve with modifications, or (iii) defer action until required modifications have been presented.

E. Required improvements..

In furtherance of the purposes of this Ordinance and to assure public safety and general welfare, the Village Board shall require the following improvements:

1. The designation of pedestrian walkways or sidewalks for the safe and convenient movements of patrons from store to store within the site and with adjoining sites.

2. The dedication of rights-of-way and easements for all facilities to be publicly maintained for the full frontage of the lot or parcel prior to the issuance of any certificate of occupancy.

3. The construction of all off-site curbs, gutters, sidewalks and road widening or construction as necessary to satisfy the criteria as set forth in Section D.

4. The construction of curbs, gutters and drives which will permit vehicular travel on the site and connection to and from adjacent parking areas and properties.

5. Screening, fencing, walls, berms and screen plantings adequate to screen views in accordance with requirement of this ordinance for adjacent prospective, contrasting development of less intensity and state highways of limited access. Designated plantings and landscaping shall be in accordance with the approved schedule and annually maintained by the property owner.

6. Adequate sewer, water and storm water drainage facilities in accordance with Village regulations including lines, connections, retention facilities, valves, hydrants and other facilities.

F. Performance Bond as condition of approval.

The Village Board may require, as a condition of site plan approval, that the property owner file a performance bond, in such amount as determined by the Village Engineer, to insure that the proposed development will be built in compliance with accepted plans.

G. Site Plan revisions.

A property owner wishing to make any changes in an approved site plan shall submit a revised site plan of the Village Board for review and approval.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2002 of the ~~(County)~~(City)(~~Town~~)(Village) of Middleport was duly passed by the Village Board on April 15, 2002, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.


Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

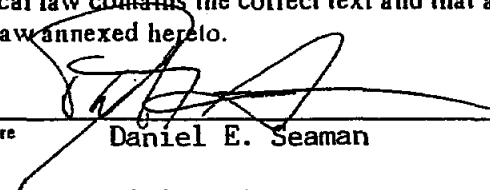
(Seal)

Date: April 15, 2002

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF NIAGARA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature Daniel E. Seaman

Village Attorney
Title

County
City of Middleport
Town
Village

Date: April 15, 2002

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

Town

Village

of Middleport

Local Law No. 4 of the year 2002

A local law amending the Zoning Ordinance of the Village of Middleport
(Insert Title)

Be It enacted by the Village Board of the
(Name of Legislative Body)

County

City

Town

Village

of Middleport as follows:

WHEREAS, the Village of Middleport adopted the Village of Middleport, New York, Zoning Ordinance on March 7, 1955, now codified as Chapter 200 of the Code of the Village of Middleport, and

WHEREAS, pursuant to the terms of § 200-5 of said Zoning Ordinance, a map entitled "Zoning Map of the Village of Middleport" was adopted on the same date and made a part of said Ordinance.

NOW, THEREFORE, said Zoning Ordinance and Zoning Map is hereby amended as follows: The following section is added:

§ 200-5. A.(5) I-1 DISTRICTS: I-2, Light Industrial Districts.

and said Zoning Ordinance and Zoning Map is hereby further amended as follows:

§ 200-10A. I-1, LIGHT INDUSTRIAL DISTRICTS

The following regulations shall apply to all I-1 Districts:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

A. INTENT. The intent of the light factory or light industrial district is to provide areas within the Village for the location of light industrial, manufacturing, assembly, compounding, processing, fabrication and packaging facilities, wholesale warehouses and storage facilities and research, development and laboratory facilities and certain compatible uses. This district is for selective uses that do not adversely impact the environment and quality of life of the residents and property owners of the Village or create an impact that is injurious to public health, safety or general welfare.

B. USES PERMITTED.

1. Uses of a light industrial nature are permitted, which involves only the manufacture, processing, assembly, packaging or storage of previously refined materials, provided that at no time will such use result in or cause:

a. dissemination of dust, smoke, smog, observable gas, fumes or odors or other atmosphere pollution, objectionable noise, glare or vibration.

b. a hazard of fire or explosion or chemical or nuclear pollution or other physical hazard to any adjacent building or to any plant growth on any land adjacent to the site or to any person working on the site, or working or living adjacent thereto.

2. Office buildings for executive, engineering and administrative purposes; scientific or research laboratories devoted to research, design and/or experimentation in the processing and fabricating incident thereto; the indoor warehousing and/or storage of goods and products, such as building materials, farm supplies and the like, which may be stored or sold from the premises to the general public; facilities for printing and/or publishing; essential services; and facilities for testing and development of processes planned for use in production elsewhere, stores and shops for the conducting of any retail business (except motor vehicles sales), personal service shops, banks, restaurants and similar establishments, theaters and assembly halls for a public recreation use, lodging house, motels, hotels, undertaking establishments.

C. USES PROHIBITED.

All other uses are prohibited; including, but not limited to the junk industry or motor vehicle wrecking operations; and any heavy industry, and motor vehicle sales.

D. PERMITTED ACCESSORY USES.

The following are permitted accessory uses in the light factory and light industrial use districts:

1. Garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises, used in connection with the principal use.
2. Signs in accordance with this chapter.
3. Off-street parking and loading.
4. Other reasonable accessory uses incidental to the permitted principal use.

E. ADDITIONAL RESTRICTIONS.

1. All industrial processes and other uses shall take place within an enclosed building.
2. Storage of materials out-of-doors shall not be permitted.

F. YARDS REQUIRED.

1. Each lot shall have a front yard of not less than 25 feet in depth.
2. There shall be a side yard along the side of every lot in an F-2 District of not less than 10 feet; provided, however, light factory or light industrial uses shall be located so as to be a minimum of 50 feet from any property line abutting a non-industrial district. This 50 foot buffer strip shall be perpetually maintained with plantings to provide a visual screen between industrial use and the adjoining non-industrial use.
3. There shall be a rear yard on every lot of an I-1 District of not less than 25 feet.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2002 of the ~~(County)~~(City)(Town)(Village) of Middleport was duly passed by the Village Board on April 15, 2002, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

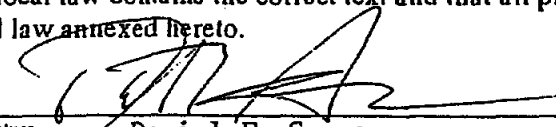
Date: April 15, 2002

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF NIAGARA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature


Daniel E. Seaman

Title

Village Attorney

County

City

Town

Village

of Middleport

Date: April 15, 2002

Accepted
Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

Town

Village

of Middleport

Local Law No. 5 of the year 2002

A local law amending the Zoning Ordinance of the Village of Middleport
(Insert Title)

Be it enacted by the Village Board of the
(Name of Legislative Body)

County

City

Town

Village

of Middleport as follows:

WHEREAS, the Village of Middleport adopted the Village of Middleport, New York Zoning Ordinance on March 7, 1955; said Ordinance having been codified as Chapter 200 of the Code of the Village of Middleport; and

WHEREAS, pursuant to the terms of Section 200-5 of said Zoning Ordinance, a map entitled "Zoning Map of the Village of Middleport" was adopted on the same date and made part of said Ordinance; and

WHEREAS, various amendments to the Zoning Ordinance of the Village of Middleport, and map has adopted since the original adoption of said Ordinance changing district boundaries; and

WHEREAS, other boundary changes have become necessary, including, among other changes, the establishment of an L-1 District; and

WHEREAS, Wendel Duchscherer has prepared a revised zoning map of the Village of Middleport entitled "Zoning Map of the Village of Middleport 2001";

(If additional space is needed, attach pages the same size as this sheet, and number each.)

NOW, THEREFORE, said Zoning Ordinance and zoning map is hereby amended as follows:

§200-5(B) is hereby amended by adopting the following §200-5(B) which shall replace the existing §200-5(B) in its entirety:

§200-5(B). Said districts are defined as shown on a map entitled "Zoning Map of the Village of Middleport 2001" prepared by Wendel-Duchscherer and certified by the Village Clerk of the Village of Middleport, which map accompanies, and with all explanatory matter thereon, is hereby made a part of this Chapter.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2002
of the ~~(County)~~(City)~~(Town)~~(Village) of Middleport was duly passed by the
Village Board on April 15, 2002, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____
of the (County)(City)(Town)(Village) of _____ was duly passed by the
(Name of Legislative Body) on _____ 20____, and was (approved)(not approved)(repassed after
disapproval) by the _____ and was deemed duly adopted on _____ 20____,
(Elective Chief Executive Officer*)
in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____
of the (County)(City)(Town)(Village) of _____ was duly passed by the
(Name of Legislative Body) on _____ 20____, and was (approved)(not approved)(repassed after
disapproval) by the _____ on _____ 20____. Such local law was submitted
(Elective Chief Executive Officer*)
to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of
the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in
accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____
of the (County)(City)(Town)(Village) of _____ was duly passed by the
(Name of Legislative Body) on _____ 20____, and was (approved)(not approved)(repassed after
disapproval) by the _____ on _____ 20____. Such local law was subject to
(Elective Chief Executive Officer*)
permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in
accordance with the applicable provisions of law.

Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.


Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

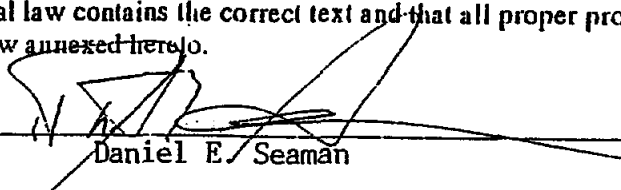
Date: April 15, 2002

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF NIAGARA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature


Daniel E. Seaman

Village Attorney

Title

County

City

Town

Village

of Middleport

Date: April 15, 2002

APPENDIX B

Waterfront Assessment Form

VILLAGE OF MIDDLEPORT

WATERFRONT ASSESSMENT FORM

INSTRUCTIONS (Please print or type all answers)

1. Applicants or, in the case of direct actions, municipal agencies, shall complete this Waterfront Assessment Form (WAF) for proposed actions that are subject to the LWRP consistency review. This assessment is intended to supplement other information used by an agency in making a determination of consistency with the Village of Middleport Local Waterfront Revitalization Program.
2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the Village Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the waterfront area.
3. If any question in Section C on this form is answered "yes", then the proposed action may affect the achievement of the LWRP policy standards and conditions contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making determination that it is consistent to the maximum extent practicable with the LWRP policy standards and conditions. If an action cannot be certified as consistent with the LWRP policy standards and conditions, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Type of agency action (check all appropriate responses):

(a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction) ☐

(b) Financial assistance (e.g. grant, loan, subsidy) ☐

(c) Permit, approval, license, certification ☐

(d) Agency undertaking action: ☐ _____

(e) Action is a: Type I Action ☐

Unlisted Action ☐

2. Describe nature and extent of action:

3. Location of action:

_____ Street or Site Description

4. Size of site _____

5. Present land use _____

6. Present zoning classification _____

7. Describe any unique or unusual land forms on the project site (i.e. bluffs, ground depressions, other geological formations):

8. Percentage of site that contains slopes of 15% or greater: _____

9. Streams, lakes, ponds or wetlands existing within or continuous to the project area?

(1) Name _____

(2) Size (in acres) _____

10. Applicant Information:

(a) Name of applicant (or agency): _____

(b) Mailing address: _____

(c) Telephone number: Area code () _____

(d) Application number, if any: _____

11. Will the action be directly undertaken, require funding, or approval by a State or Federal agency?

Yes _____ No _____ If yes, which State or Federal agency? _____

C. WATERFRONT ASSESSMENT (Check either "Yes" or "No" for each of the following questions).

1. Will the proposed action have a significant effect upon:

(a) Commercial or recreation use of fish and wildlife resources?

YES

NO

(b) Scenic quality of the waterfront environment?

(c) Development of future or existing water dependent uses?

(d) Stability of the shoreline?

(e) Surface or groundwater quality?

(f) Existing or potential public recreation opportunities?

(g) Structures, sites or districts of historic, archeological or cultural significance to the municipality, state or nation?

2. Will the proposed action involve or result in any of the following:

(a) Physical alteration of land along the shoreline, land under water or coastal waters?

YES

NO

(b) Physical alteration of two or more acres of land located elsewhere in the local waterfront revitalization area?

(c) Expansion of existing public services or infrastructure in underdeveloped or low density areas of the waterfront area?

- (d) Energy facility not subject to Article VII or VIII of the Public Service Law? _____
- (e) Mining, excavation, filling or dredging? _____
- (f) Reduction of existing or potential public access to or along the shore? _____
- (g) Sale or change in use of publicly-owned lands located on the shoreline or under water? _____
- (h) Development within designated flood hazard area? _____
- (i) Development on a natural feature that provides protection against flooding or erosion? _____
- (j) Diminished surface or groundwater quality? _____
- (k) Removal of ground cover from the site? _____

3. Project Information

- | | YES | NO |
|---|-------|-------|
| (a) If project is to be located adjacent to the shore: | | |
| (1) Will water-related recreation be provided? | _____ | _____ |
| (2) Will public access to the shoreline be provided? | _____ | _____ |
| (3) Does the project require a waterfront site? | _____ | _____ |
| (4) Will it supplant a recreation or maritime use? | _____ | _____ |
| (5) Do essential public services and facilities presently exist at or near the site? | _____ | _____ |
| (6) Is the project site located in an area of high erosion? | _____ | _____ |
| (7) Is project located in a flood prone area? | _____ | _____ |
| (b) If the project site is publicly owned: | | |
| (1) Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities? | _____ | _____ |
| (2) If located in the foreshore, will access to those and adjacent lands be provided? | _____ | _____ |
| (3) Will it involve the siting and construction of major energy facilities? | _____ | _____ |
| (4) Will it involve the discharge of effluents from major stream electric generating and industrial facilities into a waterway? | _____ | _____ |
| (c) Is the project site presently used by the community as an open space or recreation area? | _____ | _____ |
| (d) Does the site offer or include scenic views or vistas known to be important to the community? | _____ | _____ |
| (e) Will the surface area of any waterways or wetland areas be increased or decreased by the proposal? | _____ | _____ |
| (f) Will the project involve any waste discharges? | _____ | _____ |
| (g) Does the project involve surface or subsurface liquid waste disposal? | _____ | _____ |
| (h) Does this project involve transport, storage, treatment or disposal of solid waste or hazardous material? | _____ | _____ |
| (i) Does the project involve shipment or storage of petroleum products? | _____ | _____ |
| (j) Does the project involve discharge of toxins, hazardous substances or other pollutants? | _____ | _____ |
| (k) Will the project affect any area designated as a freshwater wetland? | _____ | _____ |
| (l) Will the project alter drainage flow patterns or surface water runoff on to or from the site? | _____ | _____ |
| (m) Will best management practices be utilized to control stormwater runoff into waterways? | _____ | _____ |
| (n) Will the project cause emissions which exceed Federal or State air quality standards or generate significant amounts of nitrates or sulfates? | _____ | _____ |

D. REMARKS OR ADDITIONAL INFORMATION. (Add any additional sheets necessary to complete this form).
Note: The Village may require additional or supplemental information at its discretion.

If assistance or further information is needed to complete this form, please contact the Village Building Inspector at (716)772-7826 or Village Clerk at (716) 735-3303.

Name of Applicant: _____

Preparer's Name: _____ Telephone Number: () _____

Title: _____ Agency: _____ Date: _____

APPENDIX C

Flood Damage Prevention Law

Chapter 102

FLOOD DAMAGE PREVENTION

- | | |
|--|--|
| § 102-1. Statutory authorization; findings. | § 102-10. Establishment of development permit. |
| § 102-2. Purpose. | § 102-11. Designation of Zoning Enforcement Officer. |
| § 102-3. Objectives. | § 102-12. Duties and responsibilities of Zoning Enforcement Officer. |
| § 102-4. Definitions. | § 102-13. General standards. |
| § 102-5. Applicability. | § 102-14. Specific standards. |
| § 102-6. Basis for establishing the areas of special flood hazard. | § 102-15. Floodways. |
| § 102-7. Interpretation; conflict with other provisions. | § 102-16. Appeals Board. |
| § 102-8. Penalties for offenses. | § 102-17. Conditions for variances. |
| § 102-9. Warning and disclaimer of liability. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Middleport 5-4-1987 by L.L. No. 1-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 97.

Zoning — See Ch. 200.

§ 102-1. Statutory authorization; findings.

- A. Statutory authorization. The Legislature of the State of New York, having delegated to local governmental units the responsibility of adopting regulations designed to promote the public health, safety and general welfare of its citizenry, the Village Board of the Village of Middleport, Niagara County, New York, does hereby ordain the following chapter.
- B. Findings of fact. Potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Middleport and such damages may include: loss of property; destruction or loss of private and public housing; damage to public facilities, both publicly and privately owned; disruption of commerce and governmental services; public expenditure for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

§ 102-2. 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. Require 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 filling, 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.
- F. Qualify and maintain for participation in the National Flood Insurance Program.

§ 102-3. 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.
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 102-4. Definitions.

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.

APPEAL — A request for a review of the Zoning Enforcement Officer's interpretation of any provision of this chapter or a request for a variance.

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 through 99, V, VO, VE or V1

through 30. It is also commonly referred to as the base floodplain or one-hundred-year floodplain.

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 — Any structure built for support, shelter or enclosure for occupancy or storage.

CELLAR — The same meaning as "basement."

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 located within the area of special flood hazard.

ELEVATED BUILDING — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.

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 or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

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 defined but no water surface elevation is 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 — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevations of the base flood.

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 — The same meaning as "regulatory floodway."

FLOOR — The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

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. The term does not include long-term storage, manufacture, 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.

LOWEST FLOOR — Lowest level, including basement or cellar of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement 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 also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel or contiguous parcel 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 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME — The same meaning as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this chapter.

ONE-HUNDRED-YEAR FLOOD — The same meaning as "base flood."

PRINCIPALLY ABOVE GROUND — At least 51% of the actual cash value of the structure, excluding land value, is above ground.

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 § 102-12B of this chapter.

START OF CONSTRUCTION — The initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages,

sheds), storage trailers and building materials. For manufactured homes the actual start means affixing of the manufactured home to its permanent site.

STRUCTURE — A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- B. Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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.

§ 102-5. Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Village of Middleport.

§ 102-6. Basis for establishing the areas of special flood hazard. [Amended 1-20-1997 by L.L. No. 1-1997]

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Insurance Rate Map (FIRM), Community Panel Nos. 3605050001 and 360505001B, effective August 1, 1983, together with all maps contained therewith are hereby declared to be a part of this chapter. The FIRM is on file at the office of the Clerk of the Village of Middleport, Main Street, Middleport, New York.

§ 102-7. Interpretation; conflict with other provisions.

- A. This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- 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.

§ 102-8. Penalties for offenses.

No structure 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 Village of Middleport 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 §§ 102-16 and 102-17 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 102-9. 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 Village of Middleport, 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.

§ 102-10. Establishment of development permit.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 102-6. Application for a development permit shall be made on forms furnished by the Zoning Enforcement Officer 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.

A. Application stage. The following information is required where applicable:

- (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.
- (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.

- (3) When required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 102-13C(1).
 - (4) Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 102-14.
 - (5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- B. Construction stage. Upon placement of the lowest floor, or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the Zoning Enforcement Officer a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Zoning Enforcement Officer shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

§ 102-11. Designation of Zoning Enforcement Officer.

The Zoning Enforcement Officer is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 102-12. Duties and responsibilities of Zoning Enforcement Officer.

Duties of the Zoning Enforcement Officer shall include but not be limited to:

A. Permit application review.

- (1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

- (4) Review all development permits for compliance with the provisions of § 102-13E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 102-6, Basis for establishing the areas of special flood hazard, the Zoning Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer § 102-14, Specific standards.
- C. Information to be obtained and maintained.
 - (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.
 - (b) Maintain the floodproofing certifications required in §§ 102-13 and 102-14.
 - (3) Maintain for public inspection all records pertaining to the provisions of this chapter.
- D. Alteration of watercourses.
 - (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Interpretation of FIRM boundaries.
 - (1) Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). An applicant contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in §§ 102-16 and 102-17.
 - (2) Base flood elevation data established pursuant to § 102-6 and/or § 102-12B, when available, shall be used to accurately delineate the area of special flood hazards.
 - (3) The Zoning Enforcement Officer shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.
- F. Stop-work orders.
 - (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the Zoning Enforcement Officer.

Disregard of a stop-work order shall be subject to the penalties described in § 102-8 of this chapter.

- (2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the Zoning Enforcement Officer. Disregard of a stop-work order shall be subject to the penalties described in § 102-8 of this chapter.
- G. Inspections. The Zoning Enforcement Officer 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 that the development is in compliance with the requirements of this chapter.
- H. Certificate of compliance.
- (1) It shall be unlawful to use or 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 Zoning Enforcement Officer stating that the building or land conforms to the requirements of either the floodplain development permit or the approved variance.
 - (2) All other development occurring within the designated flood hazard area will have upon completion a certificate of compliance issued by the Zoning Enforcement Officer.

§ 102-13. General standards.

In all areas of special flood hazards the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All 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.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in § 102-12A(3), Permit review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 102-12B or § 102-13D(4) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 102-12B the requirements of § 102-15, Floodways, shall apply.

§ 102-14. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 102-6, Basis for establishing the areas of special flood hazards, and § 102-12B, Use of other base flood data, the following standards are required:

- A. Residential construction. New construction and substantial improvements of any resident structure shall:
- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
 - (2) Have fully enclosed areas below the lowest floor that 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:
 - (a) 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.
 - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- B. Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation, or be floodproofed to the base flood level.
- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) 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.
 - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - (2) If the structure is to be floodproofed:
 - (a) A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

- (b) A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
- (3) The Zoning Enforcement Officer shall maintain on record a copy of all such certificates noted in this section.
- C. Construction standards for areas of special flood hazards without base flood elevations.
 - (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated at least two feet above the highest adjacent grade next to the proposed foundation of the structure.
 - (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) 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.
 - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

§ 102-15. Floodways.

Located within areas of special flood hazard are areas designated as floodways (see definition, § 102-4). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by § 102-6 and § 102-12B, all encroachments, including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 102-16. Appeals Board.

- A. The Zoning Board of Appeals as established by Village of Middleport 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 Zoning Enforcement Officer 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 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.
 - (11) 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 Village Clerk shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 102-17. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of $\frac{1}{2}$ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that § 102-16D(1) through (11) have been fully considered. As the lot size increases beyond the $\frac{1}{2}$ acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.

- 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.
 - (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.
 - (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. Any applicant to whom a variance is granted or a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

APPENDIX D

Village of Middleport Waterfront Consistency Law

Accepted
Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~COUNTY~~

~~CITY~~

~~TOWN~~

Village

of Middleport

Local Law No. 2 of the year 2002

A local law entitled the Village of Middleport Waterfront Consistency
(Insert Title)
Law.

Be It enacted by the Board of Trustees of the
(Name of Legislative Body)

~~COUNTY~~

~~CITY~~

~~TOWN~~

Village

of Middleport

as follows:

I. Title

This local law will be known as the Village of Middleport Waterfront Consistency Law.

II. Authority and Purpose

1. 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).
2. The purpose of this local law is to provide a framework for agencies of the Village of Middleport to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the waterfront area; and to assure that such actions and direct actions are consistent with the said policies and purposes.
3. It is the intention of the Village of Middleport that the preservation, enhancement and utilization of the natural and manmade resources of the unique waterfront area of the Village occur in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate

(If additional space is needed, attach pages the same size as this sheet, and number each.)

population 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 of fish and wildlife; adverse impacts to historic structures; diminution of open space areas or public access to the waterfront; erosion of shoreline; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

4. The substantive provisions of this local law shall only apply while there is in existence a 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

1. "Actions" means either Type I or unlisted actions as defined in SEQRA regulations which are undertaken by an applicant and which include:
 - (a) projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural 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 from an agency or agencies;
 - (b) agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;
 - (c) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
 - (d) any combinations of the above.
2. "Agency" means any board, agency, department, office, other body, or officer of the Village of Middleport.
3. "Waterfront area" means the Waterfront Revitalization Area delineated in the Village's Local Waterfront Revitalization Program
4. "Waterfront Assessment Form (WAF)" means the form used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
5. "Consistent" means that the action will comply with the LWRP policy standards and conditions.

6. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to, a capital project, rule making, procedure making and policy making.
7. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Village of Middleport, 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 shall be on file in the Office of the Village Clerk of the Village of Middleport.
8. "Building Inspector" means the building inspector or, if none, the code enforcement officer of the Village of Middleport.
9. "Applicant" means any person, corporation, partnership, or other entity requesting approval or funding of an action, or undertaking any action for which approval is required pursuant to this Law.

IV. Review of Actions

1. Whenever a proposed action is located in the village's waterfront area, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards and conditions set forth in paragraph 4 below.
2. Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the waterfront area, the applicant, or in the case of a direct action, the agency, shall prepare a Waterfront Assessment Form (WAF) to assist with the consistency review.
3. Whenever an agency shall make a determination that an action is not consistent with the LWRP policy standards and conditions, it shall notify the applicant of such findings and the reason therefor within 45 days of filing of the application.
4. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Village of Middleport LWRP, a copy of which shall be on file in the Village Clerk's office and available for inspection during normal business hours. In the case of direct actions, the agency shall also consult with Section IV of the LWRP in making its consistency determination:
 - (a) Fostering a pattern of development in the Village of Middleport that enhances community character, preserves open space, makes efficient use of the infrastructure, makes beneficial use of a waterfront locations, and minimizes potential adverse impacts of development.
 - (b) Protecting existing water-dependent uses in the Village of Middleport and promoting the siting of new water-dependent uses in suitable locations.

- (c) Protecting existing agricultural land in the Village of Middleport.
- (d) Promoting the sustainable use of living marine resources in the Village of Middleport.
- (e) Protecting and restoring ecological resources, including significant fish and wildlife habitats, wetlands and rare ecological communities.
- (f) Protecting and improving water resources.
- (g) Minimizing loss of life, structures and natural resources from flooding and erosion.
- (h) Protecting and improving air quality.
- (i) Promoting appropriate use and development of energy and mineral resources.
- (j) Minimizing environmental degradation from solid waste and hazardous substances and wastes.
- (k) Improving public access to the waterfront and the use of public lands.
- (l) Enhancing visual quality and protecting outstanding scenic resources.
- (m) Preserving and protecting historic resources.

5. If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such actions shall not be undertaken unless the determining agency makes a written finding with respect to the proposed action that:

- (a) no reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
- (b) the action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions; and
- (c) the action will advance one or more of the other LWRP policy standards and conditions; and
- (d) the action will result in an over-riding village, regional or state-wide public benefit.

6. Each agency shall maintain a file for each action made the subject of a consistency determination. Such files shall be under the control of the Village Clerk.

V. Enforcement

The Village Building Inspector shall be responsible for enforcing this Chapter. No work or activity on an action in the waterfront area which is subject to review under this Chapter shall be commenced or undertaken until the Building Inspector has been presented with a written determination from an agency that the action is consistent with the Village's LWRP policy standards and conditions.

In the event that any construction, action or other activity is being performed in violation of this Chapter or any conditions imposed thereunder, the Building Inspector 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. Posting of a stop work order at any work site, or delivery to any individual shall constitute issuance. Issuance of a stop work order shall not be a prerequisite to prosecution for violating this law.

VI. Violations

1. The undertaking or performing, or exercising, any action as defined, herein, without agency approval shall constitute a violation of this Local Law and shall be punishable by a fine not to exceed \$250.00 or imprisonment for not more than 15 days, or both such fine and imprisonment.
2. Each week of continuing violation of this Law shall constitute a separate violation.
3. This law may be enforced by a civil action and any violation thereof may be enjoined by a court of competent jurisdiction.

VII. Severability

The provisions of this local law are severable. If any provision of this 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.

VIII. Effective Date

This local law shall take effect immediately upon its filing in the office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2002 of the ~~(County)(City)(Town)~~(Village) of Middleport was duly passed by the Village Board on March 18 2002, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.


Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

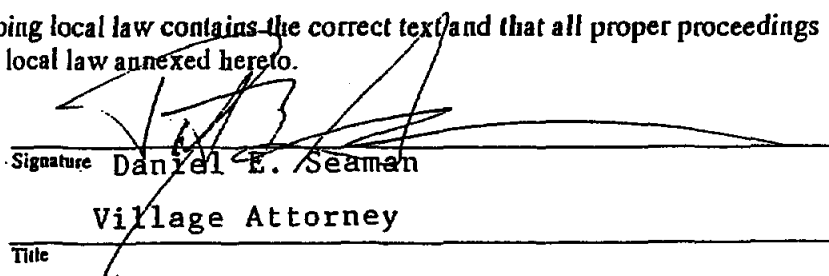
(Seal)

Date: March 18, 2002

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF NIAGARA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature Daniel E. Seaman

Village Attorney

Title

~~County~~
~~City~~ of Middleport
~~Town~~
Village

Date: March 18, 2002

APPENDIX E

Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect

**NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM**

**Guidelines for Notification and Review of State Agency Actions
Where Local Waterfront Revitalization Programs are in Effect**

I. PURPOSES OF GUIDELINES

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. DEFINITIONS

- A. Action means:
 - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
 - 2. Occurring within the boundaries of an approved LWRP; and
 - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.
- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an

approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
 2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
 3. That will result in an overriding regional or statewide public benefit.
- C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
1. Shall fully describe the nature and location of the action;
 2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
 3. Should be provided to the local official identified in the LWRP of the situs local government 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 with the local LWRP official should be considered adequate notification of a proposed action.)
- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A.** Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- B.** If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C.** If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D.** If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V. below shall apply. The local government 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 local government 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 a local government 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 a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.

2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government 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 situs local government.
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.