

CHAPTER 9

SHOREFRONT ACCESS AND PROTECTION PLANNING

Ohio's Lake Erie shore and waters historically have been valued as a unique recreational resource. Increasing numbers of Ohio's citizens and out-of-state travelers visit the area for fishing, swimming, boating, sunbathing, nature watching, hiking, biking, camping and other activities. Most people must rely upon the government (or, in the case of marinas, primarily private industry) for access to areas providing these recreational opportunities. In Ohio, shoreline and water access is provided primarily through state and local parks, natural areas and preserves, wildlife refuges and management areas (federal and state), and fishing access and boat launching sites. Of these, most state and local parks and some preserves encompass public beaches and are managed in part with provision of public beach access as a priority.

An analysis of the supply of existing facilities and properties providing access and an assessment of trends in needs and demand is presented after the description of Ohio's shorefront access planning processes.

To provide special management attention to public beaches and other public coastal areas of environmental, recreational, historic, aesthetic, ecological or cultural value, the OCMP has a shorefront access and protection planning process that entails:

1. Procedures for assessing public beaches and other public areas that require access or protection, and a description of appropriate types of access and protection.
2. An identification and description of policies, authorities, programs and other techniques that will be used to provide such access and planning.

Procedures

Special Management Areas

The OCMP uses the process of nominating and designating Special Management Areas (SMAs) as a means to assess public beaches and other public areas requiring access or protection. As described in Chapter 6, any type of public area requiring access or protection can be nominated as an SMA. State Nature Preserves and Wildlife Areas, Public Parks and Access Areas, Wetlands, and Historic and Archaeological sites are all designated as generic APCs, as described in Chapter 6. As stated in Chapter 6, highest priority shall be given to uses that provide public access and promote public recreation in areas identified as Public Parks and Access Area APCs. Providing public access also may be a priority goal or component of the planning framework for each of the other types of APCs mentioned above, depending upon the particular resource base and existing facilities. OCMP policies and authorities for providing access within these areas are explained in Chapter 5, Policies 13, 21, 22, 23 and 24.

Statewide Comprehensive Outdoor Recreation Plan

The Statewide Comprehensive Outdoor Recreation Plan (SCORP) is the major tool in Ohio for assessing recreational needs for public beaches and other access sites and facilities. ODNR, REALM, is the lead office responsible for developing the SCORP. REALM assesses state recreational needs, translates these needs into policy statements, and develops action plans that can be used to implement the policies. Also, SCORP provides estimates of current participation. The estimate of current participation and the need for recreational facilities provides a basis for the projection of future recreational participation and investment in public and private recreational facilities and programs.

The methodology used to assess current and future participation and facility needs involves a comparison of the present supply of facilities with an estimate of participation. The supply of recreational facilities is measured by a statewide recreational facilities inventory. An estimate of demand (participation) is obtained by a citizens user survey, which samples the recreational participation habits of both Ohioans and residents of surrounding states. Facility figures are then computed using supply, demand and facility standards information.

On a statewide or regional level, use of the methodology helps planners determine the relative scarcity or abundance of recreation facilities and resources. The needs analysis cannot, however, be used as the sole basis for informed decision making. Because of the gross levels of analysis that characterize SCORP, local or intraregional variances may be masked by a blanket statement about a particular region or activity. Individual local situations are not addressed in SCORP; regional analysis should be viewed as stepping-off points for local planners and officials. Comprehensive local recreational plans are not required from local communities as a part of SCORP; however, local communities are encouraged to develop comprehensive plans for shoreline recreation. OCOMP Program funds can be used to develop such plans.

Lake Erie Access Program

In 1983 the Lake Erie Access Program (LEAP) was initiated by ODNR, REALM, as a result of needs identified in the SCORP planning process. The divisions of Watercraft and Wildlife recommended that Lake Erie boating and fishing activities be monitored to establish a database from which trends could be determined. The study included an inventory of all public and private access sites along the Lake Erie shoreline. Also, a survey of sport fishing and boater interests and needs was done to provide comparative data for analysis. The analysis of this data provided insight into the recreation opportunities on Lake Erie.

Once the study results were reviewed, plans began for the development of a public assistance program that would provide up to 50 percent matching funds to local public agencies for the renovation and development of boating and fishing facilities. The original funding source was a combined effort provided by both of the sponsoring divisions until a permanent source could be arranged. After 1986, LEAP was funded by general revenues from the ODNR Capital

Improvements budget. In 1994, with passage of State Issue #1, funding in the amount of \$1.75 million was made available through the NatureWorks funding programs.

The Director, ODNR, through REALM, is statutorily charged with providing and maintaining a current inventory of public access facilities on Lake Erie, including parks, cultural resources, natural areas, wildlife refuges, harbors of refuge, launch ramps, fishing areas and beaches. Plans and policy recommendations for enhancing access are required every five years (O.R.C. § 1506.05). This authority provided the basis for a revised Lake Erie Access Study conducted in 1991 (unpublished).

Refuge Harbors

The Division of Watercraft in ODNR is the refuge harbor agency for the State of Ohio. The division participates and cooperates with the Corps of Engineers (COE) in planning, acquiring, constructing and maintaining refuge and shallow-draft vessel harbor projects in the State of Ohio. The division will develop refuge harbors only with the cooperation of the COE. Refuge harbor programs proposed by local communities are joint local-state-federal ventures.

The COE has conducted several studies of the Ohio waters of Lake Erie to assess the need for harbors of refuge. Initially, the COE examined the shores of Lake Erie for harbors of refuge for shallow-draft vessels in July 1946. The report recommended additional facilities to serve as harbors and natural shelters along the south shore of Lake Erie. Twenty-two sites were recommended for more detailed study. They were: Ottawa River, Cooley Creek, Turtle Creek, Port Clinton, East Harbor, Put-in-Bay, Hummell Pond (Kelleys Island), Sandusky, Huron, Vermilion, Lorain, Avon Lake, Rocky River, Edgewater Lagoon, Gordon Park, White City Park, Chagrin River, Mentor, Fairport Harbor, Arcola Creek, Ashtabula and Conneaut.

The development of refuge harbors in Ohio has been based on the recommendations of this 1946 Corps report; and, according to the Corps, developed refuge harbors on Lake Erie are now sufficient to accommodate the need.

Natural Areas

Although most of Ohio's shoreline is developed, several natural areas exist that need protection and access. The State of Ohio uses its Natural Areas Program managed by ODNR, Division of Natural Areas and Preserves (DNAP), to determine natural area preservation needs in Ohio.

The Natural Areas Program in the DNAP provides for protection of areas through dedication and management of areas as state nature preserves (O.R.C. § 1517.05, 1517.06). There are already several areas dedicated as state nature preserves along the shoreline. The Natural Areas Program uses the information from the Natural Heritage Database to develop a list of areas to be acquired and to prioritize that list.

As a dedicated nature preserve, the area is held in trust for the people of Ohio subject to the terms of the dedication. The chief of DNAP determines the types of uses that the area can support,

and therefore regulates the degree of access and protection provided in each nature preserve. For each nature preserve, a master plan is developed that illustrates the degree of access, protection and additional area required to complete the preserve.

The goal of the DNAP is to establish a system of nature preserves through acquisition and dedication of natural areas of state or national significance. The division maintains surveys and inventories of natural areas and habitats of rare and endangered species of plants and animals through its Natural Heritage Database. As resources permit, the division updates and refines this information, locating the elements of the natural world that, if preserved, will preserve diversity. Habitats of vulnerable plant and animal species, representative examples of ecological communities, and unique or outstanding natural features are located. With this information, the Natural Areas Program can evaluate and select the best areas for protection.

The Natural Heritage Database results in a more comprehensive identification of Ohio's biological resources than was possible with previous inventories. This is accomplished through its element-based approach, which focuses first on the components of natural diversity. An element is a natural feature of particular interest because it is exemplary, unique or endangered on a statewide or national basis.

Boating Facilities

The State of Ohio relies on several means to assess the needs for public boating facilities for access to Lake Erie other than refuge harbors. ODNR Division of Watercraft has four district offices along the Lake Erie coast in Maumee Bay, Sandusky, Ashtabula, and Cleveland, which also serves as the regional headquarters. The watercraft officers observe the utilization and condition of public boating facilities for access to Lake Erie. Through such field observations and contact with the boating public, the Division of Watercraft assesses the need for additional boating access to Lake Erie.

Many communities along the shoreline have or would like to have developed boating facilities for access. It is the responsibility of the local communities to maintain and improve these facilities, and thus they determine the amount and type of access at these areas. The State of Ohio only becomes involved with local projects as requests are received from the local communities for financial assistance in constructing boating facilities. The division is instrumental in determining the size of the access facility, based on budgetary and design constraints. The State of Ohio also meets the needs for access to Lake Erie for recreational boating by constructing facilities on state-owned lands. For state parks and wildlife areas, master plans have been developed, and needs for access for recreational boating are taken into account. The development of boating facilities is based on demand analysis for each site, taking into consideration other private and public facilities in the area.

Islands

The State of Ohio undertook a study in 1977 of the resources of the Lake Erie islands. The report, *Resources of the Lake Erie Island Region*, includes an inventory of the islands' resources and an analysis of the characteristics that contribute to the islands' uniqueness. The report recommends actions for state and local governments to preserve the islands' qualities, to provide access, and to protect specific areas of the islands and several entire islands. The State of Ohio uses the recommendations of that study in terms of its priorities for acquisition of islands and acquisition for access and protection.

Cultural Sites

The Ohio Historical Society (OHS) is responsible for maintaining the State Registry of Historic Landmarks and the Registry of Archaeological Landmarks, nominating sites for the National Register of Historic Places, and acquiring and maintaining historic and archaeological sites as state memorials. Through the state registries and the Ohio Historic Inventory, the OHS surveys and assesses the historic and archaeological sites in the coastal area. Two regional offices in the coastal area for both historic and archaeological preservation enhance the inventorying effort. Designation of sites on the State Registry or National Register provides protection to the areas in terms of consideration in publicly funded projects and gives them a high priority for financial assistance.

Local and county historical societies acquire and protect landmarks of local significance. Such areas are eligible for preservation grants from the OHS. The county historical societies develop plans for protection of the areas as a part of the acquisition and restoration functions.

Programs

Management policies governing the extent to which provision for public access and protection is provided for with respect to historic sites, natural areas, wetlands, wildlife areas, development on leased submerged lands and other areas are described in Chapter 5, Policies 12, 13, 14, 16, 21-27 and 29. OCMP policies directed toward direct acquisition and/or support for acquisition by other entities specifically for public access are detailed in Chapter 5, Policy 21. The following is a description of financial and technical assistance programs that assist in these efforts.

Land and Water Conservation Fund and NatureWorks

Over the years, ODNR has directed Land and Water Conservation Fund (LWCF) monies to specific priority areas, including state park development and community parks and recreation. NatureWorks, created in 1994, serves a similar purpose. Applications for NatureWorks and LWCF assistance are reviewed and projects selected for funding in ODNR, REALM, are subject to the following process:

1. The political subdivisions must submit applications to ODNR by July 1 each year to be considered. Following receipt of the application, it is immediately acknowledged by the

department, so that the applicant is aware that processing of the application has been started. The staff reviews the proposal to determine the applicant's eligibility to participate in either the NatureWorks or the LWCF program. The application is checked for adequacy of form and content. If the application is found unacceptable in any area, the applicant will be notified, and all processing stops until the application is in a completed form. It will be to the applicant's advantage to exercise the greatest care in preparation of the application form. If the application is declared acceptable, processing will continue.

2. After the state has received its annual fiscal allocation, all proposals are reviewed by ODNR for qualification and priority rating. The local government will be notified in writing of the approval or disapproval of its application.
3. Selected LWCF project proposals are submitted to the regional National Park Service (NPS) office for possible federal funding. If the project is approved by NPS, a signed agreement is returned to the state.
4. Two legal contracts are signed to assure the project will receive 50 percent reimbursement by the federal government. The first contract is between the State of Ohio and the local government. After the signing of the state and local agreement, a copy of the same and a copy of the federal agreement and the procedural guide will be sent to the local government. The local government can then proceed with the project as described in the contracts. Under NatureWorks projects, only the state and local agreement is used.

Waterways Safety Fund

The State of Ohio through the Division of Watercraft administers a financial and technical assistance program to local governments in the development and construction of boat launching areas and other boating access facilities. This program is financed from the Waterways Safety Fund. Eligible projects are funded on a matching basis, with the local government assuming responsibility for continuing operation and maintenance.

The application process to obtain Waterways Safety Fund assistance for watercraft facilities and the process for project construction follow:

1. A letter of application, signed by the person vested with authority to make such request, shall be submitted by the political subdivision desiring such cooperative project; this shall be accompanied by the Division of Watercraft's form, to be fully and accurately filled out. The deadline for submissions is April 1 each year.
2. Upon receipt of such letter and form, the Division of Watercraft will arrange with local officials to inspect the site of the proposed project to ascertain its general feasibility and the public need for such project. The applicant may be requested to provide additional information.

3. If the project is accepted for funding, an agreement will be signed with the subdivision. The agreement will provide details relating to the construction, operation and maintenance of a project.
4. The executed agreement, accompanied by a Resolution or Act of the governing body of the political subdivision or agency certifying that their share of the funds necessary for the completion of the project as mutually agreed upon is available, will be submitted to the State Controlling Board with a request that the state's share be made available from the Waterways Safety Fund.
5. Plans and specifications to meet cost estimates will be negotiated with the applicant.
6. Final plans, specifications, cost estimates and bid forms to be used, will be approved and signed by the Chief Engineer and the Chief of the Division of Watercraft. Upon state approval, the subdivision will proceed to advertise for construction bids.
7. If an acceptable bid within the estimate is received, the subdivision will submit three copies of the bid tabulations to the Division of Engineering with a recommendation as to the bid to be accepted. The state will review the bidding and authorize the participating agency to award the contract.
8. The subdivision shall award the construction contract to the successful bidder.
9. The subdivision may submit an advance disbursement schedule in accordance with contractor's estimates. The subdivision may request reimbursement from the state in accordance with the approved disbursement schedule.
10. All contractor payment estimates, both periodic and final, are to be submitted by the contractor to the supervising engineer of the cooperating agency or subdivision, who will approve such estimates for payment.
11. The agency or subdivision accepts the responsibility to inspect the work on the project, subject to final approval of the Chief Engineer and the Director of ODNR prior to payment of the contractor's final estimate.
12. The subdivision agrees to operate and maintain the project without cost to the state for the life of the project as stated in the agreement (item 3 above).

The Waterways Safety Fund also provides the state share for projects providing access through the refuge harbor program carried out jointly with the COE. Additional funding offered by the Division of Watercraft can be found online at www.ohiodnr.com/watercraft/grant.

Additional Financial and Technical Assistance Sources

Technical assistance to other state and local agencies is available through the DNAP for the identification of natural areas, sensitive habitats and other areas that need protection. Financial assistance is available to local communities through NatureWorks and LWCF for natural area acquisition.

The Ohio Historical Society offers technical and financial assistance for the protection of historical and archaeological areas. Grants for restoration and preservation projects and survey and planning studies are available through the Ohio Historical Society.

The Lake Erie Office assists local and state governments by advocating public access to Lake Erie, coordinating with local communities on the availability of funds and programs, and assisting in the development of applications. Financial assistance from the Coastal Management Assistance Grant Program will be available to state and local agencies to conduct planning and feasibility studies on access and protection. The State of Ohio intends to use federal Coastal Zone Management Act (CZMA) funds, Sections 315(b) and 306(a), for acquisition of access to shoreline public areas and acquisition of islands.

Existing Facilities, Trends and Needs

Both the 1993 Ohio SCORP and the 1991 LEAP document an increasing demand for recreational access opportunities of all types, both statewide and within the Lake Erie region. Water quality improvements and the comeback of Ohio's waterfront during the 1980s likewise encouraged an increase in the number of boating, fishing, camping and vacation resort facilities and charter boat fishing services. Many sites identified by the 1983 LEAP study as having potential for shoreline fishing or boating access now do provide access, due in part to the impetus of LEAP and the cooperation of local agencies. The following is a list of projects that benefitted from LEAP, LWCF and the Waterways Safety Fund since the 1983 LEAP study.

Lake Erie Access Program

- Avon Lake, Miller Road Boat Launch
- Conneaut Boat Launch
- Sandusky Boat Launch
- Vermilion, West River Road Boat Launch
- Cleveland Lakefront State Park Docks
- Fairport Harbor Boat Launch Expansion
- Cleveland Metroparks System, Rocky River Boat Launch
- Lorain Harbor Fishing Access
- Willowick Fishing Pier
- Euclid, Sims Park Fishing Access
- Ashtabula Township, Lakeshore Park Boat Launch
- Sheldon Marsh Expansion

Land and Water Conservation Fund

Geneva State Park
Ashtabula, Walnut Beach
Rocky River, Lake Edge Park
Cleveland, Flats Park
Cleveland Lakefront State Park
Lake County, Lake Shore Beach
Willowick, Community Park
Sheffield Lake Boat Launch
Toledo, International and Promenade Parks and Maumee Riverfront Park
Maumee Bay State Park
Toledo Metropolitan Park District, Maumee River
East Harbor State Park
Port Clinton, Lakefront Park

Waterways Safety Fund

Geneva-on-the-Lake Boat Ramp
Ashtabula Township Park Boat Ramp
Conneaut Boat Ramp
Cleveland Lakefront State Park, Wildwood Unit Boat Ramp
Willow Point Wildlife Area Improvements
Sandusky Launch Ramp
Vermilion Launch Ramp
Chagrin River Entrance Improvements
Avon Lake Launch Ramp
Cullen Park and Walbridge Park Launch Ramps
East Harbor State Park Breakwater Repairs
South Bass Island State Park Launch Ramp
West Harbor Refuge
Ottawa County West Harbor Launch Ramp
Mazurik Wildlife Access Launch Ramp and Breakwater
East Harbor State Park Boat Ramp
Kelley's Island State Park Launch Ramp
Catawba Island State Park Launch Ramp
Toussaint River Navigation Improvements

Lake Erie Fisherman Access Program

Cleveland Lakefront State Park, Edgewater Fishing Access
Rocky River Fishing Access
South Bass Island State Park Dock Repairs
Lorain Boat Ramp

Maumee Bay Fisherman's Access
 Portage River Wildlife Access
 Magee Marsh Boardwalk
 Mazurik Wildlife Access Launch Ramp

The above acquisition and improvement projects primarily provide access within or in proximity to urban areas. In addition, special attention has been given to providing access for urban residents through the state parks planning and development process, as demonstrated by ongoing expansion at the Cleveland Lakefront State Park and improvements at Maumee Bay State Park (1,845 acres), just east of Toledo. The 1991 LEAP study identified 13 priority launching facilities and 21 priority fishing accessing areas for acquisition or improvement.

ODNR completed a study of existing and potential beaches along Lake Erie in Ohio in 1974. Additionally, the Midwest Research Institute completed a Recreation Beaches Inventory for the COE, Buffalo District, in 1979. In the ODNR study, approximately 30 sites were investigated and evaluated at that time, of which seven were recommended for acquisition or protection. Since the study, four of the seven recommended sites were developed for recreation use, as found in the SCORP facilities inventory. Further study of the other three sites resulted in removal from the "Potential" list due to unsuitable conditions, i.e., extensive erosion damage and private property restrictions.

More precise and up-to-date forecasting, particularly in regard to extent and accessibility of beaches, would be clearly beneficial for determining OCMP goals for shorefront access and protection planning.

The following provides an assessment of existing facilities providing access to the Lake Erie shore and to the lake waters:

	<u>Number</u>	<u>Acreage</u>	<u>Beach Length</u>	<u>Shoreline Frontage</u>
State Parks	7	5,653		15 miles
Natural Areas	6	1,849		2 miles
Marinas	270			
Managed Wildlife Areas (State, Federal, Private Clubs)	13	20,400		6 miles (state)
Fishing Access Sites	54	8,547		
Public Boat Launch Sites	27			
Hunting Access Areas	15	7,619		
Beaches	33*		67 miles (< 50 ft. wide)** 7 miles (50-100 ft.) 7 miles (> 100 ft.)	

* Number of public beaches sampled by ODH (1993).

** 1980 Ohio Geological Survey file data of all beaches excluding the Lake Erie Islands and Sandusky Bay.

Management Policies and Legal Authorities

Specific management policies and authorities that comprise Ohio's approach to shorefront access and protection planning are described in Chapter 5. Management policies governing the extent to which provision for public access and protection is provided for with respect to historic sites, natural areas, wetlands, wildlife areas, development on leased submerged lands and other areas are described in Chapter 5, Policies 12, 13, 14, 16, 21-27 and 29. OCMP policies directed toward direct acquisition and/or support for acquisition by other entities specifically for public access are detailed in Chapter 5, Policy 21. The enforceable components of the above-mentioned policies are as follows: 12A, 14A, 14B, 14C, 16A, 21A, 23A, 24A, 24B, 26A, 26B, 27A, 27B, 27C, 29A and 29B.

To assist in accomplishing direct acquisition goals, ODNR primarily uses fee-simple acquisition through negotiation with private landowners. Acquisition in fee by gift also is used, though less frequently. Deed restrictions and tax advantages make this a desirable option for donors. ODNR is rarely required to resort to using eminent domain to acquire land for public use, because willing sellers and donors are generally found.

Definition of Beach

For the purposes of the OCMP, "beach" shall be defined as the area of unconsolidated material that extends landward from the water's edge to the base of the bluff or to the line of permanent vegetation. Public beaches, then, are those areas that meet this definition and are owned by the local, state or federal government.

Private littoral property rights extend to the point where land and water meet. The public has no right of access across private property to the beaches of the Lake Erie shoreline in Ohio. The public does have access to those beaches owned specifically by the State of Ohio, subdivisions of the state and private shoreland recreational facilities open for public use. And the State of Ohio does hold in trust for the people of the state the waters of Lake Erie and the lands underlying the waters of Lake Erie. As stated in Policy 16, Public Trust Lands, the public uses that the State of Ohio has been entrusted with upholding include that of recreation, as provided by common law. Any improvements extending into public trust waters or onto the lands underlying them require a lease from the State of Ohio. The administrative rules that govern granting of such leases provide that "the potential impact of any development, improvement or activity upon the public right of recreation, including present or prospective recreational uses by the public during the term of the lease will be evaluated. Provision for public access may be required as a condition of a lease or permit depending upon historic use patterns and suitability of the lease site for existing or prospective recreational uses" (O.A.C. § 1501-6-03(3)).