

Appendix A

Town of Marlborough, NY Harbor Management Plan

DRAFT – June 12, 2017

This document was developed as part of a Local Waterfront Revitalization Plan for the Town of Marlborough. The Local Waterfront Revitalization Program is being prepared in cooperation with the New York State Department of State with funds provided under Title 11 of the NYS Environmental Protection Fund.



Table of Contents

Harbor Management Plan	3
I. Introduction and Purpose.....	3
II. The Harbor Management Area (HMA)	4
A. Issues and Opportunities.....	4
III. Description and Harbor Management Issues.....	6
A. Town and Harbor Description.....	6
B. Harbor Navigation and Safety.....	7
C. Historic Maritime Resources	7
D. Maritime Economy / Commercial & Recreational Users.....	7
E. Waterfront Access & Infrastructure.....	9
F. Flooding.	12
G. Water Quality and Natural Resources	14
H. Submerged Aquatic Vegetation.....	16
I. Waterfront Zoning.....	17
J. Waterfront Land Use and Redevelopment.....	19
K. Jurisdictional Effect	20
L. Existing Authorities	21
IV. Objectives and Implementation	22
Map 1: Harbor Management Plan Overview Map	25
Map 2: Submerged Aquatic Vegetation (SAV) Map	26

Harbor Management Plan

I. Introduction and Purpose

Increases in the number of commercial and recreational boats, along with the development of other activities and watercraft, have resulted in increased competition for space and conflicts between different water activities along the shores of New York State. Conflicts have arisen between commercial and recreational use of the water, as well as natural resources and water quality. Such conflicts, and a lack of clear authority to resolve them, have undermined the quality of many harbors and their ability to support a variety of different uses.

There has historically been a lack of clear municipal authority to adequately plan and regulate activities occurring in nearshore areas. The ability for municipalities to manage activities in nearshore areas has been largely limited to regulating vessel use, speed, anchoring, and mooring. Municipal regulation of other activities on underwater lands varies and is sometimes different for cities, towns and villages and can often overlap with federal and state ordinances.

In order to help address these issues and give individual municipalities better control of local harbor issues, Article 42 – the Waterfront Revitalization and Coastal Resources Act was amended to provide local governments with the clear authority to comprehensively manage activities in nearshore areas through harbor management plans and local laws.

Harbor Management Plans are intended to act as a “water-specific” component of a Local Waterfront Revitalization Program (LWRP), which have historically focused on land-use issues only. They are intended to address issues of conflict and competition of space for different uses, public safety and protection of natural resources. Today, harbor management plans are a required component of any new LWRP.

II. The Harbor Management Area (HMA)

The HMA includes the portion of the Hudson River and its bays within the Town of Marlborough. The HMA includes both surface waters and the lands adjacent to the surface waters which may influence what takes place on the surface waters and whose use, in turn, may be influenced by what takes place on the surface waters. As shown by the white dashed line on the Harbor Management Plan Overview Map, the eastern waterside extents of the HMA extend out into the river 1,500 feet from the mean low water line, or to the eastern boundary between the Town of Marlborough and the Town of Poughkeepsie if the boundary is less the 1,500 feet from the mean low water line.

A. Issues and Opportunities

A brief summary of the issues and opportunities identified for the Town of Marlborough HMA include the following:

- Despite the fact that the entire eastern border of the town abuts the Hudson River, physical constraints and prior land development patterns have provided a limited amount of waterfront available for public access;
- Prior land development patterns have not taken advantage of the river as much as they could have, and it remains an underutilized resource;
- The only existing public access pier is in a state of disrepair and needs to be rehabilitated;
- There is a limited amount of public marina space, launching areas and parking;
- There is a very limited amount of improved public recreation areas along the waterfront;
- Waterfront improvements are subject to damage from rising floodwaters and storm events;
- The Town of Marlborough has no official jurisdiction beyond the high water mark to adequately regulate issues on the water which may impact public safety.
- The U.S. Coast Guard is currently considering the creation of commercial anchorage grounds at 10 locations along the Hudson River, including within the Marlborough HMA.
- Providing more access to the river and a diversity of waterfront activities will likely improve the quality of life for local residents, attract tourism and stimulate economic growth.

B. Objectives

The overall objectives of the Harbor Management Plan are as follows:

- Strengthen the existing waterfront access points and attractions;
- Repair and protect the few existing water-dependent uses on the river to ensure they are not lost or damaged;
- Protect the quality of natural resources along the river, including scenic visual quality, water quality and natural habitats;
- Update the zoning to plan for new water-dependent uses at select locations along the river which will help attract tourism, stimulate economic growth and improve the quality of recreation for residents;
- Allow for a greater diversity of uses and water-related activities along the waterfront such as marinas, fishing, picnics, camping, lodging and restaurants;
- Augment the existing boating facilities to accommodate a wider selection and number of watercraft for tourism and recreation.
- Properly manage and plan for future growth along the waterfront.

(See Harbor Management Plan Overview Map attached at the end of this document)

III. Description and Harbor Management Issues

A. Town and Harbor Description

The Town of Marlborough is located on western shores of the Hudson River between the Mid-Hudson Bridge and the Newburgh-Beacon Bridge, in southern Ulster County. Due to its location approximately halfway between New York City and the City of Albany this area of the state is known as the Mid-Hudson Region. The HMA includes approximately 5.7 miles of shoreline and adjacent waters of the Hudson River.

This portion of the river is also known as part of the Hudson River Estuary, which extends from New York City 150 miles to Troy, NY. Because of its mix of both freshwater and saltwater, the estuary is an important water body as it supports a variety of fish and wildlife, including rare plants and other ecological communities. It provides spawning grounds, migratory and nursery habitat, and its deep channel is one of the largest spawning areas for Atlantic Sturgeon. It also provides habitats for Shortnose Sturgeon, Striped Bass, Blue Crab and various waterfowl.

Due to the sloping terrain from west to east, a majority of the Town of Marlborough acts as a watershed which drains down the slope into this portion of the Hudson River. Lattintown Creek in particular, which includes Jews Creek and other smaller tributaries, comprises a significant watershed which covers a majority of the town and drains into the southern portion of the HMA. Additional detail concerning local creeks and wetlands is discussed in the Town of Marlborough LWRP.

Within the HMA, there are three areas of particular interest and potential for harbor improvements, highlighted on the Harbor Management Plan Overview Map. At the northern end, adjacent to the Hamlet of Milton, is Milton Landing. This area includes a historic train station along the water, docks, public accessibility and town-owned land which has potential for enhanced public use and recreation. At the southern end, adjacent to Marlboro Hamlet, is the Marlboro Harbor. This harbor includes a marina, boat storage and also features public accessibility. At the very southern edge of the town, the lands of the former Quarry also provide the potential for enhanced public use.

Along the entire stretch of the HMA, the CSX Railroad line runs north-south immediately adjacent to the Hudson River. This railroad line presents a challenge to un-interrupted public accessibility of the water.

B. Harbor Navigation and Safety

Due to its relatively abrupt channel depth, the Hudson River in this area is considered a deep water navigation channel (“Kingston-Poughkeepsie Deepwater Habitat”) with relatively few shallow areas along the coasts. This provides good navigation waters for boats, even close to the shore. National Oceanic and Atmospheric Administration coast survey charts indicate that the channel depths typically range from 40-50 feet, with some areas exceeding 60 feet. This chart also indicates there are a few known hazards within the HMA, including submerged wreckage or debris which hug the coast adjacent to Marlboro Hamlet and again at Pegs Point, which includes a submerged cable crossing area.

C. Historic Maritime Resources

Early historical narratives indicated that the town developed and prospered due to its proximity to the river. Early settlers utilized the access to the river at Milton Landing to ship crops to New York City by steamboat. The development of the Farmer’s Bridge and Turnpike Company in 1808 allowed farmers from as far away as the Town of Shawangunk to utilize the port. By the mid-1800s, Milton Landing was a busy and well-known shipping port.

In addition to shipping, early settlers in the hamlet of Marlboro utilized the river and streams to power mills and establish the first manufacturing industries in the town.

Former industrial sites of Suburban Propane and Tilcon New York, Inc. utilized the river for shipping. For over half a century, Suburban Propane transported petroleum via ships and barges up the Hudson River to be stored at the site in Marlborough. The site’s access to deep water allowed large vessels to connect to a pipeline that pumped petroleum across the rail line up to above-ground storage tanks on the property.

The Tilcon New York, Inc. quarry site at the southern border of the town used the river for shipping, utilizing a conveyor that crosses the railroad tracks. This quarry ceased operations in the mid-1970s, but the conveyor and much of the infrastructure remains on the shores of the river.

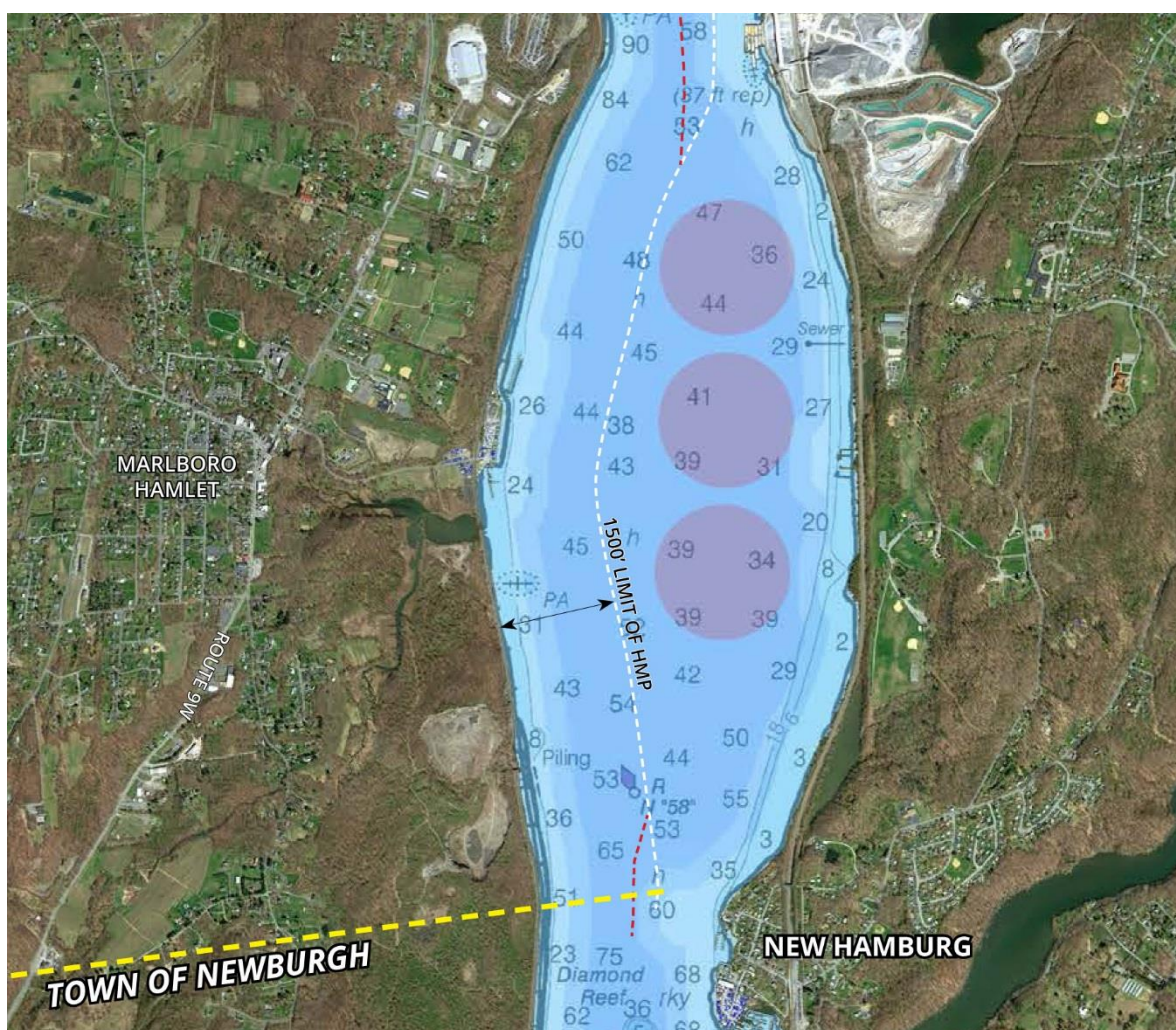
D. Maritime Economy / Commercial & Recreational Users

There is currently no commercial maritime activity with the Harbor Management Area, however recreational services are provided at the marina at Marlboro Harbor, which includes Marlboro Yacht Club and West Shore Marine Services.

New River Anchorage Locations

The U.S. Coast Guard is currently considering the establishment of up to 10 new anchorage grounds for commercial vessels in the Hudson River to meet increased industrial demand. One of the proposed “long-term” anchorage locations (for up to three large vessels) is just outside the Town of Marlborough.

The potential impact or hazards to be considered as part of this decision are largely dependent on the types of shipping cargo being shipped and anchored—specific types of vessels or cargo may be deemed acceptable to the community while others may not. Some of this increased anchorage demand comes from industrial expansion at the Port of Albany, which is beginning to transfer more crude oil shipped from western states, and is also seeking to transfer Alberta tar sands crude oil. Because of this, increased potential for oil spills are a concern. There is also the potential for disturbance of the riverbed from long



Map illustrating the location of the three proposed river anchorage locations, indicated as 1800 foot “swing circles”, in the Hudson River. Although the proposed locations are outside of the HMA, the town still has the opportunity to submit comments to the USGC about concerns or requests they may have.

term anchoring and movement of vessels, as well as the visual impact and light pollution of large shipping vessels being parked off shore for long periods of time. Local communities that are potential anchoring sites have very little to gain from hosting, but would have to live with any impacts. The three potential Marlborough anchoring sites are just outside the limits of the Marlborough HMA (see map) however the town would potentially be impacted by them and should take advantage of the opportunity to make sure their concerns are officially noted. More information about this proposed rulemaking can be found at: www.regulations.gov/document?D=USCG-2016-0132-2539.

E. Waterfront Access & Infrastructure

As noted above, land area adjacent to the Hudson River along the entire HMA from north to south includes a rail line currently owned and operated by CSX Railroad, which creates a potential obstacle to public access of the waterfront. Public access is also limited in many areas by private land along the waterfront and steep slopes. River access occurs primarily in two places within the HMA: Milton Landing and Marlboro Landing.

Milton Landing & Piers

Milton Landing currently provides two piers; the north pier is open to the public and is used for recreational fishing and general enjoyment of the river. The southern pier has suffered damage and disrepair, and is not currently open to the public. The integrity and condition of the south pier was evaluated in a report completed in October 2016 by Tighe & Bond Engineers. This report outlined the repairs and upgrades which would be required to make the pier safe for public access again and accommodate larger river vessels such as the Clearwater sloop and Columbia steamship for tourism and recreation. It is estimated that approximately \$1.2 million in repairs and upgrades would be required to meet these goals.

When fully restored, the southern pier is envisioned to be utilized for deep water docking and mooring capabilities for larger craft and enhanced opportunities for is water-based recreation, tourism and education.



Conceptual plan for Milton Landing and Milton Waterfront Park
Behan Planning and Design, 2017

Immediately adjacent to the piers, Milton Landing provides over 18 acres of town-owned land which could be upgraded to create an active recreation town park, and already includes the historic Milton Train Station building which has recently been restored. Conceptual master plans for this future park have included a gazebo, band stand, picnic and camping areas, garden, restrooms and parking. The town is currently working on developing this master plan into a more detailed design for this park, which is anticipated to be completed in early 2017. It is anticipated that the new public park, combined with the restored pier and docking capabilities for larger watercraft will make Milton Landing a popular destination on the edge of the river.



Marlboro Landing view looking north. Image from Google.

Marlboro Landing

Marlboro Landing, located at the end of Dock Road, is waterfront property owned by West Shore Marine Services and Marlboro Yacht Club. These two properties provide some of the best current access to the waterfront, including water recreation services. West Shore Marine has 180 slips for boats up to 60 feet long. Marlboro Yacht Club is a member-based facility which includes limited dock and mooring space available for daily use by guests. A boat launch and pump-out facility is available to the public for a nominal fee. The property here includes a tented picnic area, with tables and seating, gas grills, bathrooms, boat launch and a fuel dock for both diesel and gasoline. Continuation of these uses is important to the long-term harbor management strategy.

Quarry Pier & Other Opportunities

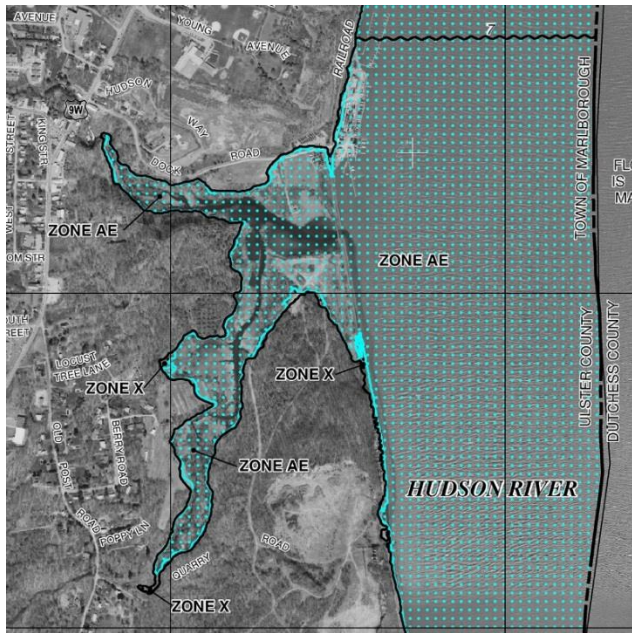
In addition to the two main points of public waterfront access, the former quarry lands owned by Tilcon at the southern end of the HMA has the potential for adaptive reuse in this area for recreational purposes. This location features remnants of the former mining and excavation work, including a trestle which helped to transport raw materials down to the river's edge.

North of the Tilcon property, on Dock Road, the Town of Marlborough owns a 2.29 acre property which is currently vacant, with access to Lattintown Creek, which could also be utilized for some public recreation or other use.

The remainder of the shoreline within the HMA consists almost entirely of private land, with one potential exception. A potential future public access point occurs at the terminus of Van Orden Road, which appears to continue as a paper-street and footpath down to the river, terminating at the CSX rail line.

F. Flooding.

The Town of Marlborough HMA includes some areas prone to flooding, including areas



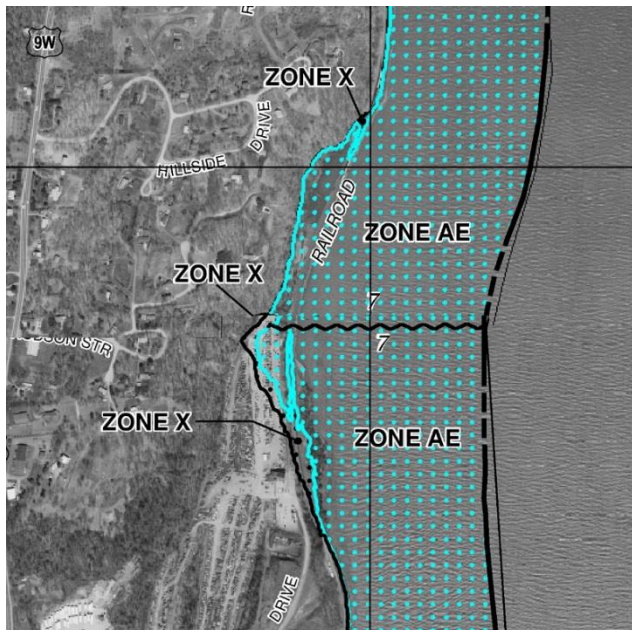
Area One shown above. Source: FEMA Flood Insurance Rate Maps, September 2009

designed by FEMA floodmaps as Special Flood Hazard Areas, which are subject to 100-year floods, and Zone 'X', subject to 50-year floods. Due to the steep slopes on the riverbank, these flood areas are generally confined to localized areas, as described below in order of potential flooding magnitude.

Area One – Lattintown Creek Inlet

The Lattintown Creek Inlet represents the most significant flood area, where floodwaters are projected to cover a sizable area on either side of the creek, up to and beyond Dock Road as shown on the image below. Included within this area is the

entire improved area owned by West Shore Marine Services and Marlboro Yacht Club, including their buildings, parking and boat storage areas. Otherwise, the projected flood area does not appear to include any improved areas.



Area Two shown above. Source: FEMA Flood Insurance Rate Maps, September 2009

Area Two – Peg's Point

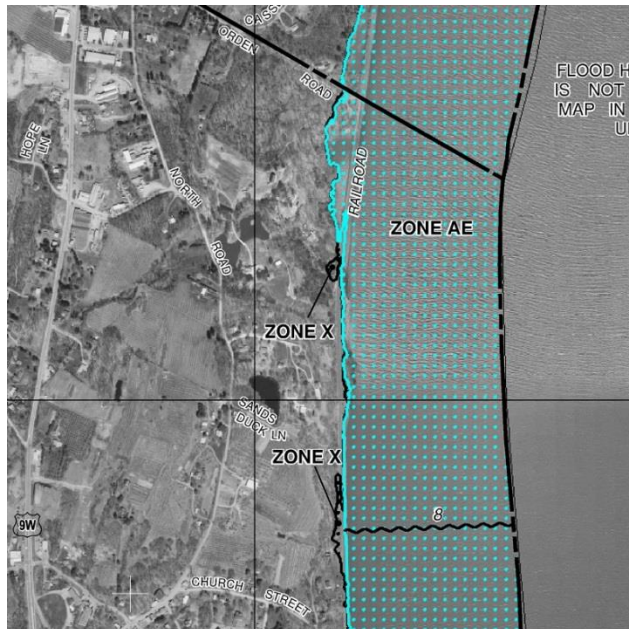
Peg's Point represents the second largest area of flooding within the HMA. Projected flooding in this area would extend westward of the CSX railroad line, covering portions of Riverview Drive and Copart / Ridesafely Auction property vehicle storage area, and un-improved areas to the north.



Area Three shown above. Source: FEMA Flood Insurance Rate Maps, September 2009

Area Three – Milton Landing

The outcropping of exposed shoreline on the east side of the CSX railroad at Milton Landing, including the Piers, are within the projected 100-year flood zone.



Area Four shown above. Source: FEMA Flood Insurance Rate Maps, September 2009

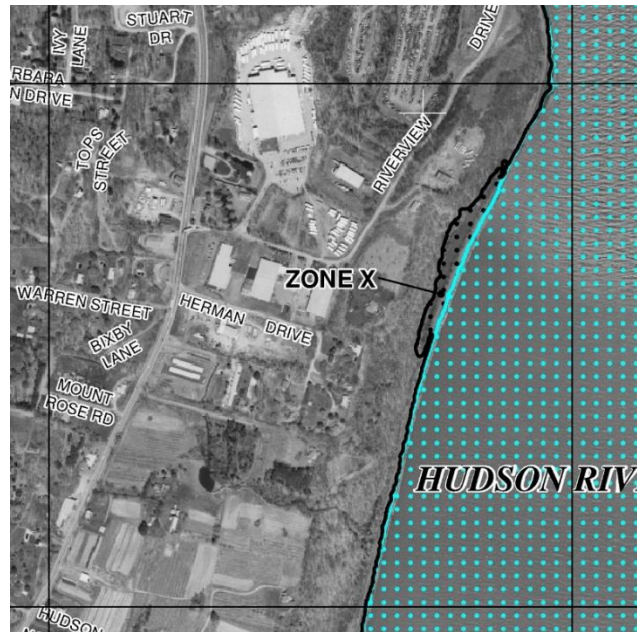
Area Four – North Side

At the northern end of the HMA, up to and extending beyond the Lloyd town line, potential flooding is projected to occur in some areas west of the CSX railroad line. These areas do not appear to include any structures or improved areas.

Area Five – Riverview Drive

East of Riverview Drive, some potential flooding is projected to occur beyond the CSX railroad tracks. This area includes lands which are already wet and subject to ponding. There do not appear to be any structures or improved areas within this zone.

Overall, there are very few structures or improved areas projected to be within the flood zone. Notably, the two town wastewater treatment plants are both outside and uphill of the projected flooding areas. Due to the steep terrain along the riverbank, significant water level rises of the Hudson River are modeled to have only a minor impact on the coast of Marlborough. An interactive online mapping program, developed by Scenic Hudson, can be used to view the projected inundations at various water level increases. This mapper can be viewed here: <http://www.scenichudson.org/slr/mapper#>

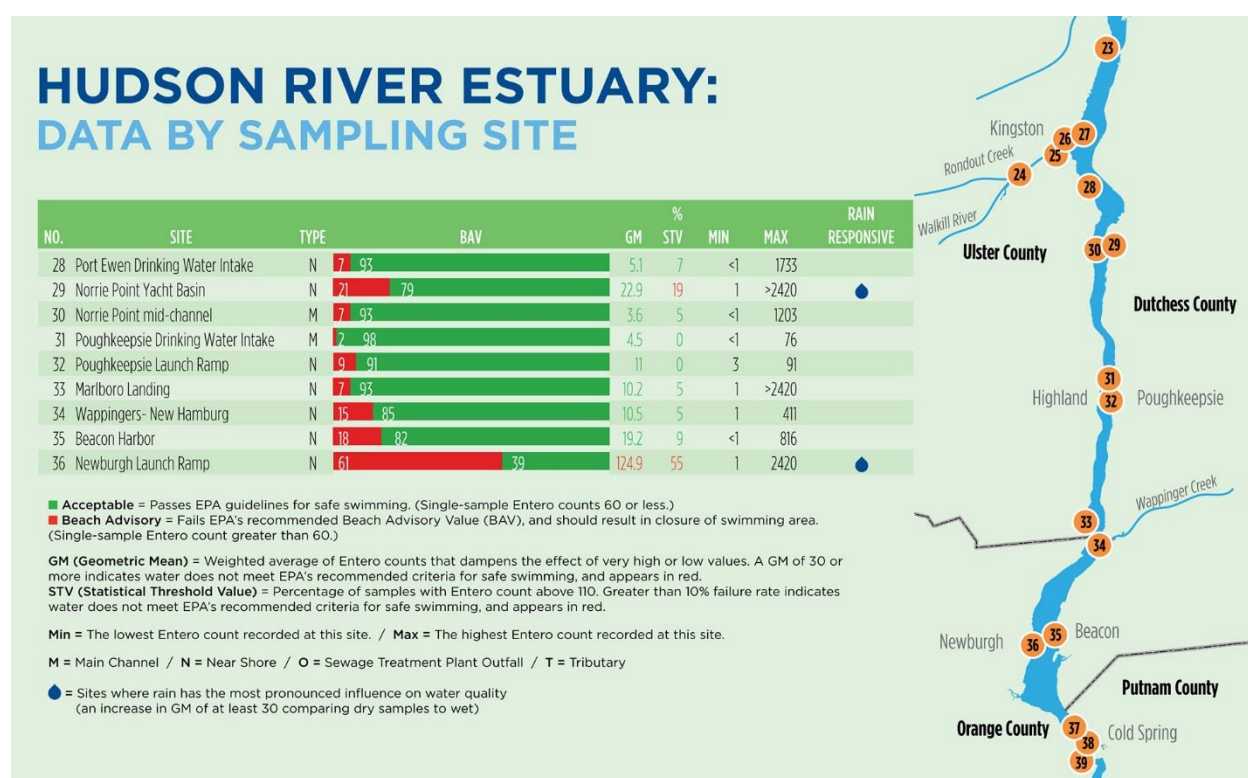


Area Five shown above. Source: FEMA Flood Insurance Rate Maps, September 2009

G. Water Quality and Natural Resources

A common measurement of water quality in the Hudson River is measuring the fecal contamination levels ("Enterococcus count"), which measures the percentage of samples that exceeded a threshold of 60 parts per 100ml of water (the EPA recommended limit for safe swimming.)

Hudson River water quality data provided by the 2015 RiverKeeper report shows a summary of multiple data samples taken at 74 locations within the Hudson River. Testing locations in the vicinity of the HMA (upstream and downstream) included Marlboro Landing, Poughkeepsie, Norrie Point, Port Ewen, Beacon and Newburgh. The data collected indicated that the water quality within the HMA was generally within the EPA's threshold for safe swimming. Summary of samples taken near the shore at Marlboro Landing showed that only 7% of samples taken resulted in an Entero count greater than 60. The Geometric Mean (GM) of samples here was only 10.2 (a GM greater than 30 does not meet EPA recommendations) and the Statistical Threshold Value (STV) was only 5 (an STV greater than 110 does not meet EPA recommendations). Other sample locations located further upstream from the Marlborough HMA did not score so well, particularly near urbanized areas. Estuary and tributary areas at Kingston, Athens and Albany exceeded the EPA



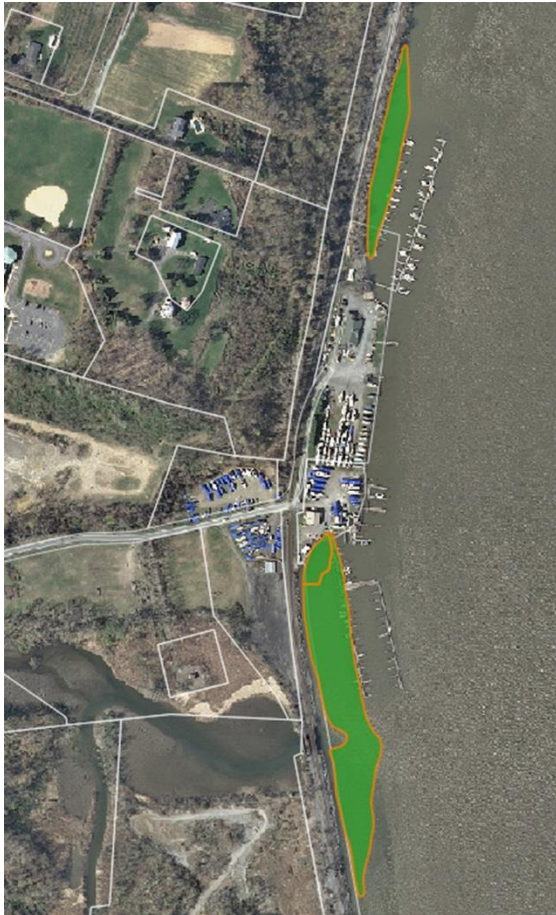
Partial summary results of RiverKeeper.org report on water quality in the Hudson River for 2015, showing selected areas within and around the Marlborough HMA. Courtesy RiverKeeper.org.

recommended levels, as did Newburgh to the south. Additional detail concerning water quality of local streams and creeks is discussed in the Town of Marlborough LWRP.

The complete RiverKeeper 2015 Hudson River water quality report can be viewed here: www.riverkeeper.org/wp-content/uploads/2015/06/Riverkeeper_WQReport_2015_Final.pdf

H. Submerged Aquatic Vegetation

Submerged aquatic vegetation (SAV) consists of plants that typically grow and thrive under water, such as “water celery” which is commonly found in the Hudson River. Other common species include “clasping leaved pondweed”, and the non-native SAVs, “curly pondweed” and “Eurasian water milfoil”. SAV beds can be found in various parts of the Hudson River, and are important because they provide habitat for young fish while they grow. In this sense, they act as fish nurseries, helping to restock the river with mature fish. They also provide food for waterfowl, are a habitat for smaller organisms and are an important source of oxygen in the water. SAVs beds in the Hudson River have been in a recent decline, and many were destroyed from dredging. Efforts to conserve and protect them include restoration planning and regulations protecting their disturbance.



Areas of submerged aquatic vegetation beds around Marlboro Landing

SAV beds can be found in a few small areas within the Marlborough HMA, typically along the river's edge. There are known beds located just north and south of the Marlboro Landing area—as shown in the image at left—and can also be found just north and south of Milton Landing. (A complete map showing the known locations of submerged aquatic vegetation within the HMA is attached at the end of this document.)

Because submerged aquatic vegetation is a sensitive resource, planning should be used to avoid disturbance in these areas. If disturbance is necessary, the proper permits must be obtained by the Department of Environmental Conservation.

(Submerged Aquatic Vegetation Map (SAV) provided at end of document.)

Aquatic Invasive Species Impacts and Management

Aquatic invasive species (AIS) are organisms that are not native to the aquatic ecosystem and can threaten an area's aquatic ecology, economy, and even human health. New York State and the Hudson River estuary are particularly vulnerable to AIS introduction because of the abundant marine and fresh water resources, and easy accessibility by ocean-going vessels.

The fertile environment of the Hudson River provides excellent habitat for invasive species which often have few predators and spread rapidly once they are introduced. There are almost 300 invasive species in the Hudson River Estuary area alone, including zebra mussels and water chestnuts, all of which have the potential to cause great harm to the area which they inhabit. The impacts of AIS can aesthetically unpleasing or economically disruptive, but they can also be devastating to native species who are sometimes outcompeted by the aquatic interlopers for food, sunlight or nutrients.

Management of these invading species will require a partnership between State and Federal agencies, local governments, businesses, environmental organizations and concerned citizens. The New York State Department of Environmental Conservation (NYSDEC) published an Aquatic Invasive Species Management Plan in July 2015. The plan seeks to prevent the introduction and spread of aquatic invasive species in New York State through four strategies: Education and Outreach; Leadership and Coordination; Research and Information; and Regulatory and Legislative. The NYSDEC AIS Management Plan can be found at: http://www.dec.ny.gov/docs/fish_marine_pdf/nysaisplan15.pdf.

I. Waterfront Zoning

The town of Marlborough HMA includes over 31,000 linear feet of waterfront along the Hudson River. A majority of this waterfront is currently zoned and used as Residential (R, R-1, R-Ag-1) and Industrial (IND). These zoning districts control what types of land uses are permitted along the waterfront, and can potentially prevent desired waterfront uses from being developed. It is an important long-term consideration to ensure that the town allows uses that will contribute to active and passive enjoyment of the riverfront by allowing activities such as parks, restaurants, hotels, marinas and other businesses where people can gather to enjoy the views of the river. These uses also provide an opportunity for economic growth.

A review of the existing zoning shows that, along a majority of the waterfront, many of the desired waterfront uses which would meet these goals are currently permitted by right or by special permit. Some uses which could be beneficial to attracting economic

development and activity along the water however are not permitted. Most notably, the Industrial (IND) zoning district—which makes up 40% of the waterfront—excludes many of these types of desired uses.

Town of Marlborough Waterfront – Zoning Use Analysis			
Zone	Percentage of Coastline	Desired Waterfront Uses which are Currently Allowed	Desired Waterfront Uses which Could Be Added
IND	40%	Waterfront parks	Brew pub Boat ramp Commercial recreation Docking facilities Marina Restaurant or Bar Watercraft sales, rental or service Watercraft fuel sales
R-1	35%	Parks & playgrounds Community buildings Clubs & lodges Fraternal organizations Bed & breakfasts Recreation uses (10 acres min) Resort Hotel (10 acres min)	
R-Ag-1	13%	Parks & playgrounds Community buildings Clubs & lodges Fraternal organizations Recreation and amusement uses Golf course Swim clubs Resort hotel	
R	12%	Parks & playgrounds Community buildings Clubs & lodges Fraternal organizations Bed & breakfasts	

The Town of Marlborough could consider broadening the list of allowable uses in these waterfront areas to attract redevelopment and tourism activity on the river. If there is concern about allowing some new uses in the entirety of these districts, a provision could be added that they would only be permitted on parcels within a certain distance of the river, or could be added as part of a limited waterfront overlay. Additional discussion regarding water-dependent and water enhanced uses is found in the Marlborough LWRP.

J. Waterfront Land Use and Redevelopment

There are very few vacant or otherwise underutilized properties along the coast of the HMA which are zoned for non-residential uses. The largest parcel, the former Tilcon quarry, is 199 acres in size and zoned for industrial use. This single parcel represents the largest property frontage on the river. Successful adaptive reuse or redevelopment of this property with water-related uses could provide the Town of Marlborough with a substantial Hudson River presence. However, the railroad tracks remain an obstacle to direct water

access along the entire coast. The two areas within the HMA which have dry land on the river side of the railroad tracks are at Marlboro Harbor and Milton Landing. These two areas also benefit from at-grade crossings which have already been established, and therefore are prime candidates to focus attention on for improvements.

K. Jurisdictional Effect

Although the boundaries of the HMA extend out to the centerline of the Hudson River, the existing codes of the Town of Marlborough are limited in jurisdiction to areas west of the mean water levels of the river. These codes do not have any affect within the waterway of the Hudson River, and therefore are currently limited in their ability to influence or enforce the recommendations of this harbor management plan. They also limit the ability of the town to control other issues which may impact health and safety.

The Town of Marlborough should adopt an ordinance or local law which will specifically enable regulations and standards for structures and activities beyond the mean water level of the river. Such an ordinance or local law could potentially be used to:

- Plan for efficient and equitable future growth of both public and private moorings;
- Provide boundaries that will help ensure that future structures and activities on the river do not encroach into sensitive habitat areas or recognized boating channels;
- Establish basic standards for the protection of the shoreline and reduction of erosion;
- Establish recommended beach or swimming areas;
- Limit or prohibit specific activities such as the discharge of sewage, parasailing or unsafe watercraft speeds;
- Enable additional Planning Board review criteria for development or disturbance on the banks of the river;
- Establish reasonable areas of jurisdiction;
- To influence and regulate other issues recommended in this and future harbor management plans.

L. Existing Authorities

The following agencies and entities have jurisdiction within the HMA.

Existing Authorities	
Federal	Coast Guard, U.S. Army Corps of Engineers, National Oceanic and Atmospheric Administration
New York State	NYS Police, NYS Department of Conservation, NYS Department of Transportation
Ulster County	County Sheriff's Office, County Emergency Management, County Planning
Town of Marlborough	Town Board, Planning Board, Zoning Board of Appeals, Marlborough Police Department, Fire Department, Department of Public Works, Building Department

IV. Objectives and Implementation

Harbor management plans can address many maritime planning issues. They consider regional needs and, as applicable, the competing needs of commercial shipping and recreational boating, commercial and recreational fishing, waste management, dredging, public access, recreation, habitat and other natural resource protection, water quality, open space needs, aesthetic values and the public interest in underwater lands. The following includes recommended objectives to address these issues, and specific ways these can be implemented.

Objective 1. Strengthen Existing Waterfront Access and Attractions (See LWRP Policies 1, 9, and 10).

Due to the limited areas where access can be gained to the water, priority consideration should be given to focusing efforts on improvements to the two current access points at Milton Landing and Marlboro Harbor.

Milton Landing:

- Continue improvements to the waterfront public park at Milton Landing based on a park master plan.
- Continue efforts to restore the existing train station to be used for community events and integrate train station improvements to the park master plan.
- Establish seasonal events that will attract residents and visitors to the Milton Landing waterfront public park to increase public awareness of this new community amenity.
- Initiate the recommended repairs of the south pier to make it accessible to pedestrians and boats.
- Coordinate arrangements with recreational/tourism vessels such as the Clearwater sloop and Columbia steamship to host events at the restored pier.
- Continue to improve physical connections and activities between the landing and the larger Milton Hamlet area to create economic revitalization opportunities.

Marlboro Harbor:

- Discuss with the owners of West Shore Marine Services and Marlboro Yacht Club what their long-term plans are for their facilities, and potential options for expansion or diversification.
- Continue to work with the owners of these facilities to see if the town can assist them with plans for improvements or expansions.
- Increase public waterfront access and capacity, in particular for non-motorized watercraft.
- Investigate the potential for seasonal events which could take place at Marlboro Harbor in conjunction with existing private enterprises which could attract residents and increase use of the waterfront.

Objective 2. Update zoning to better accommodate a mix of desired uses along the waterfront which will promote tourism and recreation (See LWRP Policies 1, 9, and 10).

The town should ensure that it permits a diverse mix of uses along the waterfront that will highlight and leverage this important local resource for improved quality of life and economic growth.

- Consider developing a master plan for the Tilcon property in collaboration with the property owner to identify a mix of conservation, recreation and private development opportunities which would add to the assets of the community.
- Based on a master plan, consider rezoning of the former Tilcon quarry property which will broaden the allowable uses and increase the potential for adaptive reuse of this large segment of underutilized waterfront.
- Update the allowable uses in the R, R-1 and R-Ag-1 districts to include specific water-dependent uses such as boat ramps and docking facilities.
- Consider allowing additional uses along the waterfront—within a specified distance or an overlay—such as marina, restaurant and bar, brew pub, commercial recreation, watercraft sales rental or service and watercraft fuel sales with specific provisions and protections for the residential districts.

Objective 3. Protect the shoreline areas from loss and disruption from major flooding events (See LWRP Policy 4).

- Discuss with the owners of West Shore Marine Services and Marlboro Yacht Club options and plans to protect their existing structures and boat storage areas from loss during a major flood event.
- Ensure that the new pier and other improvements within the flood zone at Milton Landing will be resilient to future flood and debris damage.

Objective 4. Protect the Hudson River from contamination which would degrade water quality (See LWRP Policy 5).

- Work with the owners and operators of the Copart Auction facility on Riverview Drive to ensure they have adequate contingency plans to relocate the vehicles stored in the flood zone prior to a major storm.
- Identify sewer district expansion areas to accommodate new growth in appropriate areas to ensure water is properly treated.
- Plan for future stormwater and sewer infrastructure systems which will avoid sewer overflow discharges into the waterway.
- Continue to carefully review site plan applications in the vicinity of the waterways to ensure that stormwater runoff is contained and prevented from contaminating the water.
- Implement naturalized stormwater treatment methods and other green infrastructure techniques to protect water quality.

Objective 5. Properly manage and plan for activities along the waterfront (See LWRP Policies 1, 4, 9, and 10).

- Adopt a Harbor Management Ordinance or Local Law which will allow better planning and management of activities on the river.

Harbor Management Plan

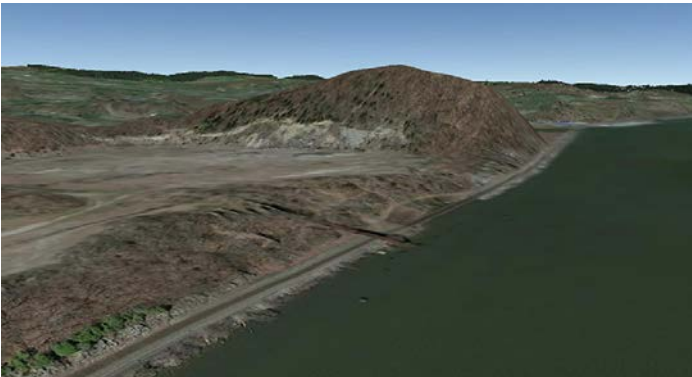
Overview Map



Milton Landing -View looking north. Milton Landing includes a historic train station and multiple parcels of land in town ownership which will include amenities like a park, camping sites, non-motorized boat launch and hiking trails.



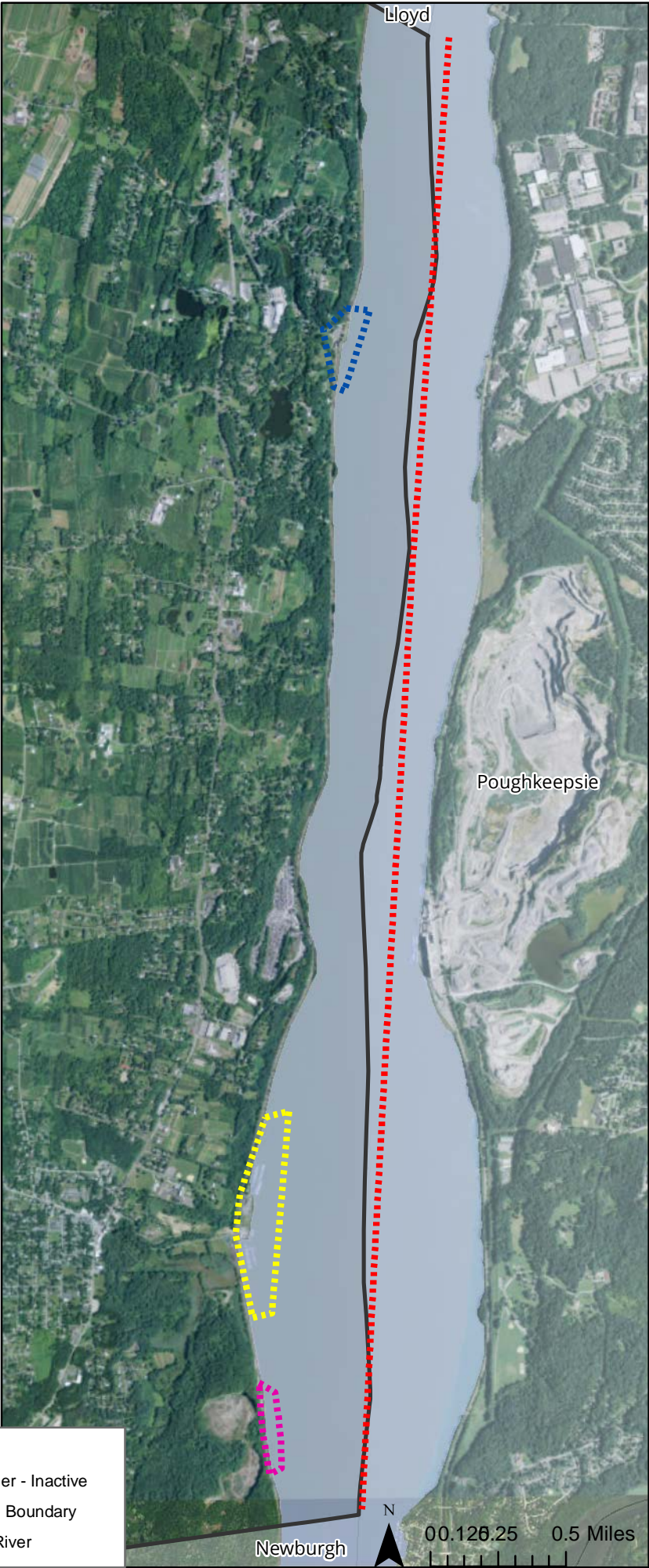
View looking north. Marlboro Harbor includes an active marina, boat storages and the Marlboro Yacht Club. These facilities provide water acces, picnic areas, gas grills and services such as a boat launch and fuel dock.



Quarry Pier, inactive - View looking north. This area features remnants of inactive mining activities, including concrete foundations and structures to aid in shipping raw materials on the river.

Map Legend

- Milton Landing - Pier Area, Seasonal Docking Area
- Marlboro Landing - Seasonal Docking Area
- Approximately 1500 feet
- Quarry Pier - Inactive
- Municipal Boundary
- Hudson River



LEGEND



Locations of known submerged aquatic vegetation



Areas of detail

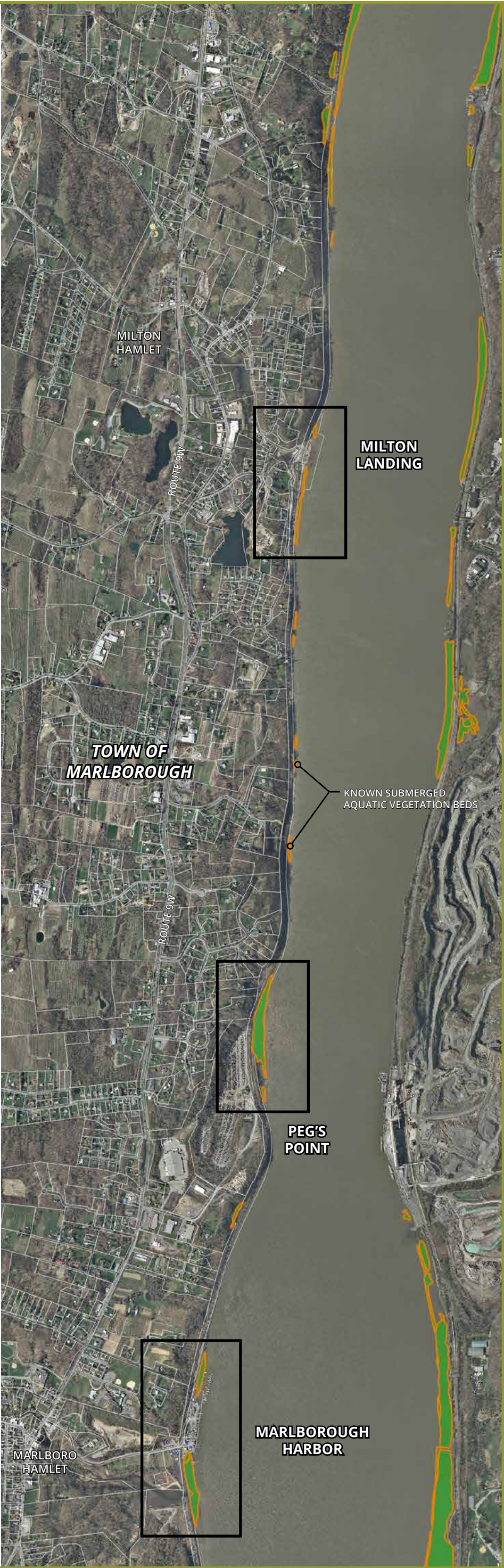
MILTON LANDING



PEG'S POINT



MARLBOROUGH HARBOR



Appendix B

Town of Marlborough, NY

COMPREHENSIVE PLAN



Draft – June 12, 2017

PREPARED BY:



BEHAN PLANNING
AND DESIGN

112 Spring Street, Suite 305
Saratoga Springs, NY 12866

151 South Main Street, Suite 200
New City, NY 10956
www.behanplanning.com

PREPARED FOR:



21 Milton Turnpike, Suite 200
P.O. Box 305
Milton, NY 12547

www.townofmarlboroughny.org

Town of Marlborough

Town Board

Alphonso Lanzetta, Town Supervisor
Howard Baker
Scott Corcoran
Allan Koenig
Ed Molinelli

Advisory Committee Members

Howard Baker
John Demarco
CJ Hartwell-Kelly
Chip Kent
Vivian Lanzarone
Alphonso Lanzetta
Cindy Lanzetta
Rosemary Wein

A special thanks and acknowledgements to all individuals, groups and organizations that helped with, and contributed to the development of this plan.

Additional Thanks to James Garofalo, Matt Kierstead, and Daniel Pinnavaia.

Cover page photo credit: Rick Lashinsky

Funding for this plan was provided by the Hudson River Valley Greenway and The New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund.



Table of Contents

I. Introduction	2
II. Regional Setting.....	3
III. Issues and Opportunities.....	5
A. Continued Community Revitalization	5
B. Demographics	5
C. Land Use.....	6
D. Historical Background.....	8
E. Overall Connectivity	8
IV. Vision Statement and Goals	10
V. Land Use Vision Map	11
Land Use Character Areas.....	13
VI. Land Use Recommendations	23
A. Agricultural.....	23
B. Residential Growth	25
C. Historic Resources	26
D. Circulation and Transportation	28
E. Natural Resources Conservation	29
F. Economic Development and Community Enhancement	30
G. Community Facilities and Utilities.....	33
VII. Conclusion	36

I. Introduction

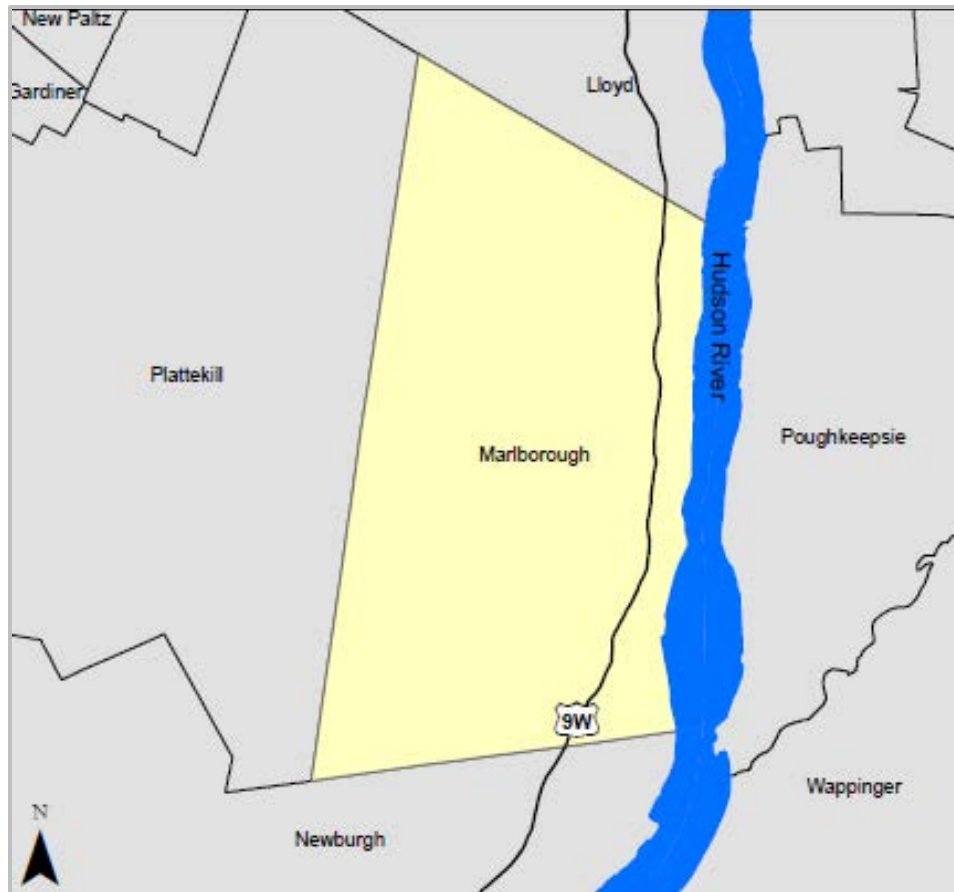
The Town of Marlborough has identified the importance of updating the 2002 Comprehensive Master Plan to reflect the current needs, goals and opportunities in the town. As Marlborough continues to evolve, the community is looking toward continued enhancements of the historic hamlets and waterfront areas, management of traffic, land use and aesthetics of the highway corridors, fostering economic development, enhancing agriculture, and conserving important open spaces and natural resources. The analysis and recommendations in this plan will provide the foundation for future zoning updates and amendments and other public investment strategies.

This update to the town's Comprehensive Plan is being developed in parallel with a Local Waterfront Revitalization Program (LWRP) to guide the town's land use and revitalization initiatives in a coordinated manner. Fortunately, these efforts are being funded by grants from the Office of Planning and Development, New York State Department of State and the Hudson River Valley Greenway through the Environmental Protection Fund. Both of these planning initiatives are being reviewed as part of the Draft Generic Environmental Impact Statement (DGEIS) that will allow the town to consider the environmental impacts and benefits of these two initiatives prior to their adoption as official plans for the town.

The comprehensive plan provides a set of goals, policies and objectives for the future growth of the entire town and focuses on land use, development, and zoning-related recommendations. The draft generic environmental impact statement (DGEIS) considers the generic impacts of the adoption of the updated comprehensive plan and the waterfront revitalization program. As the point of the DGEIS is to consider the broad, policy-level impacts of the effects of these two plans, the DGEIS does not address individual projects which may be proposed in the future. The DGEIS establishes thresholds for which future actions can be carried out without further environmental review and the extent to which further environmental review would be required.

II. Regional Setting

Marlborough is located in the Hudson Valley in southeastern Ulster County, New York. It is bound by the Hudson River on the east, the Marlborough Mountains and the Town of Plattekill to the west, the Town of Newburgh in Orange County to the south and the Town of Lloyd to the north. The town is directly served by New York State 9W which runs north to south parallel to the Hudson River. There are two historic riverfront hamlets: Marlboro and Milton both located within the 9W corridor on the eastern side of the town.



Ulster County is located approximately midway between New York City and Albany in the area known as the Mid-Hudson Region. The economy of the Mid-Hudson has traditionally been based on agriculture and tourism. For the second half of the twentieth century, manufacturing was an important economic driver in the region. IBM manufacturing facilities in Dutchess and Ulster Counties were the dominant private employer in both counties until large-scale downsizing began in the 1990s. While manufacturing has declined in the region, agriculture and tourism continue to play an important role in the economy and identity of Marlborough.

The apple and grape industries hold important and historical roles in the town, and wine making has emerged as an important regional attractor. In more recent years, agricultural operations have diversified to include organic vegetable farming and small fruit tree farming. A healthy agricultural tourism industry is established in the town, attracting tourists and maintaining the local identity as a farming community.

Currently, the largest job sectors in Marlborough are education services, manufacturing, and retail trade. Together, these industries employ almost 40 percent of those working in Marlborough. The prevalence of these employers in the town and region offer an opportunity for economic growth in Marlborough.

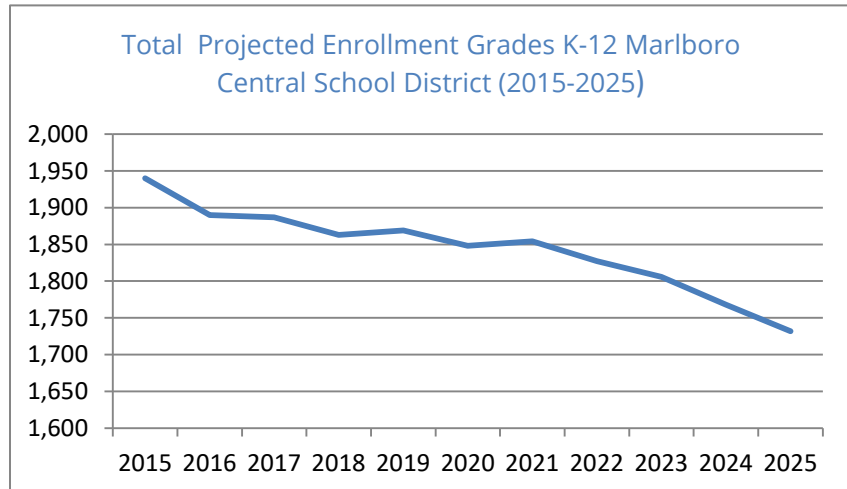
III. Issues and Opportunities

As part of the LWRP process, a thorough inventory and analysis was conducted on the town's existing resources and characteristics (Section III of the LWRP document is attached by reference to this plan). Opportunities to build upon these resources were identified and are addressed in this plan.

A. Continued Community Revitalization – The town has unique historic river town hamlets of Milton and Marlboro and efforts to revitalize the hamlets in order to support expanding business and housing opportunities should continue. The creation of attractive open spaces and better connectivity between the hamlets, the surrounding farms, orchards, vineyards, and other farm-based attractions, as well as to the larger community and the region as a whole will be an important initiative for the town moving forward. These connections can be physical, through the creation of shared-used paths, sidewalks or other infrastructure improvements, or they can be through events and activities like farmers markets and festivals.

B. Demographics - Marlborough is a community of approximately 8,800 residents, and just under half of the town's population lives in one of the two hamlets. The town has experienced modest growth since 2000 with an increase in population of approximately 5.5%. This population growth is comparable to the growth experienced in the neighboring towns of Lloyd and Plattekill.

While Marlborough has experienced a modest increase in overall population, it has also experienced the largest decline in the under 40 population in the county in recent years. Between 2010 and 2015, the median age in the town grew from 37 to over 40. This demographic shift is noticeable in the Marlboro Central School District enrollments and projections. At its historical peak in 2005, the school district had 2,137 students and by 2015, enrollment fell by nearly 10%. This trend is expected to continue to 2025. (Marlboro Central School District, June 2016). The Marlboro Central



Data from Marlboro Central School District Demographic Study, June 2016

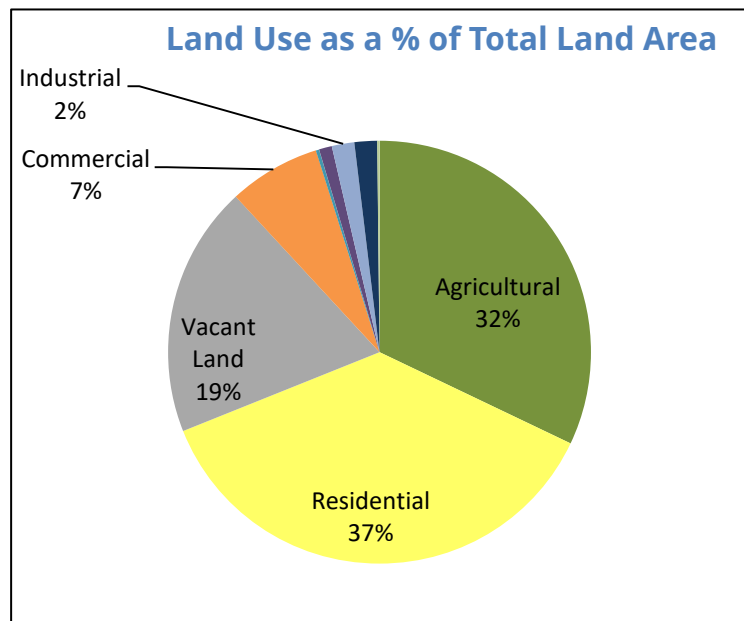
School District is an asset to the town and the academics, extra-curricular programs, athletics and facilities represent overall benefits to the community. The decrease in school enrollment is not seen as a negative indicator of the school district itself, but rather a general indicator of the changing demographics in the town and throughout the region.

Among the demographic trends identified in Marlborough, the three that must be considered for the future of the town include:

1. The projected decline in enrollment in the Marlboro Central School District;
2. Projected relative decline in the “under 40” population;
3. Projected increase in the senior and elderly population.

These trends are not unique to Marlborough, but can contribute to increasing challenges in terms of the cost of community services for education and well-care for an aging population. Addressing these trends proactively will take increasing, multi-level efforts to encourage new and young households to remain or move into town, to help secure a diverse mix of affordable home ownership and home rental options and to increase the base of younger generations to balance the growth of an aging population and provide the needed services for these populations.

C. Land Use - Land use within the town is predominantly in agricultural, and Marlborough is home to nearly 12 percent of Ulster County’s active farms. A large proportion of the town is located in a state-designated agricultural district administered through Ulster County. A recent land survey indicates that there are approximately fifty active agricultural operations in the town, amounting to nearly 4,500 acres of farmland.



Data from the NYS Office of Real Property Tax Services

The composition of land uses in the town contributes significantly to the unique character and quality of life enjoyed by the residents of Marlborough.

Agriculture – Agriculture was historically Marlborough’s economic mainstay and continues to play a key role in the town’s economy today. The majority of Marlborough’s active farmland lies in the upland areas west of NYS Route 9W. Despite its thriving agricultural community, Marlborough has not been immune to the state-wide trend of declining active farmland, between 2008 and 2015, properties classified as agricultural decreased by more than 6% while residential properties increase by approximately 4% over that same time period (NYS Office of Real Property Tax Services). It is important to note, that the decrease in agricultural land has been much more moderate than other places around the state, and there are some formerly inactive agricultural lands that have been cleared and put back into production both of which are positive signs for agriculture in the town. The farming community in the town is strong with many operators contributing to the region’s economy, and to the town’s healthy agritourism industry producing apples, grapes, wine, and other specialty crops.

Residential Growth - Marlborough has approximately 3,436 households averaging two to three people in size. The town as a whole grew by over 400 households, or a growth rate of 13 percent between 2000 and 2015. Mid-Hudson Valley home prices fell significantly following the housing collapse in 2008-2009. At present, the average home value in Marlborough is approximately \$204,000 (Zillow).

Denser residential development is located in and around the hamlets of Milton and Marlboro, with more rural style subdivisions expanding westward into the more rural landscapes of the town.

More than 60% of housing units in Marlborough are single family homes, and this type of housing comprised the majority of new residential development in the town between 2001 and 2014. Three separate large-scale, multi-family developments occurred during different years during this period, each of which is located within one of the two hamlets. At its peak in 2007, the town issued 97 building permits for single family homes and at its lowest in 2013, issued two permits each for two family dwellings.

Commercial Growth – Commercial development can be found in the hamlet centers where locally owned businesses and restaurants serve the residents and the visitors of the community. Outside the hamlets, the 9W corridor is dominated by larger-scale highway strip style development with a mix of services, light industrial uses, auto sales and other similar businesses. Recently, the hamlets have seen resurgence in new locally-owned businesses with new restaurants and shops locating there.

Land Use Regulations – The town currently has basic zoning regulations that specify allowed uses and bulk, height and setback requirements in each zoning district, but include little to no narrative or graphics on how development should look from a site planning perspective. This lack of design guidance makes it difficult for the planning board to ensure new projects meet the community's expectation. Including design guidelines into the zoning ordinance will provide an opportunity for the town to establish and clarify community expectations and incorporate a clear vision for future development in town into their land use regulations. These guidelines should rely on design patterns and concepts which emphasize the desired physical character of development and create a unified vision for the future of an area and the community. This will help contribute to the overall attractiveness and economic vitality of the town.

D. Historical Background – Marlborough is a town steeped in history. From early historical narratives of Native American fishing grounds, to the earliest European settlers in the 17th Century, to early train travel evidence of the town's past can be seen in its historic hamlets, buildings, landscapes and industrial ruins.

The Town of Marlborough and its residents take great pride in the historical roots of the community. Many of the families in town have lived in Marlborough for multiple generations, and there are farming families that have been working on land in Marlborough for over 200 years. The strong and historical community ties that exist in Marlborough are elements that are important to maintain, and also elements that should be built upon for the future.

E. Overall Connectivity – Marlborough has many resources and attractions for residents and visitors to enjoy, however these attractions are scattered throughout the town and there is a significant lack of connectivity between them. Throughout conversations with the town's youth and other residents a general concern that has been expressed is the inability to walk most places. Walking in Marlborough is generally challenging due to the lack of pedestrian infrastructure, both on and off the road. Lack of walkability is not only a safety issue; it is also a quality of life issue. Communities that are walkable are more attractive to home-buyers; they also contribute to the overall physical and mental health of their residents.

Significant strides have been made by the town to improve pedestrian accommodations in recent years. In 2016, a Safe Routes to School study was performed to identify areas in need of improvements. Since then, pedestrian amenities have been installed and upgraded around town, but gaps in the infrastructure continue to exist.

The town in general is oriented north to south with the Hudson River and railroad tracks running along its eastern border. The major north/south roadway connections are Route 9W and Lattintown Road (Ulster County Route 11). Both the Milton and Marlboro hamlets are within the 9W corridor. Two of the major east/west connections through the town are Milton Turnpike (Ulster County Route 10), extending from the Milton hamlet westward, and Western Avenue (Ulster Count Route 14, and 14A) in Marlboro hamlet. For the most part, these major connections throughout the town have minimal pedestrian or bicycle infrastructure that would provide for non-motorized connections between Marlborough's resources and attractions. Sidewalks, shared-use paths, and widened shoulders are elements that could be included along these routes to make Marlborough a more walkable and connected community.

IV. Vision Statement and Goals

The vision statement for the future of Marlborough was established following numerous committee meetings and public input sessions. This vision statement is designed to reflect what Marlborough is and where Marlborough is going and is used as guidance for this plan.

Vision Statement: *Marlborough is a unique riverfront town that offers a diverse range of business opportunities, cultural attractions and housing options set in a beautiful Hudson Valley landscape where agriculture and history are highly-valued elements of our community and our small town quality of life is the centerpiece of multi-generational living and civic endeavors.*

Goals: The stated goals of this comprehensive plan are the established goals of the community and therefore mirror those put forth in the LWRP. While the LWRP addresses the goals with recommended projects for the waterfront area, the comprehensive plan seeks to accomplish the town's goals through recommendations for future land uses in the town.

The goals of this plan build upon the goals set forth in the 2002 Master Plan and mirror those in the LWRP in order to:

Strengthen Connections with the River – Integrate the waterfront into the community by improving both physical and visual access to the river.

Revitalize Milton and Marlboro Hamlets – Restore and improve Marlboro and Milton hamlets as the commercial and cultural centers of the town through strategic public and private investments in streetscapes and private properties in and around the hamlet areas.

Improve the NYS Route 9W Corridor – Collaborate with the New York State Department of Transportation (NYSDOT) and Ulster County to improve the safety and aesthetics of the highway corridor, calm traffic in the hamlet centers, and create a system that can better accommodate pedestrians and bicyclists and address the needs of the mobility impaired.

Celebrate and protect natural and cultural resources – Maintain and protect the town's natural resources and better document the town's historic and cultural resources, and consider ways to protect and enhance these resources as a source of community revitalization.

Enhance Agricultural Uses – Explore more ways to advance and promote agriculture within the town so that these traditions continue to be an important part of town life and the regional economy.

Hudson River Valley Greenway Compact – Marlborough has long been an active member of the Hudson River Valley Greenway and is recognized as a “compact community” in supporting the Greenway criteria which are well aligned with the town’s goals and objectives for this comprehensive plan.

The Greenway criteria are described by the Hudson River Valley Greenway Act as “the basis for attaining the goal of the Hudson River Valley Greenway”. These criteria complement the overall goals of the community of Marlborough and include:

- Natural and cultural resource protection,
- Regional planning,
- Economic development,
- Public access,
- Heritage and environmental education.

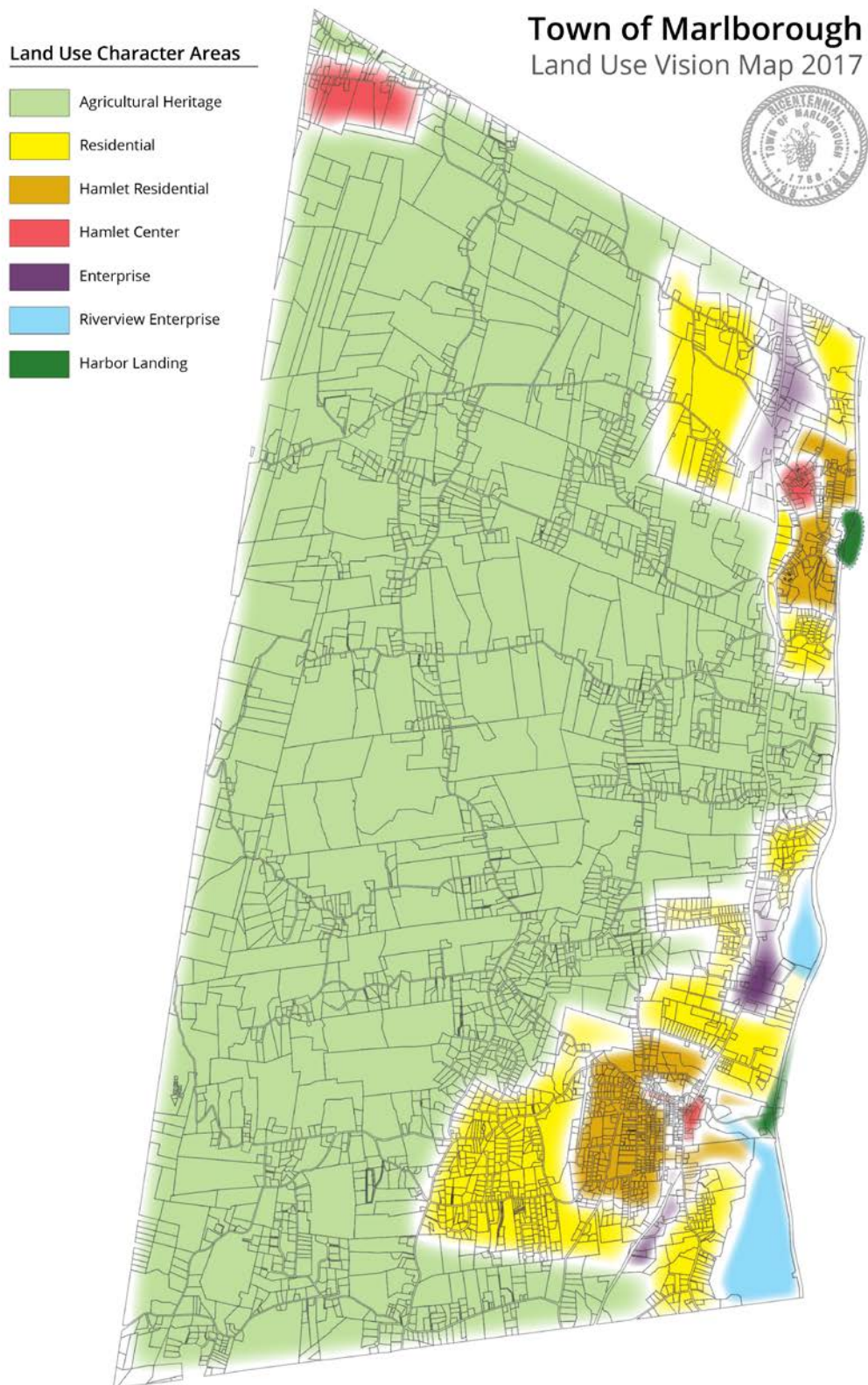


Northern pier at Milton Landing Park in Marlborough provides public access to the Hudson River.

The general nature of the Greenway criteria allows communities to develop locally-based projects which address community concerns while contributing to the overall framework of the Hudson River Valley Greenway.

V. Land Use Vision Map

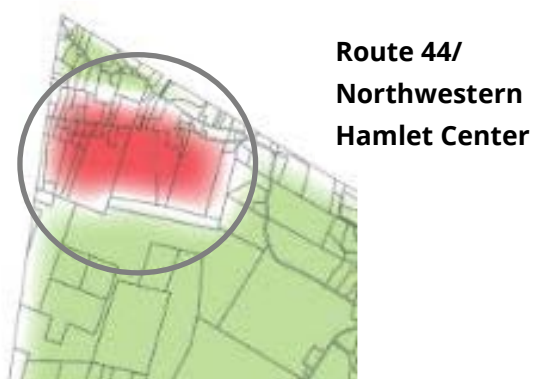
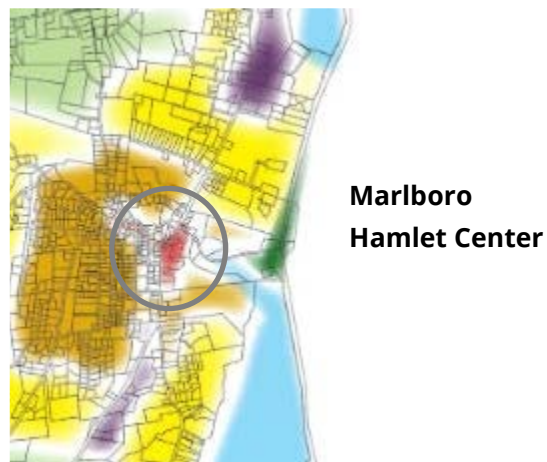
The land use plan has been divided into several character areas representing general land and development concepts with similar natural, cultural, or development features meant to outline future land use patterns. These character areas are depicted on the land use vision map on the following page. The character areas do not represent specific zoning boundaries, but rather, broad development, land use, and conservation categories. Nevertheless, these character areas should be considered and further refined when making updates to the town’s zoning ordinance.



Land Use Character Areas

Several land use areas have been identified on the map on the previous page. These areas are grouped together based on similar characteristics of current land uses and development types. The shared features and their current and future uses for each character area are described in the following section. Planning issues to be considered for future growth, development and conservation are identified for each character area.

Hamlet Center – The hamlet centers are the locations of the historical settlement of the town, based around the transportation opportunities that the Hudson River supplied as well as the water-power opportunities that the many creeks and falls provided for the residents and industries in the area. Historically, these areas were the center of commerce and social interactions for residents and visitors to the town. Today, these areas represent an opportunity for commercial growth and mixed-use development that would provide a wider range of housing types in the town. Mixed-use development is a traditional type of settlement in which housing is situated above commercial storefronts located on the street-level. Expansion of this type development can allow for increased housing opportunities for business owners, their employees, and young families moving to the area.



There are three areas defined as hamlet centers in the town, they are based on the two hamlets, Milton and Marlboro, and the area in the northwest portion of town around Milton Turnpike (Route 44). The Milton hamlet center is focused around Main Street where hamlet scale businesses, restaurants and community services are located. Any development in Milton should be sensitive to the existing neighborhood fabric and historic



The hamlet center areas are the center of commerce and social interaction for the town. Photo courtesy of Vivian Photography

streetscape. In the Hamlet of Marlboro, the hamlet center area has a different feel because it is centered on the much busier Route 9W and Western Avenue. Within Marlboro, consideration should be given to creating more of a sense of a hamlet center, perhaps with the creation of a small pocket park or green space that could host community events. Efforts should also be made to calm highway traffic and increase walkability and pedestrian safety in hamlet center character areas.

The hamlet center areas of Milton and Marlboro are primarily zoned Commercial (C-1) while the hamlet center in the northwestern portion of town is zoned Commercial (C-2), both designations that allow for retail businesses and services, professional offices, restaurants, automobile service, repair and filling stations, and dwelling units over ground floor commercial uses. These areas offer the opportunity to create a sense of place for the community by promoting a walkable, highly connected street layout with proximity to local businesses, restaurants and services. The proximity to restaurants and other services as



The hamlet centers offer opportunity for infill commercial and mixed-use development. Image courtesy of Rick Lashinsky & Meet me in Marlborough.

well as the walkable nature of the hamlet centers position these character areas for the expansion of overnight lodging options like bed and breakfasts and small-scale inns that could provide complimentary services to the town's already existing agritourism business and emerging heritage tourism industry.

In the most recent update to the zoning, the C-1 area in the Marlboro hamlet was decreased, converting areas along Western Avenue from C-1 to Residential. Considerations should be given to ensuring a connected system of sidewalks throughout the hamlet center and extending into the surrounding hamlet residential character areas, as well as installing crosswalks where appropriate both of which will create a safer and more welcoming environment for residents and visitors alike.

Future zoning amendments incorporate design guidelines in the hamlet center areas should consider the historical context of the hamlets. Buildings should be built close to the sidewalk line, with height and architectural elements that are contextually relevant and compatible with the existing buildings. Sidewalks, crosswalks, street trees, and pedestrian scale street lights should be incorporated throughout the hamlet center areas. Where possible, an off-street shared parking area should be formalized in each hamlet, shared parking between establishments, with shared access should be sought in order to minimize curb cuts.

Design with Marlborough in mind – design guidelines provide a way for the town to provide input on how new development should look, but also how it interacts with the surrounding community.



Traditional Zoning - Provides information on what is not all allowed. New development is unpredictable.



Design Guidelines- Describes what is wanted and how it should look. Create predictability in new development.

Hamlet Residential – Surrounding the hamlet center areas in Milton and Marlboro are the hamlet residential character areas, these areas are characterized by older, denser, traditional residential development patterns. The hamlet residential areas are served by existing sewer and water infrastructure; new residential development should be guided towards these areas.

The hamlet residential areas are comprised primarily of R-Residential zoning. This zoning designation allows for the orderly growth of established residential centers, one and two-family detached homes are the main residential structures in these areas. Minimum lot size in this zoning district is currently between 10,000 and 20,000 square feet depending on access to utilities. The smaller lot sizes allow for a denser and more diverse development pattern. Residential infill development should be pursued in the hamlet residential area where appropriate. Siting and encouraging more housing in this area is important not only to enhancing the hamlet areas, but also to protecting the agricultural areas in the town by taking development pressure off of the farmland and reducing resource fragmentation.



For new construction, smaller houses and row houses are appropriate for residential infill in the hamlet residential character areas.

The primary issues in these hamlet residential character areas are the enhancements to the built environment including pedestrian amenities and safety, and the aesthetics and design of the street. Design guidelines for the hamlet residential areas should consider the traditional pattern of smaller lot sizes and setbacks. In many traditional hamlet residential areas, the setbacks are varied offering an interesting and unique streetscapes and lot frontages, this element should be considered and allowed in the design guidelines.

Enterprise – Enterprise areas exist along the Route 9W corridor. These areas allow for both commercial and industrial uses such as office buildings, warehouses, and light manufacturing complexes.

The Enterprise areas are zoned primarily Highway Development (HD). The intent of this zoning designation is to provide an environment that is conducive to the development of light industrial and complementary commercial uses, including research and development institutions, professional and administrative facilities, warehousing and storage, distribution, and low-intensity processing.

Thus far, development in these areas is a scattered mix of services, light industrial, auto sales and other similar businesses. While this type of development is allowed in the zoning code and contributes to the town's tax base, care should be given to ensure that future development is sited and landscaped in such a way as to contribute to the aesthetic quality of the town and the 9W corridor.



Development in the Enterprise character areas should include pedestrian accommodations, partial screening of the buildings, and trees and other landscaping elements

Other planning concerns for this character area include access management issues resulting from a large number of ingress and egress points along Route 9W, a heavily trafficked corridor. Future development in this area should consider a model of shared access points and business park type models to reduce access points and promote a more orderly type of development.

Design guidelines in the enterprise areas should ensure appropriate screening for businesses from the road using clusters of vegetation and stone walls where feasible. Pedestrian and bicycle accommodations separated from the roadway should be provided where possible. Future development should be clustered in a way that limits access points by enabling shared curb cuts and interconnected parking among adjacent businesses.

Residential – The Residential character areas of Marlborough serve as a buffer between the areas of the town with more intense residential and commercial uses and the more rural agricultural areas. Residential character areas are located on the outskirts of the hamlets and extend upland into the agricultural areas of the town. Residential development is less dense here than in the hamlet residential areas and much of this area is defined by large lot residential housing and subdivisions.

More than 60 percent of the housing units in Marlborough are single family homes, and many new homes are built on a landscape that was once devoted to agriculture. The problem is not one house or one development, the problem arises cumulatively overtime as we build out across the landscape. Working farmland and wildlife habitats are fragmented by building footprints, lawns, roads, and driveways potentially leading to decline in viable agricultural land and other connected open spaces.

This area is primarily zoned R-1 Residential with a minimum lot size of 1 acre, a consistent lot size for the intended moderate-density residential development. Future residential development in this area, particularly in the areas where working farmland is still present, should consider the effects of fragmentation and seek settlement patterns that reduce the division of farmland and wildlife habitat. Where residential development and working farmland do coincide, a vegetative buffer, located on the residential properties to separate residential from agricultural land should be required. Although the town currently has a right-to-farm law that protects farmers from nuisance complaints, the addition of a buffer zone between the two uses will further protect farm operations and promote good neighbor relations.

Agricultural Heritage – Marlborough’s agricultural areas reflect one of the defining aspects of the land use characteristics of the town. These areas are widespread across the town. Also important are the extensive forest lands which include large tracts of woodlands across the Marlboro Mountains and some of the higher elevations. The agricultural heritage area lies primarily on the western side of the Route 9W corridor, in the upland areas of the town.

The 1970 land use survey and U.S. Census of Agriculture data confirmed the town’s agricultural character with 64 percent of Marlborough’s total land area in agricultural use. Today, agricultural remains one of the primary land uses in the town with approximately 32 percent of Marlborough classified as agricultural by the NYS Office of Real Property Tax Service (2015 Annual Assessment Rolls).



Marlborough's agricultural heritage is the result of generations of hard work and stewardship of the working landscape. Image courtesy of Matt Kierstead.

Maintaining the agricultural character and keeping land in farming in the future is a primary concern for the town. There are two key aspects which should be considered to ensure farming remains a key aspect of life in Marlborough: first, help keep farming profitable by enhancing agricultural uses and promoting agritourism; second, protect existing farmland from residential development that creates fragmentation and loss of agricultural viability.

For the most part, the agricultural heritage areas are zoned Rural Agricultural (RAG), a designation that is intended to encourage the continuation of agriculture and to preserve important natural and economic resources, and to create conditions conducive to rural life and country living in an area primarily dedicated to agriculture. While in general this description accurately describes the current conditions in the agricultural heritage areas, the RAG zoning also allows for a minimum lot size of 1-acre.

While it is understood that ability to subdivide and sell off a 1-acre lot for development is an important option for landowners to maintain, it should be considered that if this option was utilized to its fullest extent, at a density of 100 lots on 100 acres there would be a drastic change to the landscape and to the character of this rural and agricultural area. To fully examine this possibility, the town should consider conducting a build-out analysis based on the current zoning and review these findings with owners of large tracts of land with the idea of exploring alternative methods of subdivision design that would protect property values and protect the rural agricultural resources and character.

The concept of maximum density allowances should be explored as a way to maintain the rural quality of life in the agricultural heritage areas while maintaining the 1- acre minimum lot size.



Existing Conditions



Conventional Large - Lot Development



Conservation Development

Another option to explore for future development in this area is the conservation subdivision technique. Conservation subdivisions are an alternative method to development, particularly employed on new residential development.



This model of conservation subdivision preserves the farmstead area and much of the forested area of the parcel while allowing moderately dense residential development.

A conservation subdivision takes a more holistic approach to development by looking at the entire parcel available, and the surrounding area and planning the subdivision with the goal of conserving as much of the parcel, farmland, forestland or open space as possible. In this model, a higher concentration of housing on parts of the land is allowed in order to reduce fragmentation of forest and farmland, and to allow for development while

maintaining the rural quality and scenic views of the area.

While the conservation subdivision model of development does not save the entire farm itself, it does preserve the agricultural character of the area without limiting a landowners opportunity to develop. Lower density conservation subdivisions can other yield equal to or more net return to a landowner than higher density development.

Harbor Landings – There are two harbor landing areas in the town located at Milton Landing and Marlboro Landing. Milton Landing is the home of the historic Milton Train Station, two town parks, and a pier that is utilized by the public for fishing and viewing the river. Marlboro Landing is shared by two private marinas, West Shore Marine and the Marlboro Yacht Club. Both marinas have dock space available for guest use and a boat launch is available to the public for a fee.

The harbor landing areas are the only places in Marlborough where the Hudson River can be accessed by the public for recreational purposes. These areas are zoned Industrial (IND) although based on the current and desired uses of the riverfront, that designation should be changed in order to avoid potential conflicting uses with the established waterfront parks and marina facilities. A stated goal of the community is to strengthen and establish more public connections to the river. The harbor landing areas are ideal locations for targeted enhancements to public river access.



The harbor landing areas provide opportunities to expand public access and facilities along the Hudson River.

Riverview Enterprise – There are two riverview enterprise areas in Marlborough, both of which offer tremendous opportunities for the town to establish new connections, both visual and physical, with the Hudson River.

The northern riverview enterprise area is the site of the Copart auto salvage and auction operation, and formerly the site of a sand and gravel mine. This is an ideal location for this type of commercial use because it is shielded from view of the hamlets. Although it is not anticipated, if Copart was to cease operations here, this area should be retained as a technology based/ light industrial/manufacturing area. A small industrial park with multiple smaller facilities may be appropriate. The area is adjacent to an enterprise character area, which is zoned Highway Development and allows uses that may complement those in the riverview enterprise area. The expansion and connection of compatible uses in this area should be explored as a way to develop industrial business clusters that can benefit from a shared location, and increase tax revenue for the town.

The southern riverview enterprise area is located on Dock Road in the hamlet of Marlboro and extends throughout the Tilcon quarry area along the river. This entire character area is privately owned, and it is anticipated that Tilcon will retain the land as it currently stands for the foreseeable future. The Dock Road parcel should be evaluated for a potential multi-family, mixed-use development that could build upon and incorporate any future development in the Marlboro Landing area and take advantage of the Hudson River views.

VI. Land Use Recommendations

Land use recommendations in this plan recognize that the Town of Marlborough is a patchwork quilt of land use patterns containing a mix of residential, farmland, forestland, and commercial corridors along with historic hamlets and waterfront areas.

A. Agricultural - Despite the importance of Marlborough's farms to the community and the region, there are very few conserved farms within the town. A conserved farm is an agricultural property that has been permanently protected through a conservation easement/purchase of development rights (PDR) or transfer of development rights (TDR) – both of which are mechanisms in which a landowner is compensated for his or her right to develop the land. The landowner retains ownership of the land and can continue to farm it; however, the potential for development has been removed conserving the property as agricultural land for the future.

In addition to maintaining farmland and the agricultural character of the town, conserved farms protect wildlife habitat and environmentally sensitive areas such as meadows, wetlands and streams. Farmland also protects the local drinking water supply and helps keep property taxes low by requiring, on average, just 37 cents of municipal services for every dollar it pays in taxes.

Agriculture and agritourism are important industries for the town, local organizations like Meet me in Marlborough and the Shawangunk Wine Trail draw visitors from New York City and around the region for winery tours, pick-your-own days at local farms and farm-to-table dining. The Hudson Valley Research Lab supports farmers in the area by conducting research and educational events in the area. The town should continue to support the efforts of those groups as well as continuing to support farmers markets, on-site retail operations and other value adding activities and agricultural related events.

The best strategy to maintain farmland is to keep farmland profitable, but even the most profitable farms can be vulnerable to subdivision and development. In a survey conducted

The Hudson Valley Research Laboratory (HVRL) is a farmer owned, farm centered research station staffed by Cornell University faculty and staff. The HVRL, located in Highland, provides vital research and critical education and support to New York's farming community. To the farmers of Marlborough, this facility has provided important education regarding pest management and crop production. The town's policies should continue to support and enhance the efforts of HVRL.



by Ulster County in conjunction with the Ulster County Agricultural and Farmland Protection Plan, conservation easements and PDR were identified by a majority of farmers who responded as “very important” or “somewhat important” land use options in relation to farming (Ulster County Agriculture and Farmland Protection Plan, 1997). Preserving farms through conservation easements helps sustain the viability of existing farms and keeps the land available for the next generation of farmers. The town should explore continued partnership opportunities with local land trusts like Scenic Hudson or the Rondout-Esopus Land Conservancy to further advance conservation easements throughout Marlborough.

By continued and expanded collaboration, the town and the agricultural community should establish goals and strategies to keep agriculture strong in Marlborough, and develop answers to the following questions:

- **The future of agriculture in Marlborough will be...?**
- **This will be achieved by....?**

Conservation easements are voluntary and can be donated or sold by the landowner. Purchasing a farmer’s development rights provides a way to financially compensate willing landowners for not developing their land. Removing the development rights from a property not only provides the current landowner with a mechanism to derive capital from the land, but makes the possibility of purchasing the land more accessible for a new farmer. By removing the development potential through purchase of development rights, the land can later be sold at the lower agricultural value by someone, often a family member, seeking to buy the land and continue farm operations on the property.

Transfer of development rights (TDR) is a technique used to permanently protect farmland and other natural and cultural resources by redirecting development that would otherwise occur. Landowners within valuable agricultural and resource areas are financially compensated for choosing not to develop some or all of their land. The right to build a house or other structure is transferred from an area where development is discouraged (the “sending zone”) to an area where development is encouraged (the “receiving zone”).

In addition to the above conservation techniques, the agricultural community along with the town should consider drafting and adopting an agriculture and farmland preservation plan. Not only do these plans help establish agriculture as a critical land use in the town through local policies, they also develop a framework for the town to promote farming and agritourism, and place the town and local landowners in a better position to receive state and federal monies for farmland conservation.

The New York State Department of Agriculture and Markets offers Farmland Protection Planning Grants (FPPG) which assist municipal governments in the development of agricultural and farmland protection plans.

B. Residential Growth - Residential growth should be focused in and around the Hamlets of Marlboro and Milton, these areas are already serviced by the public water and sewer districts. Focusing additional development in the hamlets would reduce future municipal infrastructure costs.

Hamlet Center – Expanding residential uses including multi-family housing above commercial types of uses at a scale that reflects some of the higher-density current use patterns will be helpful to strengthen hamlet livability as a place to live and work and find local services, restaurants, and cafes. Altering allowed building heights to three to four stories would be appropriate, along with increased residential densities to fit within those building sizes will.

Design guidelines will be important to reflect local architectural character while allowing more updated architectural styles. While architectural elements that blend with historic details are important, equally important is creating an attractive environment for new investment and for supporting building design that fits and adds to the overall streetscape character and amenities of the hamlets.

Securing off-site parking areas will open up hamlet infill development while maintaining a compact form and increasing walkability which is important for economic viability.

Hamlet Residential - The lot sizes and other dimensional aspects of this character area should reflect a compact settlement pattern where walkability is a key part of design. Lot widths, yard setbacks and lot sizes should be small enough to allow compact development of single-family, two-family and townhome type development. Typically lot widths around 50-60 feet, 5-10 foot side yard setbacks and lot areas around 7,000 to 8,000 square feet for detached dwellings with water and sewer are appropriate for this area.

Planning and providing for a diversity of housing types in and around the hamlets is a strategy that can provide more affordable housing and attract a more diverse population of people to the town. The hamlets are the ideal places to create and encourage different housing types including duplexes and townhomes. In addition to addressing issues of affordability, a greater range of housing types may attract young families with school age children to the town. As previously noted, enrollment in the Marlboro Central School District has been in decline for the past decade and is projected to continue to decline. Any additional school age children to the area should be viewed as an opportunity rather than

a burden. The school district currently has the capacity to increase enrollment and doing so will only add to the vibrant education environment that already exists in Marlborough.

When possible, existing housing should be maintained and rehabilitated in the hamlet areas. The hamlets and surrounding neighborhoods have a combination of older and historic houses mixed with newer residential structures. While new development should be encouraged, the older homes should be maintained whenever possible as they add to the character of the community and provide a glimpse into Marlborough's historic past.

Infill development in the hamlet center and residential areas should be encouraged to maintain the desired density and a diversity of housing choices. Other areas in the town should be evaluated for possible growth based on available infrastructure and existing uses.

Agricultural Heritage - Additional elements should be added to the town's site plan review process to further protect agricultural land, like requiring buffer areas between farm uses and residential development. This provision should be added to the zoning code for new residential development that abuts the agricultural district or active farmland. The buffer should be located on the residential property. Ideally, these buffers should be at least 50 feet in width and planted heavily with a mixture of grasses and low growing indigenous shrubs and a variety of trees.

Measures should also be taken to maintain a contiguous landscape of farmland in the agricultural areas of town. These measures include avoiding the approval of subdivisions that result in piecemeal residential development, consideration of conservation subdivision design requirements and limiting excessive strip residential development along rural roads.

C. Historic Resources - Marlborough is a town with a tremendous history, much of which can be seen in its housing stock. While many of the older homes are well-maintained and cared for, it is a well-known dilemma that upkeep on an older house is expensive and more time consuming than maintaining a new home, and once the repairs cease, old homes can decline quickly and can result in "demolition by neglect" due to the absence of routine maintenance and repair. This is an all too common fate of historic housing. While it is understood that maintenance of older homes is often difficult, time consuming, and costly, maintaining the integrity and appearance of these homes is an important contribution to the community.

The town together with the code enforcement officer can work to prevent older and historic homes from falling into disrepair by ensuring maintenance through annual

inspections to evaluate code compliance. The town could assist historic home owners in developing a voluntary maintenance program which ensures that measures are taken to maintain the essential structure of the building. The code enforcement officer could meet with the homeowner annually to make sure that the maintenance program is being followed. In many historic communities, non-profit historic preservation organizations have been created with the goal of helping property owners recognize, preserve and enhance historic properties.

The first step in protecting the historic housing stock in Marlborough is to first identify and locate these important resources. This can be done through a cultural resources survey conducted by a historic preservation consultant. A cultural resources survey identifies all historic buildings and structures as well as all prehistoric and visible historic archaeological sites. Once



Shared-use paths provide off-road connections that can be used for recreation and community and can be more desirable along high-volume roads like Route 9W than sidewalks or bike lanes.

these sites are identified there are historical preservation planning incentives and programs such as preservation tax credits that can be taken advantage of to assist in the renovation and maintenance of the historical building stock in the town.

Other options include the National Register (NR) program, administered by the National Park Service, a component of the National Historic Preservation Act of 1966. NR listing adds prestige to a property, placing it on a national list of historically significant properties. NR listing does not prevent a property owner from altering or demolishing a listed building and has several significant benefits. Inclusion on the NR can protect properties from the effects of publicly-funded projects through the environmental review process. Income-producing NR-listed properties can be eligible for tax credits for restoration conducted according to the Secretary of the Interior's Standards for Rehabilitation. NR listing does not result in any property tax or valuation increases, but can potentially increase property resale value. Where there are multiple adjacent historic properties they can be listed together to form a National Register Historic District (NRHD).

D. Circulation and Transportation – The town and in particular the hamlet areas are in need of mobility and streetscape improvements, specifically along Route 9W which runs north to south through the town and serves as the main street for Marlboro hamlet. While this route brings a large number of motorists through the town on a regular basis, the design of the roadway and the corridor does not encourage them to stop, visit, or spend time in Marlborough.

Ulster County is conducting a Route 9W corridor study that will cover the route through the majority of Marlborough from the Town of Lloyd along Route 9W to Western Avenue in Marlboro hamlet. While this is a significant portion of the town, a comprehensive, town-wide approach to the safety and aesthetics of this corridor should be undertaken to better address these issues.

Traffic circulation is an issue within the town especially on Route 9W through Marlboro hamlet at the intersection of Western Avenue, King Street and Route 9W where the intersection of three roads creates an odd situation for motorists. This intersection has been studied by previous town plans, these plans should be revisited and their recommendations should be considered.

The town, county, and New York State should consider implementing a complete streets policy especially within and between the hamlet areas. Complete streets are roadways that are constructed and designed to enable safe access for pedestrians, bicyclists and motorists alike. Elements should include completing sidewalk and crosswalk connectivity throughout the hamlets; and ensuring major roadways have a wide enough shoulder or a shared-use side path which pedestrians and bicyclists could use safely along-side motorists. Priority areas for improvements are identified in the town's Safe Routes to School (Alta Planning + Design,

Increasing north-south connectivity for bicycles and pedestrians: Marlborough's Lattintown Road winds its way through Marlborough's upland areas providing spectacular views of the town's agricultural lands and the Hudson River Valley. For these reasons and many more, the busy roadway attracts many of the area's avid cyclists who enjoy the challenge of an uphill climb and the reward of a beautiful view at the top. The road itself, a county highway, offers very little shoulder for cyclists to travel in, and therefore they often ride in the travel lane along with motorists. This situation prevents many visitors and residents from walking or cycling along this scenic route. Lattintown Road seems like an ideal location for a shared-use path; however the topography and agricultural uses that surround the road prevent such an option. Here, widening and improving the shoulder along the county highway to accommodate bicyclists and pedestrians alike would increase safety, attract more visitors to this location, and ease the burden on traffic that often results from a tour of cyclists.

2016); these improvements should be considered whenever construction or upgrades are performed on the town's roadways.

E. Natural Resources Conservation - Marlborough contains many important natural features that contribute to scenic beauty, the tourism economy, and the ecological health of the region. Wetlands, open spaces, forested hillsides and the Hudson River each play an important role in the town. The conservation and protection of these important natural resources should be taken into account when considering future development.

Open spaces - Open spaces are a vital part of Marlborough's landscape. In addition to providing areas for recreation and public enjoyment open spaces protect and buffer wildlife habitat and environmentally sensitive areas such as meadows, wetlands and streams and protect the local drinking water supply.

Approximately 2 percent of the town's total land area is permanently protected as open space, while the average for Ulster County towns is 31 percent. (Catskill Center for Conservation and Development and Open Space Institute, 2006, as cited in the Ulster County Open Space Plan, 2007). As a result, Marlborough stands to be fully developed with no guarantee that the town will keep its open space character in the future. The town should work with landowners to find mutually agreeable ways to protect open space resources for a number of reasons including conserving important farmland, maintaining clean streams and waters, providing wildlife habitat, and preserving scenic views and rural open landscapes.

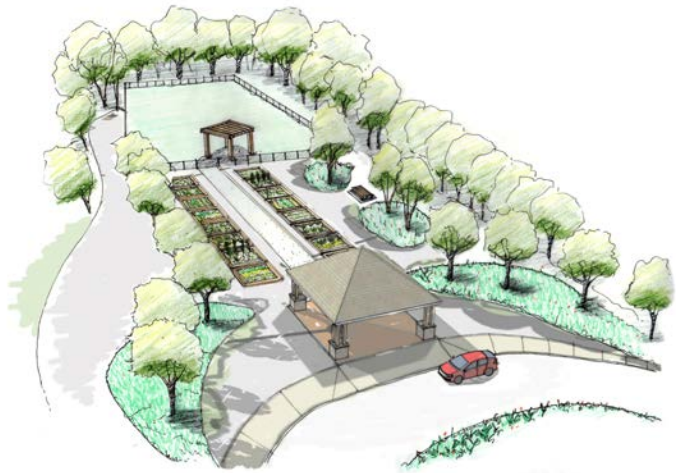
Forestlands - The forested hills descending from the Marlborough Mountain range is part of a globally significant forest patch that extends into the Town of Plattekill. Globally significant forest patches range in size from 15,000 to 600,000 acres and represent the largest, most intact forests. The size and natural condition of these forests support ecological processes, natural communities, and populations of forest-interior plant and animal species. Smaller patches of forest are located in the southeastern and northwestern portions of town. Forests of this size, at least 200 acres in size, are considered the minimum threshold for intact forest ecosystems capable of supporting forest-interior bird species. Maintaining these unfragmented forest areas should be a consideration for any future natural resource conservation endeavor.

Water Resources - There are many small creeks and streams the run throughout Marlborough, beginning in the mountains to the west and emptying into the Hudson River to the east of the town. These waterbodies are important to the history of the town and were once used for powering the extensive water-powered mills and manufacturing

operations that were concentrated in the Marlboro and Milton hamlets. There are three known trout streams within the town including Lattintown Creek. Maintaining the health of these waterways is important for the future by taking measure to reduce runoff of silt and other debris in order to keep these tributaries clean.

Parks and Recreational Resources -

In Marlborough, there are two established parks with an additional park is being developed. The largest of the established parks, Cluett-Schantz Park is located in the Hamlet of Milton along Route 9W and encompasses approximately 20 acres with sports fields and walking paths for recreation. Milton Landing Park is smaller and is primarily used for fishing and access to the river and contains the historic Milton Train Station which is used for community meetings and events. Other



Proposed enhancements to the Milton Waterfront Park.
Behan Planning and Design, 2017

improvements are planned for Milton landing Park and it will soon offer passive recreation options, a dog park, hiking trails and camp sites.

With the addition and improvement of Milton Landing Park, land space reserved for parks in the town will increase by over 50 percent. As residential development continues to grow in the upland areas of the town, the town should look into the possibility of putting aside land in the area known as Lattintown hamlet for a future park that would serve the growing residential population in that portion of Marlborough.

F. Economic Development and Community Enhancement - Marlborough's economy is a key contributor to the region's prosperity. The Mid-Hudson Regional Economic Development Council has identified the "food and beverage manufacturing supply chain" as a manufacturing-based industry cluster for the purpose of the state's manufacturing extension program. Employment in this sector grew by about 40 percent in the past 10 years in the Mid-Hudson region with average earnings at more than \$70,000.

Opportunities exist for local companies in the food and beverage supply chain to potentially secure financial and other support through the state's economic development programs including education and outreach from the Hudson Valley Technology Development Center (HVTDC), expansion of promotional tools through Hudson Valley

Tourism, and potential investment in expansion of companies in the Mid-Hudson region through the consolidated funding application (CFA) process.

Tourism – Due to its convenient location about 70 miles north of New York City and its remarkable surroundings, Marlborough has emerged as an attraction for many in the New York City Metro-area. The unique agricultural, cultural, and historical heritage in Marlborough creates an exciting tourism opportunity for the town to tap into and expand upon.

Agricultural tourism or agritourism has emerged as a major contributor to the economic base and the tourism base for the Town of Marlborough. Farm stands, U-pick operations and winery tours are among the major draws for visitors from near and far. An opportunity that is missed from visitors for agritourism is the ability to lodge them overnight. Expanding lodging options in the town, particularly in the hamlet center areas, where guests could walk to services and amenities, would increase the attraction for far away visitors and increase the income distributed by visitors throughout more of the town.

Place-based or heritage tourism is an opportunity to capitalize on the town's proximity to the Hudson River, the Marlborough Mountains and its vast historic resources. Like agricultural tourism, Marlborough's unique history presents an opportunity for the town to attract new visitors through historical interpretation and heritage tourism.

The Marlborough Economic Development Committee has proposed a trail project that follows Lattintown Creek through Marlboro's historic business district and industrial ruins. This path, the "Marlboro Mills Waterfall Walkway" will include interpretation of local historical themes including the mills and early industries, and the farms-to-river port connection. The Milton Landing Committee is planning a trail system and park improvements in that hamlet. These trail systems will increase public open space access



Image: www.buttermilkfallsinn.com

The Buttermilk Falls Inn has become a popular destination for visitors to the area. Located in Milton, the inn offers luxury accommodations in a circa 1764 building with Hudson River Views. There is also a spa and restaurant on site.

The Buttermilk Falls Inn partners with other local attractions like The Falcon in Marlboro to offer entertainment packages to their guests.

and reconnect the historical commercial centers to the Hudson River waterfront. The addition of these trails will help position the hamlets as destinations for visitors and residents interested in learning about Marlborough's history while exercising and enjoying views of the Hudson River.

Waterfront tourism opportunities exist in both harbor landing areas. The Hudson River Greenway Water Trail or "blueway" is a series of launches and landings along the Hudson River, creating a water trail for non-motorized vessels like canoes and kayaks. A "trailhead" for the blueway has been established at Milton Landing Park where there are facilities for picnics and camping. Establishing a similar facility at the Marlboro docks would increase connectivity between the hamlets and increase opportunities for those seeking to recreate in the area.

The Marlboro harbor landing area is home to West Shore Marine and the Marlboro Yacht Club. Located less than a mile from the hamlet of Marlboro, these facilities can accommodate over 200 boats. Although these are member-based facilities, both have capacity for visitor docking. Creating better pedestrian connections between the Marlboro docks and the hamlet center would open up the hamlet for day visitors arriving via boat for lunch or dinner, or to take in the sights.

Like Marlboro Landing, Milton Landing has great potential to be established as a tourist destination. In addition to the historic Milton Train Station and the recreational amenities offered by the soon-to-be Milton Waterfront Park, Milton Landing also has a pier with the potential to dock a deep water vessel. In 2016, a structural evaluation was performed on the pier to determine its ability to accommodate the Hudson River Sleep Clearwater as well as the steam day-liner, the SS Columbia.

The historic SS Columbia, currently under renovation, is 207 feet in length and 60 feet wide and was designed to carry 3,200 passengers. Once restored, the SS Columbia is envisioned to be "a floating platform for arts, education, and entertainment connecting New York City to the Hudson Valley" (sscolumbia.org). Making the necessary pier improvements as well as forming connections between



The SS Columbia is the one of only two remaining excursion steamboats from the 20th century. Image courtesy of sscolumbia.org

Milton Landing and Milton hamlet and into the rest of the town should be a priority in order to accommodate and take full advantage of the potential the SS Columbia may provide. In the near-term, the town should consider completing the consolidated funding application (CFA) from New York State for a grant to fund the construction plans, specifications and bid documents for reconstruction of the south pier to support landing of tour vessels including the SS Columbia to support regional tourism development and educational education.

Arts and cultural tourism utilizes the strong connections to the arts in the Mid-Hudson Valley. The spectacular landscapes of the region were made famous by Thomas Cole and the other painters of the Hudson River School in the mid-19th century. Known as “The Birthplace of American Art”, the beautiful scenery and closeness to nature provided by the valley continues to inspire artists today and has attracted communities of authors, poets, painters and musicians.

Today Marlborough continues to attract artists seeking refuge from nearby New York City and inspiration from the natural surroundings. The Falcon, located in a renovated button factory in Marlboro hamlet, attracts a strong lineup of performers and serves as a powerful regional attractor for jazz concerts and exhibits. The Falcon has developed into an anchor for the hamlet of Marlboro, the town should seek to expand upon this attraction.

Marlborough’s location nested above the Hudson River in the Mid-Hudson Valley offers some unique economic development opportunities. There are currently two locations, identified in the Future Land Use map as riverview enterprise areas which offer views of the Hudson River and the surrounding landscapes. Both of these sites, currently zoned industrial, are privately owned, but should be explored as possible locations for future redevelopment, investment and economic opportunities for the town.

G. Community Facilities and Utilities - The major community facilities are the municipal building complex, the 42-acre Cluett-Schantz Park on Route 9W and the Milton Landing Riverfront Parks. The hamlet of Marlboro remains removed from these parks and is in need of expanded open space opportunities. In addition to the proposed Marlboro Mills Waterfall Walkway, the town should consider acquiring or leasing land that would provide additional opportunities for the enjoyment of the outdoors and potential new public connections to the Hudson River. Recreational needs are directly proportional to population levels, and as Marlborough seeks to develop and grow, care should be given to also developing open space and recreational facilities for the growing population.

Youth Services - The Town of Marlborough values its youth, and along with the school district provides programs and activities for after school and in the summer time. Through conversations with high school students, some common themes have arisen. Many young people conveyed that it is difficult to walk anywhere in town, and that they feel it is necessary to drive everywhere. However, if students are not old enough to drive or do not have access to a car, they are often left with limited activities after school or on weekends. There are a large number of school sponsored clubs and activities, including some very strong sports teams, but there are few places in town where young people can have unstructured time away from home and school to spend with their friends.

Through these conversations, the idea of a Youth Center or Youth Drop-In facility has been developed as a safe activity for high-school aged kids. The town should reach out to other communities in the area who have successfully established a facility of this kind and explore the potential for such a facility in Marlborough. Ideally a drop-in youth center like this would be located within one or both of the hamlets.

Water and Sewer - Municipal water and sewer service is available throughout the hamlets. Water service continues out of Marlboro hamlet along South Street to Lattintown Road and south to the Newburgh town line. Water and sewer service is not available along Route 9W south of Marlboro hamlet. A sewer treatment plant is located in each of the hamlets. Recent infrastructure upgrades in the Milton hamlet now incorporate water and sewer on Main Street and the surrounding roads. The town and individual developers have been working to extend sewer infrastructure to enable increased density for business and housing opportunities in and around Milton hamlet. The reach and capacity of the water and sewer districts should be taken into account when considering new development in the town. Any future extension to these services should be made only where new development is appropriate, for example, to serve the enterprise character area to the north of Milton hamlet.

Municipal Stormwater - The Town of Marlborough is a designated separate municipal stormwater sewer system (MS4) and is required to develop a stormwater management program that will reduce the amount of pollutants carried by stormwater during storm events to waterbodies to the “maximum extent practicable”. The goal of the program is to improve water quality and recreational use of the waterways. As such, Marlborough has a program in place to manage stormwater.

The infrastructure of the stormwater systems in the town generally consist of stormwater conveyance systems such as pipes and swales, and water quantity and quality mitigation appurtenances such as stormwater retention and detention areas. These are in addition to

the natural stormwater resources of the town such as wetlands, streams, and water bodies. The capacity of the town's stormwater resources and effects of runoff from construction and new development should be considered when reviewing new proposals.

In addition to the existing stormwater infrastructure, the town should seek to expand its green infrastructure systems. Green infrastructure is a cost-effective approach to water management that incorporates both the natural environmental and engineered systems to manage stormwater. By implementing one of this plan's previous recommendations to increase open space, the town would also be adding to its green infrastructure system and improving the management of its stormwater.

Open spaces play a key element in absorbing stormwater and preventing runoff from entering waterways too quickly. In addition to Marlborough's large amount of farmland, the creation of an additional park area with a stormwater pond would not only serve as an effective stormwater management technique, but also as a community gathering place and space for recreation.



[A community stormwater pond in Pittsford, NY provides stormwater management, habitat for fish and wildlife, and open space for recreation and enjoyment.](#)

VII. Conclusion

The Town of Marlborough seeks to grow and develop in a way that maintains its agricultural heritage, pays homage to its history and protects vital environmental resources for the future. This comprehensive plan sets forth goals and recommendations that build upon the characteristics that make Marlborough a unique and special community to live in and to visit, and provides guidance for future growth, change, and resource protection in the town.

This plan seeks to achieve a community supported vision by encouraging continued enhancement and protection of agricultural uses, promoting new residential growth in and around the hamlets, encouraging economic growth in designated areas, and improving public access to the Hudson River. In order to achieve the town's vision, this plan provides basic design guidelines and well as some additional targeting recommendations for the priority areas of development throughout Marlborough. The guidelines and recommendations include provisions for pedestrian access like sidewalks and shared-use paths, streetscape improvements like landscaping and street lighting, and general guidance to ensure new development is done in a way that fits in and is sensitive to its surroundings.

This comprehensive plan has been developed as an update to the town's 2002 Comprehensive Master Plan, and should be updated and amended regularly. It is the intention of this document to present the current vision and goals of the community at this point in time. As changes occur and the needs of the community shifts, these goals and recommendations should be revisited and updated in order to remain current with the concerns, needs, and desires of the Town of Marlborough.

Appendix C: Kingston – Poughkeepsie Deepwater Significant Fish and Wildlife Habitat

Name of Area:	Kingston-Poughkeepsie Deepwater
Designated:	August 15, 2012
County:	Ulster; Dutchess; Orange
Town(s):	Rhinebeck, Hyde Park, Poughkeepsie, Wappinger, Kingston, Esopus, Lloyd, Marlborough, Newburgh
71/2' Quadrangle(s):	Kingston East, NY; Hyde Park, NY; Poughkeepsie, NY; Wappingers Falls, NY

<u>Score</u>	<u>Criterion</u>
40	Ecosystem Rarity (ER) An extensive area of deep, freshwater, estuarine habitat; rare in New York State; but somewhat common in the Hudson River. Geometric Mean: $\sqrt{64} \times \sqrt{25} = 40$
54	Species Vulnerability (SV) Shortnose sturgeon (E) wintering area and a habitat also used by Atlantic sturgeon (E). Additive division: $36 + 36/2 = 54$
16	Human Use (HU) Striped bass production in this area supports commercial and recreational fisheries in the State of New York.
16	Population Level (PL) Concentrations of sturgeon and other estuarine species are unusual in New York State.
1.2	Replaceability (R) Irreplaceable

Habitat Index (ER + SV + HU + PL) = 126

Significance (HI X R) = 151.2

Significant Coastal Fish and Wildlife Habitats Program A Part of the New York Coastal Management Program

Background

New York State's Coastal Management Program (CMP) includes a total of 13 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local waterfront revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative constitutes a record of the basis for this significant coastal fish and wildlife habitats designation and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with this policy.

Designated Habitat: Kingston – Poughkeepsie Deepwater

Habitat Description

Kingston-Poughkeepsie Deepwater Habitat is an approximately 6,350 acre habitat that encompasses a 25 mile stretch of the Hudson River extending approximately from Kingston Point in the City of Kingston in Ulster County and the Village of Rhinecliff in Dutchess County to just south of Wappinger Creek in the Town of Wappinger in Dutchess County. The area is located in the Towns of Rhinebeck, Hyde Park, Poughkeepsie and Wappinger in Dutchess County, the Towns of Esopus, Lloyd, and Marlborough and the City of Kingston in Ulster County, and the Town of Newburgh in Orange County (7.5' Quadrangle: Kingston East, N.Y., Hyde Park, N.Y., Poughkeepsie, N.Y., and Wappingers Falls, N.Y.).

The significant habitat area is a nearly continuous deepwater section of the river ranging in water depth from 20 feet to 50 feet or greater, including a small area near Crum Elbow that exceeds 125 feet in depth.

Fish and Wildlife Values

The Kingston-Poughkeepsie Deepwater Habitat is an extensive section of deepwater habitat in the Hudson River. Deepwater areas provide wintering habitat for shortnose sturgeon (*Acipenser brevirostrum*) (E) and Atlantic sturgeon (*Acipenser oxyrinchus*) (E), and support a diversity of freshwater and migratory species in the Hudson River. Fish species found in this section of river include fourspine stickleback (*Apeltes quadracus*), hogchoker (*Trinectes maculatus*), killifish (*Fundulus diaphanous*), threespine stickleback (*Gasterosteus aculeatus*), white perch (*Morone americana*), bluegill (*Lepomis macrochirus*), brown bullhead (*Ameiurus nebulosus*), common carp (*Cyprinus carpio*), golden shiner (*Notemigonus crysoleucas*), largemouth bass (*Micropterus salmoides*), pumpkinseed (*Lepomis gibbosus*), smallmouth bass (*Micropterus dolomieu*), spottail shiner (*Notropis hudsonius*), white catfish (*Ameiurus catus*), yellow perch (*Perca flavescens*), alewife (*Alosa pseudoharengus*), American eel (*Anguilla rostrata*), American shad (*Alosa sapidissima*), blueback herring (*Alosa aestivalis*), and striped bass (*Morone saxatilis*).

The Kingston-Poughkeepsie Deepwater Habitat is one of the largest and most well-known spawning areas for Atlantic sturgeon (E) and overwintering areas for shortnose sturgeon (E) in the Hudson River. Although habitat requirements of both sturgeon species are still being studied, it is believed that these deepwater areas may be critical year round. Yolk-sac

larvae, suspected to be Atlantic sturgeon (E), have been collected from this region at depths of 45 feet to 120 feet. Mature Atlantic sturgeon have been routinely captured in deep water on both sides of the river near the middle and near the southern end of the habitat area. Spawning also occurs in deep water along the southern east shore of the river. Shortnose sturgeon (E) use the portion of the river that generally is greater than 30 feet in depth. The majority of both Atlantic sturgeon (E) and shortnose sturgeon (E) taken for age-growth analysis during the biological survey in the 1930s came from within this habitat near Rhinecliff and Port Ewen. The Kingston- Poughkeepsie Deepwater Habitat also encompasses the reach of highest mean striped bass egg density from 1974-2006. Striped bass spawning over deepwater has been observed in this reach of the river.

The Kingston-Poughkeepsie Deepwater is a critical habitat for most estuarine-dependent fisheries originating from the Hudson River. This area contributes directly to the production of in-river and ocean populations of food, game, and forage fish species. Consequently, commercial and recreational fisheries throughout the North Atlantic benefit from these biological inputs from the Hudson River estuary.

The area provides habitat for blue crab (*Callinectes sapidus*) and concentrations of waterfowl such as American black duck (*Anas rubripes*), blue-winged teal (*Anas discors*), common goldeneye (*Bucephala clangula*), common merganser (*Mergus merganser*), gadwall (*Anas strepera*), greater scaup (*Aythya marila*), green-winged teal (*Anas crecca*), hooded merganser (*Lophodytes cucullatus*), lesser scaup (*Aythya affinis*), mallard (*Anas platyrhynchos*), northern pintail (*Anas acuta*), red-breasted merganser (*Mergus serrator*), and wood duck (*Aix sponsa*).

Impact Assessment

Any activity that would substantially degrade water quality, increase turbidity or sedimentation, alter flows, salinity, or temperature, reduce water depths, or degrade or alter benthic communities in Kingston- Poughkeepsie Deepwater would result in significant impairment of the habitat. All species may be affected by water pollution, such as chemical contamination (including food chain effects resulting from bioaccumulation), oil spills, excessive turbidity or sediment loading, nonpoint source runoff, and waste disposal (including vessel wastes). Discharges or runoff of sewage effluent, pesticides, or other hazardous materials into the river may result in adverse impacts on the habitat area.

Any physical alteration of the habitat through dredging or filling (including dredge spoil disposal), would result in a direct loss of valuable habitat. Such activities could have significant impacts on striped bass and sturgeon populations during spawning, and incubation periods (May-July, primarily) and overwintering times. Habitat disturbances would be most detrimental during fish spawning and nursery periods, which generally extend from April through August for most warm water species.

Thermal impacts could have adverse effects on use of the area by migratory and resident species. Activities that result in the presence of significant electric, or magnetic, or electromagnetic field may affect benthic communities, migratory fish movement, and fish egg and larval development. Entrainment and impingement causes significant mortality to all life stages of fish, including endangered species. Activities that would enhance migratory, spawning, or nursery fish habitat, particularly where an area is essential to a species' life cycle or helps to restore an historic species population would be beneficial.

Habitat Impairment Test

A **habitat impairment test** must be met for any activity that is subject to consistency review under Federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific **habitat impairment test** that must be met is as follows.

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

1. destroy the habitat; or,
2. significantly impair the viability of a habitat.

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

vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

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

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

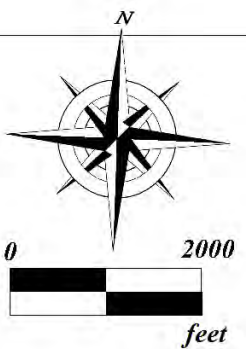
1. physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. biological parameters such as community structure, food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

Knowledgeable Contacts

Natural Resources Bureau
NYS Department of State
99 Washington Ave, Suite 1010
Albany, NY 12231
Phone: (518) 474-6000

Hudson River National Estuarine Research Reserve
Norrie Point Environmental Center
PO Box 12580
Staatsburg, NY 12580
Phone: (518) 889-4745

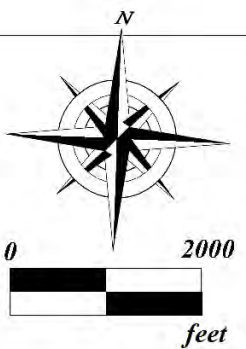
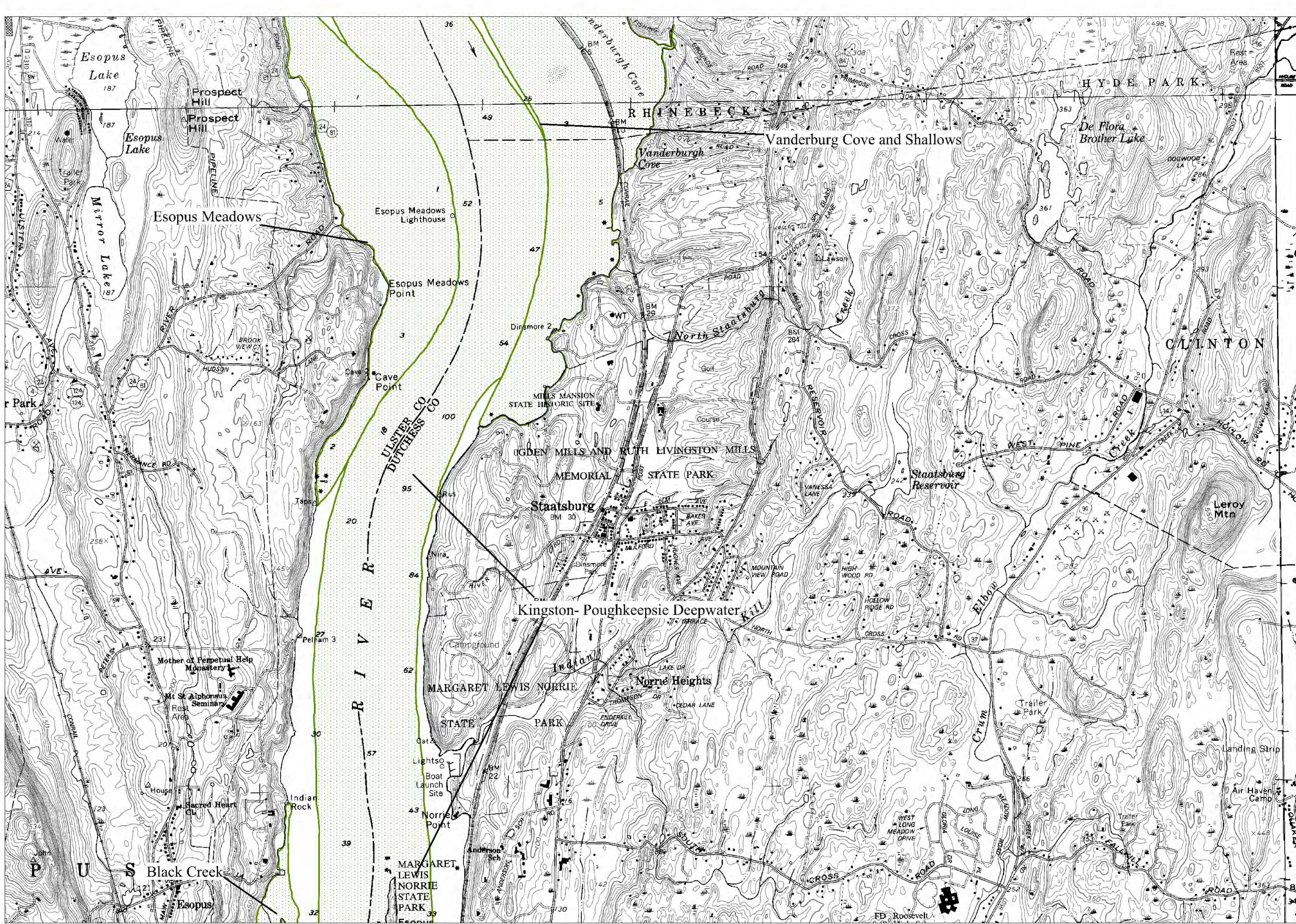
Hudson River Fisheries Unit
NYS Department of Environmental Conservation
21 South Putt Corners Road
New Paltz, NY 12561
Phone: (845) 256-3071



Significant Coastal Fish and Wildlife Habitats

- Kingston-Poughkeepsie Deepwater (In Part) part 1 of 8
- Esopus Meadows (In Part)
- Rondout Creek (In Part)
- Vanderburgh Cove and Shallows (In Part)





Significant Coastal Fish and Wildlife Habitats

- Kingston-Poughkeepsie Deepwater (In Part) part 2 of 8
- Black Creek (In Part)
- Esopus Meadows (In Part)
- Vanderburg Cove and Shallows (In Part)



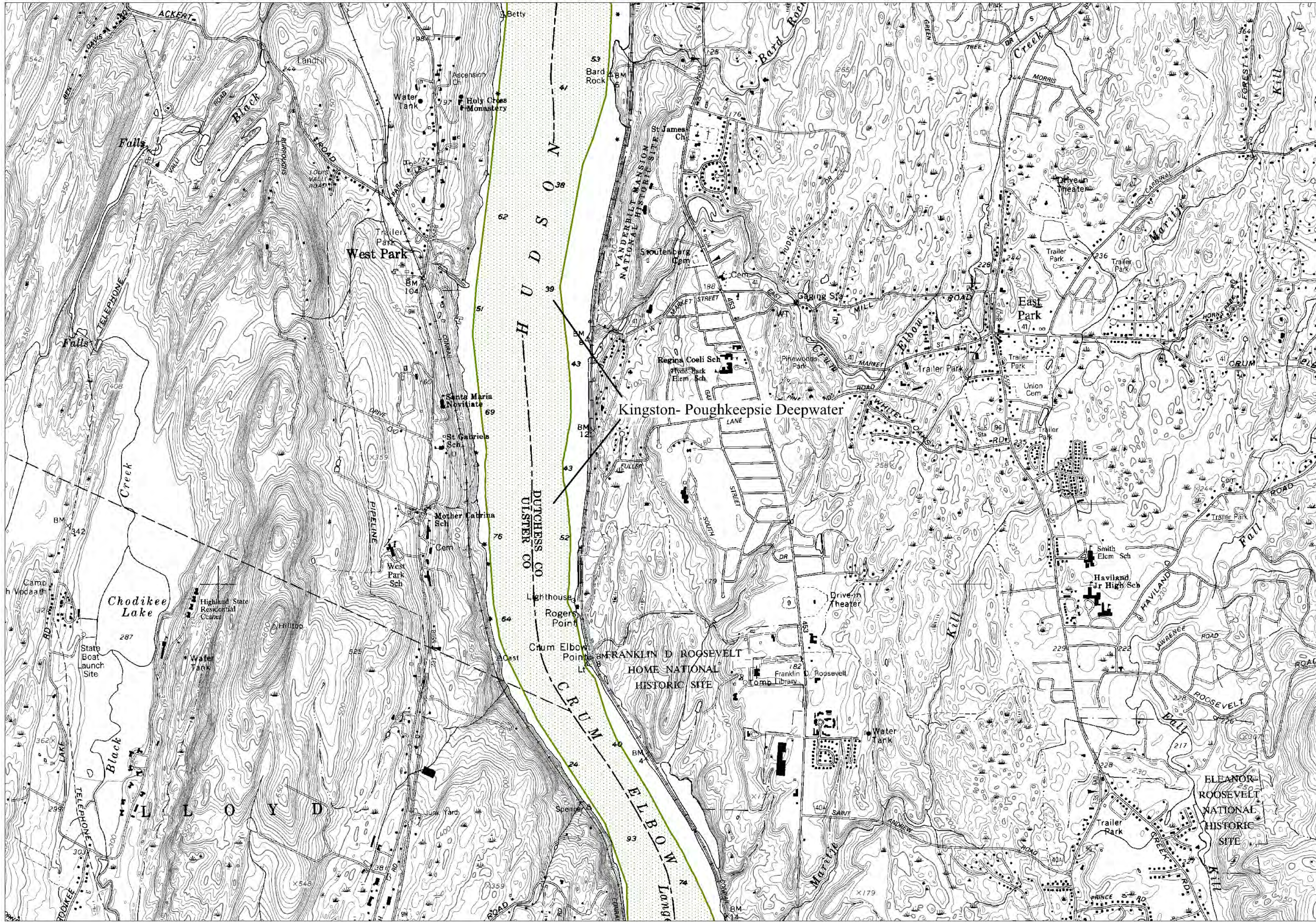


Significant Coastal Fish and Wildlife Habitats

Kingston-Poughkeepsie Deepwater (In Part) part 3 of 8

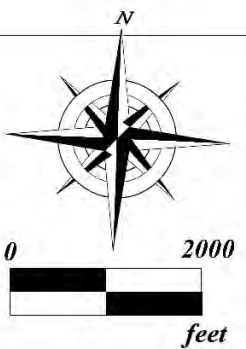
Black Creek

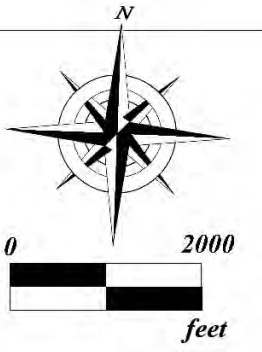




Significant Coastal Fish and Wildlife Habitats

Kingston-Poughkeepsie Deepwater (In Part) part 4 of 8

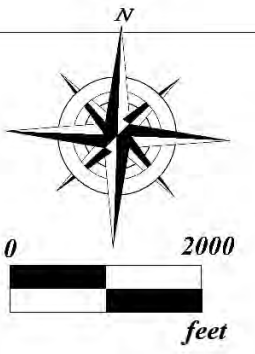
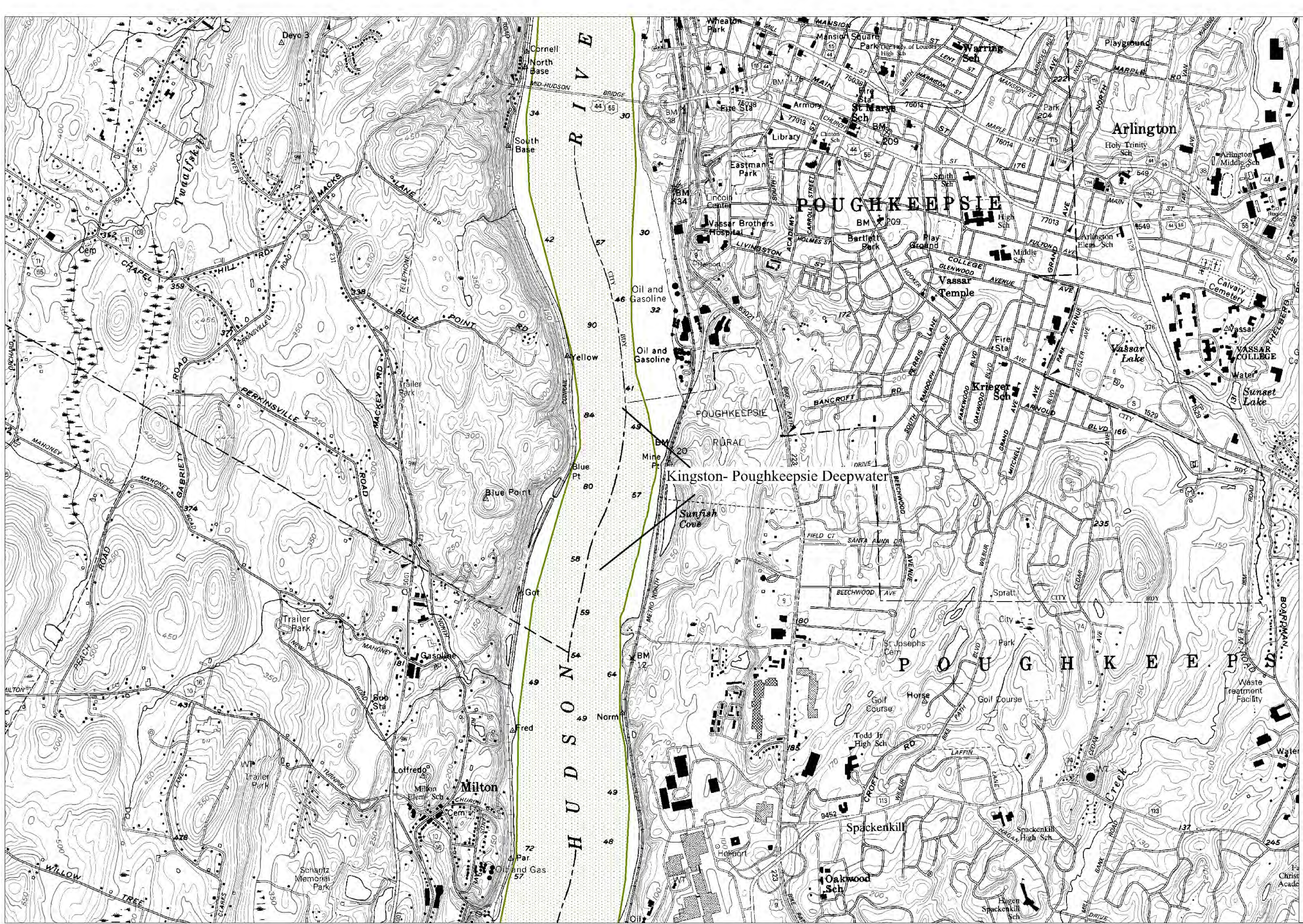




Significant Coastal Fish and Wildlife Habitats

Kingston-Poughkeepsie Deepwater (In Part) part 5 of 8

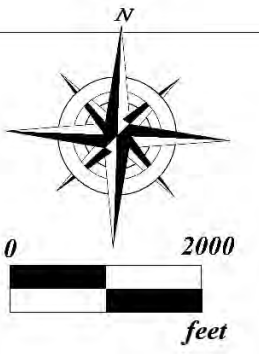
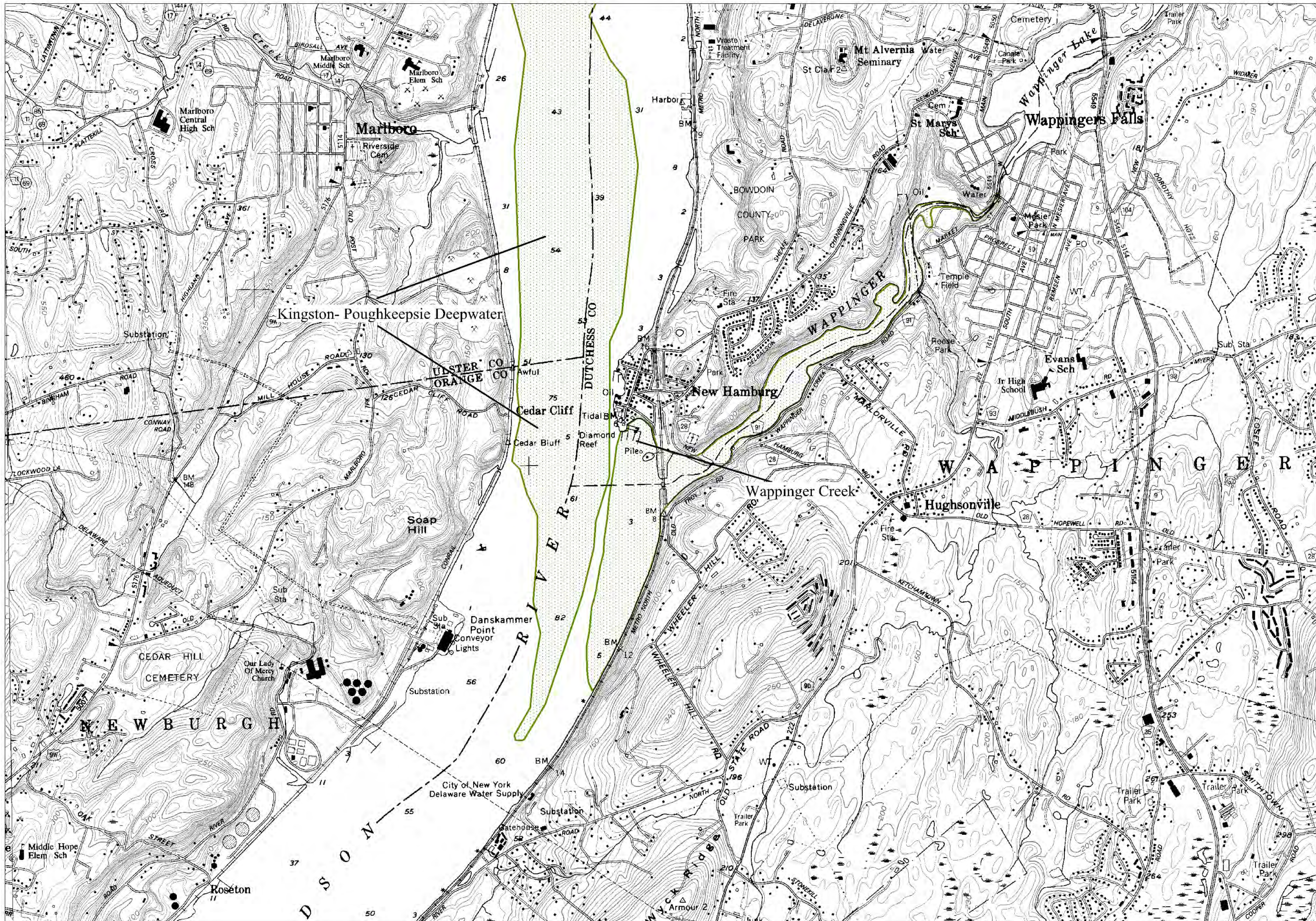




Significant Coastal Fish and Wildlife Habitats

Kingston-Poughkeepsie Deepwater (In Part) part 6 of 8





Significant Coastal Fish and Wildlife Habitats

Kingston-Poughkeepsie Deepwater (In Part) part 8 of 8
Wappinger Creek



Appendix D: 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 (the Act) (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of 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 affected 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.
- D. **Municipal chief executive officer** is the City Mayor, or City Manager in cities where an appointed city manager is the administrative head of the city; the Village Mayor; or the Town Supervisor. The NYS DOS Local Government Handbook provides more information about who would be considered the chief executive officer under various municipal executive structures.¹

¹ Excerpts from the NYS DOS Local Government Handbook 6th Edition (2009) related to chief executive officers:

- I. Cities: "In general, city government falls into four broad categories:
- council-manager, under which an appointed professional manager is the administrative head of the city, the council is the policymaking body and the mayor, if the position exists, is mainly a ceremonial figure. The manager usually has the power to appoint and remove department heads and to prepare the budget, but does not have veto power over council actions;
 - strong mayor-council, under which an elective mayor is the chief executive and administrative head of the city, and the council is the policy making body. The mayor usually has the power to appoint and remove agency heads, with or without council confirmation; to prepare the budget; and to exercise broad veto powers over council actions. This form sometimes includes a professional administrator appointed by the mayor and is then called the "mayor-administrator plan;"
 - weak mayor-council, under which the mayor is mainly a ceremonial figure. The council is not only the policy making body, it also provides a committee form of administrative leadership. It appoints and removes agency heads and prepares budgets. There is generally no mayoral veto power; and
 - commission, under which commissioners are elected by the voters to administer the individual departments of the city government and together form the policy making body. In some cases one of the commissioners assumes the ceremonial duties of a mayor, on a rotating basis. This plan sometimes includes a professional manager or administrator." P. 53
- II. New York City: "The mayor serves as the chief executive officer of the city, and with the assistance of four deputy mayors, presides over many departments, offices, commissions and boards. The mayor may

- E. **Local program coordinator** of a municipality with an approved LWRP could be a designated person or a Committee responsible for the preliminary review of proposed actions within the waterfront area for consistency with an approved LWRP and consistency recommendations for the final determination of consistency that will be made by the local government.

III. **NOTIFICATION PROCEDURE**

- A. When a state agency is considering an action as described in II.DEFINITIONS, 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 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 affected 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/Waterfront Assessment Form with the municipal chief executive officer should be considered adequate notification of a proposed action.

create, modify or abolish bureaus, divisions or positions within the city government. The mayor, who may be elected to serve a maximum of two four-year terms, is responsible for the budget and appoints and removes the heads of city agencies and other non-elected officials." P. 57

- III. Towns: "The supervisor is more of an administrator than an executive. The supervisor's duties under law are to: act as treasurer and have care and custody of monies belonging to the town; disburse monies; keep an accurate and complete account of all monies; make reports as required; pay fixed salaries and other claims; and lease, sell, and convey properties of the town, when so directed by the town board." and "By delegating a few more specific powers, the Suburban Town Law gives the supervisor a bit more authority. Although designated as "chief executive officer," however, the Suburban Town supervisor has no major new executive powers." P. 62
- IV. Villages: "The chief executive officer of most villages in New York State is the mayor." P. 70

- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the municipal chief executive officer can serve as the state agency's notification to the affected local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the affected local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local program coordinator identified in the LWRP, the state agency should promptly provide the affected local government with whatever additional information is available which will assist the affected local government to evaluate the proposed action.
- B. If the affected 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 affected 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 affected 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. RESOLUTION OF CONFLICTS 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 program coordinator 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 local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the 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 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 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 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.

Procedural Guidelines for Coordinating NYS Department of State (DOS) and LWRP Consistency Review of Federal Agency Actions

I DIRECT FEDERAL AGENCY ACTIVITIES

- A. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed federal activities to the program coordinator and other interested parties.
- B. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed federal activity.
- C. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.
- D. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed federal activity.
- E. A copy of DOS' "concurrence" or "objection" letter to the federal agency will be forwarded to the local program coordinator.

II ACTIVITIES REQUIRING FEDERAL LICENSES, PERMITS AND OTHER REGULATORY APPROVALS

- A. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the local program coordinator and will identify the Department's principal reviewer for the proposed federal activity.
- B. Within thirty (30) days of receiving such information, the local program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any

possible problems pertaining to the consistency of a proposed federal activity with the LWRP policies.

- C. When DOS and the local program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the local program coordinator upon receipt.
- D. Within thirty (30) days of receiving the requested information or discussing possible problems of a proposed federal activity with the principal reviewer for DOS, whichever is later, the local program coordinator will notify DOS of the reasons why a proposed federal activity may be inconsistent or consistent with the LWRP policies.
- E. After the notification, the local program coordinator will submit the municipality's written comments and recommendations on a proposed federal activity to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed federal activity with the LWRP policies.
- F. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed federal activity, DOS will contact the local program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" to the applicant.
- G. A copy of DOS' "concurrence" or "objection" letter to the applicant will be forwarded to the local program coordinator.

III FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

- A. Upon receiving notification of a proposed federal financial assistance, DOS will request information on the federal financial assistance from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the local program coordinator. A copy of this letter will be forwarded to the

local program coordinator and will serve as notification that the proposed federal financial assistance may be subject to review.

- B. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the local program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
- C. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major federal financial assistance.
- D. The local program coordinator must submit the municipality's comments and recommendations on the proposed federal financial assistance to DOS within twenty days (or other time agreed to by DOS and the local program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed federal financial assistance with the LWRP policies.
- E. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the local program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
- F. A copy of DOS' consistency decision letter to the applicant will be forwarded to the local program coordinator.

Appendix E: Town of Marlborough Local Waterfront Revitalization Program Consistency Review Law

Town of Marlborough Local Waterfront Revitalization Program Consistency Review Law – DRAFT June 8, 2017 Local Law #__ of the Year 2017

Be it enacted by the Town Board of the Town of Marlborough as follows:

General Provisions

I. Title.

This local law will be known and may be cited as the Town of Marlborough Waterfront Revitalization Program (LWRP) Consistency Review Law.

II. Authority and Purpose.

- A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
- B. The purpose of this law is to provide a framework for the agencies of the Town of Marlborough to incorporate the policies and purposes contained in the Town of Marlborough Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions located within the waterfront area; and to assure that such actions and direct actions undertaken by town agencies are consistent with the LWRP policies and purposes.
- C. It is the intention of the Town of Marlborough to provide for the protection and beneficial use of the natural and man-made resources within the waterfront revitalization area of the town. The town desires to find an appropriate balance between the protection of natural resources, increasing waterfront access, and general economic development. This local law is intended to achieve such a balance, permitting increased access and the beneficial use of waterfront resources while preventing loss of open space; impairment of scenic, cultural or historical resources; or permanent adverse changes to ecological systems.
- D. The substantive provisions of this local law shall only apply when there is in existence a Town of Marlborough Local Waterfront Revitalization Program which

has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. Applicability.

- A. Consistency Provision for under Coordinated Review. All proposed Type I actions and all Unlisted Actions where a lead agency of the Town of Marlborough has been designated under coordinated review as defined by the State Environmental Quality Review Act (SEQRA) within the Waterfront Revitalization Area will be subject to review by the designated Lead Agency for consistency review as set forth herein.
- B. Consistency Provision for under Uncoordinated Review. All proposed Unlisted Actions where a lead agency has been not been designated under coordinated review as defined by the State Environmental Quality Review Act (SEQRA) within the Waterfront Revitalization Area will be subject to review for consistency review as set forth herein. Only one local agency shall be required to make a consistency review determination in the order as set forth below:
 - 1) Town Board shall be responsible for consistency review of any Town Board action.
 - 2) Planning Board shall be responsible for consistency review of any Planning Board action.
 - 3) Zoning Board of Appeals shall be responsible for consistency review of any Zoning Board of Appeals action.
 - 4) Any other local agency shall be responsible for consistency review of its action.
- C. Local Review of Proposed State and Federal Actions. Any proposed State and federal actions within the Town of Marlborough's Waterfront Revitalization Area are subject to review in accordance with the guidelines established by the New York State Department of State, as set forth in Appendix C.

IV. Definitions.

- A. Actions – include all the following, except minor actions:
 - I. 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: (1) are directly undertaken by an agency; (2)

involve funding by an agency; or (3) require one or more new or modified approvals from an agency or agencies;

- II. Agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;
- III. Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
- IV. Any combination of the above.

B. Agency – any board, agency, department, office, other body, or officer of the Town of Marlborough.

C. Waterfront area - the waterfront revitalization area located within the boundaries of the Town of Marlborough and delineated and described in the Town's Local Waterfront Revitalization Program.

D. Waterfront Assessment Form - the form, a sample of which is appended to this local law, used by an agency or other entity to assist in determining the consistency of an action with the Town of Marlborough Local Waterfront Revitalization Program.

E. Code Enforcement Officer - the Building Inspector and/or Code Enforcement Officer of the Town of Marlborough.

F. Consistent – the action will fully comply with the LWRP policy standards, conditions and objections and, whenever practicable, will advance one or more of them.

G. Direct Actions – 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.

H. Environment - means all conditions, circumstances, and influences surrounding and affecting the development of living organisms or other resources in the waterfront area.

I. Local Waterfront Revitalization Program (LWRP) – The Local Waterfront Revitalization Program of the Town of Marlborough, approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Marlborough.

J. Minor actions include the following actions, which are not subject to review under this law:

- 1) maintenance or repair involving no substantial changes in an existing structure or facility;
- 2) replacement, rehabilitation, or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by local law where structures may not be replaced, rehabilitated or reconstructed without a permit;
- 3) repaving of existing paved highways not involving the addition of new travel lanes;
- 4) street openings and right of way openings for the purpose of repair or maintenance of existing utility facilities;
- 5) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected;
- 6) granting of individual setback and lot line variances, except in relation to a regulated natural feature;
- 7) minor temporary uses of land having negligible or no permanent impact on waterfront resources or the environment;
- 8) installation of traffic control devices on existing streets, roads and highways;
- 9) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- 10) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action;
- 11) official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s);
- 12) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- 13) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- 14) collective bargaining activities;
- 15) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- 16) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;

- 17) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials;
- 18) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- 19) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
- 20) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- 21) adoption of a moratorium on land development or construction;
- 22) interpreting an existing code, rule or regulation;
- 23) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to waterfront resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;
- 24) local legislative decisions such as rezoning where the Town Board determines the action will not be approved;
- 25) Any SEQRA Type II action;
- 26) Any SEQRA Unlisted action in the Waterfront Revitalization Area west of NYS Route 9W.

V. Management and Coordination of the Review of Actions.

A. The Town Supervisor shall be responsible for overall management and coordination of the LWRP. Town Supervisor may appoint a Waterfront Revitalization Committee or may delegate this responsibility to another existing committee of the town as approved by the Town Board to assist the Town Supervisor in performing these responsibilities. The Town Supervisor, or the Waterfront Revitalization Committee, if appointed, shall:

- (1) Inform the Town Board on implementation, priorities, work assignments, timetables, and budgetary requirements of the LWRP.

(2) Make applications for funding from State, Federal, or other sources to finance projects under the LWRP.

(3) Coordinate and oversee liaison between Town agencies and departments, to further implementation of the LWRP.

(4) Prepare an annual report on progress achieved and problems encountered in implementing the LWRP, and recommend actions necessary for further implementation to the appropriate Town Board.

(5) Perform other functions regarding the waterfront area and direct such actions or projects as are necessary, or as the Town Board may deem appropriate, to implement the LWRP.

VI. Waterfront Revitalization Committee.

- A. A Committee may be created and if so created shall be hereafter known as the "Waterfront Revitalization Committee of the Town of Marlborough". The Committee shall meet quarterly and shall advise the Town Board on LWRP implementation and on policy, project and budget priorities, as well as on amendments to the LWRP. The Committee may also perform other functions regarding the waterfront area as the Town Board may assign to it from time to time.
- B. The Town Board is hereby authorized to appoint five (5) members to the Committee, all of whom shall be residents of the Town of Marlborough. Of the members of the Committee first appointed: one shall hold office for a term of one (1) year, one shall hold office for a term of two (2) years, one shall hold term for a term of three (3) years, one shall hold office for a term of four (4) years, and one shall hold office for a term of five (5) years from and after the expiration of the terms of their predecessors in office. Thereafter, all members shall be appointed for a term of five (5) years. Vacancies shall be filled by the Town Board by appointment for the unexpired term. Members may be removed by the Town Board for cause and after public hearing.
- C. The Town Board shall annually appoint one (1) committee member to serve as chairperson of the Committee. Upon failure of the Town Board to appoint a Chairperson, the members of the Committee shall elect a chairperson.
- D. The Committee may employ such member as may be needed, as authorized by the Town Board, and shall have the power to adopt rules of procedure for the conduct of all business within its jurisdiction.

VII. Review of Actions.

- A. Whenever a proposed action is located in the waterfront area that is subject to review under SEQRA as set forth in Article III of this ordinance, the local agency responsible for such review shall make a determination that it is consistent with the LWRP policy standards summarized in section **F.** below. There will be only one local agency responsible for consistency review. No action in the coastal/waterfront area subject to review under this ordinance shall be approved, funded or undertaken by an agency without such a determination.
- B. The responsible local agency will also coordinate with NYS Department of State regarding consistency review for actions by State or Federal agencies.
- C. The responsible local agency shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards and objectives or to greater advance them.
- D. The responsible local agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in section **F.** below. The agency shall render a written determination of consistency based on the description of the proposed action and any other additional material provided as part of the SEQR review and the Waterfront Assessment Form and such other information as is deemed necessary to its determination. No approval or decision shall be rendered for an action in the waterfront area without a determination of consistency.
- E. Where an EIS is being prepared or required, the draft EIS must identify applicable LWRP policies and standards and include a discussion of the effects of the proposed action on such policy standards. No agency may make a final decision on an action that has been the subject of a final EIS and is located in the waterfront area until the agency has made a written finding regarding the consistency of the action with the local policy standards referred to in Section F. herein.
- F. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following summary of LWRP policies, which are derived from and further explained and described in the Town of Marlborough LWRP, a copy of which is on file in the Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV-Proposed Land and Water Uses and Projects of the LWRP, in making their consistency determination. The action shall be consistent with the policies to:

- (1) Revitalize deteriorated and underutilized waterfront areas (Policy 1, 3).
- (2) Retain and promote recreational water-dependent uses (Policy 1, 10).
- (3) Strengthen economic base of small harbor areas by encouraging traditional uses and activities (Policy 10).
- (4) Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 1).
- (5) Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 6, 11).
- (6) Maintain, promote and expand commercial fishing opportunities (Policies 6, 9, 11).
- (7) Minimize flooding and erosion hazards through non-structural means, carefully-selected, long-term structural measures and appropriate siting of structures (Policy 4).
- (8) Safeguard economic, social and environmental interests in the waterfront area when major actions are undertaken (Policy 1).
- (9) Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 1, 9).
- (10) Protect and restore historic and archeological resources (Policy 2).
- (11) Protect and upgrade scenic resources (Policy 2, 3).
- (12) Conserve and protect agricultural lands (Policy 12).
- (13) Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 11, 13).
- (14) Prevent ice management practices which could damage significant fish and wildlife and their habitats (Policy 4).
- (15) Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 5, 6, 8, 12, 13).
- (16) Perform dredging and dredge spoil disposal in a manner protective of natural resources (Policies 4, 5, 6, 12, 13).

- (17) Handle and dispose of hazardous wastes and effluent in a manner which will not adversely affect the environment (Policies 5, 6, 8, 13).
 - (18) Protect air quality (Policies 5, 7).
 - (19) Protect tidal and freshwater wetlands (Policy 6).
- G. If the agency determines that an action will be inconsistent with one or more LWRP policy standards or objectives, such action shall not be undertaken unless modified to be consistent with the LWRP policies.
- H. Each agency shall maintain a file for each action made the subject of a consistency determination. Such files shall be made available for public inspection upon request.

VIII. Enforcement.

In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Building Inspector or any other authorized official of the Town shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

IX. Violations.

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this law shall have committed a violation, punishable by a fine not exceeding five hundred dollars (\$500.00) for a conviction of a first offense and punishable by a fine of one thousand dollars (\$1000.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
- B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

X. Severability.

The provisions of this law are severable. If any provision of this law is found invalid, such finding shall not affect the validity of this law as a whole or any law or provision hereof other than the provision so found to be invalid.

XI. Effective Date.

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Town of Marlborough Local Waterfront Revitalization Program

Waterfront Assessment Form

A. INSTRUCTIONS (Please print or type all answers)

1. Applicants, or in the case of direct actions, the Town of Marlborough responsible agency, shall complete this Waterfront Assessment Form for proposed actions which are subject to the consistency review law. This assessment is intended to supplement other information used by the designated Town of Marlborough agency in making a determination of consistency.
2. Before answering the questions in Section C, the preparer of this form should review the policies summarized in the LWRP Consistency Review Law for Unlisted Actions and for Type I Actions, explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), copies of which are on file in the Town Clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.
3. If any questions in Section C on this form are answered "yes", then the proposed action may affect the achievement of the LWRP policy standards contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination regarding its consistency with the LWRP policy standards. If an action cannot be certified as consistent with the LWRP policy standards, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Name of applicant and Name of Contact Person: _____

2. Title/Description of Proposed Action: _____

3. Type of agency action (check all appropriate response(s)):
 - ☐ Directly undertake (e.g. capital construction, adoption of plan or local law, land transaction).
 - ☐ Fund (e.g. grant, bond, expenditure).
 - ☐ Permit, approve, license, certify.
4. Type of Approval Action Requested (check all that apply)
 - ☐ Site Plan Approval ☐ Variance ☐ Rezoning ☐ Building Permit
 - ☐ Subdivision ☐ Special Use Permit ☐ Other
5. Attach Long or Short Environmental Assessment Form or for review under a Draft or Final Environmental Impact Statement, address therein the requirements of the town waterfront consistency law including the information required in this form.
6. Will the action be directly undertaken, require funding, or approval by a state or federal agency?
Yes____ No____ If yes, which agency(ies) (list) _____
- C. WATERFRONT ASSESSMENT – NOTE—IT IS ONLY NECESSARY TO ANSWER THE FOLLOWING QUESTIONS TO SUPPLEMENT THE INFORMATION PROVIDED IN A SHORT ENVIRONMENTAL ASSESSMENT FORM. OTHERWISE, TO REDUCE PAPERWORK, THE AGENCY SHALL RELY ON THE INFORMATION PROVIDED IN THE LONG FORM EAF OR DRAFT EIS, AS APPLICABLE TO CONDUCT THE WATERFRONT CONSISTENCY REVIEW.

(Mark either Y for "Yes" or N for "No" for each of the following questions):

1. Will the proposed action have a significant effect upon:
 - (a) Commercial or recreational use of fish and wildlife resources? ____
 - (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? ____
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 waterways? ____
 - (b) Physical alteration of five acres or more of land located elsewhere in the waterfront area?

 - (c) Energy facility not subject to Article VII or VIII of the Public Service Law? ____

- (d) 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? ____
- (h) Change to a natural feature that provides protection against flooding or erosion? ____
- (i) Remove any mature forest (over 100 years old) or other locally important vegetation? ____
- (j) Transport, storage, treatment or disposal of solid waste or hazardous materials? ____
- (k) Shipment or storage of petroleum products? ____
- (l) Will the project affect any area designated as a tidal or freshwater wetland? ____
- (m) Will the project alter drainage flow, patterns or surface water runoff on or from the site?

- (n) Will best management practices be utilized to control stormwater runoff into waterfront waters? ____

3. Answer the following only If a project is to be located adjacent to shore:

- (a) Will water-related recreation be provided? ____
- (b) Will public access to the foreshore be provided? ____
- (c) Does the project require a waterfront site? ____
- (d) Will it supplant a recreational or maritime use? ____
- (e) Do essential public services and facilities presently exist at or near the site? ____

4. Answer the following questions only If the project site is publicly owned:

- (a) Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities? ____
- (b) Will it involve the siting and construction of major energy facilities? ____
- (c) Will it involve the discharge of effluents from major steam electric generating or industrial facilities into waterfront facilities? ____
- (d) Is the project site presently used by the community neighborhood as an open space or recreation area? ____
- (e) Does the present site offer or include scenic views or vistas known to be important to the community? ____

D. REMARKS OR ADDITIONAL INFORMATION: (Add any additional sheets to complete this form.)

If assistance or further information is needed to complete this form, please contact Town of Marlborough Code Enforcement Officer at tcorcoran@marlboroughny.us or call 845-795-2406 Ext. 7

Preparer's Name: _____

Title: _____ Agency:) _____

Telephone Number: () _____ Email: _____

Date: _____

Appendix F: Town of Marlborough Harbor Management Law

Town of Marlborough, NY

Local Law __ 2017 Harbor Management—REVIEW DRAFT June 12, 2017

Chapter 98. Harbor Management

§ 98-1. Title.

This chapter shall be entitled "Harbor Management." It shall be entered in the Town of Marlborough Code of Ordinances as Chapter 98.

§ 98-2. Authority, intent and purpose.

A. This chapter is enacted under the authority of § 10 of the Municipal Home Rule Law of New York State, the Waterfront Revitalization of Coastal Areas and Inland Waterways Act,[1] and applicable sections of the New York State Navigation Law.

[1] Editor's Note: See Art. 42 of the Executive Law.

B. The intent of this chapter is to regulate the speed, use, operation, anchoring, and mooring of vessels, and the use of waters within the jurisdiction of the Town of Marlborough in a manner to protect and promote the public health, safety and general welfare.

§ 98-3. Applicability.

A. This chapter shall apply to all waters within the jurisdiction of the Town of Marlborough, the waters of the Hudson River that are within a distance of 1,500 feet from the Town's shoreline, including the Lattintown Creek and Jews Creek from the confluence with the Hudson River upstream 1,500 feet. These waters shall be known as the "Town of Marlborough Harbor Management Area."

B. The Marlborough Harbor Area Overview Plan Map contained in the Town's Harbor Management Plan[1] identifies and establishes existing surface water uses, structures, and mooring areas.

[1] Editor's Note: Said map and plan are on file in the Town offices.

§ 98-4 Definitions and word usage.

A. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED VESSEL

Any vessel not moored, anchored or made fast to the shore and left unattended for a period greater than 24 hours, or left upon private property adjacent to the Harbor Management Area without consent of the property owner, for a period greater than 24 hours.

AIDS TO NAVIGATION

All markers on land or in the water placed for the purpose of enabling navigators in the Harbor Management Area to avoid navigation hazards, regulatory markers and/or fix their position.

ANCHORAGE

Any water area designated for anchoring or mooring.

TOWN BOARD

The Town Board of the Town of Marlborough.

BOATHOUSE

Any building or similar superstructure used primarily for the storage and sheltering of watercraft, including such subordinate uses customarily incident to such primary use.

CHANNEL

Federal, state or locally designated water areas specifically reserved for unobstructed movement of vessels.

DOCK

Any dock, wharf, structure or fixed platform extending out over the water built on floats, columns, open timber, piles or similar open-work structures.

EMERGENCY

A state of imminent or proximate danger to life or property.

FAIRWAY

Any designated and/or maintained water area reserved for unobstructed movement of vessels, including an area at least 25 feet in width adjacent to both sides of the Federal Navigation Channel.

FEDERAL NAVIGATION CHANNEL

The designated navigation channel in the Hudson River authorized by an act of congress, specifically reserved for the unobstructed movement of vessels and which is marked in water by aids to navigation maintained by the United States Coast Guard.

FLOATING HOME

Any structure constructed on a raft, barge, hull or other platform and moored or docked in the Harbor Management Area and used primarily for single or multiple-family habitation or as the domicile of any individual(s).

HARBOR MANAGEMENT AREA

The area encompassing all waters designated by the Local Waterfront Revitalization Area within the jurisdiction of the Town of Marlborough including the Lattintown Creek and Jews Creek from the confluence with the Hudson River upstream 1,500 feet, and the waters of the Hudson River that are within a distance of 1,500 feet from the Town's shoreline, and as depicted on the Town's Official Harbor Management Map on file in the Town Building Inspector's office. These waters shall be known as the "Town of Marlborough Harbor Management Area."

HARBOR MANAGEMENT LAW

This chapter of the Town of Marlborough establishing rules and regulations for the use and enjoyment of the waters of the Town of Marlborough Harbor Management Area and the lands immediately adjacent to the Harbor Management Area.

HARBOR MANAGER

That person appointed annually by the Town Supervisor with the consent of the Town Board who has full and primary responsibility and authority for implementing and enforcing all provisions of this chapter.

LITTER

Any bottles, glass, cans, scrap metal, junk, paper, garbage, rubbish, trash or similar refuse or human-generated or human-deposited debris.

MOORING

The attachment of or to attach a vessel to a pier or dock or other structure or the attachment of or to attach a vessel to the ground by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator. The term "mooring" shall also include the placing of a boat at anchor for more than 12 hours consecutively.

PERSONS

Individuals, corporations, societies, associations, and partnerships using the facilities and areas within the Harbor Management Area.

PUMP-OUT FACILITY

A facility for pumping sewage from vessel holding tanks and other devices and containing those wastes before proper disposal into the Town of Marlborough sewage system.

STATE

The State of New York.

TRANSIENT BOATERS

Persons traveling into the Harbor Management Area by boat and staying for a temporary period of time.

UNDERWAY

The condition of a vessel not at anchor and not made fast to the shore or ground.

VESSEL

Every floating device used or capable of being used as a means of transportation on water.

B. Word usage. "Shall" is mandatory; "May" is permissive.

§ 98-5 Severability; conflicts; penalties; liability.

A. Invalidity of provisions. Should any provision of this chapter be held invalid or inoperative, the remainder shall continue in full force and effect.

B. Conflict with other laws. In any case where a provision of this chapter is found to be in conflict with any other local provision, the article setting the higher standard in promoting the general public welfare shall be used.

C. Enforcement. Authorized public servants of the Town as designated by the Town Supervisor with consent of the Town Board, the Building Inspector, the Town Police Department, the State Police,

the Ulster County Sheriff's Department, and any other police or peace officer as defined in the New York State Criminal Procedure Law shall have authority to enforce the provisions of this chapter.

D. Penalties for offenses.

(1) A person who violates any of the provisions of or fails to comply with any conditions imposed by this chapter shall have committed a violation, punishable by a fine not exceeding \$350 for a conviction of a first offense and punishable by a fine of \$700 for a conviction of a second or subsequent offense occurring within a period of five years. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.

(2) The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

E. Liability. Persons using the waters within the limits of the Harbor Management Area shall assume all risk of personal injury and loss or damage to their property. The Town of Marlborough assumes no risk on account of accident, fire, theft, vandalism or acts of God.

§ 98-6 Building permit required; exemptions; nontransferability.

Except as otherwise provided in this chapter, no person shall place, locate, construct, maintain, expand or use any dock, pier, boathouse, structure or mooring buoy in any waters within the Harbor Management Area without a building permit issued in accordance with this chapter, the Town of Marlborough Zoning Ordinance, and any other applicable local laws. Docks, piers, boathouses, or other structures fewer than 200 square feet in area shall be exempt from the requirement for a building permit but shall comply with all other provisions of this chapter, the Town of Marlborough Zoning Regulations, and any other applicable local laws. Failure to comply with this section is a violation of this chapter. These permits are not transferable.

§ 98-7 Office of Harbor Manager.

A. Establishment. The office of the Town Harbor Manager may be established by the Town Supervisor with the consent of the Town Board. If established, the Town Supervisor, with the consent of the Town Board, shall appoint a Harbor Manager on an annual basis.

B. Powers and duties. It shall be the duty of the Harbor Manager, or other public officer of the Town so appointed by the Town Supervisor with the consent of the Town Board, to enforce the provisions of this chapter. The Harbor Manager or the Harbor Manager's designee, or other public officer of the Town so appointed, shall:

(1) Examine all applications for all permits and issue permits only for construction and uses therein in accordance with the requirements of this chapter and also other laws, rules and regulations of the Town enforced at the time of application.

(2) Create a mooring permit system to control the placement of moorings in the harbor.

(3) Establish a permanent management structure for harbor activities, operations and implementation actions consistent with the provisions of the Town's Local Waterfront Revitalization Program and Harbor Management Plan.

§ 98-8 Permit applications and procedures.

A. Form and content of application. In any instance in which a permit is required by this chapter, an applicant shall submit an application on a form prescribed by the Harbor Manager, Building Inspector or other public officer of the Town so appointed. The application is hereby submitted with a fee as set forth in the Town of Marlborough fee schedule,[1] accompanied by a plot plan drawn to scale, adequately dimensioned, showing the location of all existing docks, piers, boathouses, structures, mooring buoys, aids to navigation, abandoned vessels, anchorage areas, navigation channels or fairways. The applicant shall provide such other information as the Harbor Manager may require, including but not limited to filings with or permits from federal, state, Town or county authorities, description of the manner of construction and installation, the materials to be used, evidence of ownership or possessory right, by easement, license, right-of-way or other, regarding the abutting shoreline and grant or leases pursuant to Article 6 of the Public Lands Law of the State of New York, regarding lands under water.

[1] Editor's Note: The fee schedule is on file in the Town offices.

B. Issuance of permit. If the proposed activity conforms to all requirements of this chapter and does not impair navigational safety or unreasonably restrict public or private access to, on and within navigable waters within the Harbor Management Area, the Harbor Manager, Building Inspector or other public officer of the Town so appointed, shall issue a permit for a one-year period commencing upon approval of the permit.

C. Milton Landing Pier.

(1) Scheduling. The scheduling of all tour boat berthing and departure times, dock usage and tourism-related events shall be through the Office of the Town of Marlborough Harbor Manager or Town Supervisor. Such scheduling will be on first-come, first-served basis and as determined by the Town of Marlborough.

(2) General. The Harbor Manager or Town Supervisor and owner shall enter into a hold-harmless agreement with the Town of Marlborough and provide the necessary insurance certificates and registration/docking fees at the time of the scheduling of the usage of the dock.

(3) Insurance. General liability and property damage shall name the Town of Marlborough. The policy shall be in a form acceptable to the Town of Marlborough. Coverage shall be as follows:

(a) For boats under 100 feet, \$1,000,000 aggregate and \$500,000 per occurrence.

(b) For boats over 100 feet, \$2,000,000 aggregate and \$1,000,000 per occurrence.

(4) Fees and deposits. Such fees shall be placed in a separate account to be established as a specific repository for these fees. These fees shall be as set forth in the Town of Marlborough fee schedule.

[2]

(a) Permit registration fee.

(b) Security deposit.

[1] The annual security deposit shall be paid in cash or certified check at the time of the agreement.

[2] This deposit will be returned at the end of each season subject to Subsection C(4)(b)[3] immediately below.

[3] The purpose of this deposit is to assure that the dock and surrounding waterways are kept undamaged and clean of debris from the boat operation or boaters at all times when the boat is docked and upon arrival or departure of the boat. If damage or debris is found on the dock or around the waterway of the boat, and it is determined by the Harbor Manager that such damage or debris is because of the subject boat or boaters, this deposit will be used to repair and/or clean up the dock and waterway as necessary and will be nonrefundable.

[4] Nothing contained herein shall prevent the Town from charging the owner and/or operator of the boat such additional fees as are incurred by the Town to clean up or repair the dock and waterway as determined necessary in the Harbor Manager's sole discretion.

(c) A dock fee shall also be collected.

[2]Editor's Note: The fee schedule is on file in the Town offices.

(5) Site verification. Prior to entering the harbor area and the slipway leading to the ferry dock from the Hudson River, the Harbor Manager or Town Supervisor and owner shall physically visit the site, examine all existing conditions, including but not limited to verifying the water depth, checking for underwater obstructions, checking the width and length of the slipway approach, checking the berthing conditions, and checking all other conditions that will affect the operation of the boat during berthing and departure. The Harbor Manager or Town Supervisor and owner shall perform the site verification work prior to entering into the hold-harmless agreement with the Town of Marlborough. By signing the hold-harmless agreement, the Harbor Manager or Town Supervisor and owner state that they accept the docking conditions found and hold the Town of Marlborough harmless from all injuries and damages resulting therefrom.

(6) No person shall cause any barge, boat, ship or other vessel to be made fast to the public dock known as "Milton Landing Pier" or to be made fast to any ship or vessel lying at such dock without first obtaining a permit pursuant to this section.

(7) The application as referred to in Subsection A of this section must be submitted to the office of the Town Supervisor at least two weeks prior to the date when the dock is sought to be used. The Harbor Manager or Town Supervisor shall have the discretion to approve or disapprove a permit or to subject the permit to such conditions as he deems necessary to protect the public health, safety, convenience and welfare.

(8) Each permit issued by the Harbor Manager or Town Supervisor shall state the date and time that the use of the dock, including any other docks attached to or in the area of the Milton Landing Pier is permitted. No permittee shall utilize the dock outside of the time set forth in his permit unless the Harbor Manager or Town Supervisor shall, in his discretion, approve of an extension of the permit

for good cause shown. Any such extension shall be made in writing and endorsed upon the original permit.

(9) Any person in charge of a vessel docking at the Milton Landing Pier shall exhibit the permit required by this section to any person so requesting.

(10) The Town Board may establish reduced fee and insurance requirements to permit temporary docking of transient vessels at the Milton Landing Pier and use of any related docking, mooring and kayak/canoe storage facility and shall include such fee and insurance requirements, if any, in the fee schedule.

§ 98-9 Vessel operation.

A. Dangerous operation prohibited. No person shall operate any vessel in any manner that unreasonably interferes with the free and proper use of the Harbor Management Area or any property on, in or contiguous to the Harbor Management Area, or which endangers the users of the Harbor Management Area.

B. Identification.

(1) No person shall operate or permit the operation of a vessel within the Harbor Management Area unless such vessel is required by law to be registered and numbered and bears a current validation sticker in accordance with the provisions of the New York State Vehicle and Traffic Law, if so required.

(2) Every person operating a registered vessel shall, upon demand of any peace officer, federal officer or other person having authority to enforce the provisions of this chapter, produce the certificate of registration for inspection. Failure to produce the certificate of registration shall not be an offense, but shall be presumptive evidence of operating a vessel which is not registered as required by the New York State Vehicle and Traffic Law.

C. Vessel speed and restricted speed areas.

(1) Every operator registered of a vessel shall at all times navigate the same in a careful and prudent manner in such a way as not to unreasonably interfere with the free and proper use of the navigable waters of the Harbor Management Area or unreasonably endanger any vessel or person. Reckless operation is prohibited as is operation under the influence of controlled substances.

(2) No person shall operate a vessel within the Harbor Management Area at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

(3) No person shall operate a vessel within the Harbor Management Area at such a speed as to cause a dangerous wake. The operator of a vessel shall be held responsible for any damage caused by such wake.

(4) No person shall operate a vessel within the Harbor Management Area at a speed in excess of five miles per hour or at a speed that will cause a dangerous wake, whichever is the lesser speed.

D. Mufflers. No person shall operate a power vessel without having the exhaust from the engine run through a muffling device, so constructed and used as to muffle the noise from the exhaust in a reasonable manner.

E. Vessel enforcement authority.

(1) The Town of Marlborough Police Department, the State Police, the Ulster County Sheriff's Department, and any other police or peace officer, as defined in the New York State Criminal Procedure Law, shall have the authority to enforce waterborne traffic in any part of the Harbor Management Area by use of authorized regulatory markers, signals, orders or directions at any time when deemed necessary in the interest of the safety of persons and vessels or other property.

(2) No person shall moor or anchor any vessel so as to interfere with the free and unobstructed use of any channel, fairway, or berthing space in the Harbor Management Area.

F. Anchoring in Federal Navigation Channel prohibited. No person shall anchor any vessel in the Federal Navigation Channel, except in cases of emergencies.

G. Fishing. No person shall fish in the Harbor Management Area in such a manner so as to impede navigation. Vessel-based fishing in a manner that provides a hazard or inconvenience to navigation is prohibited.

§ 98-10 Sanitation.

A. Littering and discharge of pollutants prohibited. No person shall place, throw, deposit or discharge or cause to be placed, thrown, deposited or discharged into the Harbor Management Area any litter or other materials, including but not limited to any refuse or waste matter, sewage, petroleum products or by-products, paint, varnish, dead animals, fish parts or debris of any kind which renders the waters unsightly, noxious, unwholesome, or otherwise detrimental to the public health or welfare or to the enjoyment of the water for recreational purposes.

B. Marine toilets. No person shall operate a marine toilet at any time so as to cause or permit to pass or be discharged into the Harbor Management Area any untreated sewage or other waste matter or contaminant of any kind pursuant to § 98-c of the New York State Navigation Law.

C. Responsibility for sanitation of facilities. The owner, lessee, agent, manager or person in charge of a marine facility or water area shall at all times maintain the premises under his/her charge in a clean, sanitary condition, free from malodorous materials and accumulations of garbage, refuse, debris and other waste materials.

D. Marine facility sanitation requirements.

(1) The owner or other person vested with the possession, management and control of a marine facility shall provide and maintain a sufficient number of trash receptacles for the deposit of litter at locations convenient to vessel users of such marine facilities. A maximum spacing of 100 feet between receptacles shall be maintained on all piers and docks. Failure to comply with this provision is a violation of this chapter.

(2) The owner or other person vested with the possession, management and control of a marine facility shall maintain suitable toilet facilities on shore for the accommodation of vessel users who are patrons of their marine facility. Failure to comply with this provision is a violation of this chapter.

(3) The owner or other person vested with the possession, management and control of a marine facility shall post a sign, clearly visible to vessel owners and operators, that states: "The Navigation Law of the State of New York provides strict penalties for the discharge of sewage in the waters of New York State. The local laws of the Town of Marlborough prohibit the discharge of litter, sewage, and refuse within the Marlborough Harbor Management Area." Failure to comply with this provision is a violation of this chapter.

(4) Any sewage pump-out facility required as a condition of Town, state or federal approval of a marine facility in the Harbor Management Area shall be maintained in proper working order and available for use as specified in Town, state or federal permits. Failure to comply with this provision is a violation of this chapter.

§ 98-11 Removal of abandoned or derelict vessels and structures.

A. Abandoned vessels and structures prohibited. No person shall abandon, sink or place a vessel, mooring or other structure within the Harbor Management Area where it may constitute a danger to navigation or to the safety of persons or property, or where it may prevent optimum use of the area.

B. Removal of abandoned vessels and structures.

(1) Any vessel or other structure abandoned or sunk or so placed may be removed or relocated at the direction of the Harbor Manager if corrective action is not taken by the owner, if known, within seven days after notification, or, if not known, after notice has been posted for that period on the vessel or object.

(2) Nothing herein contained shall prevent the Harbor Manager from taking measures with or without notice, if, in its judgment, such measures are necessary in order to provide for the safety of persons or property. The expense of such removal or relocation and any liability from injury to person or property incurred thereby shall be the responsibility of the owner.

§ 98-12 Living aboard vessels.

A. Regulation of floating homes. In order to provide for adequate access for vessels, for the safety of persons and property, for the protection of environmental quality, and for the optimum use of the Harbor Management Area, the Town Board or its designated agent(s) may regulate the use of floating homes in the Harbor Management Area.

B. Living aboard vessels permitted on temporary basis.

(1) Sleeping aboard vessels on a temporary basis is allowed as a secondary use to the vessel's principal commercial or recreational uses, provided that the vessel is berthed at a marine facility and where consistent with all Town, state and federal requirements concerning anchoring, lighting, taxation and other pertinent concerns, and provided that land-based support facilities and utilities, including sewage disposal facilities, are available.

(2) Sleeping aboard vessels moored or anchored within the Marlborough Harbor Management Area on a temporary basis, not to exceed two weeks, is allowed as a secondary use to the vessel's principal commercial or recreational uses where consistent with all Town, state, and federal requirements concerning anchoring, lighting, taxation and other pertinent concerns. For purposes here, the term "moored" shall only refer to vessels that are attached to the ground by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator.

§ 98-13 Berthing, mooring and anchoring of vessels.

A. Owner responsibility for secure berthing, mooring and anchoring. The owner of any vessel berthed, moored or anchored within the Harbor Management Area shall be responsible for causing such vessel to be tied and secured or anchored with proper care and equipment and in such manner as may be required to prevent the vessel from breaking away.

B. Owner responsibility for damage. Each person anchoring or mooring a vessel in the Harbor Management Area shall be responsible for any damage to that vessel, or to any other vessel or any other property, caused by that vessel. The Town of Marlborough assumes no liability for personal injury or property damage that may result from the use of unsafe or otherwise inadequate anchoring or mooring tackle and assumes no risk on account of accident, fire, theft, vandalism or acts of God related to the anchoring or mooring of vessels in the Harbor Management Area.

C. Locations for moorings. No person shall place a mooring or anchor such that the vessel moored or anchored, at full swing of its mooring or anchor line will be within 75 feet of the Federal Navigation Channel of the Hudson River, or within 25 feet of any Town- or state-designated channel, fairway, or within 75 feet from any dock or other marine facility within the Harbor Management Area.

D. Regulation of moorings. In order to provide for adequate access for vessels, for the safety of persons and property, for the protection of environmental quality, and for the optimum use of the Harbor Management Area, the Town Board or its designated agent(s) may regulate the placement of all moorings in the Harbor Management Area in accordance with rules and procedures adopted by the Board.

§ 98-14 Penalties for offenses. [1]

A. A person who violates any of the provisions of or who fails to comply with any conditions imposed by this chapter shall have committed a violation, punishable by a fine not exceeding \$350 for a conviction of a first offense and punishable by a fine of \$700 for a conviction of a second or subsequent offense occurring within a period of five years. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.

B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

[1]Editor's Note: See also § 98-5D.

§ 98-15 Effect.

This chapter shall take effect immediately upon its adoption by the Town Board, approval by the New York State Secretary of State pursuant to Article 42 of the New York State Executive Law and its filing with the New York State Department of State in accordance with the provisions of the Municipal Home Rule Law.