

PUBLIC HEARING-CONTINUATION OF TWO VIRTUAL PUBLIC HEARINGS  
MAY 11, 2020 7:00 P.M.  
TO ESTABLISH THE TOWN OF MARLBOROUGH HARBOR MANAGEMENT  
LAW BY ADDING A NEW CHAPTER 98, "HARBOR MANAGEMENT" TO THE  
TOWN CODE.  
TO ADD CHAPTER 99, CONSISTENCY REVIEW LAW TO THE TOWN CODE

FIRST MEETING OF THE MONTH  
(ZOOM VIDEO MEETING DUE TO THE  
CORONAVIRUS PANDEMIC)  
TOWN BOARD TOWN OF MARLBOROUGH  
MAY 11, 2020 7:00 PM

ITEM #1 Call to order - Pledge of Allegiance

ITEM #2 Moment of Silence

ITEM #3 Motion to approve agenda

ITEM #4 Motion to approve minutes from the April 27, 2020 Town Board Meeting

ITEM #5 Authorize payment of bills

ITEM #6 Comments on the agenda

ITEM #7 Presentations

ITEM #8 Report of Departments and Boards

- A) SUPERVISOR - ALPHONSO LANZETTA
- B) BUILDING INSPECTOR - THOMAS CORCORAN
- C) POLICE CHIEF - GERALD COCOZZA
- D) HIGHWAY SUPERINTENDENT – JOHN ALONGE
- E) WATER SUPERINTENDENT - CHARLIE MUGGEO
- F) TOWN CLERK - COLLEEN CORCORAN
- G) WASTEWATER TREATMENT FACILITY- ANTHONY FALCO
- H) DOG CONTROL OFFICER - ANDREW MCKEE
- I) ASSESSOR - CINDY HILBERT
- J) PLANNING - CHRIS BRAND

ITEM #9 Report of Committees

- A) RECREATION COMMITTEE
- B) EMERGENCY MANAGEMENT PREPAREDNESS COMMITTEE
- C) CONSERVATION ADVISORY COMMITTEE
- D) IT COMMITTEE
- E) MILTON TRAIN STATION FOUNDATION
- F) MILTON LANDING CITIZENS COMMITTEE
- G) MARLBORO HAMLET ECONOMIC DEVELOPMENT COMMITTEE
- H) MEET ME IN MARLBOROUGH
- I) HAMLET OF MILTON ASSOCIATION COMMITTEE
- J) TRANSFER STATION REVIEW COMMITTEE

ITEM #10 Old Business

- A) Tomvac Rehabilitation Update
- B) LWRP
- C) Water District Improvements (Milton Turnpike/Cross Rd)

ITEM #11 New Business

- A). Change May 25<sup>th</sup> meeting date
- B). Re-opening discussion

ITEM #12 Correspondences

ITEM #13 Public Comments

ITEM #14 Resolutions

- A). Resolution #53 To approve maintenance of sidewalks
- B). Resolution #54 To establish standard work days for elected and appointed officials and report them to NYSLRS (New York State Local Retirement System)
- C). Resolution #55 To fix the new Meadow View Estates performance bond amount at \$161,000.00
- D). Resolution #56 To Authorize the Filing and Notice of SEQRA Negative Declaration and the adoption of the Town of Marlborough Local Waterfront Revitalization Program including the Consistency Review Law and Harbor Management Law
- E). Resolution #57 To adopt the LWRP
- F). Resolution #58 To adopt Local Law #3 of the year 2020 Town of Marlborough Waterfront Revitalization Program Consistency Review Law
- G). Resolution #59 To adopt Local Law #4 of the year 2020 Town of Marlborough Harbor Management Law
- H). Resolution #60 To authorize the Supervisor to prepare an RFP for timber harvest and sale

ITEM #15 Adjournment

May 11, 2020

A). Resolution #53 To approve maintenance of sidewalks

Supervisor Lanzetta proposes the following:

**WHEREAS**, the New York State Department of Transportation proposes the resurfacing of the S.H. 5176 and S.H. 5114, Route 9W, in the Town of Marlborough and

**WHEREAS**, the New York State Department of Transportation will include as part of the improvement of the above mentioned project the construction of sidewalks, pursuant to Section 10, Subdivision 22, Section 46, or Section 349-c of the Highway Law, and will provide for the reconstruction of existing sidewalks pursuant to Section 10, Subdivision 24 of the Highway Law, and as shown on the contract plans relating to the project and

**WHEREAS**, the New York State Department of Transportation will provide for the new construction and reconstruction of the above-mentioned sidewalk work, as shown on the contract plans relating to the project.

**NOW, THEREFORE BE IT RESOLVED:** that the Town of Marlborough approve the reconstruction of such existing sidewalks and the above mentioned work performed on the project and shown on the contract plans relating to the project and that the Town of Marlborough will maintain or cause to be maintained the newly constructed sidewalks, reconstructed sidewalks, and pedestrian walkways, performed as above stated and as shown on the contract plans, including the control of snow and ice removal.

**BE IT FURTHER RESOLVED:** that the clerk of this Board is hereby directed to transmit five (5) certified copies of the foregoing resolution to the New York State Department of Transportation.

And moves for its adoption

Councilman Corcoran	-----
Councilman Molinelli	-----
Councilman Koenig	-----
Councilman Baker	-----
Supervisor Lanzetta	-----

May 11, 2020

B). Resolution #54 To establish standard work days for elected and appointed officials and report them to NYSLRS (New York State Local Retirement System)

Supervisor Lanzetta proposes the following:

See Attached

And moves for its adoption

Councilman Corcoran	-----
Councilman Molinelli	-----
Councilman Koenig	-----
Councilman Baker	-----
Supervisor Lanzetta	-----

Please type or print clearly  
in blue or black ink

Employer Location Code

30668

Received Date

5/16/2020

Standard Work Day and  
Reporting Resolution for  
Elected and Appointed Officials

RS 2417-A  
(Rev. 11/79)

SEE INSTRUCTIONS FOR COMPLETING FORM ON REVERSE SIDE

BE IT RESOLVED, that the Town of Marlborough (Name of Employer) / 30668 (Location Code) hereby established the following standard work days for these titles and will report the officials to the New York State and Local Retirement based on their record of activities:

Name	Social Security Number	NYS SLRS ID	Title	Current Term Begin & End Dates	Standard Work Day	Record of Activities Result	Not Submitted	Pay Frequency	Tier 1
Elected Officials:									
John Alonge	4259	R3814538	Superintendent	11/1/2020 - 10/31/2021	8.00	22.59	<input type="checkbox"/>	Bi-week	<input type="checkbox"/>
Daniel Jackson	346A	R033565	Town Justice	11/1/2020 - 12/31/2023	6.00	7.77	<input type="checkbox"/>	Bi-week	<input type="checkbox"/>
Appointed Officials:									
							<input type="checkbox"/>		<input type="checkbox"/>
							<input type="checkbox"/>		<input type="checkbox"/>
							<input type="checkbox"/>		<input type="checkbox"/>
							<input type="checkbox"/>		<input type="checkbox"/>

I, Aileen Accorain (Name of Secretary or Clerk) secretary/clerk of the governing board of the Town of Marlborough of the State of New York, (Circle one)

do hereby certify that I have compared the foregoing with the original resolution passed by such board at a legally convened meeting held on the 11<sup>th</sup> day of MAY, 2020, on file as part of the minutes of such meeting, and that same is a true copy thereof and the whole of such original.

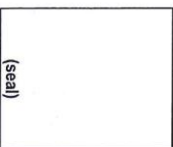
IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Marlborough on this 11<sup>th</sup> day of MAY, 2020.

Affidavit of Posting: I, Aileen Accorain (Signature of Secretary or Clerk) (Name of Secretary or Clerk) being duly sworn, deposes and says that the posting of the Resolution began on 5/16/2020 (Date) and continued for at least 30 days. That the Resolution was available to the public on the:

☒ Employer's website at: Town of Marlborough.org

☒ Official sign board at: Town of Marlborough

☒ Main entrance Secretary or Clerk's office at: Town of Marlborough Page 1 of 1 (for additional rows, attach a RS 2417-B form.)



May 11, 2020

C). Resolution #55 To fix the new Meadow View Estates performance bond amount at \$161,000.00

Supervisor Lanzetta proposes the following:

WHEREAS, the Vita-Meadow View Estates Subdivision was approved by the Town of Marlborough Planning Board in November 2006; and

WHEREAS, as a condition of subdivision approval, the developer was required to provide a performance bond and security acceptable to the Town for the completion of subdivision improvements; and

WHEREAS, the performance bond and security for the completion of subdivision improvements has expired; and

WHEREAS, the new developer, Regency Meadow View, LLC, has requested to execute and deliver to the Town a new performance bond and adequate security so it can proceed to complete the remaining subdivision improvements; and

WHEREAS, the Town Engineer has determined that the reasonable cost to complete such improvements, consisting of installation of a top course of asphalt and repair of the roadway base and binder course of the subdivision roads, is \$161,000.00; it is hereby

RESOLVED, that the amount of the performance bond and performance security is hereby fixed at \$161,000.00 conditioned upon (a) the developer's establishment of an escrow fund with the Town to defray the Town's cost of engineering and attorneys' services in connection herewith and (b) the developer's execution and delivery of a performance bond and security in form and substance to the Town Supervisor and the attorney to the Town and in compliance with the Town Code of the Town of Marlborough.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Lanzetta \_\_\_\_\_

Councilman Molinelli \_\_\_\_\_

Councilman Corcoran \_\_\_\_\_

Councilman Baker \_\_\_\_\_

Councilman Koenig \_\_\_\_\_

DATED: Milton, New York

May 11, 2020

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COLLEEN CORCORAN, TOWN CLERK

May 11, 2020

D). Resolution #56 To Authorize the Filing and Notice of SEQRA Negative Declaration and the adoption of the Town of Marlborough Local Waterfront Revitalization Program including the Consistency Review Law and Harbor Management Law

Supervisor Lanzetta proposes the following:

**WHEREAS**, the Town of Marlborough initiated preparation of a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of the Executive Law; and

**WHEREAS**, a Draft Local Waterfront Revitalization Program, Waterfront Revitalization Program Consistency Review Law, and Harbor Management Law were prepared and circulated by the Department of State to potentially affected State, Federal, and Local agencies in accordance with the requirements of Executive Law, Article 42; and

**WHEREAS**, the Town Board of the Town of Marlborough, Ulster County, NY proposes to adopt the Town of Marlborough Local Waterfront Revitalization Program including the Consistency Review Law and Harbor Management Law (the Action); and

**WHEREAS**, this negative declaration, is prepared in accordance with Article 8 of the Environmental Conservation Law: the NY State Environmental Quality Review Act ("SEQRA") and its implementing regulations set forth in 6 NYCRR Part 617 ("Regulations"); and

**WHEREAS**, the Marlborough Town Board designated itself Lead Agency at its meeting on January 23, 2017 for review of the comprehensive plan and LWRP under the New York State Environmental Quality Review Act ("SEQRA") and issued a Notice of Intent to serve as Lead Agency and a Notice of Intent to prepare a Draft Generic Environmental Impact Statement ("EIS") pursuant to 6NYCRR Part 617; and

**WHEREAS**, the address of the Town of Marlborough Town Board is, 21 Milton Turnpike, Milton, NY 12547 and the Responsible Officer is Al Lanzetta, Town of Marlborough Town Supervisor, with a telephone number at (845) 795-5100; and

**WHEREAS**, a draft generic environmental impact statement was been prepared in conformance with the regulations at 6NYCRR Part 617 implementing the New York State Environmental Quality Review Act to review the Town of Marlborough Comprehensive Plan and Town of Marlborough Local Waterfront Revitalization Program (LWRP); and

**WHEREAS**, the comprehensive plan and LWRP including the consistency review law and harbor management law have been developed as part of an extensive public process including a series of advisory committee meetings conducted over the past year, four community forums, and three public review meetings; and

**WHEREAS,** the town board, with the assistance of its planning consultant Behan Planning and Design with guidance from the town-appointed advisory committee, has prepared the comprehensive plan, draft LWRP and local consistency review law and harbor management law, and draft generic environmental impact statement and the town board has been actively engaged in the process of the development of the draft comprehensive plan and LWRP and draft generic EIS; and

**WHEREAS,** The town board determined that the information submitted in the draft generic EIS, draft comprehensive plan and draft LWRP was complete and adequate with respect to its scope and content for the purpose of commencing public review pursuant to 6NYCRR Part 617; and

**WHEREAS,** The Town Board conducted a duly noticed Public Hearing on the Draft Generic EIS and draft LWRP and draft comprehensive plan on August 14, 2017 at Town Hall-Town Courtroom, 21 Milton Turnpike at 7:00 p.m., where public comment was heard; and

**WHEREAS,** The Office of the Town Clerk filed, published and circulated the Draft Generic EIS, Notice of Completion and Notice of Public Hearing relative to the draft comprehensive plan and draft LWRP and draft generic EIS in accordance with the requirements of 6 NYCRR Sections 617.9 and 617.12, notifying the public, among other things, that the Town Board would hold a public hearing where public comment will be heard and that written comments on the Draft Generic EIS and related documents would be accepted by the Town Board until September 5, 2017 and for at least ten (10) days following the close of the Public Hearing, whichever is later, and

**WHEREAS,** the Town Board conducted a duly noticed Public Hearing on the Draft Generic EIS and draft LWRP and draft comprehensive plan on August 14, 2017 at Town Hall-Town Courtroom, 21 Milton Turnpike at 7:00 p.m., where public comment was heard; and subsequently the comment period has since ended; and

**WHEREAS,** the town has considered the comments received including the recommendation by the Ulster County Planning Board and the town supervisor as the responsible officer has directed Behan Planning and Design as the town's consulting planner to appropriately edit the draft plan to address the comments and to incorporate the county's advisory recommendations into the comprehensive plan and that these edits to the plan refine the concepts and goals expressed in the draft plan and are not substantive in terms of potential adverse environmental impact; and

**WHEREAS,** the Town of Marlborough Town Board, as lead agency for the environmental review of the Action, has reviewed the Action and all relevant comments, supporting information and documentation, has identified the relevant areas of environmental concern, has compared the reasonably expected results of the Action with the criteria set forth in 6 NYCRR § 617.7 and has determined that there will be no significant adverse environmental impacts associated with the Action; and

**WHEREAS**, this negative declaration is supported and substantiated by the following conclusions of the Lead Agency:

In the policy judgment of the Town Board, as documented in the draft generic environmental impact statement, that the proposed local waterfront revitalization program including the consistency law and harbor management law will provide beneficial impacts to the town from the guidance provided by the earlier-adopted town comprehensive plan and the policies and projects outlined in the waterfront revitalization program advance revitalization of the Milton and Marlboro hamlets, improving access to the Hudson River waterfront, improvements to the NYS Route 9W corridor, appropriate expansion of utility services to support smart growth, support for the agricultural enterprises and farmland uses in the town, recognition of the importance of the town's historic and cultural resources, fostering a mix of housing opportunities to support a diverse community and the protection of the town's natural resources.

The recommendations put forth in the comprehensive plan and local waterfront revitalization program were derived with significant input from the community and were made after consideration of the town's demographic trends, economic setting and natural and cultural resources and the adoption of the comprehensive plan would best ensure that the community's goals for the future of the town are achieved. As a result, these documents help frame town policies and future decision making so that the character of Marlborough is maintained and enhanced in a manner consistent with the community's shared vision.

The adoption of the local waterfront revitalization program will not directly result in the approval of any development activity, either private or public. The draft generic EIS took into consideration the land uses, management of development, and maintenance of resources for the areas involved, and provided a platform to analyze the proposed action.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town of Marlborough Town Board makes the following findings based upon the conclusions identified above:

1. As established in the draft generic environmental impact statement and in the comprehensive plan and draft local waterfront revitalization program documents, the adoption of the local waterfront revitalization program including the implementing local laws for consistency review and harbor management by the Town of Marlborough is not anticipated to have a significant adverse impact on the environment including land and water resources, air quality, plants and animals, agricultural land resources, aesthetic, historic and archaeological resources, open space and recreation resources, critical environmental areas, transportation, energy, noise, odor, public health, and growth and community character. The local waterfront revitalization program aims to conserve natural resources in the town, to promote and support enhancement of public access to the waterfront, revitalize waterfront properties and helps appropriately focus residential and commercial development into the hamlets and surrounding areas.

2. The adoption of the local waterfront revitalization program will have a beneficial effect on transportation in the town by advocating for the Ulster County 9W Corridor study the goal of which is to provide access management and improve the flow of traffic along Route 9W throughout the majority of Marlborough.

3. The adoption of the local waterfront revitalization program was developed simultaneously with the update of the adopted town comprehensive plan and provides for appropriately scaled growth, recreational and waterfront resource enhancement, and natural resource protection in accordance with the shared goals of the town; and

**BE IT FURTHER RESOLVED**, that the Town of Marlborough Town Board, acting as lead agency, has examined the impacts which may be reasonably anticipated to result from the Action, and has determined that it will not have any significant adverse impact on the environment as set forth in the Draft Generic Environmental Impact Statement; and

**BE IT FURTHER RESOLVED**, that the Town of Marlborough Town Board hereby issues this Negative Declaration and notice thereof pursuant to the requirements of SEQRA and its implementing Regulations; and

**BE IT FURTHER RESOLVED**, that the Town of Marlborough Town Board hereby authorizes the filing this Negative Declaration and notice thereof pursuant to the requirements of SEQRA and 6 NYCRR § 617.12 of its implementing Regulations; and

**BE IT FURTHER RESOLVED**, that the Town of Marlborough Town Board hereby adopts the Town of Marlborough Local Waterfront Revitalization Program, Waterfront Revitalization Program Consistency Review Law, and Harbor Management Law and that the Town of Marlborough Supervisor is authorized to submit the LWRP to the New York State Secretary of State for approval, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

The foregoing resolution was voted upon with all council members voting as follows:

Supervisor Lanzetta	_____
Councilman Molinelli	_____
Councilman Corcoran	_____
Councilman Baker	_____
Councilman Koenig	_____

This Resolution is adopted this 11th day of May, 2020 and is ordered into the record of the Town of Marlborough Town Board with respect to the adoption of Resolution No \_\_\_\_ of 2020.

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COLLEEN CORCORAN, TOWN CLERK

Contact Person:

Colleen Corcoran, Town Clerk  
Town of Marlborough  
P.O. Box 305  
21 Milton Turnpike  
Milton, NY 12547  
845-795-5100

**Interested Agencies** – the following interested agencies shall receive a copy of this notice:

Town of Marlborough Planning Board  
Ulster County Planning Board  
Town of Lloyd  
Town of Plattekill  
Town of Newburgh  
Town of Poughkeepsie  
New York State Department of State, Office of Planning and Development, ATTN: Barbara Kendall  
New York State Department of Environmental Conservation: Environmental Notice Bulletin, NYSDEC. <http://www.dec.state.ny.us>  
Department of Environmental Conservation, Division of Environmental Permits, 625 Broadway, Albany, NY, 12233-1750

May 11, 2020

E). Resolution #57 To adopt the LWRP

Supervisor Lanzetta proposes the following:

WHEREAS, the Town of Marlborough initiated preparation of a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of the Executive Law; and

WHEREAS, a Draft Local Waterfront Revitalization Program, Waterfront Revitalization Program Consistency Review Law, and Harbor Management Law were prepared and circulated by the Department of State to potentially affected State, Federal, and Local agencies in accordance with the requirements of Executive Law, Article 42; and

WHEREAS, the Town of Marlborough Town Board, as lead agency, adopted a Negative Declaration-Notice of Determination of Non-Significance on May 11, 2020 for preparation of the Local Waterfront Revitalization Program (“LWRP”), Waterfront Revitalization Program Consistency Review Law, and Harbor Management Law pursuant to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act);

NOW, THEREFORE, BE IT RESOLVED, that the Town of Marlborough Local Waterfront Revitalization Program, Waterfront Revitalization Program Consistency Review Law, and Harbor Management Law are hereby adopted, and that the Town of Marlborough Supervisor is authorized to submit the LWRP to the New York State Secretary of State for approval, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Lanzetta \_\_\_\_\_

Councilman Molinelli \_\_\_\_\_

Councilman Corcoran \_\_\_\_\_

Councilman Baker \_\_\_\_\_

Councilman Koenig \_\_\_\_\_

DATED: Milton, New York

May 11, 2020

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COLLEEN CORCORAN, TOWN CLERK

May 11, 2020

F). Resolution #58 To adopt Local Law #3 of the year 2020 Town of Marlborough Waterfront Revitalization Program Consistency Review Law

Supervisor Lanzetta proposes the following:

**Town of Marlborough Local Waterfront Revitalization Program Consistency  
Review Law  
Local Law #3 of the Year 2020**

WHEREAS, a local law was introduced to be known as Local Law No. 3 of 2020, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK TO ESTABLISH THE TOWN OF MARLBOROUGH **LOCAL WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW LAW** BY ADDING A NEW CHAPTER 99, “**WATERFRONT REVITALIZATION PROGRAM (LWRP) CONSISTENCY REVIEW LAW**” TO THE TOWN OF MARLBOROUGH TOWN CODE.

WHEREAS, a public hearing in relation to said local law was opened on April 27, 2020 and closed on May 11, 2020; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Marlborough for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted:

Section 1. The Town of Marlborough Town Code is amended to add a new Chapter 99 reading as follows:

### **General Provisions**

#### **§ 99-1. Title.**

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

#### **§ 99-2. Authority and Purpose.**

- A. This chapter 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. This chapter is intended 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 that the preservation, enhancement, and utilization of the unique waterfront area of the Town of Marlborough occur in a coordinated and comprehensive manner to ensure a proper balance between the protection of natural resources and the need to accommodate growth. Accordingly, this chapter is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: degradation or loss of living waterfront resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural waterfront processes; impairment of scenic or historical resources; losses due to flooding, erosion, and sedimentation; impairment of water quality or permanent adverse changes to ecological systems.**

- D. The substantive provisions of this chapter 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.**

**§ 99-3. 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 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.

**§ 99-4. Definitions.**

A. **Actions** – include all the following, except minor actions:

- 1) **projects or physical activities, such as construction or other activities that may affect natural, or manmade, or other resources in the waterfront area, or 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;**
- 2) **agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;**
- 3) **adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and**
- 4) **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 chapter, 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 Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of 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) designation of local landmarks or their inclusion within historic district;
- 24) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to 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;
- 25) local legislative decisions such as rezoning where the Town Board determines the action will not be approved.

**§ 99-5. 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.

B. In order to foster a strong relationship and maintain an active liaison among the agencies responsible for implementation of the LWRP, the Town Supervisor shall schedule at least semi-annually a LWRP coordinating council/assembly, including but not limited to representatives of the Town Board, Planning Board, Zoning Board of Appeals, Waterfront Advisory Committee, and such other departments or individuals charged with LWRP implementation.

**§ 99-6. 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.

**§ 99-7. Review of Actions.**

- A. Whenever a proposed action is located in the waterfront area each Town agency shall, prior to approving, funding or undertaking the action make a determination that it is consistent with the LWRP standards summarized in section I. below. 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 Town Supervisor, or appropriate Town Board, Agency or Committee, shall be responsible for coordinating review of actions in the Town's waterfront area for consistency with the LWRP, and will advise, assist and make consistency recommendations for other Town agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative, and other actions included in the program. The Town Supervisor will also coordinate with NYS Department of State regarding consistency review for actions by State or Federal agencies.
- C. The Town Supervisor will assist each agency with preliminary evaluation of actions in the waterfront area, and with preparation of a WAF. Whenever an agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action to be located in the waterfront area, the agency shall refer to the Town Supervisor for preparation of a WAF, a sample of which is appended to this chapter. The Town Supervisor will

coordinate their preliminary evaluation with permitting or other review by each agency or the agencies considering an action.

- D. The Town Supervisor, or responsible Town Board, Agency or Committee, shall require the applicant to submit all completed applications, EAFs, and any other information deemed necessary to its consistency recommendation. The recommendation shall indicate whether, in the opinion of the Town Supervisor, or responsible Town Board, Agency or Committee, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and objectives and shall elaborate in writing the basis for its opinion. The Town Supervisor, or responsible Town Board, Agency or Committee shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards and objectives or to greater advance them.
- E. If an action requires approval of more than one agency, decision making will be coordinated between agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency. Only one WAF per action will be prepared. If the agencies cannot agree, the Town Supervisor shall designate the consistency review agency.
- F. Upon recommendation of the Town Supervisor, or responsible Town Board, Agency or Committee, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in section I. below. Prior to making its determination of consistency, the agency shall render a written determination of consistency based on the WAF, the Town Supervisor, or responsible Town Board, Agency or Committee recommendation and such other information as is deemed necessary to make its determination. No approval or decision shall be rendered for an action in the waterfront area without a determination of consistency. The designated agency will make the final determination of consistency.
  - 1) The Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to this law.

The Zoning Board of Appeals shall consider the written consistency recommendation of the Committee in the event and at the time it makes a decision to grant such a variance and shall impose appropriate conditions on the variance to make the activity consistent with the objectives of this law.

- G. 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 I. herein.
- H. In the event the Town Supervisor, or responsible Town Board, Agency or Committee's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and explain the manner and extent to which the action is consistent with the LWRP policy standards.
- I. 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:

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

Policy 2: Preserve historic resources of the waterfront area

Policy 3: Enhance visual quality and protect scenic resources throughout the waterfront area

Policy 4: Minimize loss of life, structure, and natural resources from flooding and erosion.

Policy 5: Protect and improve water quality and supply in the waterfront area

Policy 6: Protect and restore the quality and function of the waterfront area ecosystem

Policy 7: Protect and improve air quality in the waterfront area

Policy 8: Minimize environmental degradation in the waterfront area from solid waste and hazardous substances and waste

Policy 9: Provide for public access to, and recreational use of, waterfront waters, public lands, and public resources of the waterfront area

Policy 10: Protect water-dependent uses and promote siting of new water-dependent uses in suitable locations.

Policy 11: Promote sustainable use of living aquatic resources in the waterfront area

Policy 12: Protect agricultural lands in the waterfront area

Policy 13: Promote appropriate use and development of energy and mineral resources

J. 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.

K. 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.

#### **§ 99-8. Enforcement.**

In the event that an activity is being performed in violation of this law or any conditions imposed there under, 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.

**§ 99-9. 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 chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

**§ 99-10. 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.

**§ 99-11. Effective Date.**

This chapter shall take effect immediately after the following have both occurred:

- A. Filing of the local law in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.
- B. Approval of the Town of Marlborough LWRP by the Secretary of State in accordance with Article 42 of the Executive Law of New York State.

# 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 (WAF) for proposed actions which are subject to the **Town of Marlborough Waterfront Revitalization Program (LWRP) 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 with the policy standards set forth in the **LWRP Consistency Review Law**.

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 LWRP 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](mailto:tcorcoran@marlboroughny.us) or call 845-795-2406 Ext. 7

Preparer's Name: \_\_\_\_\_

Title: \_\_\_\_\_ Agency: ) \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York, such certified copy to have attached thereto a certificate that it contains the correct text of the enactment of this local law.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Lanzetta	_____
Councilman Molinelli	_____
Councilman Corcoran	_____
Councilman Baker	_____
Councilman Koenig	_____

DATED: Milton, New York  
May 11, 2020

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COLLEEN CORCORAN, TOWN CLERK

May 11, 2020

G). Resolution # 59 To adopt Local Law #4 of the year 2020 Town of Marlborough Harbor Management Law

Supervisor Lanzetta proposes the following:

**Town of Marlborough Harbor Management Law**  
**Local Law #4 2020 Harbor Management**

WHEREAS, a local law was introduced to be known as Local Law No 4 of 2020, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK TO ESTABLISH THE **TOWN OF MARLBOROUGH HARBOR MANAGEMENT LAW** BY ADDING A NEW CHAPTER 98, “HARBOR MANAGEMENT” TO THE TOWN OF MARLBOROUGH TOWN CODE.

WHEREAS, a public hearing in relation to said local law was opened on April 13, 2020 and closed on May 11, 2020; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Marlborough for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted:

Section 1. The Town of Marlborough Town Code is amended to add a new Chapter 98 reading as follows:

**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 that has direct access to a body of navigable water and is used only for the storage and sheltering of watercraft and associated equipment and does not have plumbing or sanitary facilities.

**BOAT STORAGE, COMMERCIAL**

A place, site or structure used to park, house or store on any one lot, more than three vessels, excepting canoes, rowboats, kayaks or other boats less than 18 feet in length for private gain within a marina. This use shall not include “storage, commercial” as defined in this chapter.

**BOAT STORAGE, PRIVATE**

A place, site or structure used to park, house or store on any one lot, three or fewer vessels, excepting canoes, rowboats and kayaks.

**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.

**DOCK AND MOORING AREA**

Sections of the Harbor Management Area where groups of docks and moorings may be permitted.

**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.

**SUPERSTRUCTURE**

A structure built as a vertical extension on top of a lower structure such as boathouse which is a storage building for boats built on top of cribs or piles.

**STORAGE, COMMERCIAL**

A business for hire in which a warehouseman, as defined in Section 7-102 of the Uniform Commercial Code of New York State, takes possession of goods and is responsible for the care and control of the stored goods. Goods stored for hire shall be completely enclosed within a building and may include boats, motorcycles, jet skis, or similar recreational vehicles.

**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 all other laws, rules and regulations of the Town applicable at the time of application.

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

(3) Establish a permanent management system 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) 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.

(3) The Town Board may establish fee, insurance and other requirements to permit docking of commercial vessels and 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 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 alcohol or any 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 a designated Dock and Mooring 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 § 33-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. Temporary anchoring permitted. Temporary anchoring of vessels for less than 8 hours is permitted provided such anchoring does not interfere with any established navigation channel, mooring or docking area or other vessel moored or docked.

D. Locations for moorings and permit required. No person shall place or utilize a mooring without first securing a permit as set forth herein. No person shall moor any vessel except in designated areas as shown in the harbor management plan as dock and mooring areas. No vessel moored or anchored, at full swing of its mooring or anchor line shall 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.

E. Locations for docks and permit required. No person shall install any berth or dock without first securing a permit as set forth herein. No person shall berth or dock any vessel, whether to mooring tackle or a pier or dock, in such a manner that it lies within the lines of any channel, swimming area, buffer area, turning basin or in proximity of a channel marker or in a manner that interferes with the full use of a channel, except in cases of emergency.

F. Regulation of docks and 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 docks and 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.

Section 2. 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.

Section 3. 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.

RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York, such certified copy to have attached thereto a certificate that it contains the correct text of the enactment of this local law.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Lanzetta	_____
Councilman Molinelli	_____
Councilman Corcoran	_____
Councilman Baker	_____
Councilman Koenig	_____

DATED: Milton, New York  
May 11, 2020

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COLLEEN CORCORAN, TOWN CLERK

May 11, 2020

H). Resolution #60 To authorize the Supervisor to prepare an RFP for timber harvest and sale

Supervisor Lanzetta proposes the following:

WHEREAS, it is in the best interests of the Town and good forestry practice if certain timber on Town property be harvested and sold to a qualified forester; and

WHEREAS, it is also in the best interests of the Town to obtain requests for proposals (“RFPs”) from qualified forester to harvest and purchase such timber (“RFPs”); and

WHEREAS, the timber in question has been identified and is located at on portions of lands of the Town located at Baileys Gap Road and Reservoir Road, in the Town of Marlborough, County of Ulster, in the State of New York and identified as Tax Map Parcel # 95.4-1-35 and 108.2-2-2; it is hereby

RESOLVED, the Supervisor is hereby authorized to prepare and the Town Clerk is hereby authorized to cause the publication in the official newspaper of the Town an RFP in form and substance approved by the Supervisor and the Supervisor is hereby designated as the Town officer to open the proposals received and prepare a summary thereof for further consideration by the Town Board.

The foregoing resolution was voted upon with all councilmen voting as follows:

Supervisor Lanzetta \_\_\_\_\_

Councilman Molinelli \_\_\_\_\_

Councilman Corcoran \_\_\_\_\_

Councilman Baker \_\_\_\_\_

Councilman Koenig \_\_\_\_\_

DATED: Milton, New York

May 11, 2020

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COLLEEN CORCORAN, TOWN CLERK