

City of Newburgh
Local Waterfront Revitalization Program

Adopted:
Newburgh City Council, May 14, 2001

Approved:
NYS Secretary of State Randy A. Daniels, August 20, 2001

Concurred:
U.S. Office of Ocean and Coastal Resource Management, August 14, 2002

This Local Waterfront Revitalization Program has been adopted and approved in accordance with the provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42) and its implementing regulations (6 NYCRR 601). Federal concurrence on the incorporation of this Local Waterfront Revitalization Program into the New York State Coastal Management Program as a Routine Program Change has been obtained in accordance with the provisions of the U.S. Coastal Zone Management Act of 1972 (P.L. 92-583), as amended, and its implementing regulations (15 CFR 923).

The preparation of this program was financially aided by a federal grant from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended. Federal Grant No. NA-82-AA-D-CZ068.

The New York State Coastal Management Program and the preparation of Local Waterfront Revitalization Programs are administered by the New York State Department of State, Division of Coastal Resources, 41 State Street, New York 12231.



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

RANDY A. DANIELS
SECRETARY OF STATE

September 20, 2001

Honorable Andrew Marino
Mayor
City of Newburgh
83 Broadway
Newburgh, NY 12550

Dear Mayor Marino:

It is with great pleasure that I inform you that on August 20, 2001 I approved the City of Newburgh Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive management program that promotes the balanced preservation, enhancement, and utilization of the valuable resources of the coastal area.

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

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

Sincerely,

Randy A. Daniels

RAD:gn



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

AUG 14 2002

Mr. George Stafford
Director
Division of Coastal Resources
41 State Street
Albany, New York 12231-00001

Dear Mr. Stafford:

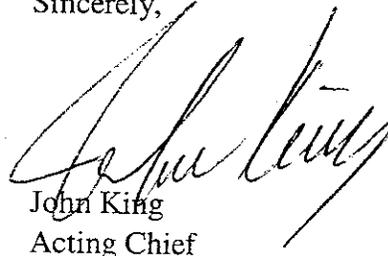
Thank you for your request to incorporate the City of Newburgh Local Waterfront Revitalization Program (LWRP) into the New York Coastal Management Program (NYSCMP). You specifically requested that these program changes be incorporated as routine program changes per the Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. Part 923, Subpart H and the Office of Ocean and Coastal Resource Management's (OCRM's) Final Program Change Guidance of July 8, 1996.

Based on our review of your submission, we concur with your determination that incorporation of the City of Newburgh LWRP is a routine program change. Specifically, the LWRP modifies the coastal zone boundary in the City of Newburgh and makes modifications to State Coastal Policies #1, 2, 4, 7, 8, 9, 11, 13, 17, 18, 19, 20, 21, 22, 23, 34, 36, and 39. Also the LWRP identifies that enforceable State Coastal Policies #3, 10, 12, 26, 29 and 32 do not apply in the City of Newburgh LWRP.

Federal Consistency will apply to the approved changes only after you publish notice of this approval pursuant to 15 C.F.R. section 923.84(b)(4). Please include in the public notice the list of changes to enforceable policies provided in this letter, and please send a copy of the notice to OCRM.

Thank you for your cooperation in this review. Please contact Bill O'Beirne at (301)713-3155 extension 160, if you have any questions.

Sincerely,



John King
Acting Chief

CITY OF NEWBURGH
LOCAL WATERFRONT REVITALIZATION PROGRAM

Prepared by:

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With assistance provided by:

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William Ketcham, Esq., Newburgh Corporation Counsel
Bonnie Devine, New York State Department of State

The preparation of this report was partially financially-aided through a Federal grant (Grant-in-Aid Award Number NA-82-AA-D-CZ068) from the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration under the Coastal Zone Management Act of 1972, as amended. This document was prepared for the New York State Department of State.

RESOLUTION NO.: 81-01

OF

MAY 14, 2001

**A RESOLUTION OF THE
CITY OF NEWBURGH
ADOPTING THE CITY OF NEWBURGH
LOCAL WATERFRONT REVITALIZATION PROGRAM**

WHEREAS, the City of Newburgh 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 (DLWRP) and related local laws were prepared; and

WHEREAS, a Full Environmental Assessment Form was prepared and considered for the Draft Local Waterfront Revitalization Program in accordance with the requirements of Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, a Negative Declaration was subsequently issued on August 14, 2000, by the City Council as Lead Agency in accordance with the requirements of Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, the City Council approved and adopted a DLWRP, dated February 2000, on August 14, 2000; and

WHEREAS, the DLWRP, including proposed local laws, were circulated by the Department of State to appropriate local, county, state and federal agencies in accordance with the requirements of Executive Law, Article 42 and Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, modifications were made to the February, 2000 Draft Local Waterfront Revitalization Program in response to comments received, which modifications are annexed hereto and are incorporated into the February, 2000 DLWRP, dated May, 2001,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City of Newburgh Local Waterfront Revitalization Program for the City of Newburgh, dated May, 2001, is hereby approved and adopted; and

RESOLUTION NO. 81-01

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BE IT FURTHER RESOLVED, that the Council of the City of Newburgh, New York, hereby directs the City Manager of the City to formally transmit the adopted LWRP, and all related local implementing laws, to the New York State Secretary of State for approval pursuant to Article 42 of the New York State Executive Law -- the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

I, Nancy A. D'Addio, City Clerk of the City of Newburgh, hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held 5/14/01 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 15th day of May 2001

Nancy A. D'Addio
City Clerk

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INTRODUCTION

The Local Waterfront Revitalization Program (LWRP) for the City of Newburgh has been developed in response to, and consistent with, national and state objectives identified in the following legislation:

1. Federal Coastal Zone Management Act of 1972;
2. the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42, Executive Law); and
3. the Coastal Erosion Hazard Area Act of 1981 (Article 34, Environmental Conservation Law).

The response to the mandates imposed by this legislation was the preparation and adoption of the State of New York Coastal Management Program and Final Impact Statement of 1982.¹

The New York State Coastal Management Program offers municipalities in the state's coastal area an opportunity to adapt the state program to address local needs and objectives by preparing and implementing an LWRP. An LWRP is a program that addresses the use, revitalization and protection of a municipality's waterfront resources. The City of Newburgh commenced the process of preparing an LWRP in 1989. The major components of the LWRP are as follows:

- 1) The delineation of the local waterfront revitalization area boundary;
- 2) The inventory of existing conditions including man-made characteristics and natural resources;
- 3) The identification of major planning issues and opportunities;
- 3) The establishment of policies for managing the local waterfront revitalization area. These policies have been established by reviewing the 44 policies found in the New York State Coastal Management Program, and refining the policies through the examination of local conditions and regulations as well as objectives for future use of the waterfront; and proposed local actions and activities.
- 4) Proposed land and water uses for the entire waterfront area;
- 5) Proposed projects, activities and regulatory actions; and
- 6) Local implementation techniques for the proposed activities and program policies.

¹ All references to the New York State Coastal Management Program (NYSCMP) refer to the State of New York Coastal Management Program and Final Impact Statement prepared by the U.S. Department of Commerce, Office of Coastal Zone Management and New York State Department of State, August 1982.

Once the LWRP document was prepared, it was submitted to the Secretary of State and the U.S. Department of Commerce for review and approval. Now approved, this local program replaces the State Coastal Management Program for the City of Newburgh. This Program is the regulatory vehicle for governing Local, State, and Federal actions affecting the coastal and waterfront area. All State and Federal agencies are required to adhere to the approved LWRP document when undertaking an activity, funding a project, or considering granting of a permit for a project within the local waterfront area. This will ensure that decisions of State and Federal agencies reflect local objectives for the development and protection of waterfront resources.

By undertaking the LWRP process, the City is eligible to receive grants for program implementation. The Department of State awards implementation grants on a competitive basis for project pre-construction and construction activities and other activities that help implement local programs. These funds may be used, for example, to design a public recreation facility or to study the potential reuse of abandoned waterfront buildings. An implementation grant can help a municipality to do the preliminary work necessary to obtain public or private financing for a project.

The development of this Local Waterfront Revitalization Program represents major steps by the City of Newburgh to establish a specific plan and program for the waterfront area. This plan will promote the preservation of valuable coastal resources, the expansion of water-related and water-enhanced uses and the improvement of underutilized and deteriorated sites. It will discourage activities that will negatively affect the waterfront area, its use, and environment.

SECTION I

WATERFRONT REVITALIZATION AREA BOUNDARY

SECTION I WATERFRONT REVITALIZATION AREA BOUNDARY

A. DESCRIPTION OF COASTAL BOUNDARY

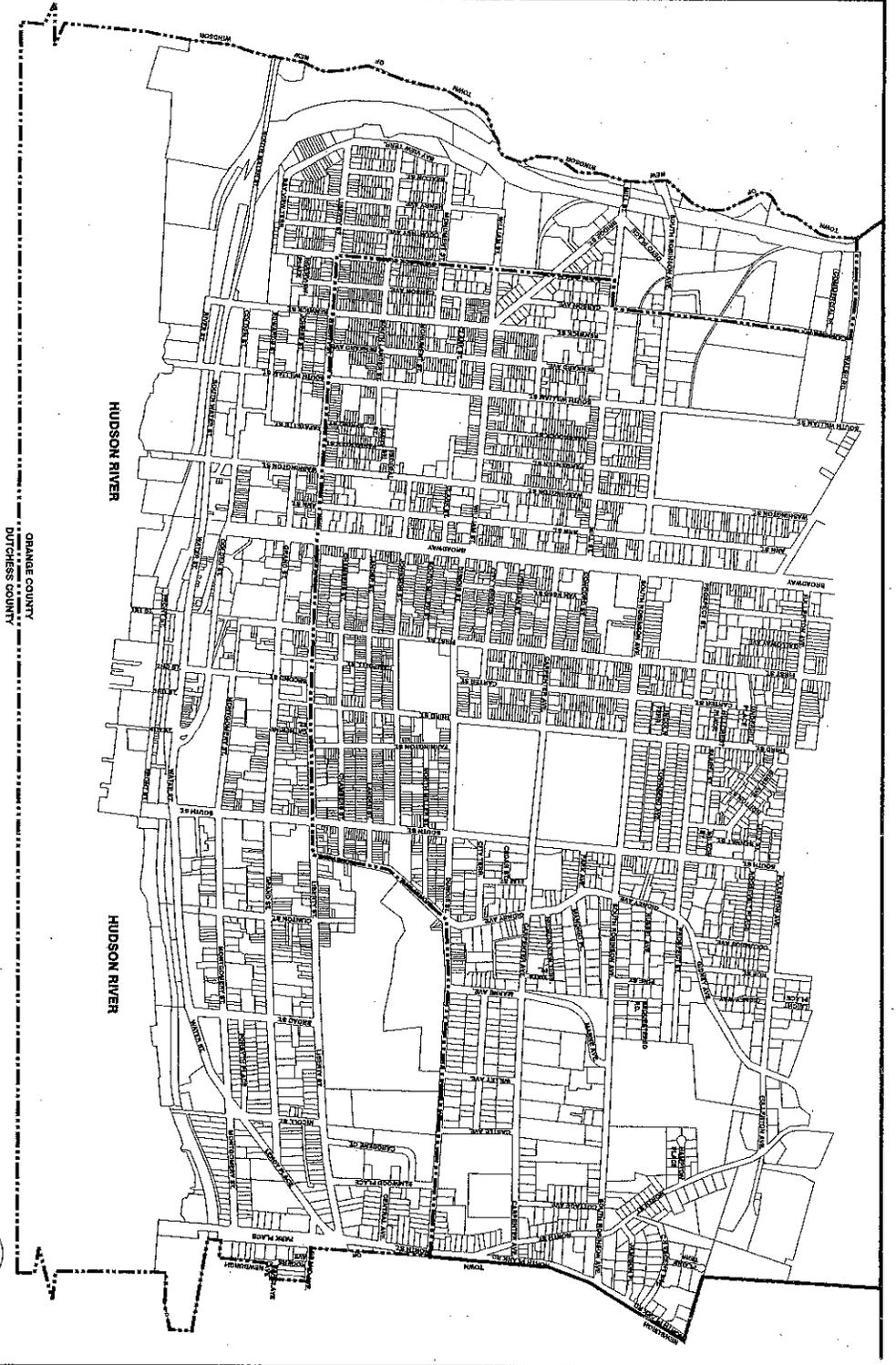
The coastal area of Newburgh is as follows:

Beginning at the point of intersection of the municipal boundary between the Town of Newburgh and the City of Newburgh and mean high water; then westerly along that boundary to the point where North Plank Road intersects with Powell Avenue; then southerly along Powell Avenue to Gidney Avenue; then southeasterly along Gidney Avenue to Liberty Street; then southerly along Liberty Street to Overlook Place; then westerly along Overlook Place to Mill Street; then northerly along Mill Street to Dickson Avenue; then westerly along Dickson Avenue to Walsh's Road; then southerly along Walsh's Road to the municipal boundary between the Town of New Windsor and the City of Newburgh; then easterly along that boundary to the point of intersection with mean high water.

The waterside boundary of the City of Newburgh waterfront revitalization area is as follows:

Beginning at the point of intersection of the southern boundary of the Town of New Windsor and the City of Newburgh and mean high water extending to the centerline of the Hudson River; then northerly coterminous with the eastern boundary of Orange County; then westerly to the point of intersection with the northern boundary of the Town of Newburgh and the City of Newburgh and mean high water.

LOCAL WATERFRONT REVITALIZATION PROGRAM
CITY OF NEWBURGH, NEW YORK



----- LWRP Boundary

Map 1:
LWRP BOUNDARY

Stuart Turner & Associates
 PLANNING & DEVELOPMENT CONSULTANTS
 Last Revised: 2003
 BASE MAP: ORANGE COUNTY WATER AUTHORITY

SECTION II
INVENTORY AND ANALYSIS

A. INTRODUCTION

The City of Newburgh is located sixty miles north of New York City on the western side of the Hudson River in Orange County. The City, a small densely-settled community in a 3.9 square mile area is bounded by the Town of Newburgh on the west and north, the Hudson River on the east and the Town of New Windsor on the south.

The City averages 265 feet above mean sea level. Newburgh is situated south and east of the Catskill Mountains, west of the Hudson River and Mt. Beacon (1,540 feet msl), and north of Storm King and Bear Mountains.

In the past, Newburgh's economic history was tied to transportation. Initially, it was a place for sailing vessels bound for New York to wait while held up by tide and wind shifts through the West Point-Peekskill section of the Hudson River. With water depths in excess of 20 feet at its shoreline, it was natural that wharf facilities soon were established in the City. In 1743, ferry service was established between Newburgh and Beacon, the first such crossing of the Hudson River north of Peekskill. The extension of the railroads up the Hudson River and the rail connection between Newburgh and the New England states via the ferry brought industry to the city. As within most traditional manufacturing communities industry in Newburgh was subject to major relocation shifts. Following World War II, as the interstate highway system was built outside the city limits, and as the dependence upon riverboat, railroad, and ferry transportation diminished, so did the economic dominance of the City of Newburgh, and in particular its waterfront.

Like many old manufacturing towns throughout the northeast the City of Newburgh is experiencing decline. Eighty-five percent of all residential structures were built before 1940. It is suffering from many conditions characteristic of an impoverished urban area: a diminishing industrial base accompanied by a loss of jobs and revenue, a growing low income and minority population, a declining school enrollment, and substandard housing.

In 1990, the population in Newburgh was 26,454 persons, an increase of 3,016 persons (or 13 percent) from the 1980 population. Approximately 58 percent of the City's population is classified as minority.

Although the City of Newburgh had experienced physical and economic decline in recent years, as made apparent by the facts provided above, there has been an increased interest in new development, especially in the waterfront area. New multi-family housing developments such as Ferry Crossing, Hudson Point, Liberty Square, and Montgomery Views, an approved subdivision consisting of 12 single-family homes, are representative of the development activities taking place in the City and within the LWRP area. The Key Bank and Maple Buildings include 137,000 square feet of modern office space

constructed on former urban renewal land overlooking the Hudson River within the waterfront area.

As new development continues to take place in Newburgh, the city will improve both its physical appearance and its economic base. These in turn will aid in the revival of the entire city, specifically the waterfront.

B. EXISTING CONDITIONS

1. Existing Land Use and Development Patterns

The Local Waterfront Revitalization Program (LWRP) area in the City of Newburgh can be divided into three general land use areas: the land area on the east side of the Erie and West Shore Railroad Line along the Hudson River; the inland areas A and B west of the railroad line and/or Water Street; and the southern land use area, overlooking Quassaick Creek. An understanding of the existing land use patterns within the waterfront area is critical because these uses will, to a large degree, influence the future use and development of the waterfront. The waterfront area is characterized by large areas of residential usage, industrial usage and open space, interspersed with public and semi-public uses, and a limited amount of commercial and public recreational space. There is a substantial amount of vacant, underutilized and deteriorating parcels throughout the area, much of which is the product of urban renewal.

For purposes of clarity, existing land use patterns are discussed by the three general land use areas. The land use areas are illustrated on **Map 2**. The following provides a generalized description of existing conditions for each.

a. Southern/Quassaick Creek Area

Beginning in the western portion of this area at Walsh's Road and proceeding eastward to Mill Street, the land usage is mixed industrial and commercial. Continuing east past Mill Street is a block of mixed residential and commercial usage, a light industrial use and a site with a combination Jr. High School and playing field usage. These uses extend to Monument Street where a concentration of one-and two-family residences in good to fair condition occurs. The entire area, bound by Bay View Terrace on the south and east, Overlook Place on the north, and Monument Street on the west is currently in residential usage. As apparent by the street names in this area, the residences sit atop a ridge surrounded by steep slopes and thus possess scenic views of the Hudson River and the surrounding Highlands. For the most part, however, the residential area is not visible from South Water Street on account of the

steep slopes and dense vegetation surrounding it. Conrail's Newburgh branch services this area.

b. Inland Area

Beginning at Overlook Place in the southern portion of the inland area and heading north toward Lafayette Street there is an area of mixed residential, commercial and industrial uses with numerous vacant parcels scattered throughout. The majority of the residential and almost all of the commercial uses are located along Liberty Street, while the area between Johns Street and South Water Street comprises mainly industrial and vacant parcels. Many of the industrial buildings are either vacant or underutilized. Because most of the structures are of brick construction and in fair to good condition there is a potential in this area for rehabilitation and adaptive reuse. The partially completed residential renovation of the former foundry on Lafayette Street, known as Foundry at Washington Park, is an example of one type of adaptive reuse.

North of Lafayette Street is Washington's Headquarters, a National Historic Landmark property and museum. The site is bound by Lafayette Street on the South, Colden Street on the east, Liberty Street on the west and Washington Street on the north.

To the north of Washington's Headquarters is an area of mixed commercial, residential, municipal uses and vacant parcels. The Newburgh Public Safety Building housing the police and fire departments City Hall is located on the west side of Grand Street at Broadway. Commercial uses are concentrated around Broadway and Liberty Street, while the existing residential uses are located closer to Washington Street between Liberty and Grand. Twenty townhouse residential units are located east of the Public Safety Building fronting Colden Street. Across Colden Street heading toward South Water Street is an area of vacant urban renewal land.

Proceeding north past Broadway is a mixed use area consisting of commercial, residential and semi-public uses. Along Broadway around Liberty and Grand Streets, the land usage is commercial, followed by a church west of Grand Street. Multi-family residential uses are located between the church and First Street. The Key Bank and Maple Office buildings encompass approximately 5 acres and extend from the Broadway north to First Street.

The land area between First Street and Broad Street is, for the most part, residential with public and semi-public uses and isolated vacant parcels. Historic renovation and restoration activities have been completed on a number of structures in the area. The area between First and Broad Streets is an area undergoing housing rehabilitation and public improvements with the use of community development funds.

Between Montgomery Street, Water Street, and South Street is low-rise multi-family public housing and to the north of South Street at Water Street is a high-rise public housing development, both of which are in need of rehabilitation.

Mount Saint Mary's College is located to the west in the Historic District. It is bound by Gidney Street on the south, Liberty Street on the east, Powell Avenue on the west and a multi-family apartment development on the north. To the east of Liberty Street and north of Broad Street is a one- and two-family residential area. The neighborhood is generally in good condition. Finally, north of Broad Street along Water Street is Ferry Crossing, a new condominium development with excellent views of the Hudson River.

c. Waterfront Area

Beginning at the southernmost portion of the waterfront area which is the city's boundary with the Town of New Windsor, there is an underutilized marine industrial use, the Steel Style Shipyard. North of Steel Style spanning both sides of Renwick Street is the City of Newburgh Wastewater Treatment Plant, an unused City incinerator and Ward Brothers Memorial Rowing Park. The Conrail tracks run north-south and parallel the waterfront creating a barrier between the central business district and the waterfront. East-west streets tunnel under the track, but pedestrian access is less than adequate at the southern end of the waterfront area due to the former industrial nature of this area.

North of the City property is a former salvage/scrap metal yard closed by a New York State Department of Environmental Conservation consent order which extends northward to Washington Street. On the north side of Washington Street is a public boat launch area which was recently reconstructed, followed by a large restaurant, Gull Harbor Marina and a boat sales and storage facility.

Between First and Second Streets there is an area containing a number of commercial and industrial buildings two to five stories in height and

mostly of masonry construction, a rehabilitated residential building and some vacant land. To the north of this area is Newburgh Landing and waterfront park. Urban renewal parcels north and south of Newburgh Landing are being redeveloped for commercial use, including several restaurants and office/retail space. These developments also propose the construction of marinas to the north and south of Newburgh Landing. The water side marina developments are currently being reviewed by federal, state and local permitting agencies. A river walkway is under construction. The landing and bathroom facilities at Newburgh Landing will be renovated under a State grant awarded in 2000.

Between South and Clinton Streets the waterfront area is vacant and underutilized. Most of the land has been graded and covered with gravel. Only small outcroppings of vegetation and occasional weed growth exist at the water's edge. In the past, one of the underutilized parcels was occupied by a marine parts retailer and the second parcel by a sand and gravel distributor. The City was recently awarded a grant to reconstruct a portion of the South Street right-of-way into a landscaped park.

At the base of the Clinton Street right-of-way is the Regal Bag Company, an underutilized industrial/warehousing facility. Proposals for the adaptive reuse of the structures are being investigated.

Between Nicholl Street and Park Place is the Newburgh Yacht Club, a restaurant and a small marine supply store. Just north of the Yacht Club heading toward the Newburgh-Beacon Bridge is an area annexed from the Town of Newburgh. This parcel is the northernmost property in the waterfront area and is the site of a luxury condominium development, Pier Loun.

C. WATER-DEPENDENT AND WATER-ENHANCED USES

Water-dependent uses within the waterfront area include: the City of Newburgh wastewater treatment plant; the Washington Street boat launch; Newburgh Landing waterfront park; and, Gull Harbor marina and the Newburgh Yacht Club. Boat slips are available and accessory to the Pier Loun residential development. Land has recently been made available to the Newburgh Rowing Club for a boat house and launch site at the Ward Brothers Memorial Park.

New water-dependent uses are planned, including a marina associated with Front Street on Hudson, and boat slips associated with the Joscoss development.

A water-enhanced use is defined by the Department of State as a use that has no critical dependence on the waterfront, but the profitability of the use and/or the enjoyment level of the users is increased significantly because the use is adjacent to or has visual access to the waterfront. Based upon this definition there are a number of water-enhanced uses within the waterfront area. Because of Newburgh's topography, many of the residences in both the southernmost portion and the northernmost portion of the LWRP area have excellent views of the Hudson River and the surrounding Hudson Highlands. Land uses at the base of Broadway also have river views. The various waterfront restaurants and the waterfront parks are also uses enhanced by their waterfront location.

D. UNDERUTILIZED, ABANDONED OR DETERIORATED SITES

1. Southern/Quassaick Creek Area

Underutilized former industrial land is located at the base of the "Heights" area adjoining Quassaick Creek. In addition, the steep slopes rising up to the Heights neighborhood is vacant. It is the City's intent for these slopes to remain as open space, and where possible, to create a nature preserve and public hiking trail between the Quassaick Creek and the top of the bluff bounded by Bay View Terrace, preserving as much as possible the forest habitats, trail opportunities, and creek shoreline now used heavily by fish and birds, especially by Marine Drive and Mill Street. Fishing and wildlife viewing are water-dependent uses which currently take place in this area. Scattered vacant and underutilized heavy commercial and industrial buildings are found in the vicinity of South Robinson Avenue, Mill Street and Commercial Place.

2. Inland Area

Beginning in the southern portion of the inland area at Renwick Street there are a number of vacant and underutilized parcels and abandoned, deteriorating and underutilized residential and industrial buildings. Although these structures are in deteriorating condition there is the potential for restoration and reuse. The area's close proximity to the historic Washington's Headquarters makes revitalization activities extremely important.

Along Colden Street and South Water Street between Washington Street, Broadway, and Second Street there is a large area of vacant urban renewal land generally bound by Broadway, Grand Street, South Street and Water Street. Various proposals have been made and two projects have been completed which reduce the amount of land available. The Key Bank and Maple Office buildings and a 20-unit townhouse project are both located west of Colden Street at Broadway. The townhome development is currently deteriorating and should be studied in regard to the possible feasibility of its redevelopment.

Between South Street and Nicholl Street there is a large amount of vacant land along Water Street. Topographic constraints account for a portion of the vacancy and the public housing projects which are in need of general maintenance and in some instances extensive rehabilitation may also account for some of the vacancy. The New York State Department of Transportation has reconstructed Water Street (Marine Drive) and has made improvements to the Newburgh-Beacon Bridge. The completion of these projects makes the area along Water Street more accessible. However, a study of providing on-street parking on Water Street is required as well as additional traffic control in order to make this area viable for redevelopment for commercial or other uses.

Throughout the inland area there are a number of isolated vacant parcels which would be suitable for infill development in conjunction with the existing commercial and neighborhood redevelopment and revitalization activities.

3. Waterfront Area

Several parcels along the water's edge in Newburgh are either vacant, underutilized, deteriorating or abandoned. Steel Style, the City Incinerator site, the former salvage yards and the Regal Bag property represent underutilized uses of land. The former Newburgh Train Station is vacant. All of these areas have the potential for more intensive water-enhanced and/or water dependent uses.

E. PUBLIC ACCESS AND RECREATIONAL FACILITIES

The Washington Street Boat Launch area, Newburgh Landing Park, and the recently created Ward Brother Memorial Rowing Park provide direct public access to the river.

Newburgh Landing Park lacks public support facilities such as recreation equipment, furniture, restrooms etc. There is potential for additional facilities to be located around the dock area. Structural repair, site improvements, facility improvements landscaping and general maintenance are needed. The City retained ownership to a 20-foot strip of riverfront property extending from Carpenter Street to South Street and adjoining the new commercial development under construction. Construction of the public walkway will commence in 2000. The 12-foot walkway will be designed with period lighting, street trees, benches, and waste receptacles.

The proposed public walkway through the Landing and the adjacent urban renewal parcels will greatly enhance access to the Hudson River shoreline. A new public parking area on the west side of Front Street is also under construction.

The City Council has recently dedicated 100 feet of land at the south end of the wastewater treatment plant parcel as a park for public access to the Hudson River as Ward Brothers Memorial Rowing Park and has entered into an agreement with the Newburgh Rowing Club to improve the property.

The Newburgh Yacht Club, another recreational facility, is not easily accessible. Public access by way of Park Place requires traveling a narrow roadway and entry through a single lane railroad underpass. Inaccessibility limits this area's availability. These facilities are not open for use by the general public.

Lastly, there is limited direct public access to the Quassaick Creek area of the waterfront. The City is supporting the development of a Quassaick Creek Estuary Preserve and Trail which would establish a nature preserve for fishing and wildlife viewing and a Greenway Trail linking land currently owned by Orange County in the adjoining Town of New Windsor (the former Diamond Candle property) with lands owned by the City and ultimately, if possible, linking Marine Drive on the east and Mill Street on the west. The existing sewer right-of-way and the railroad right-of-way between Quassaick Creek and Bayview Terrace offer opportunities for multiple uses such as hiking trails. Plans are underway to seek to restore the historic twin-arched bridge spanning the creek to create a link in the Greenway Trail connecting the Newburgh portion of the Estuary Preserve Trail with the New Windsor side of the creek. Initially, city-owned parcels (also former Diamond Candle property) will be included in the Estuary Preserve and Trail, with other lands in this area to be added where possible.

F. ZONING

There are two existing zoning districts along the shoreline of the Hudson River and Quassaick Creek: the Waterfront 1 (W1) and the Waterfront 2 (W2) districts. The districts are illustrated on Map 3. The zoning districts permit and encourage a range of water dependent and water enhanced uses along the Hudson River. The regulations governing uses in the two waterfront districts are described in Section IV of the LWRP.

A locally designated Historic District protects the historic resources located within a portion of the LWRP area (refer to Map 4). The local historic district coincides to a large degree with the boundaries of the East End Historic District as illustrated on Map 5.

In addition to the waterfront and historic district designations, a View Preservation District overlay coinciding with the LWRP boundary regulates activities that may impact important vistas within the LWRP area. The regulations governing activities within the Viewshed Protection overlay district are contained in Appendix A. Map 6 illustrates the location of the protected viewplanes.

G. HISTORIC STRUCTURES, SITES AND DISTRICTS

According to the City Historian, the Waroaneck tribe inhabited the Newburgh area. The Waroaneck tribe was a tribe of the Algonquin nation. The territory embraced by the City of Newburgh was land purchased from the tribe by Governor Dongan in 1684, and subsequently conveyed by patent to Captain John Evans in 1694. After the annulment of this patent, the entire district was conveyed in a number of smaller patents, among them, Patent No. 1, the German Patent, issued December 18, 1719. This patent covers the present-day City of Newburgh. These settlements were composed of immigrants from the Palatinate of the Rhine.

A number of historic structures and sites are located within the LWRP area. Washington's Headquarters (Jonathan Hasbrouck House) on Liberty and Washington Streets, is a National Historic Landmark property and museum operated by the Palisades Interstate Park Commission. A large portion of the City and the waterfront area is contained within the East End National Register Historic District. As mentioned previously, this area has also been designated a City Historic District, and activities involving the alteration and demolition of properties within the district are regulated.

Other structures, sites and districts listed on the National Register of Historic Places, include the following:

- 1) David Crawford House - 189 Montgomery Street
- 2) Dutch Reformed Church - Grand and 3rd Streets, NE Corner
- 3) Newburgh (New York State) Armory - Broadway
- 4) United States Post Office - Newburgh

On July 16, 1973, an area in the vicinity of Montgomery/Grand/Liberty Streets was listed on the National Register of Historic Places. On September 12, 1985, the district was expanded and placed on the National Register - it is now identified as the East End Historic District. A number historic structures located outside of the historic district were demolished in the early 1970's as part of urban renewal efforts. The City adopted its local Historic Overlay District in 1977 to protect remaining historic structures. Map 4 illustrates the location of the district. Most recently, the Old Town Cemetery and Palatine Church site received State Register listing on May 3, 2000.

H. SCENIC RESOURCES AND IMPORTANT VISTAS

The Hudson River at Newburgh has historically been known for its setting of spectacular panoramic views and substantial vistas which include the river in the foreground and the hills, mountains and highlands which surround it forming the background. Vistas were

so spectacular and unique that the Hudson River School, a school for landscape painting, was formed in the 19th century. As the Hudson River School of Painting translated the splendor and power of the river's scenery onto huge canvases, so the architects placed their best works on large estates where they could enjoy the spectacular views and in turn improve their surroundings.”¹

Although no upland area in the City has been designated a Scenic Area of Statewide Significance (SASS), the Hudson Highlands SASS extends from the southern boundary of the City to a point opposite the northern end of Dennings Point. The SASS is located on the east side of the Hudson River, south of the City of Beacon, and includes the Hudson River from the mean high tide line on the western shore, thereby including river waters within the City of Newburgh. It is included within the HH-27 Dutchess Junction Subunit. The scenic quality of this subunit is summarized in Appendix B.

This subunit is comprised of the flat and gently sloping shorelands of the Hudson River which give way to the gently rolling hillside below the steep mountains of the Scofield and Breakneck Ridges in the Hudson Highlands State Park subunit. It includes a largely undisturbed bank of the Hudson River, separated from the upland by the railroad. Whether within or outside a designated SASS, all proposed actions subject to review under federal and State coastal acts or a Local Waterfront Revitalization Program must be assessed to determine whether the action would affect a scenic resource and whether the action would be likely to impair the scenic beauty of the scenic resource.

Many of the sites within the waterfront area have substantial vistas and/or panoramic views of the water and surrounding landscape. Because the topography in Newburgh steps up to form plateaus at varying elevations, structures as far west as Liberty Street have visual access to the river in some locations. Developments along the foot of Broadway and on the east side of Montgomery Street have virtually unobstructed views of the river and its surrounding environs. New developments within the waterfront area, proposed, under construction and recently completed, are taking full advantage of Newburgh's visual assets.

To protect, preserve and enhance these scenic public views, the City adopted a local law to establish a View Preservation District (see Appendix A). The following view planes within this district have been identified for protection:

- Grand and Washington Streets
- Washington's Headquarters
- Broadway and Colden Street
- Grand and Second Streets

¹ Barry Benepe and Arthur Channing Downs, Jr., *Newburgh Revealed* (Newburgh New York, 1983).

- Public Library
- First and Grand Streets
- Montgomery Street and Leroy Place
- Montgomery Street
- Leroy Place and Park Place

The location of the view planes are illustrated on Map 6.

I. TOPOGRAPHY

Topography in Newburgh's waterfront area is characterized by relatively flat areas between the Hudson River and the West Shore Railroad tracks and moderate to excessive slopes further inland. Map 7 illustrates the City's topographic pattern.

1. Southern/Quassaick Creek Area

In the Southern/Quassaick Creek area, steep slopes are prevalent between the railroad line and Bay View Terrace. The terrain rises from river level to an elevation of approximately 140 feet msl at the edge of a plateau where Bay View Terrace is situated. Bay View Terrace is located at the plateau's edge and there is no level terrain along the street's eastern or southern edge to situate structures. As a result, homes that front on the western and northern side of the road, and pedestrians walking along its sidewalks have excellent, uninterrupted views of Newburgh's shoreline, the Hudson River and surrounding highlands.

2. Waterfront Area

Topography in the waterfront area, between the river and the railroad lines/Water Street is flat with slight increases in topography occurring just north of Second Street. At First Street, the railroad tracks are elevated and at-grade crossing is not possible. Underpasses for vehicular and pedestrian access to the immediate shoreline occur at Carpenter Street, Second Street, Third Street and Fourth Street. The underpasses at First Street and Fifth Street are being reopened for pedestrian access only. The West Shore railroad line is elevated at the middle and northern end of the waterfront area. The stone abutment upon which the line travels creates an attractive retaining wall with cut stone facing Front Street and Water Street.

3. Inland Area

As mentioned previously, the inland portion of the LWRP area steps up from the river line to a broad plateau, the edge of which is readily identifiable at the eastern end of Broadway. Many properties and buildings with river views are

notably in better condition than properties without river views. This trend would indicate that river view properties are desirable locations in the City worth the investment which may be necessary to rehabilitate and reuse some of the older buildings in this area.

Much of the remaining undeveloped land in the waterfront area consists of urban renewal parcels constrained to some extent by steep topography. Although these topographical characteristics require special consideration during site preparation and development, these properties also provide opportunities to developers to take full advantage of the waterfront views.

J. SOIL AND BEDROCK FORMATIONS

According to the Development Consideration's Map provided by the Department of State for the Coastal Management Program², the majority of land within the LWRP area has a high water table and shallow soils with the exception of the following two areas: 1) the land area in the vicinity of the Newburgh Yacht Club and 2) the land area bounded by Water Street on the east, Nicholl Street on the north, Montgomery Street on the west, and South Street on the south. The latter area is partially vacant urban renewal land in the southwest corner; the site of high-rise public housing in the southeast corner; and urban renewal land along Water Street.

K. FLOOD HAZARD AREAS

The National Flood Insurance Program allows property owners to purchase subsidized, federally-backed flood insurance with communities that participate in the program. In return for this insurance protection, participating communities implement floodplain management procedures to reduce flood risks to new development. Through this mechanism, the Federal Emergency Management Agency (FEMA) and participating communities are able to reduce future flood losses.

A Flood Insurance Rate Map (FIRM) is prepared by FEMA for each municipality which illustrates the Special Flood Hazard Areas, i.e., areas subject to inundation by a flood having a one percent (1%) or greater probability of being equaled or exceeded during any given year. This flood is referred to as the 100-year flood or base flood, and the area of inundation as the 100-year floodplain. During any 30-year period, the change is approximately 26 percent that one or more floods will equal or exceed the 100-year flood level.

² All references to the New York State Coastal Management Program (NYSCMP) refer to the State of New York Coastal Management Program and Final Impact Statement prepared by the U.S. Department of Commerce, Office of Coastal Zone Management and New York Department of State, August 1982.

The Flood Hazard Boundary Map for the City of Newburgh, dated March 15, 1974 and revised June 5, 1985, designates those areas prone to flooding at the 100-year flood level. For the most part, the flood hazard area extends just a few hundred feet in from the mean high tide level. The 10-foot contour level is generally used to determine the 100-year flood boundary.

In the Southern/Quassaick Creek area, the zone borders Quassaick Creek remaining between the Erie Railroad line and the creek until the railroad crosses Walsh's Road. At Walsh's Road, the flood zone shifts toward the northwest bordering both sides of the creek and completely surrounds Muchattoes Lake.

The flood hazard area which extends along the Hudson River generally remains close to the water's edge. All of the docks of the Steel Style Shipyard are within the flood hazard area as well as most of the filled and bulkheaded areas along the shoreline.

L. FRESHWATER WETLANDS

The USF Fish and Wildlife Service (USFWS) prepares National Wetland Inventory (NWI) maps identifying potential locations for wetlands within a community (Appendix C). According to data contained on the NWI map for Newburgh, two small isolated wetlands are located on the Steel Style site and adjoining the West Shore rail right-of-way. These small wetland pockets have been formed in depressions or excavated areas where water seasonally floods or collects. Permanent riverine tidal wetlands are also be found at locations along Quassaick Creek (see Map 7).

M. WATER QUALITY

The water quality classifications for waters within the City of Newburgh are as follows:

<u>Location</u>	<u>Water Quality</u>
Quassaick Creek	C
Hudson River	A

Both water quality classifications found in Newburgh are fresh surface water classifications. Class "A" waters are suitable for drinking, culinary or food processing purposes, and primary contact recreation which includes, but is not limited to, such uses as swimming, diving, boating, waterskiing and fishing. The best uses of Class "C" waters are for fishing and fish propagation.

N. SIGNIFICANT FISH AND WILDLIFE AREAS

There are no state-designated Significant Coastal Fish and Wildlife Habitats in Newburgh. However, according to the New York State Department of Environmental Conservation's Hudson River Estuary Program, the Quassaick Creek corridor provides important habitat for fish and wildlife worthy of conservation. East of Marine Drive, the trees along the shoreline of the creek are heavily used by blackbirds and other wildlife and provide important shading for the fish habitats of the tidal creek. West of Marine Drive and extending as far as Mill Street, a forested glen occupies the Quassaick Creek corridor from the creek shoreline to the top of the bluff (Bay View Terrace) – this area is known to provide roosting habitat for bald eagle and also supports black-crowned night herons, wild turkey and cooper's hawk as well as numerous mammals, reptiles and amphibians. The creek itself is thought to have historically provided passage for migratory fish as far west as the falls that were dammed to form Muchattoes Lake. Today, the creek is an increasingly important spawning habitat for blueback herring and other species up to the extent of the tide. Thirty-five species have been documented in the creek. The following list includes fish that either reside in or migrate through the Hudson River at Newburgh.

"Anadromous fishes: (Species that migrate from ocean to estuary for spawning) alewife, american shad, american smelt, blueback herring, atlantic sturgeon, shortnose sturgeon, striped bass, tomcod.

Catadromous fishes: (species that migrate from freshwater to ocean to spawn) american eel.

Freshwater Resident fishes: White crappie, yellow perch, chain pickerel, largemouth bass, smallmouth bass, northern pike, white sucker, fallfish, walleye, pumpkinseed, bluegill, rock bass, red breast sunfish, black crappie.

Traditional Fishes: (This group includes anadromous fishes which may have resident subpopulations, and freshwater fishes which may be found in saline waters of the lower river as well as in freshwater). Atlantic sturgeon, shortnose sturgeon, striped bass, goldfish, carp, white sucker, brown bullhead, white catfish, white perch.

Commercially important species: Alewife, blueback herring, american shad, striped bass, atlantic sturgeon, tomcod, eel, carp, white catfish."³

³ *Final Environmental Impact Statement, Newburgh-Beacon Bridge Expansion Interstate Route 84, Department of Transportation, 8/1975.*

The Lower Hudson Basin Tributary Study prepared by The Heritage Task Force for the Hudson River Valley (December 1990) recommended a demonstration project be implemented for Quassaick Creek to restore habitat and develop public recreation.

Initial studies by the staff of the U.S. Fish and Wildlife Service and the Hudson River Foundation suggest that historic spawning range for river herring might be restored on Quassaick Creek through removal or breaching of one or more man-made barriers to fish passage which exist below Muchattoes Lake. A coalition of citizen organizations and the City of Newburgh are examining the possibility of creating an Estuary Preserve in the area west of Marine Drive from the creek to the top of the bluff on Bay View Terrace, going west as far as Mill Street. The preserve would serve to protect the habitats described above and provide a nature trail for compatible recreation.

O. WATER AND SEWER SERVICE

The entire waterfront area is serviced by public water and sewer lines. In some areas storm sewers and sanitary sewers are combined. Because of the size and age of many of the lines, existing pipes may need to be replaced to achieve a larger capacity and more efficient system as new development occurs. It is the City's policy that any newly installed systems must have separate storm and sanitary sewer lines.

The City of Newburgh Wastewater Treatment Plant is located at the foot of Renwick Street, between South Water Street and the Hudson River. The city's incinerator is located on this site as well, but at the present time it is inoperative.

In the early 1970's the City installed a sewage interceptor system which regulates the flow of storm water and sanitary waste from discharge points throughout the LWRP area. The system has eleven discharge flow regulators and two major interceptor lines, the South Interceptor, which was completed in 1970, and the North Interceptor which was completed in 1972. The benefit of this system is that excess stormwater runoff and sewage is regulated and treated in an effective and efficient manner.

P. TRANSPORTATION

The City of Newburgh is well situated and served by a regional transportation network. U.S. Interstate 84 is located just north of the City and may be accessed via interchanges with the town road extensions of Robinson Avenue and DuBois Avenue. The New York State Thruway is located west of the City and is accessed traveling west along Broadway which turns into Route 17K in the adjoining Town of Newburgh. NYS Route 9W is a major north-south arterial within the City, linking the City with the Towns of New Windsor and Cornwall to the south, and the Town of Newburgh to the north.

The New York State Department of Transportation completed three projects which impact Newburgh: 1) the Newburgh-Beacon Bridge Expansion; 2) the Route 9W/I-84 interchange improvements; and 3) the Water Street/Marine Drive Reconstruction. According to NYSDOT, the purpose of these projects was to provide relief for existing traffic congestion, increase road and highway capacity for future traffic growth, and reduce accident potential. The reconstruction of Water Street eliminated on-street parking. This should be re-studied in order to improve the availability of parking for new commercial and residential development.

Rail transportation in Newburgh is limited to freight service only on the West Shore line. At one time, passenger service was available, and trains stopped at the Newburgh Train Station located on the east side Water Street between 1st and Carpenter Streets. This architecturally attractive building is now vacant and in deteriorating condition. Passenger service is presently available via rail stations located in Beacon and at Salisbury Mills/Cornwall. Limited bus service is available in the city.

The West Shore Line is now being operated by CSX. CSX is actively promoting rail to truck container shipping.

Water transportation is limited to small water craft and an occasional barge. Small water craft can either be docked at the Newburgh Yacht Club or launched from the reconstructed boat launch at Washington Street. Transient boats may dock temporarily at Newburgh Landing or at the Yacht Club. In the summer, Newburgh Landing is used by tour operators providing boat cruises on the Hudson River.

Q. PLANNING ISSUES

The planning factors that influence activities within the LWRP area are summarized on Map 8. After a review of these factors, a number of issues pertaining to the LWRP area became evident. Planning issues within the LWRP area include the following items.

1. Southern/Quassaick Creek Area

- Limited public access is available along Quassaick Creek.
- Habitat restoration will be necessary to promote reuse of the creek
- Habitat conservation will be important in order to promote fishing, wildlife viewing and natural resource conservation along the corridor of the Quassaick Creek and adjoining forested steep slopes.

2. Inland Area

- There are a number of vacant, deteriorated and underutilized parcels scattered throughout the inland area.
- There are a number of structures in the vicinity of Washington's Headquarters that are vacant, underutilized and/or in deteriorating physical condition. Improvements in this area to enhance its historic qualities are important.
- Continued façade and streetscape improvements are needed along the Lower Broadway corridor.
- The Lower Broadway corridor needs to be connected with the waterfront area.
- Substandard housing should be rehabilitated within the LWRP area.
- Existing historic structures within the City's Historic district should be revitalized and reused.

3. Waterfront Area

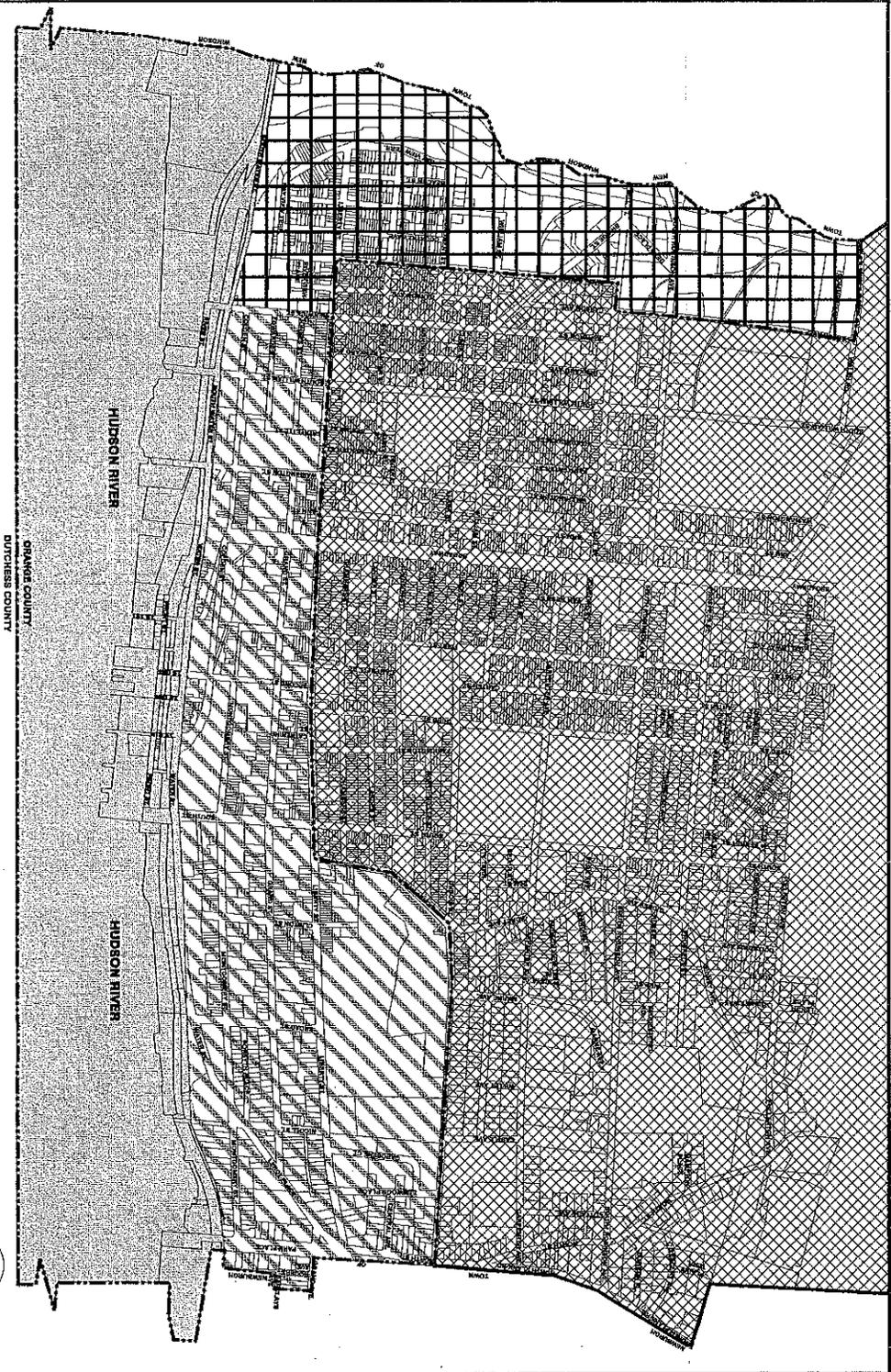
- There are a number of deteriorated and underutilized parcels along the Hudson River, especially the former scrap metal salvage yard, Regal Bag Building, the City Incinerator site and the underutilized Steel Style Shipyard which should be studied for reuse.
- A number of former industrial and utility sites, including the former scrap metal salvage yard and the City Incinerator site, may require environmental remediation prior to reuse for their intended land uses and public access.
- Existing public access to the shore needs to be improved. New public access should be integrated into redevelopment projects.
- River views need to be protected in accordance with local regulations.
- Existing public access at Newburgh Landing Park is in need of physical improvements and general maintenance.
- The Ward Brothers Memorial Rowing Park should be developed to improve public access.

- There are a limited number of boat pump out stations along the Hudson River. The feasibility of placing a facility at the Newburgh Wastewater Treatment Plant should be explored.
- A shortage of parking may be experienced as use of the waterfront increases. Parking demand should be monitored on a regular basis to ensure an adequate supply of parking facilities.

4. Entire Waterfront Revitalization Area

- Water-related and water-enhanced developments should be promoted that are consistent with uses permitted in the waterfront zoning districts.
- Natural features within the LWRP area are important and need to be protected.
- The City's existing views and vistas, which give Newburgh its unique visual character, should be protected and enhanced.
- The impacts associated with anticipated increases in boating activity should be assessed.
- Determine types of improvements that are needed along the waterfront. For example: structural repairs (ie: seawall, bulkheads), landscaping, parking improvements, park furniture.
- Review and approve architectural design district guidelines for the waterfront area to ensure attractive development and redevelopment of property and structures within the LWRP area.
- Water supply, sanitary and stormwater sewer facilities, telecommunication and other infrastructure improvements should be upgraded as redevelopment occurs within the waterfront.
- New waterfront development will require costly infrastructure improvements. The City should continue to actively pursue a variety of funding sources to encourage development and revitalization. Leverage funding through public and private partnerships.
- Signage is required to link inland portions of the LWRP area with the waterfront area.

LOCAL WATERFRONT REVITALIZATION PROGRAM
 CITY OF NEWBURGH, NEW YORK



-  WATERFRONT AREA
-  INLAND AREA
-  SOUTHERN/ QUASSAICK CREEK AREA
-  AREA OUTSIDE LWRP

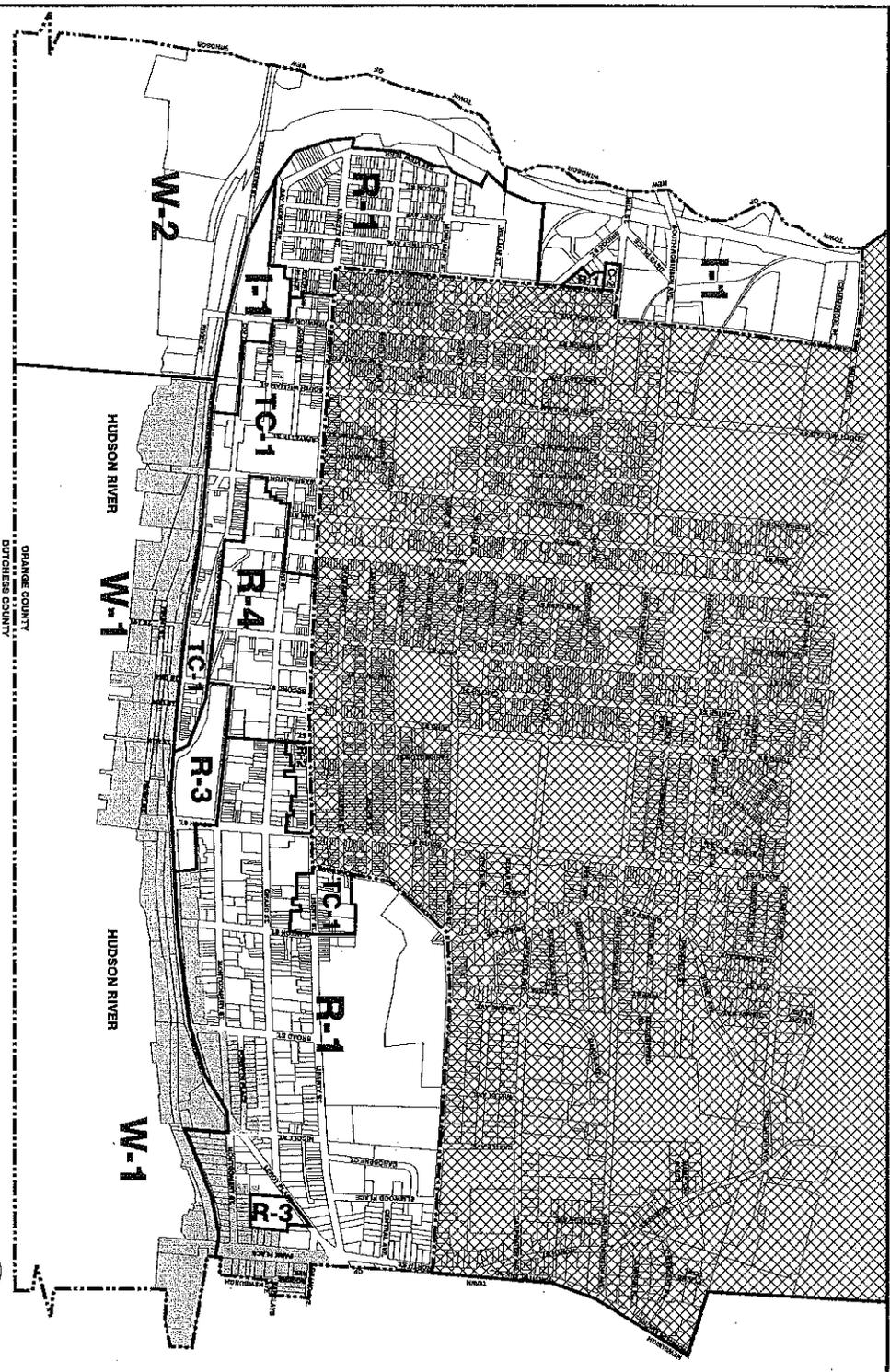
 LWRP Boundary

**Map 2:
 PLANNING AREAS**

Stuart Turner & Associates
 PLANNING & DEVELOPMENT CONSULTANTS
 Last Revised: 2003
 BASE MAP: ORANGE COUNTY WATER AUTHORITY

LOCAL WATERFRONT REVITALIZATION PROGRAM

CITY OF NEWBURGH, NEW YORK



 AREA OUTSIDE LWRP

DISTRICT DESIGNATIONS

- R-1 ONE FAMILY RESIDENTIAL
- R-2 TWO FAMILY RESIDENTIAL
- R-3 THREE AND FOUR FAMILY
- R-4 FAMILY RESIDENTIAL
- TC-1 PROFESSIONAL AND BUSINESS OFFICE
- C-2 TOURIST COMMERCIAL GENERAL BUSINESS
- I-1 LIGHT INDUSTRIAL
- W-1 WATERFRONT RESIDENTIAL/RECREATIONAL/COMMERCIAL
- W-2 WATERFRONT INDUSTRIAL

 HUDSON WATERFRONT ARCHITECTURAL DESIGN DISTRICT

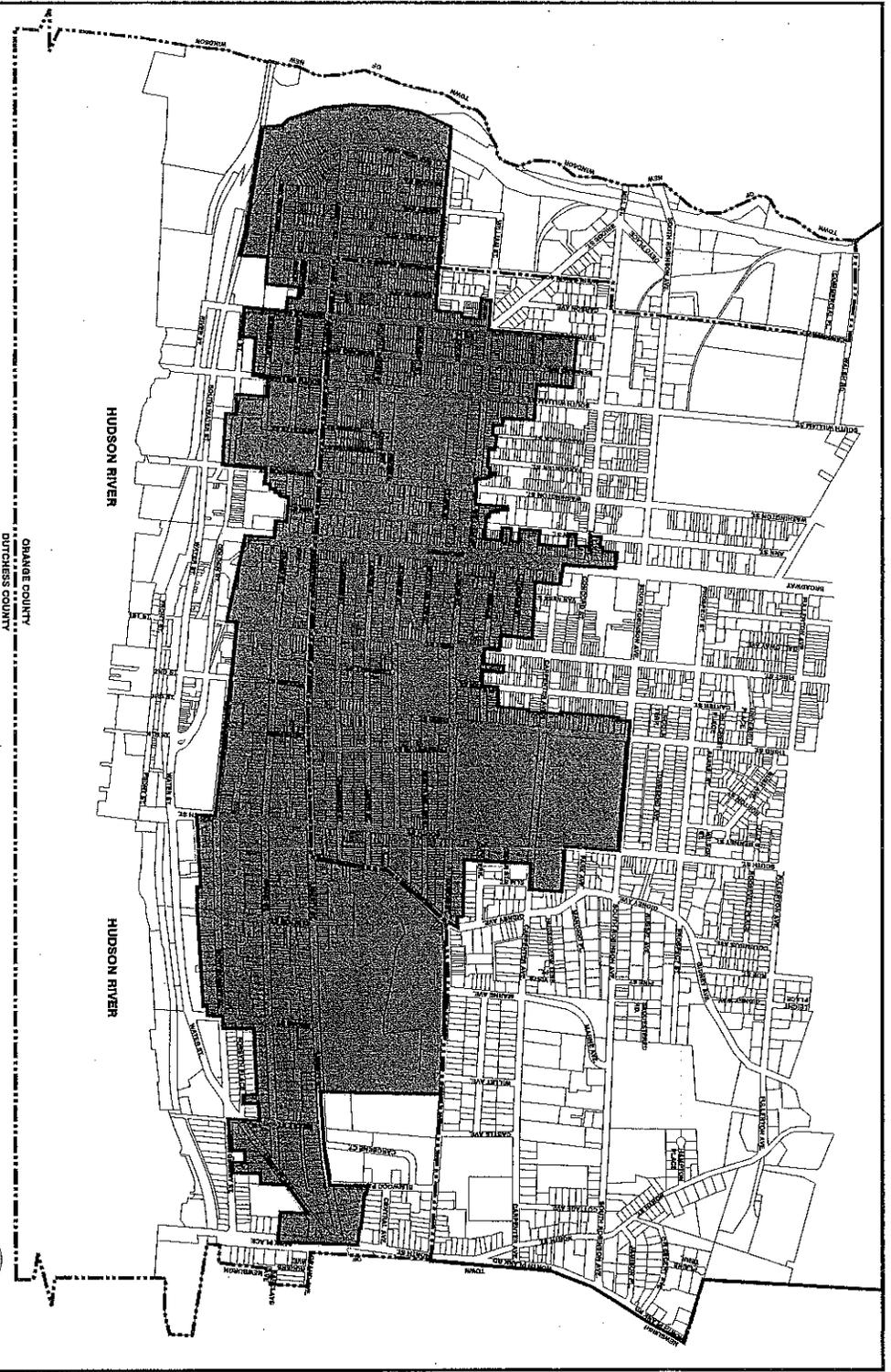
 VIEW PRESERVATION OVERLAY (VPO)
 (NOTE: The VPO District coincides with the LWRP Boundary - See Map 9)

 LWRP Boundary

Map 3: ZONING DISTRICTS

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 Last Revised: 2008
 BASE MAP: ORANGE COUNTY WATER AUTHORITY

LOCAL WATERFRONT REVITALIZATION PROGRAM
CITY OF NEWBURGH, NEW YORK



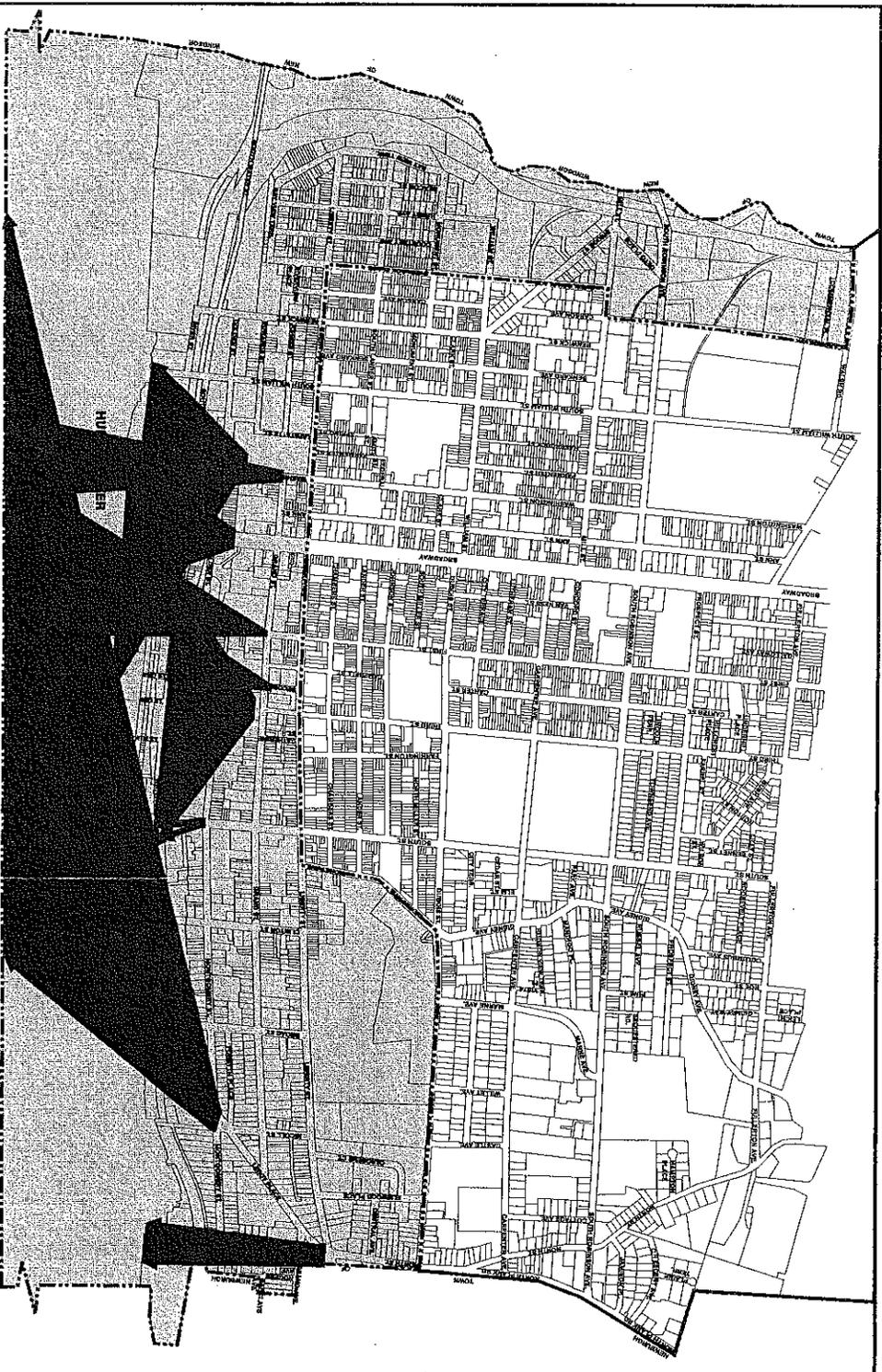
HISTORIC OVERLAY DISTRICT

Map 4:
HISTORIC OVERLAY DISTRICT

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 BASE MAP: ORANGE COUNTY WATER AUTHORITY

LOCAL WATERFRONT REVITALIZATION PROGRAM
CITY OF NEWBURGH, NEW YORK



VIEW PRESERVATION DISTRICT (OVERLAY)

PROTECTED VIEW PLANES

1. GRAND ST. AND WASHINGTON ST.
2. WASHINGTON'S HEADQUARTERS
3. BROADWAY AND GOLDEN ST.
4. GRAND ST. AND SECOND ST.
5. PUBLIC LIBRARY
6. FIRST ST. AND GRAND ST.
7. MONTGOMERY ST. AND LEROY PL.
8. MONTGOMERY ST.
9. LEROY PL. AND PARK PL.

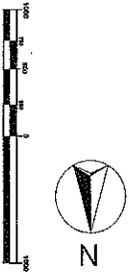
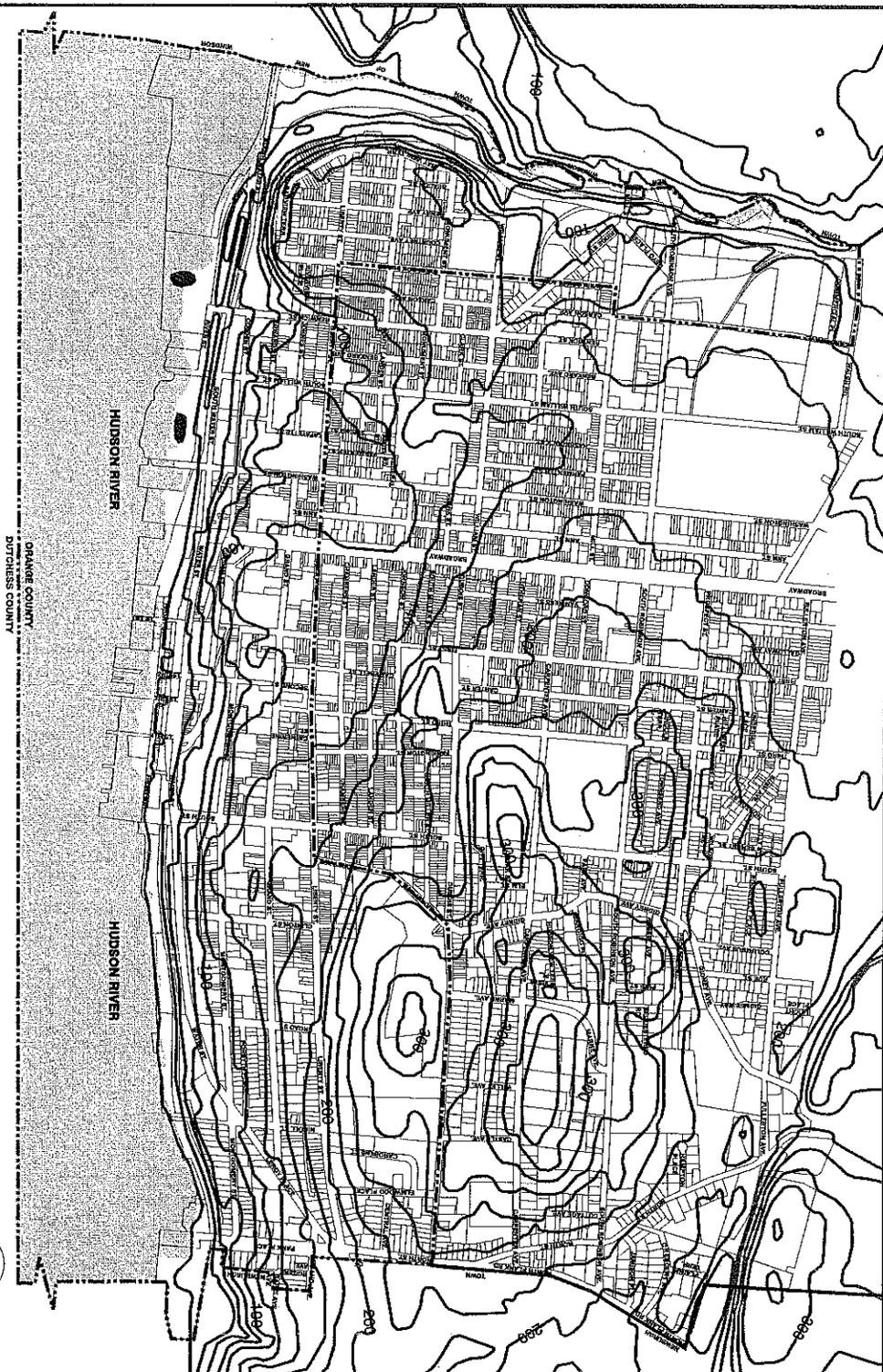
----- LWRP Boundary

**Map 6:
VIEW PRESERVATION DISTRICT**

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Last Revised: 2003
BASE MAP: ORANGE COUNTY WATER AUTHORITY

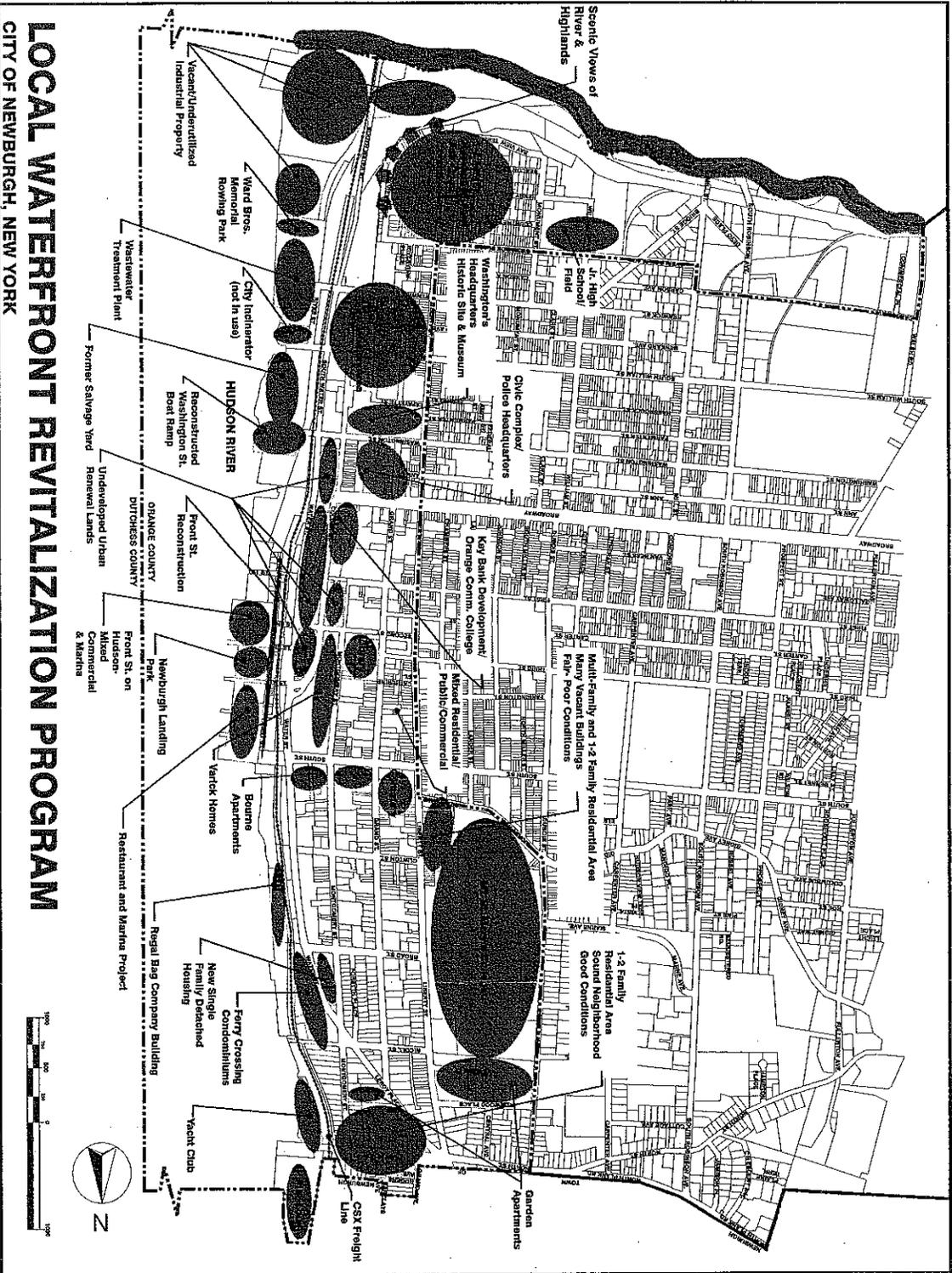
LOCAL WATERFRONT REVITALIZATION PROGRAM
CITY OF NEWBURGH, NEW YORK



- NWI Wetland
- FEMA 100-yr Flood Plain

Map 7:
LWRP Boundary
ENVIRONMENTAL
FEATURES

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 Last Revised - 2008
 BASE MAP: ORANGE COUNTY WATER AUTHORITY



LOCAL WATERFRONT REVITALIZATION PROGRAM
CITY OF NEWBURGH, NEW YORK

LWRP Boundary

Map 8:
PLANNING FACTORS

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Last Revised: 2003
 BASE MAP: ORANGE COUNTY WATER AUTHORITY

SECTION III
COASTAL POLICIES

Section III. LOCAL POLICIES AND APPLICABLE STATE POLICIES

DEVELOPMENT POLICIES

- POLICY 1** RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDERUTILIZED WATERFRONT AREAS FOR COMMERCIAL, INDUSTRIAL, CULTURAL, RECREATIONAL, AND OTHER COMPATIBLE USES.
- POLICY 1A** REDEVELOP AND REVITALIZE THE LAND AREAS ADJACENT TO THE HUDSON RIVER FOR WATER DEPENDENT AND WATER-ENHANCED COMMERCIAL, RECREATIONAL, AND OPEN SPACE USES.
- POLICY 1B** REDEVELOP AND REVITALIZE THE LAND AREA BETWEEN THE RAILROAD TRACKS AND THE HUDSON RIVER TO INCLUDE WATER DEPENDENT AND WATER ENHANCED COMMERCIAL, WATER DEPENDENT LIGHT INDUSTRIAL, RECREATIONAL, AND OPEN SPACE USES WHICH CAN INCORPORATE PUBLIC ACCESS TO THE WATER.
- POLICY 1C** REDEVELOP AND REVITALIZE THE LAND AREA WEST OF MARINE DRIVE FOR COMMERCIAL, CULTURAL, RECREATIONAL, AND RESIDENTIAL USES WITH EMPHASIS ON INTEGRATING USES WHICH ARE WATER ENHANCED SUCH AS PUBLIC POCKET PARKS WITH VIEWS TO THE RIVER.
- POLICY 1D** CREATE A PEDESTRIAN LINK OF THE USES ALONG THE WATERFRONT AND LINK THE WESTERN PORTION OF THE LWRP AREA WITH THE WATERFRONT, ESPECIALLY ALONG THE BROADWAY CORRIDOR AND FROM WASHINGTON'S HEADQUARTERS AND THE MONTGOMERY-GRAND-LIBERTY STREETS HISTORIC DISTRICT NEIGHBORHOODS.
- POLICY 1E** WATER-RELATED AND WATER-ENHANCED USES WILL BE GIVEN PRIORITY ON THE WATERFRONT PARCELS.
- POLICY 1F** PURSUE DEVELOPMENT OF THE HUDSON RIVER INTERPRETIVE CENTER ON LANDS WITHIN THE WATERFRONT AREA.

Explanation of Policy

Land usage within the waterfront area is characterized by large areas of residential usage, industrial usage and open space, interspersed with public and semi-public uses, and a limited amount of commercial and public recreational space. There is a substantial amount of vacant, underutilized, and deteriorating parcels throughout the area, a significant portion of which is suitable for revitalization and redevelopment.

Among the vacant and underutilized land within the LWRP area is the urban renewal land along Water Street owned by the Newburgh Community Development Agency and the waterfront parcels located between South William Street on the south and Washington Street on the north. The City has been actively pursuing a combination of residential, commercial, and public usage of the urban renewal land. On either side of Newburgh Landing are former urban renewal parcels which are currently under construction for commercial and restaurant uses. To the south of the Landing, two retail/office buildings totaling approximately 8,500 square feet are under construction, and a 141-slip marina is in the permitting and approval stage. To the north an 8,500 square foot restaurant is under construction. This plan includes a small number of boat slips primarily to be used by restaurant patrons. A public walkway built on a 20 foot right-of-way will wind along the river shoreline through both proposed projects as well as Newburgh Landing.

The vacant land along the Quassaick Creek offers opportunities for such water dependent uses as fishing and wildlife viewing and trails. The City has been actively working with the NYS Department of Environmental Conservation as well as a coalition of community groups to create a nature preserve and greenway trail along the creek from its confluence with the Hudson River up to Mill Street, and if possible, even farther west. Where possible, the nature preserve and trail would extend from the shore of the creek to the top of the bluff (Bay View Terrace) thus also protecting scenic vistas as well as wildlife and fish habitats.

Rehabilitation and revitalization of the vacant, abandoned, deteriorating, and underutilized structures within the inland area especially in the vicinity of Washington's Headquarters, Lower Broadway, and the Montgomery-Grand-Liberty Streets area shall be priority items. Incentives, if available (tax, loans, technical aid); public improvements to encourage infill development of residential, institutional, and commercial structures; rehabilitation of existing structures and facilities; and the expansion of public recreational land and open space in appropriate locations within the waterfront area shall be priority activities.

For purposes of a waterfront connection between the Central Business Districts (CBD) and the river, Broadway presents the best and most logical linkage. Uses and activities which encourage and enhance the use of the waterfront both visually and physically as

well as uses with a large patron appeal and pedestrian orientation are encouraged along lower Broadway as are physical improvements such as pedestrian walkways, public open space and landscaping, and structural improvements. Uses which enhance and promote the waterfront and are in the public interest will be given priority by the City during review.

All new development must be compatible with the waterfront. This would include compatible heights and building mass, complimentary facades, and appropriate landscaping. These compatibility objectives will help to unify the area.

Redevelopment and revitalization activities which maximize the use of the waterfront would greatly improve Newburgh's physical appearance and economic condition. Water-related and water-enhanced uses on waterfront parcels are encouraged and will be given priority where environmentally feasible, economically practical, and where consistent with city planning objectives.

When actions are proposed that will affect the revitalization, development, or redevelopment of parcels in the waterfront area, they will be evaluated in terms of compliance with the above policies. More specifically:

1. No actions that would cause deterioration of the waterfront area will be approved.
2. Uses that are water-dependent will be given priority over uses that are not water-dependent.
3. All actions shall enhance existing and anticipated uses.
4. Wherever possible uses along the river shall include waterfront public access and/or recreational uses.
5. All actions, especially public actions, shall serve as a catalyst to private investment in the area.
6. Priority shall be given in the allocation of public monies to aid development or redevelopment of parcels in the waterfront area to those projects which create employment opportunities and expand the tax base.
7. All actions shall improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration (i.e., a building could not be abandoned without protecting it against vandalism and/or structural decline).
8. All actions must lead to development which is compatible with the character of the area. Consideration shall be given to scale, architectural style, density, and

intensity of use. Adaptive reuse will be used, wherever possible, as a technique to preserve existing structures along the water.

9. All actions should have the potential to improve the existing economic base of the community.
10. All actions where feasible and appropriate should improve adjacent and upland views of the water, and, at a minimum, must not affect views in an insensitive manner.

(See Policies 2, 5, 11, 11A, 19, 21, 23, 25)

POLICY 2 FACILITATE THE SITING OF WATER DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.

Explanation of Policy

There is a finite amount of waterfront space suitable for development purposes. The traditional method of land allocation, i.e., the real estate market, with or without local land use controls, offers little assurance that uses which require a waterfront site will, in fact, have access to the State's coastal waters.

The following uses and facilities are considered as water-dependent:

1. Uses which depend on the utilization of resources found in coastal waters (for example: fishing, mining of sand and gravel, mariculture activities);
2. Recreational activities which depend on access to coastal waters (for example: fishing, boating, wildlife viewing);
3. Uses involved in the sea/land transfer of goods (for example: docks, loading areas, pipelines);
4. Structures needed for navigational purposes (for example: locks, dams, lighthouses);
5. Flood and erosion protection structures (for example: breakwaters, bulkheads);
6. Facilities needed to store and service boats and ships (for example: marinas, boat repair, boat construction yards);
7. Uses which operate under such severe time constraints that proximity to shipping facilities becomes critical (for example: firms processing perishable foods);

8. Scientific/educational activities which, by their nature, require access to coastal waters (for example: certain meteorological and oceanographic activities); and
9. Support facilities which are necessary for the successful functioning of permitted water dependent uses (for example: parking lots, snack bars, first aid stations, short-term storage facilities). Though these uses must be near the given water-dependent use, they should, as much as possible, be sited inland from the dependent use, rather than on the shore.

In addition to water dependent uses, uses which are enhanced by a waterfront location should be encouraged to locate along the shore, though not at the expense of water dependent uses. A water-enhanced use is defined as a use that has no critical dependence on obtaining a waterfront location, but the profitability of the use and/or the enjoyment level of the users would be increased significantly if the use were adjacent to, or had visual access to, the waterfront.

There are a limited number of water-dependent uses located within Newburgh's LWRP area. These include Gull Harbor Marina, Washington Street Boat Launch, Newburgh Landing Waterfront Park, and the Newburgh Yacht Club. In addition, boat slips are planned for the Joscoss development and a marina at the Front Street on Hudson development. These projects are currently in the permitting review process. Boat slips are available to residents as an accessory use to the Pier Loun residential development.

It will be the City's priority where practical to expand existing and attract additional water dependent uses and activities on all waterfront parcels. The following actions will be taken to promote and facilitate water-dependent uses:

1. Water-dependent uses will be favored when considering new developments.
2. City owned property within the LWRP area when available for re-use will be considered for water-dependent uses first. Water enhanced uses will be given second priority.
3. Development incentives for water-dependent uses will be offered when necessary and/or required to encourage development. Consideration will be given to providing water dependent uses with property tax abatements, loan guarantees, or loans at below market rates.
4. Uses which are water enhanced will be encouraged within the LWRP area, but not at the expense of a water dependent use.

5. If there are no immediate demands for water dependent/water enhanced uses within the LWRP area but future demands are foreseeable, non-water dependent uses will be considered.

In the actual choice of sites where water dependent uses will be encouraged and facilitated, the following guidelines will be considered.

1. Competition for space - competition for space or the potential for it, should be indicated before any given site is promoted for water-dependent uses. The intent is to match water-dependent uses with suitable locations and thereby reduce any conflicts between competing uses that might arise. Not just any site suitable for development should be chosen as a water-dependent use area. The choice of a site should be made with some meaningful impact on the real estate market anticipated. For instance an industrial water-dependent use would be more appropriate in the southern portion of the area near the Sewage Treatment Plant than in the northern portion near the Yacht Club. Anticipated impacts could either be the increased protection of existing water-dependent activities or else the encouragement of water-dependent development.
2. In-place Facilities and Services - most water dependent uses, if they are to function effectively, will require basic public facilities and services. In selecting appropriate areas for water dependent uses, consideration shall be given to assure adequate public sewers, public waterlines, power supply, access, and other such services which exist or can be provided before sites are appropriated for water-dependent usage.
3. Compatibility with Adjacent Uses and the Protection of Other Coastal Resources -water dependent uses shall be located so that they enhance, or at least do not detract from, the surrounding environment. Consideration should be given to such factors as the protection of nearby residential and/or recreational areas from odors, noise, and traffic. Affirmative approaches should also be employed so that water dependent uses and adjacent uses can serve to complement one another. For example, a recreation-oriented water dependent use area could be sited in an area already oriented towards tourism. Clearly, a marina, boat launching area, or fishing pier would enhance, and in turn be enhanced by, nearby restaurants, motels, and other non-water oriented tourist activities. Water dependent uses must also be sited so as to avoid adverse impacts on significant coastal resources.
4. Preference to Underutilized Sites - the promotion of water dependent uses should serve to foster development as a result of the capital programming, permit expediting, and other State and local actions that will be used to promote a site. Such a stimulus is needed in those portions of the waterfront area which are currently underutilized.

In promoting water dependent uses the following kinds of actions will be considered:

1. Favored treatment will be given to water dependent use areas with respect to capital programming.
2. When areas suitable for water dependent uses are publicly owned, favored leasing arrangements will be given to water dependent uses.
3. Where possible, consideration will be given to providing water dependent uses with property tax abatements, loan guarantees, or loans at below market rates.
4. The local Industrial Development Agency will work with the State to actively promote water dependent uses. A list of sites available for non-water dependent uses will be maintained in order to assist developers seeking alternative sites for their proposed projects.
5. Local agencies will work together with State and Federal agencies to streamline permitting procedures that may be burdensome to water dependent uses.⁶ Priority to waterfront uses and the assurance of adequate space for the development of such water dependent uses shall be incorporated where consistent with LWRP planning objectives.

(See Policies 1, 1A, 4, 19, 21, 22)

POLICY 3 THE STATE COASTAL POLICY REGARDING DEVELOPMENT OF MAJOR PORTS IS NOT APPLICABLE TO THE CITY OF NEWBURGH

POLICY 4 STRENGTHEN THE ECONOMIC BASE OF SMALLER HARBOR AREAS BY ENCOURAGING THE DEVELOPMENT AND ENHANCEMENT OF THOSE TRADITIONAL USES AND ACTIVITIES WHICH HAVE PROVIDED SUCH AREAS WITH THEIR UNIQUE MARITIME IDENTITY.

POLICY 4A REDEVELOP THE HARBOR FOR PROMOTION OF WATER-DEPENDENT AND WATER ENHANCED USES.

Explanation of Policy

The City of Newburgh does not have a harbor with a unique maritime identity or strong economic function. Even though there is not a significant harbor area in Newburgh, efforts toward promoting recreational fishing, cultural activities, marinas, water related

recreational facilities, historic preservation, natural resource preservation, the preservation of vistas and views, and other activities which will make the waterfront area appealing as a tourist location and for residential, commercial, and recreational usage will be pursued. Special consideration will be given to visual appeal and social benefits.

The following guidelines will be used by the City to determine consistency:

1. Priority will be given to those traditional and/or desired uses which are dependent on or enhanced by a location adjacent to the water.
2. Uses will be promoted that will enhance or not detract from or adversely affect existing traditional and/or desired anticipated uses.
3. Uses will be promoted that will not be out of character with, nor lead to development which would be out of character with, existing development in terms of the area's scale, intensity of use, and architectural style.
4. Uses will not be allowed that cause a site to deteriorate, e.g., a structure shall not be abandoned without protecting it against vandalism and/or structural decline.
5. Uses that will adversely affect the existing economic base of the community will not be promoted. Uses which continue to promote economic revitalization within the area shall be given priority, especially developments or uses which increase the number of visitors, patrons, employees, or residents in the area. Such uses will increase economic activity, improve the tax base, and support the area's revival.
6. Uses will not be promoted that will detract from views of the water particularly where the visual quality of the area is an important component of its appeal and identity.

(See Policies 1, 2, 9, 19, 19A, 21, 22, 23, 25)

POLICY 5

ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE, EXCEPT WHEN SUCH DEVELOPMENT HAS SPECIAL FUNCTIONAL REQUIREMENTS OR OTHER CHARACTERISTICS WHICH NECESSITATES ITS LOCATION IN OTHER COASTAL AREAS.

DEPARTMENT OF TRANSPORTATION

Coast Guard

- 1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.

- 2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).

Federal Aviation Administration

- 3.00 Permits and licenses for construction, operation or alteration of airports.

FEDERAL ASSISTANCE*

DEPARTMENT OF AGRICULTURE

- 10.068 Rural Clean Water Program
- 10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans
- 10.410 Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.413 Recreation Facility Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Renting Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.422 Business and Industrial Loans
- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

DEPARTMENT OF COMMERCE

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support

- 11.427 Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Intermodal Transportation
- 11.509 Development and Promotion of Domestic Waterborne Transport Systems

COMMUNITY SERVICES ADMINISTRATION

- 49.002 Community Action
- 49.011 Community Economic Development
- 49.013 State Economic Opportunity Offices
- 49.017 Rural Development Loan Fund
- 49.018 Housing and Community Development (Rural Housing)

ENVIRONMENTAL PROTECTION AGENCY

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control - State and Areawide Water Quality Management Planning Agency
- 66.451 Solid and Hazardous Waste Management Program Support Grants
- 66.452 Solid Waste Management Demonstration Grants
- 66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

GENERAL SERVICES ADMINISTRATION

- 39.002 Disposal of Federal Surplus Real Property

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- 14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
- 14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects
- 14.117 Mortgage Insurance - Homes
- 14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing
- 14.125 Mortgage Insurance - Land Development and New Communities
- 14.126 Mortgage Insurance - Management Type Cooperative Projects
- 14.127 Mortgage Insurance - Mobile Home Parks
- 14.218 Community Development Block Grants/Entitlement Grants
- 14.219 Community Development Block Grants/Small Cities Program
- 14.221 Urban Development Action Grants
- 14.223 Indian Community Development Block Grant Program

DEPARTMENT OF INTERIOR

- 15.400 Outdoor Recreation - Acquisition, Development and Planning
- 15.402 Outdoor Recreation - Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
- 15.411 Historic Preservation Grants-in-Aid

- 15.417 Urban Park and Recreation Recovery Program
 - 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.952 Water Research and Technology - Matching Funds to State Institutes

SMALL BUSINESS ADMINISTRATION

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 59.031 Small Business Pollution Control Financing Guarantee

DEPARTMENT OF TRANSPORTATION

- 20.102 Airport Development Aid Program
 - 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction
- 20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

GENERAL SERVICES ADMINISTRATION

- 39.002 Disposal of Federal Surplus Real Property

* Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

FEDERAL AND STATE ACTIONS NECESSARY TO FURTHER THE LWRP

1. State Actions and Programs

OFFICE OF GENERAL SERVICES

- Prior to any development occurring in the water or on the immediate waterfront, OGS should be consulted for a determination of the State's interest in underwater or formerly underwater lands and for authorization to use and occupy these lands.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- Planning, development, construction, or expansion of recreational facilities/projects located in waterfront.
- Provision of funding for capital projects under the Clean Water/Clean Air Bond Act.
- Review of actions within National Register Districts pursuant to SEQR.

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

- Planning, development, construction, major renovation or expansion of recreational facilities or the provision of funding for such facilities.
- Provision of funding for State and local activities from the Land and Water Conservation Fund.
- Planning, development, implementation or the provision of funding for recreation services programs.
- Funding or partial funding of eligible activities through the Environmental Protection Fund (EPF) administered by the OPRHP — including the acquisition, development and improvement of parks and historic properties.
- Provision of funding for State and local historic preservation activities.
- Review of Type I actions within the National Historic Districts.
- Certification of properties within the National Register Districts.
- Nomination to State and Federal Register of Historic Places of structures and districts making them eligible for funding and tax incentives.

DEPARTMENT OF STATE

- Provision of funding for the implementation of an approved LWRP.
- Funding or partial funding of eligible activities through the Environmental Protection Fund (EPF) administered by the DOS.

HUDSON RIVER VALLEY GREENWAY

- Technical and financial assistance to enhance local land use planning and support Greenway Criteria.

GREENWAY CONSERVANCY FOR THE HUDSON RIVER VALLEY

- Assistance in the acquisition, disposition, lease or grant of easement related to lands which the Conservancy has an interest.
- Assistance in trail development, Hudson River public access projects, and natural and cultural resources.

2. Federal Actions and Programs

DEPARTMENT OF DEFENSE

Corps of Engineers

A U.S. Army Corps of Engineers permit would be required for the following activities:

- dredging and shoreline stabilization
- repair or installation of boat ramps
- restoration of Quassaick Creek
- installation of piers and marina-related facilities

ENVIRONMENTAL PROTECTION AGENCY

Review of any proposed action within a National Register District pursuant to NEPA.

DEPARTMENT OF THE INTERIOR

National Park Service

Provision of funding under the Land and Water Conservation Fund Program.

Review of federal actions within the National Register Districts pursuant to NEPA.

Appendix A
Viewshed Protection Overlay District Regulations

LOCAL LAW NO. 3-98

OF Aug. 10, 1998

A LOCAL LAW TO AMEND THE ZONING ORDINANCE
OF THE CITY OF NEWBURGH
TO ESTABLISH A VIEW PRESERVATION DISTRICT

WHEREAS, the Council of The City of Newburgh finds that many scenic public views of the Hudson River, Hudson Highlands and east bank of the Hudson River have been lost, altered or changed without adequate consideration of the irreplaceable loss to the people of the City as to the scenic, aesthetic, cultural, and historic values represented by such scenic vistas; and

WHEREAS, this Council desires to protect, preserve and enhance these scenic public views and to this end, hereby enacts this Scenic Resource Protection Law,

NOW, THEREFORE, BE IT ENACTED, by The Council of The City of Newburgh, New York, that Chapter 300 of the Code of Ordinances of The City of Newburgh, be and hereby is amended as follows:

Section 1. That there be and hereby is enacted, a new Article to be numbered "Article XXV" and to read as follows:

"ARTICLE XXV - View Preservation District - VPD"

Section 300-210 - Purpose and Intent

- (A) It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of scenic public views is a public necessity and is required in the interest of the general health, safety and welfare of the people. The purpose of this Law is to effect and accomplish the protection, enhancement and perpetuation of the City's scenic resources, aesthetic and cultural heritage as embodied in the landscape and geologic features of the City.
- (B) It is declared to be the intent of The City of Newburgh to protect and preserve the scenic resources of the City to ensure that the benefits provided by the Hudson River views will not be lost for present and future generations and to protect the broader public interest.
- (C) These regulations are enacted with the intent of providing an equitable balance between the rights of the individual property owner to the free use of property and the rights of present and future generations. Therefore, this Law recognizes the

rights of the owners of property within View Preservation Districts to use their property for allowed uses consistent with these and other regulations and controls, provided such use does not result in a significant loss or impairment to the scenic resources of the City.

Section 300-211 - Definitions

- (A) "Significant Loss" means the irreversible modification of geologic forms; the destruction or removal of vegetation; the modification, destruction or removal of structures, whenever the geologic forms, vegetation or structures are important to the scenic resources of the City.
- (B) "Impairment" means the addition of structures, which because of siting or scale, will reduce identified views or which because of scale form or materials will diminish the scenic resources of the City.

Section 300-212 - Identification and Designation

- (A) **View Preservation District**
 - 1. The Zoning Law of The City of Newburgh and the Zoning Map of The City of Newburgh are hereby amended to create, identify and designate a View Preservation District to preserve and protect views, hereinafter more specifically described, of the Hudson River Hudson Highlands and East Bank of the Hudson River from certain existing streets, parks and legally accessible public property.
 - 2. The boundaries of the View Preservation District are described as follows:
Beginning at the point in the center of the Hudson River, being the east line of Orange County at the point of intersection of the municipal boundary between the Town of Newburgh and the City of Newburgh; then westerly along that boundary to the point where North Plank Road intersects with Powell Avenue; then southerly along Powell Avenue to Gidney Avenue; then southeasterly along Gidney Avenue to Liberty Street; then southerly along Liberty Street to Overlook Place; then westerly along Overlook Place to Mill Street; then northerly along Mill Street to Dickson Street; then westerly along Dickson Street to Walsh's Road; then southerly along Walsh's Road to the municipal boundary between the Town of New Windsor and the City of Newburgh; then easterly along that boundary to the center line of the Hudson River, being the east line of Orange County.
 - 3. The following view planes within the View Preservation District shall be protected and all construction or development within the defined view planes shall be subject to the review and approval of the Architectural Review Commission in those areas within the City's Historic District or to the review and approval of the Planning Board in those areas not within the City's Historic District.

A. Grand and Washington Streets.

1. View reference line.

The view reference line for V-A is a line at an elevation of one hundred (100) feet, located along a line extending from the eastern boundary of the Grand Street right-of-way from the northern boundary of the Washington Street right-of-way to the southern boundary of said right-of-way.

2. View framing line.

The view framing line for V-A is a line along the corporate boundary of the City centered on the Hudson River from the point of intersection with a line extending from the view reference line eight degrees north of the northern right-of-way of Washington Street to the point of intersection with a line extending from the view reference line six degrees south of the southern right-of-way of Washington Street.

3. View plane.

The view plane for V-A is an imaginary plane formed by joining the elevation of the view reference line with the elevation of the view framing line.

4. Description of scenic view.

A wall of trees is on the left. Another wall consisting of trees, the Washington's Headquarters fence and monument is on the right. Washington Street, its sidewalk and the grass strip separating them, form three parallel lines that sweep down to the river, a glimpse of which is seen in the background, along the mountain on the eastern bank. Thus, the natural properties of the enclosure provide a welcome visual contrast to the built environment of the central business district.

B. Washington's Headquarters.

1. View reference line.

The view reference line for V-B is a line at an elevation of one hundred (100) feet located along the eastern edge of the monument of Washington's Headquarters.

2. View framing line.

The view framing line for V-B is a line along the near shore of the Hudson River from the point of intersection of a line extending from the view reference line on hundred sixty-one degrees northeast of the edge of the monument to the point of intersection of a line extending from the view reference line on hundred thirty-eight degrees southeast of the edge of the monument.

3. View plane.

The view plane for V-B is an imaginary plane formed by joining the elevation of the view reference line with the elevation of the view framing line.

4. Description of scenic view.

The view to the southeast focuses on the river and background mountains. The view to the west is similar in most respects to the view to the southeast. It is partially enclosed and focuses on the water. It is predominantly horizontal. The river, the lawn and the roof line of the building in the center of the picture are all horizontal in character. The view to the northeast is a clear view of the river, the background mountain and the Newburgh-Beacon Bridge. Although the monument to the left of the picture partially obstructs the view, it enhances it by helping to preserve the sense of peace and quite reflected in the foreground lawn as well as in the river.

C. Broadway and Colden.

1. View reference line.

The view reference line for V-C is a line at an elevation of one hundred (100) feet located along a line one hundred (100) feet west of Colden Street from the southerly boundary of the Broadway right-of-way to the northern boundary of said right-of-way.

2. View framing line.

The view framing line for V-C is a line along the near shore of the Hudson River from the point of intersection of a line extending from the view reference line twenty five degrees of the Broadway right-of-way to the point of intersection of a line extending from the view reference line thirty degrees southeast of the Broadway right-of-way.

3. View plane.

The view plane for the V-C is an imaginary plane formed by joining the elevation of the view reference line with the elevation of the view framing line.

4. Description of scenic view.

Looking northeast, the foreground is occupied by open space that has been identified for pedestrian walkways to the waterfront. Marine Drive runs parallel to the river in the middle ground. On the river's edge, in the background, are low buildings that do not obstruct the view. The Newburgh-Beacon Bridge fades into the horizon.

The view looking southeast, features the sloping parkland in the foreground. The middle ground is occupied by low industrial buildings and a marina bay. In general, however, the picture is dominated by the river and the highlands between which the Hudson River winds.

The view looking due east is similar in character to that looking southeast. The background is dominant because of the emphasis the mountain and river give each other. The middle-ground is occupied by industrial use. The foreground is sloping parkland and a proposed site of intensive recreational use.

D. Grand and Second Streets.

1. View reference line.

The view reference line for V-D is a line at an elevation of one hundred (100) feet, located along a line extending from the intersection of the southern boundary of the Second Street right-of-way with the western boundary of the Grand Street right-of-way.

2. View framing line.

The view framing line for V-D is a line at an elevation corresponding to the elevated rails east of Water Street, along said rails from a point corresponding with the southern boundary of the First Street right-of-way to a point corresponding with the northern boundary of the Second Street right-of-way.

3. View plane.

The view plane for V-D is an imaginary plane formed by joining the elevation of the view reference line with the elevation of the view framing line.

4. Description of scenic view.

The parking lot which occupies the foreground is greatly enhanced by the river and mountain background.

E. Public Library.

1. View reference line.

The view reference line for V-E is a line at an elevation of one hundred (100) feet located along the inside of the western wall of the Public Library from the southernmost frame of its plate glass window to the northernmost frame of its plate glass window.

2. View framing line.

The view framing line for V-E is a line at an elevation corresponding to the elevated rails east of Water Street along said rails from a point three hundred (300) feet south of First-Street to a point one hundred fifty (150) feet north of South Street.

3. View plane.

The view plane for V-E is an imaginary plane formed by joining the elevation of the view reference line with the elevation of the framing line.

4. Description of scenic view.

The river and mountains can be seen from every direction.

F. First and Grand Streets.

1. View reference line.

The view reference line for V-F is a line at an elevation of one hundred (100) feet located along a line extending from the intersection of the southern boundary of the First Street right-of-way with the eastern boundary of the Grand Street right-of-way to the intersection of the northern boundary of the First Street right-of-way with the eastern

boundary of the Grand Street right-of-way.

2. View framing line.

The view framing line for V-F is a line along the corporate boundary of the City centered on the Hudson River from the point of intersection of a line extending from the view reference line five degrees north east of the First Street right-of-way to the point of intersection of a line extending from the view reference line twenty seven degrees southeast of the First Street right-of-way.

3. View plane.

The view plane for V-F is an imaginary plane formed by joining the elevation of the view reference line with the elevation of the view framing line.

4. Description of scenic view.

The northern view is predominantly horizontal in orientation. This is reflected in the level street and sidewalk, the river, the Newburgh-Beacon Bridge and the roofline of the residential buildings in the background.

The southern view is enclosed by the Key Bank building on the right and the mountains on the left. The river in the middle ground thus becomes an area on which the eye focuses readily.

G. Montgomery Street and Leroy Place.

1. View reference line.

The view reference for V-G is a line at an elevation of one hundred ten (110) feet located along a line extending from the intersection of the western boundary of the Montgomery Street right-of-way with the western boundary of the Leroy Place right-of-way to the intersection of the eastern boundary of the Montgomery Street right-of-way with the northern boundary of the Nicoll Street right-of-way.

2. View framing line.

The view framing line for V-G is a line along the corporate boundary of the City centered on the Hudson River from the point of intersection of a line extending from the view reference line forty seven degrees east of the

eastern boundary of the Montgomery Street right-of-way to the point of intersection of a line extending from the view reference line ten degrees east of the western boundary of the Montgomery Street right-of-way.

3. View plane.

The view plane for V-G is an imaginary plane formed by joining the elevation of the view reference line with the elevation of the view framing line.

4. Description of scenic view.

This view shows the river and the highlands.

H. Montgomery Street.

1. View reference line.

The view reference line for V-H is a line at an elevation of one hundred (100) feet located along a line extending from the intersection of the southern boundary of the South Street right-of-way with the eastern boundary of the Montgomery Street right-of-way to the intersection of the northern boundary of the South Street right-of-way with the eastern boundary of the Montgomery Street right-of-way.

2. View framing line.

The view framing line for V-H is a line at an elevation five (5) feet above the sidewalk along the eastern side of Water Street along said sidewalk from the point of intersection with the northern boundary of the street right-of-way to a point thirty (30) feet north of the northern boundary of the South Street right-of-way.

3. View plane.

The view plane for V-H is an imaginary plane formed by joining the elevation of the view reference line with the elevation of the view framing line.

4. Description of scenic view.

This view shows Bannerman's Island; the river and mountains in the background. It is prominent not only because it is picturesque, but also because it is seen from a position in the Historic District where the historic

preservation movement in Newburgh began.

I. Leroy Place and Park Place.

1. View reference line.

The view reference line for V-I is a point at an elevation of one hundred fifty (150) feet located at the intersection of the eastern boundary of the Liberty Street right-of-way with the northern boundary of the Park Place right-of-way.

2. View framing line.

The view framing line for V-I is a line along the near shore of the Hudson River from a point sixty (60) feet south of the southern boundary of the Park Place right-of-way to a point sixty (60) feet north of the northern boundary of the Park Place right-of-way.

3. View plane.

The view plane for V-I is an imaginary plane formed by joining the elevation of the view reference line with the elevation of the view framing line.

4. Description of scenic view.

This view is highly enclosed by the trees on either side of the corridor and by the mountain in the background. The sudden glimpse of the river thus produced, adds variety to the landscape along Leroy Place and Water Street, the main north-south transportation route on the waterfront.

5. The View Preservation District shall be an overlay zoning district superimposed on the zoning districts as shown on the amended zoning map.

Section 300-213 - Use and Development within View Preservation Districts

(A) Use Restrictions

1. No building, structure or permanent improvement shall be erected, have its exterior reconstructed, restored, structurally altered, or placed within a defined view plane within the View Preservation District in a manner which may impair or cause significant loss of an existing scenic public view unless visual site plan approval by the Architectural Review

Commission within the Historic District or the Planning Board if outside the Historic District in accordance with the provisions of this Law has been obtained.

2. The provisions of this Law shall not apply to ordinary care and maintenance of structures and property nor to the reconstruction of a structure pre-existing the adoption of this ordinance, provided that an application for a building permit to make such reconstruction is filed with the Building Inspector within one year after the destruction or damage to said structure and further, that the reconstruction work in accordance with said permit is diligently prosecuted.

(B) Architectural Review Commission and Planning Board Visual Site Plan Standards and Procedures

1. a. When the Building Inspector receives an application to permit the erection of a building or structure, exterior reconstruction, restoration, alteration, demolition or permanent improvement in the View Preservation District which will impact a defined view plane, the Building Inspector shall require the applicant to submit a Visual Environmental Assessment Form (VEAF) and plan elevation in accordance with the requirements of this local law. The application, together with the VEAF and plan elevation, shall be referred to the Architectural Review Commission in regard to properties within the City of Newburgh Historic District or to the Planning Board in regard to properties located outside the Historic District. The Architectural Review Commission or Planning Board shall evaluate the proposed activity so as to avoid impairment or significant loss of scenic public views of the Hudson River, Hudson Highlands and East Bank of the Hudson River. To assist in the evaluation, the Waterfront Advisory Committee shall provide the Architectural Review Commission or the Planning Board with a written advisory opinion and recommendation concerning the impact of the proposed activity upon such views. If the Waterfront Advisory Committee fails to submit an advisory opinion within thirty (30) days after the submission of the VEAF and elevation plan to them, the Architectural Review Commission or Planning Board may act without such opinion from the Waterfront Advisory Committee.
- b. Visual plan review in accordance with the provisions of this Law shall be in accordance with the provisions for approval contained herein. The Architectural Review Commission or the Planning Board may require the submission of additional information as they may deem necessary to evaluate the effect of the application on scenic public views including the submission of a photo simulation. A public hearing shall be held in all instances, noticed in the same manner as provided in the Zoning Ordinance

for public hearing before the Zoning Board of Appeals. A decision shall be rendered no later than Thirty days after the public hearing is closed and all information requested has been submitted.

- c. Coordination with other reviews. To the maximum extent possible, the review, hearings and decision required under this article shall be coincident with other procedures and applications that may be before the Planning Board and Zoning Board of Appeals related to the same proposed activity.

2. Visual analysis procedures and standards.

The Architectural Review Commission, Planning Board and the Waterfront Advisory Committee shall be governed by the following standards and procedures in rendering a visual site plan approval or an opinion and recommendation, respectively.

a. Visibility analysis procedures:

- (1) The Architectural Review Commission or Planning Board shall:

- (a) identify the site and perform a site inspection and examination for any public Hudson River view.
- (b) Determine the visibility of the project within the protected view planes and the extent to which a scenic view or views could be impacted.

- (c) Determine the project's visual impact based on:

- i. Distance - the proximity of the project site to a viewpoint.
- ii. Aspect - the direction of a project relative to the observer. The more directly a project faces the observer, the greater its impact.
- iii. Relationship - Location of the project within the view shed protection district.
- iv. Other Impacts - Other impacts such as color, size shape and type of use.

b. The Architectural Review Commission or Planning Board and the

Waterfront Advisory Committee shall, where appropriate, utilize the following siting considerations:

- (1) Structures should be oriented so that the longest dimensions are not in full sight of the public view.
- (2) Structures should be angled rather than positioned flush with the street line to avoid a wall effect.
- (3) Structures should be situated in areas of shallow slope.
- (4) Structures should be situated mid-slope or at the base of slopes rather than at the top of slopes.
- (5) Where multiple structures are to be located on a site, buildings should be grouped in non-view areas or scattered throughout the site or around an open space green area to avoid a wall effect.
 - (a) Setbacks should be varied
 - (b) Large rectangular configurations should be avoided

c. The Architectural Review Commission or Planning Board and the Waterfront Advisory Committee shall, where appropriate, utilize the following scale considerations:

- (1) Low rise structures are not as visually dominant as multi-story structures and are to be encouraged.
- (2) Development is to be integrated with existing vegetation.
- (3) Construction should be compatible in scale with neighboring properties.

d. The Architectural Review Commission or Planning Board and the Waterfront Advisory Committee shall, where appropriate, utilize the following landscaping considerations:

- (1) Keeping existing trees and other shrubbery on site is highly desirable. To retain the natural characteristics of a property, care during site preparation and construction is essential, unnecessary tree removal is to be avoided and landform alterations should be minimized wherever possible.

- (2) The use of deciduous vegetation, which permits seasonal Hudson River views, is encouraged.
- (3) Trees, shrubs and hedges shall be planted and maintained so as to avoid obstruction of protected views of the Hudson River. Existing vegetation shall be maintained so as to avoid obstruction of a protected view.
- (4) Where vegetation is too thick, views of the river can be opened up through selective cutting rather than wholesale removal of existing vegetation.

Section 2. The Zoning Ordinance of the City of Newburgh is hereby amended by amending Section 300-5 entitled "Districts Designated", so as to add to of zoning districts within the City the following: the list

<u>Symbol</u>	<u>Name</u>
VPD**	View Preservation District

****Note:** The View Preservation District is an overlay district superimposed on identified areas of the other Zoning Districts. This overlay district is established to provide for the preservation and protection of scenic Hudson River views. The development and use of properties within the VPD shall comply with all provisions of this zoning law.

Section 3 - Severability

If any clause, sentence paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered or as determined by such judgment.

Section 4 - Effective Date

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

C:277400.11

I, Nancy A. D'Addio, City Clerk of the City of Newburgh, hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held 8/10/98 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 11th day of Aug 1998

Nancy A. D'Addio
City Clerk

Appendix B
Hudson Highlands Scenic Area of Statewide Significance

HUDSON HIGHLANDS SCENIC AREA OF STATEWIDE SIGNIFICANCE

HH-27 Dutchess Junction Subunit

I. Location

The Dutchess Junction subunit is located on the east side of the Hudson River, south of the City of Beacon. The eastern boundary of the subunit follows NY Route 9D north from benchmark 14 to its intersection with Grandview Avenue, for the most part a common boundary with the HH-26 Hudson Highlands State Park subunit. The northern boundary of the subunit runs from the northern shorelands of Denning Point to the Conrail tracks and along the Conrail tracks adjacent to the Fishkill Creek, following the coastal area boundary as amended by the City of Beacon, to the intersection of the tracks with Wolcott Avenue. The boundary then follows Wolcott Avenue to its intersection with Simmons Lane, which it follows to the property line of Lot #6054-13-036494 and onto the Craig House property. The boundary then follows an imaginary line through the Craig House property at a distance of 400 feet from the Fishkill Creek to South Avenue and along South Avenue to Grandview Avenue. The subunit includes the Hudson River, sharing a common boundary with the HH-28 Pollepel Island subunit adjacent to the eastern shorelands and extends across to high water mark on the western shorelands of the Hudson River. The subunit is approximately 3.5 miles long and between 0.25 and 1 mile wide. It is located in the City of Beacon and the Town of Fishkill, Dutchess County and in the City of Newburgh, the Towns of New Windsor and Cornwall and the Village of Cornwall-on-the-Hudson, Orange County. Consult the Hudson Highlands SASS map sheets, numbers 1 and 2 for subunit boundaries.

II. Scenic Components

A. Physical Character

This subunit is comprised of the flat and gently sloping shorelands of the Hudson River which give way to the gently rolling hillside below the steep mountains of the Scofield and Breakneck Ridges in the Hudson Highlands State Park subunit. The vegetation is a mix of wetlands, woodlands, meadows and orchards. The shoreline curves gently with a moderate variety of shoreline indentation and elevation. There is one large cove created by Denning Point, a low, wooded, sand peninsula. The Fishkill Creek, which features a short section of rapids, meets the Hudson River at the cove, creating a rich estuary of marsh, tidal flats, and shallows. Wade Brook and Gordon Brook cross the subunit.

B. Cultural Character

The subunit includes a largely undisturbed bank of the Hudson River, separated from the upland by the railroad. NY Route 9D, the Bear Mountain-Beacon Highway, runs along the eastern boundary of the subunit. The subunit features several parcels of the Hudson Highlands State Park, a scattering of residential development, a trailer park and one small hamlet center, Dutchess Junction. Located around the hamlet during the mid to late 19th century were a number of active brickworks. Denning Point was the site of successful brickyards, and a

derelict industrial building is a reminder of the point's industrial past. The former Hammond Brickyard lies between the railroad and the river, to the south of Denning Point.

The hamlet was once the junction of the Hudson River Railroad with the Dutchess and Columbia Railroad. The hamlet's historic settlement pattern can be seen in the farmland/woodland relationship, although the recent sprawling pattern of residential construction has modified this and detracts from the overall scenic quality of the area.

Dutchess Manor, a residence and carriage house built in 1889 and converted to a restaurant and residence, is listed on the State and National Registers of Historic Places. The two story Second Empire style brick house was part of the estate of Francis Timoney who owned the complex of brickworks in the area. Dutchess Manor is significant for its picturesque details and is one of the most architecturally distinguished residences of its type and period in the Hudson Highlands. Its association with one of the areas most prominent brick manufacturers, a significant local industry, adds further importance to Dutchess Manor.

Another significant building within the subunit is Tioronda, an impressive Gothic Revival villa. Originally built in 1859 as a residence, the building is now a sanitorium. Tioronda is eligible for listing on the State and National and State Registers of Historic Places. The building is significant for its mid-19th century estate architecture and as an example of the work of Frederick Clarke Withers.

The presence of wildlife provides ephemeral characteristics. Contrasts of an ephemeral nature are to be found in the subunit. The dramatic effects of varying weather conditions enhance the aesthetic character of the landscape composition as storms, cloud formations, snow, mists, fog and the varying level and direction of sunlight all provide contrasts in line, shape, texture and color, enhancing the contrasts to be found in the area.

The subunit is generally well maintained. Recent urban development and the railroad tracks are minor discordant features, although they are mostly screened within the landscape and do not detract from the scenic quality of the subunit.

C. Views

The subunit offers unobstructed views of the Hudson River and Fishkill Creek. Interior views are limited by vegetation and topography. Views from the Hudson River are of the low, wooded coastal shorelands; the gently rising uplands; Denning Point and the mouth of the Fishkill Creek. These features are set against the dramatic backdrop of the Hudson Highlands, notably the North and South Beacon Mountains, Sugarloaf Mountain and Breakneck Ridge in the adjacent HH-26 Hudson Highlands State Park subunit. Positive focal points include Denning Point, Bannerman's Castle on Pollepel Island, and distant views of the Newburgh-Beacon Bridge and Sugarloaf and Storm King Mountains. Views of the large, sprawling communities of Newburgh, New Windsor and Cornwall detract from the visual quality of views across the Hudson River.

III. Uniqueness

The subunit is not unique.

IV. Public Accessibility

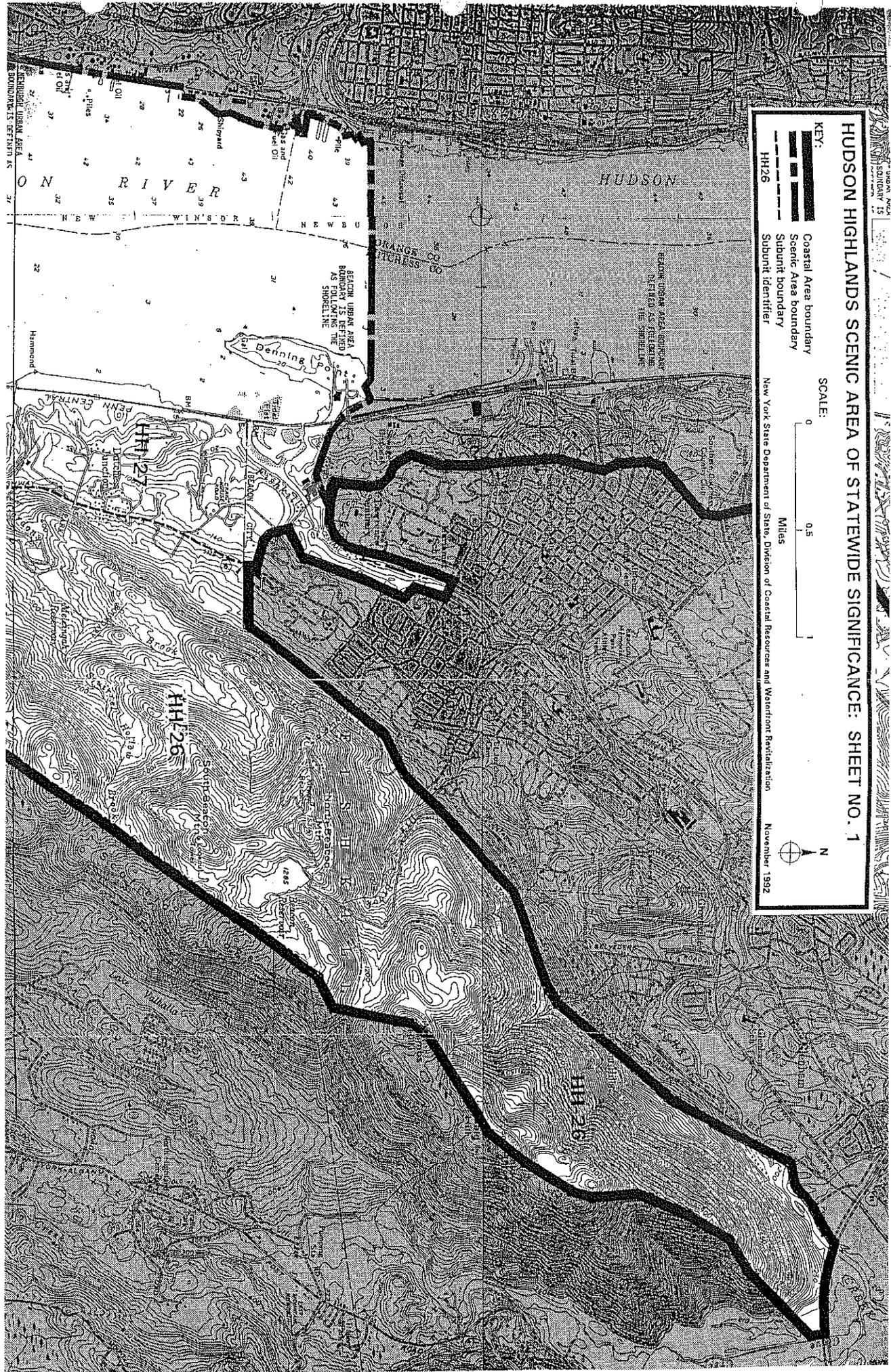
The land ownership pattern of large land holdings and low density development scattered throughout the subunit restricts public accessibility to the Dutchess Junction subunit. The subunit is accessible from NY Route 9D, local roads, and the Hudson River and is visible from the passenger trains that run along the shoreline. The subunit is also visible from the uplands of the adjacent HH-26 Hudson Highlands State Park subunit; the Newburgh-Beacon Bridge to the north; from Newburgh, New Windsor and Cornwall; and from subunits on the western shorelands of the Hudson Highlands SASS, notably from the scenic overlook on NY Route 218, the Old Storm King Highway. Denning Point and the Hammond Brickyard site are part of the Hudson Highlands State Park and offer potential for informal access to the Hudson River.

V. Public Recognition

The Dutchess Junction subunit is recognized by the public as part of the northern gateway to the Hudson Highlands. The historical and architectural value of Dutchess Manor has been recognized through its listing on the State and National Registers of Historic Places. Denning Point has recently been acquired by New York State for its scenic and habitat values.

VI. Reason for Inclusion

The Dutchess Junction subunit has high scenic quality. It features a variety in and contrast between many positive landscape components including rolling wooded upland, a low wooded point, the Fishkill Creek and its confluence with the Hudson River and a mix of vegetative cover. The subunit is unified by topography and woodland coverage. The subunit is accessible from local roads, and the Hudson River and is visible from surrounding subunits on both shores of the Hudson River. The subunit is recognized as part of the northern gateway to the Hudson Highlands SASS. The historical and architectural value of Dutchess Manor has been recognized through listing on the State and National Registers of Historic Places. Denning Point has recently been acquired by New York State in recognition of its access, scenic and habitat values. There are some minor discordant features in the subunit, but these are screened from view and do not impair the scenic quality of the subunit.



HUDSON HIGHLANDS SCENIC AREA OF STATEWIDE SIGNIFICANCE: SHEET NO. 1

KEY:

-  Coastal Area boundary
-  Scenic Area boundary
-  Subunit boundary
-  Subunit identifier

SCALE:

0 0.5 1

Miles

New York State Department of State, Division of Coastal Resources and Waterfront Revitalization November 1992



HH-206

State of New York

SCENIC URBAN AREA BOUNDARY IS DEFINED AS FOLLOWING THE SHOULDERLINE

SCENIC URBAN AREA BOUNDARY IS DEFINED AS FOLLOWING THE SHOULDERLINE

ORANGE CO EXPRESS CO

HUDSON RIVER

HUDSON

BEAR RIVER

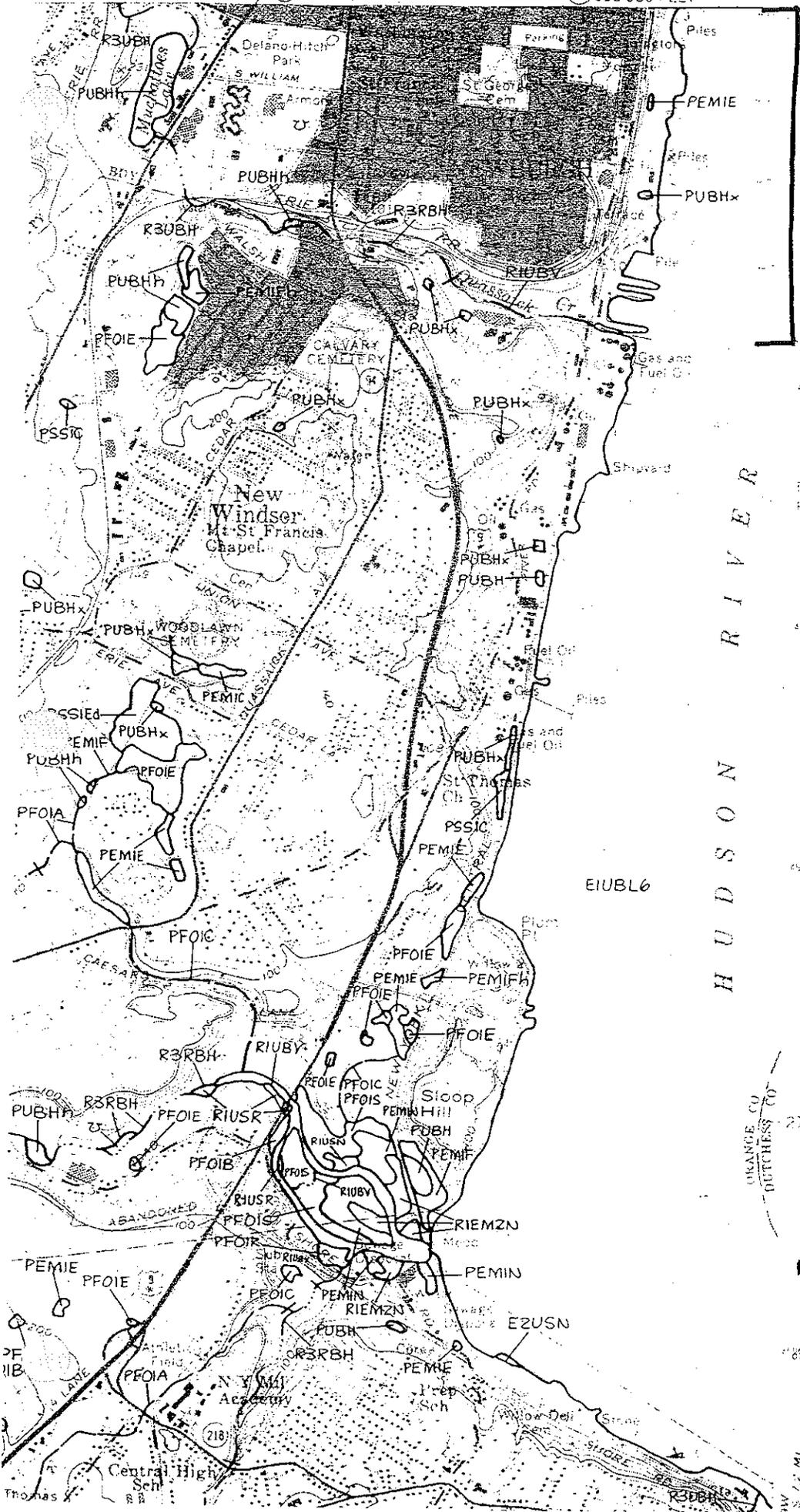
Hammond

FENN CENTRAL

State of New York

APPENDIX C
National Wetland Inventory Quadrangle

3-502 D-1
PLATTEKILL 9.5 MI. KINGSTON 32 MI. FERRY 0.2 MI. 74°00'
CRONOMER VALLEY 4.7 MI. HIGHLAND 17 MI. 17K 590 000 FEET 41°30'



CITY OF NEWBURGH

H U D S O N R I V E R

CORNWALL, N.Y.
NW1 QUADRANGLE

FROM:
U.S. Dept. of the
Interior
Fish & Wildlife Service
1990

APPENDIX D
Historic Preservation Regulations

§ 300-36. Building height limit.

The building height limit shall be two and one-half (2½) stories but not exceeding thirty-five (35) feet.

§ 300-37. Lot area.

Each two-family dwelling shall be located on a lot not less than seven thousand five hundred (7,500) square feet in area.

§ 300-38. Yards.

Each lot shall have front, side and rear yards with depths and widths of not less than the following:

- A. Front yard depth: twenty-five (25) feet.
- B. Each side yard width: five (5) feet.
- C. Rear yard depth: twenty (20) feet.
- D. Front yard width: fifty (50) feet.

§ 300-39. Parking requirements.

The parking requirement shall be one (1) off-street parking space for each dwelling unit. See Article XXI for further details.

ARTICLE VI
Historic and Architectural Design Districts
[Added 3-28-77]

§ 300-40. Purpose and intent.

The purpose of this Article is to provide for the promotion of the educational, cultural, economic and general welfare of the people of Newburgh through the protection, enhancement, perpetuation and preservation of various specific areas of the City of Newburgh, to be known as "Historic Districts" or "Architectural Design Districts." The Newburgh City Council declares that it is in the public interest to ensure that the distinctive and/or historic character of these Historic

and Architectural Design Districts shall not be injuriously affected, that the value to the community of those buildings, structures and areas having architectural and historic worth shall not be impaired and that said Historic and Architectural Design Districts be maintained and preserved to promote an awareness of the historical importance of Newburgh and the Mid-Hudson Valley and to contribute to the education and pleasure of the citizens of the City of Newburgh and others. The provisions of this Article shall apply in addition to those containing the district regulations described in this chapter.

§ 300-41. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

ARCHITECTURAL DESIGN DISTRICT — The area of the City of Newburgh specifically delineated on the Zoning Map in the Building Inspector's office of the City of Newburgh, New York, and which contains a substantial number of buildings of either unusual, unique, outstanding or otherwise noteworthy architectural design.

COMMISSION — The Architectural Review Commission of the City of Newburgh, New York.

↘ **DISTRICT** — Historic and/or Architectural Design District of the City of Newburgh, New York.

EXTERIOR FEATURE or **EXTERIOR ARCHITECTURAL FEATURE** — The design and general arrangement of the exterior of a structure open to view from a public way, public property or any part of any public building, including kind, color and texture of building materials, number, proportion, type and spacing of windows, doors, walls, roofs, murals, projections and signs. "Exterior feature" shall also include all earthworks, sidewalks, driveways, fences, trees, landscaping and other features visible from a public way, public property or any part of any public building.

HISTORIC DISTRICT — The area of the City of Newburgh, New York, specifically delineated on the Zoning Map in the

Building Inspector's office of the City of Newburgh, New York, which contains the larger portion of the historic buildings of the City of Newburgh.

§ 300-42. Review Commission.

A. Creation; membership. [Amended 11-13-1990 by Ord. No. 29-90]

- (1) A Review Commission is hereby created, to consist of nine (9) members appointed by the City Manager, which shall include:
 - (a) The Chairman or any other member of the Planning Board.
 - (b) The Chairman or any other member of the Zoning Board of Appeals.
 - (c) The City Historian.
 - (d) One (1) registered architect.
 - (e) Five (5) other members, one (1) of which shall reside in affected area.
- (2) Members will be appointed for three-year staggered terms. The Chairman of the Review Commission will be elected by a vote of the members of said Commission. The term of office of the Chairman will be one (1) year.

B. Terms of office. The registered architect and the five (5) members at large shall initially be appointed for staggered one-, two- and three-year terms. Thereafter all such appointments shall be for terms of three (3) years.

C. Chairman. The Chairman of the Review Commission shall be selected by its members at their first meeting in each calendar year.

D. Vacancies. Vacancies occurring other than by expiration of term shall be filled for the remainder of the unexpired term in the same manner as the original appointments.

E. Meetings. Regular meetings shall be held on the second Tuesday of each month. Special meetings may be held at the option of the Chairman, with a minimum of five (5) days' notice to all other members.

§ 300-43. Powers and duties of Review Commission.

- A. The Review Commission shall exercise aesthetic judgment so as to maintain the architectural character of each Historic and Architectural Design District to prevent construction, reconstruction, alteration or demolition which would be out of harmony with the style, materials, colors, line and detail of buildings in the district constructed prior to 1900 or listed on or eligible for listing on the National Register of Historic Places or the State Register of Historic Places or listed on the local landmark register and thus to prevent degeneration of property, safeguard public health, prevent fires, promote safety and preserve the beauty and character of the district. [Amended 4-27-1992 by Ord. No. 6-92]
- B. The Review Commission shall act as an advisory board to review any application for variances and/or special permits in the district not previously presented to it for approval and shall present its recommendations to both the Zoning Board of Appeals and the Planning Board of the City of Newburgh.
- C. In addition to the aforementioned powers, the Review Commission shall have the power to:
- (1) Retain or employ professional consultants, secretaries, clerks or other such personnel as may be necessary to assist the Review Commission in carrying out its duties within the allocated budget approved by the City Council.
 - (2) Conduct surveys of buildings for the purpose of determining those of historic and/or architectural significance and pertinent facts about them and establish and maintain a local landmark register. [Amended 4-27-1992 by Ord. No. 6-92]

- (3) Formulate recommendations concerning the preparation of maps, brochures and historical markers for selected historic and/or architectural sites and buildings.
- (4) Cooperate with and advise the governing body, the Planning Board and other municipal agencies in matters involving historic and/or architectural sites and buildings.
- (5) Advise owners of historic buildings on problems of preservation and restoration.

§ 300-44. Standards.

- A. Features regulated. This Article shall apply to all buildings, structures, outbuildings, walls, fences, steps, topographical features, earthworks, paving, sidewalks and signs within the Historic and Architectural Design Districts. No changes in any exterior architectural feature, including but not limited to construction, reconstruction, alteration, restoration, removal, demolition or painting, shall be made in such districts except as hereinafter provided.
- B. Materials. All improvements must present a finished appearance similar to that given by building materials commonly employed in the 19th century or common to the style and period of the affected historic structure. These materials are generally of three (3) types: wood, stone or brick. No larger areas of polished metal, glass or aluminum siding will be allowed. [Amended 4-27-1992 by Ord. No. 6-92]
- C. Site design. In determining building setback for new construction, the Commission may require new buildings to be set behind existing building lines to give emphasis to existing structures of historic or aesthetic merit or to allow for suitable landscaping. However, no setback may be required which is greater than that required in the district.
- D. Landscaping and paving. Landscaping is deemed an important element of site development and may be required by the Commission as an integral part thereof.

- (1) Evergreen materials may be required for screening functions.
 - (2) Bluestone or slate laid in concrete are the only materials allowed for sidewalks. Curbs may only be constructed of slate or granite in an adequate foundation.
 - (3) Maintenance of plant material shall be the responsibility of the owner, including the responsibility to keep growth trimmed and trained to meet Commission's requirement.
- E. Parking. Parking areas shall be partially screened from public view with appropriate walls, fences or landscaping. The area allotted for the planting around parking lots shall be at least five percent (5%) of the amount allotted to the parking surface.

§ 300-45. Procedure.

- A. Certificate of approval. Notwithstanding any inconsistent ordinance, local law, code, rule or regulation concerning the issuance of building permits, no change in any exterior architectural feature in the district will be commenced without either a certificate of approval from the Review Commission or a letter of approval from the New York State Office of Parks, Recreation and Historic Preservation in cases where that office has jurisdiction, nor shall any building permits for such a change in features be issued without either a certificate of approval or a letter of approval having first been issued by either of the above mentioned agencies. The certificate or letter of approval required by this section shall be in addition to and not in lieu of any building permit that may be required by an ordinance, local law, code, rule or regulation of the City of Newburgh. [Amended 10-9-1990 by Ord. No. 28-90]
- B. Application for certificate. Application for a certification of approval shall be made in writing, in duplicate, upon forms prescribed by the Review Commission, to the Review Commission, and shall contain the following:

- (1) The name, address and telephone number of the applicant.
 - (2) The location of the building, structure or land and the exterior architectural features which are proposed to be changed.
 - (3) A detailed statement of the proposed change, demonstrating compliance with all applicable criteria.
 - (4) The elevations of the proposed change, if required.
 - (5) Perspective drawings, if required.
 - (6) Samples of proposed colors or materials to be used in the change.
 - (7) Where proposed change includes signs or lettering, a scale drawing showing types of lettering, all dimensions and colors, a description of materials to be used and method of illumination, if any, and a plan showing location on the building or property.
- C. Issuance of certificate. Within a reasonable time after an application is filed, but in all events within twenty (20) days (Saturdays, Sundays and legal holidays excluded) after such

(Cont'd on page 30047)

filing, or within such further time as the applicant in writing may allow, the Review Commission shall determine whether the proposed construction, reconstruction or alteration to the exterior architectural feature involved will be appropriate to the preservation of the district for the purposes of this Article and whether, notwithstanding that it may be inappropriate, owing to conditions especially affecting the structure involved but not affecting the district generally, failure to issue a certificate of appropriateness will involve a substantial and unreasonable hardship to the applicant and such a certificate may be issued without substantial detriment to the public welfare and without substantial deviation from the intent purpose of this Article. In passing upon appropriateness, the Review Commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design, arrangement, texture, material, color and any other exterior architectural feature involved and the relationship thereof to the other exterior architectural features to the other structures and areas in the district.¹⁶

ARTICLE VII

G-1 Districts — Garden-Type Apartment Districts

§ 300-46. Applicability.

The following regulations shall apply in all G-1 Districts.

§ 300-47. Permitted principal uses.

Permitted principal uses shall be as follows:

A. One-family dwellings.

B. Garden apartments.

¹⁶ Editor's Note: Former Sec. 24.57.1F(4), which immediately followed this section and dealt with penalties for offenses, was deleted at time of adoption of Code: see Ch. 1, General Provisions, Art. I.

APPENDIX E
Local Consistency Law

Local Law Filing

W. J. Kasper
NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

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

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

~~County~~
City of NEWBURGH
~~Town~~
~~Village~~

DEPARTMENT OF STATE
CLERK

OCT 20 1997

RECEIVED

Local Law No. 2 of the year 19 92

A local law establishing The City of Newburgh Waterfront Consistency
(Insert Title)
Review Law.

Be it enacted by the CITY COUNCIL of the
(Name of Legislative Body)

~~County~~
City of NEWBURGH as follows:
~~Town~~
~~Village~~

that the Code of Ordinances of the City of Newburgh is hereby amended by the addition of a new chapter, to be numbered Chapter 296, and shall be entitled, CITY OF NEWBURGH WATERFRONT CONSISTENCY REVIEW LAW, and to read as follows:

(text follows on pages 2 through 8)

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

GENERAL PROVISIONS

Section 296-1 Title
This local law will be known as Chapter 296 of the Code of Ordinances and shall be entitled The City of Newburgh Waterfront Consistency Review Law.

Section 296-2 Authority and Purpose:

A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization and Coastal Resources Act of the State of New York (Article 42 of the Executive Law).

B. The purpose of this local law is to provide a framework for agencies of the City of Newburgh to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for action: direct agency actions located in the coastal area; and to assure that such actions and direct actions are consistent with the said policies and purposes.

C. It is the intention of the City of Newburgh that the preservation, enhancement, and utilization of the natural and manmade resources of the unique coastal area of the City take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing: loss of living esturine resources and wildlife; diminution of open space areas or public accesses to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

D. The substantive provisions of this local law shall only apply while there is in existence a City Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

Section 296-3 Definitions:

"Actions" mean either Type I or unlisted actions as defined in SEQRA regulations (6 N.Y.C.R.R. 617.2) which are undertaken by an agency and which include:

- (1) 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:
 - (a) are directly undertaken by an agency; or
 - (b) involve funding by an agency; or
 - (c) require one or more new or modified approvals from an agency or agencies;
- (2) agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;
- (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
- (4) any combinations of the above.

"Agency" means any board, agency, department, office, other body, or any officer of the City of Newburgh.

"Coastal Assessment Form (CAF)" means the form contained in Appendix A, used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.

"Consistent" means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.

"Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.

"Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the City of Newburgh, 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 City of Newburgh.

"Waterfront Advisory Committee" or "Committee" means the Waterfront Advisory Committee of the City of Newburgh, as created pursuant to this Chapter.

"Waterfront Area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within boundaries of the City of Newburgh, as shown on the Coastal Area map on file in the Office of the Secretary of State and as delineated in the City of Newburgh Local Waterfront Revitalization Program.

Section 296-4 Waterfront Advisory Committee

A. A Committee is created and shall be hereafter known as the "Waterfront Advisory Committee of the City of Newburgh." The Committee is authorized to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the LWRP policy standards and conditions.

B. The City Council of the City of Newburgh is hereby authorized to appoint five (5) persons to said Committee, all of whom shall be residents of the City of Newburgh. Of the members of the Committee first appointed, one (1) shall hold office for a term of one (1) year, two (2) for a term of two (2) years, two (2) for a term of three (3) years from and after his/her appointment. Their successors shall be appointed for the term of three (3) years from and after the expiration of the terms of their predecessors in office. Vacancies shall be filled by the City Council by appointment for the unexpired term. Members may be removed by the City Council for cause and after public hearing.

C. The Committee shall annually appoint one (1) committee member to serve as chairperson of the Committee.

D. The Committee may employ such persons as may be needed as authorized by the City Council. This Committee shall have the power to adopt rules of procedure for the conduct of all business within its jurisdiction.

E. The Committee shall serve without compensation and shall be charged with the duties as set forth in this Chapter.

Section 296-5 Review of Actions:

A. Whenever a proposed action is located in the City's Waterfront Area, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards and conditions set forth in Section 7 herein.

B. Whenever a agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the Waterfront Area, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assist the consistency of the proposed action.

C. The agency shall refer a copy of the completed CAF to the Committee within ten (10) days of its submission and prior to making its determination, shall consider the recommendation of the Committee with reference to the consistency of the proposed action.

D. After referral from an agency, the Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Section 7 herein. The Committee shall require the applicant to submit all completed applications, CAFs and any other information deemed to be necessary to its consistency recommendations.

E. The Committee shall render its written recommendation to the agency within thirty (30) days following referral of the CAF from the agency, unless extended by mutual agreement of the Commission and the applicant or in the case of direct action, the agency. The recommendation shall indicate whether, in the opinion of the Commission, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and shall elaborate in writing the basis for its opinion.

The Committee shall, along with its consistency recommendation, make any suggestions to the agency concerning modification, of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them.

In the event that the Committee recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Committee recommendation.

F. The agency shall make the determination of consistency based on the CAF, the Committee recommendation and such other information as is deemed to be necessary in its determination. The agency shall issue its determination within thirty (30) days following receipt of the Committee recommendation and submission by the applicant of any additional required information. The agency shall have the authority, in its finding of consistency, to impose practicable and reasonable conditions on an action to ensure that it is carried out in accordance with this Chapter.

G. Actions to be undertaken within the Coastal Waterfront Area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the City of Newburgh LWRP, a copy of which is on file in the City Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policy to:

- (1) Revitalize deteriorated and underutilized waterfront areas (Policies 1, 1A, 1B, 1C, 1D, 1E).
- (2) Retain and promote commercial and recreational water-dependent uses (Policy 2).
- (3) Strengthen economic base of smaller harbor areas by encouraging traditional uses and activities. (Policies 4, 4A).
- (4) Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).
- (5) Streamline development permit procedures (Policy 6).
- (6) Protect significant and locally important fish and wildlife

habitats from human disruption and chemical contamination (Policy 7, 7A, 8, 8A).

- (7) Maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities. (Policies 9, 9A, 10).
- (8) Minimize flooding and erosion hazards through non-structural means, carefully-selected long-term structural measures and appropriate siting of structures (Policies 11, 11A, 12, 13, 14, 16, 17, 28).
- (9) Safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policies 18, 18A).
- (10) Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 20, 20A, 21, 21A, 21B, 22, 22A).
- (11) Protect and restore historic and archeological resources (Policies 23, 23A).
- (12) Protect and upgrade scenic resources (Policy 25).
- (13) Site and construct energy facilities in a manner in which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27, 29, 40).
- (14) Prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28).
- (15) Protect surface and groundwaters from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 33, 34, 35, 36, 36A, 37, 38).
- (16) Perform dredging and dredge spoil in a manner protective of natural resources (Policies 15, 35).
- (17) Handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policies 39, 39A).
- (18) Protect air quality (Policies 41, 42, 43).
- (19) Protect freshwater wetlands (Policy 44).

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

- (1) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
- (2) the action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
- (3) the action will advance one or more of the other LWRP policy standards and conditions: and
- (4) the action will result in an overriding City, regional or state-wide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

I. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Commission. Such files shall be made available for public inspection upon request.

Section 296-6 Enforcement:

The City building inspector shall be responsible for enforcing this Chapter. No work or activity on a project in the Waterfront Area which is subject to review under this Chapter shall be commenced or undertaken until the building inspector has been presented with a written determination from an agency that the action is consistent with the City's LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with the Chapter or any conditions imposed thereunder, the building inspector shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

Section 296-7 Violations:

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 five hundred dollars for a conviction of a first offense and punishable by a fine of one thousand dollars 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 City 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.

Section 296-8 Severability:

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

Section 296-9 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.

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

(Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 19 92 of the ~~(County)~~(City)(~~Town~~)(~~Village~~) of Newburgh was duly passed by the City Council on April 27 1992, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19__, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19__, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19__, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19__. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19__, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19__, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19__, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19__, became operative.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

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

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Melanie A. Kaish
Clerk of the County legislative body, City, ~~XXXXXX~~ Clerk
or officer designated by local legislative body

(Seal)

Date: April 28, 1992

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

STATE OF NEW YORK
COUNTY OF ORANGE

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

William N. K...
Signature

Corporation Counsel
Title

~~County~~
City of Newburgh
~~Town~~
~~Village~~

Date: April 28, 1992

APPENDIX F

Zoning Summary

**R-2
TWO-FAMILY RESIDENTIAL DISTRICT**

	Use Type	Min. Lot Area (ft)	Min. Lot Width (ft)	Min. Lot Depth (ft)	Min. Front Yard (ft)	Min. Side Yard Each (ft)	Min. Rear Yard (ft)	Max. Building Height (ft)	Max. Stories
R-2 Two-Family Residential District									
One-family detached dwelling	P	7,500	50	100	15	10	20	2.5	35
One-family attached (duplex, townhome)	P	2,500**	25	100	10	0/10*	20	2.5	35
Two-family dwelling	P	5,000	50	100	15	10	20	2.5	35
Church and similar place of worship	P	7,500	75	100	30	30	30	2.5	35
School of general instruction	P	15,000	100	150	30	30	30	3	40
Public parks and playgrounds	P								
Customary home occupation and professional office acc. to one-family dwelling	SP;A	7,500	50	100	25	5	20	2.5	35
Community parking area	SP	5,000	50	100	5	5	10	n/a	n/a
Hair salon acc. to one or two-family dwelling	SP;A	5,000	50	100	15	10	20	2.5	35
Boardinghouse, rooming house	SP	7,500	50	100	15	10	20	2.5	35
Off-street parking	A								
Swimming pool acc. to residential use	A								
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use and do not include any activity commonly conducted as a business.	A								

= Permitted Use
SP = Special Permit Use

A = Accessory
X = Prohibited

Notes:

- * - Where dwelling shares common wall, no side yard is required.
- ** - Minimum lot area is per unit.

MULTIPLE FAMILY DWELLING RESIDENTIAL DISTRICT

Use Type	Min. Lot Area (ft)	Min. Lot Width (ft)	Min. Lot Depth (ft)	Min. Front Yard (ft)	Min. Side Yard Each (ft)	Min. Rear Yard (ft)	Max. Building Height Stories	(ft)
R-3 Multiple Family Dwelling Residential District								
One-family detached	P 7,500	75	100	15	10	20	2.5	35
One-family attached (duplex, townhome)	P 2,500**	25	100	10	0/10*	20	2.5	35
Two-family dwelling	P 5,000	50	100	15	10	20	2.5	35
Three-family dwelling	P 5,000	50	100	10	0/10*	20	3	40
Garden apartments	P 1 ac.	150	100	25	25	25	2.5	35
Planned residential development	SP 1 ac.	150	100	25	25	25	2.5	35
Church and similar place of worship	P 7,500	75	100	30	30	30	2.5	35
School of general instruction	P 15,000	100	150	30	30	30	3	35
Public park, playground	P							
Hospital, rest home, adult assisted living	SP 80,000	200	200	50	25	50	3	40
Philanthropic, eleemosynary institution, similar uses	P 20,000	100	100	25	25	25	3	40
Customary home occupation and professional office acc. to a one-family dwelling	SP;A 7,500	50	100	25	5	20	2.5	35
Community parking area	SP 7,500	50	100	25	5	20	2.5	35
Hair salon acc. to one or two-family dwelling	SP;A 5,000	50	100	15	10	20	2.5	35
Off-street parking	A							
Swimming pool acc. to residential use	A							
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use and do not include any activity commonly conducted as a business.	A							

P = Permitted Use

SP = Special Permit Use

A = Accessory

X = Prohibited

* - Where dwelling shares common wall, no side yard is required.

** - Minimum lot area is per unit.

**R-4
CIVIC CENTER
RESIDENTIAL DISTRICT**

Use Type	Min.	Min.	Min.	Min.	Min.	Min.	Min.	Max.
	Lot Area (ft)	Lot Width (ft)	Lot Depth (ft)	Front Yard (ft)	Side Yard Each (ft)	Rear Yard (ft)	Building Height Stories	Height (ft)
R-4 Civic Center & Residential District								
One-family detached	P 7,500	75	100	15	10	20	2.5	35
One-family attached (duplex, townhome)	P 2,500**	25	100	10	0/10*	20	2.5	35
Two-family dwelling	P 5,000	50	100	15	10	20	2.5	35
Three-family dwelling	P 5,000	50	100	10	0/10	20	3	40
Church and similar place of worship	P 7,500	75	100	30	30	30	2.5	35
School of general instruction	P 15,000	100	150	30	30	30	3	35
Public park, playground	P							
Hospital, rest home	P 80,000	200	200	50	25	50	3	40
Philanthropic, eleemosynary institutions, similar uses.	P 20,000	100	100	25	25	25	3	40
Professional office	P 7,500	75	100	15	15	25	3	40
Governmental office	P 7,500	75	100	15	15	25	3	40
Library, museum, art and antique gallery	P 10,000	75	100	15	15	20	2.5	35
Daycare center; nursery school	SP 7,500	75	100	15	10	20	2.5	35
Bed and breakfast	SP 15,000	100	100	15	25	25	2.5	35
Customary home occupation and professional office acc. to a one-family dwelling	SP;A 7,500	50	100	25	5	20	2.5	35
Community parking area	SP 7,500	50	100	25	5	20	2.5	35
Beauty parlor acc. to one or two-family dwelling	SP;A 7,500	50	100	25	5	20	2.5	35
Off-street parking	A							
Swimming pool acc. to residential use	A							
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use and do not include any activity commonly conducted as a business.	A							

* - Where dwelling shares common wall, no side yard is required.

** - Minimum lot area is per unit.

P = Permitted Use

SP = Special Permit Use

A = Accessory

X = Prohibited

**R-5
HIGH DENSITY MULTIPLE DWELLING
RESIDENTIAL DISTRICT**

Use Type	Min.	Min.	Min.	Min.	Min.	Min.	Max.			
	Lot Area (ft)	Lot Width (ft)	Lot Depth (ft)	Front Yard (ft)	Side Yard Each (ft)	Rear Yard (ft)	Building Height Stories	Height (ft)		
R-5 High Density Multiple Family Dwelling Residential District										
Apartment house	SP 80,000	200	200	35	35	35	6	60		
Rest home, adult assisted living	SP 80,000	200	200	35	35	35	6	60		
Off-street parking	A									
Indoor and outdoor recreation facilities	A									
Neighborhood retail; ground floor only	SP;A									
Personal service uses; ground floor only	SP;A									
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use and do not include any activity commonly conducted as a business.	A									

P = Permitted Use
SP = Special Permit Use

A = Accessory
X = Prohibited

C-1
NEIGHBORHOOD RETAIL RESIDENTIAL DISTRICT

Use Type	Min.	Min.	Min.	Min.	Min.	Min.	Max.		
	Lot Area (ft)	Lot Width (ft)	Lot Depth (ft)	Front Yard (ft)	Side Yard Each (ft)	Rear Yard (ft)	Building Height Stories (ft)		
C-1									
Neighborhood Retail & Residential District									
One-family detached	P 7,500	75	100	15	10	20	2.5	35	
One-family attached (duplex, townhome)	P 2,500**	25	100	10	0/10*	20	2.5	35	
Two-family dwelling	P 5,000	50	100	15	10	20	2.5	35	
Three-family dwelling (multiplex)	P 5,000	50	100	10	0/10	20	3	40	
Church and similar place of worship	P 7,500	75		30	30	30	2.5	35	
School of general instruction	P 15,000	100	150	30	30	30	3	35	
Public park, playground	P								
Professional and business office	P 5,000	50	100	15	10	20	2.5	35	
Personal service	P 5,000	50	100	15	10	20	2.5	35	
Neighborhood retail	P 5,000	50	100	15	10	20	2.5	35	
Deli, convenience store	P 5,000	50	100	15	10	20	2.5	35	
Mixed residential/commercial use	P 2,500	25	100	10	0/5*	20	2.5	35	
Daycare center; nursery school	SP 7,500	75	100	15	10	20	2.5	35	
Community parking area	SP 7,500	50	100	25	5	20	2.5	35	
Customary home occupation and professional office acc. to one-family dwelling	SP;A 7,500	75		25	5	20	2.5	35	
Off-street parking	A								
Swimming pool acc. to one-family det. dwelling	A								
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use.	A								

* - Where dwelling shares common wall, no side yard is required.

** - Minimum lot area is per unit.

P = Permitted Use

SP = Special Permit Use

A = Accessory

X = Prohibited

GENERAL BUSINESS DISTRICT

Use Type	Min. Lot Area (ft)	Min. Lot Width (ft)	Min. Lot Depth (ft)	Min. Front Yard (ft)	Min. Side Yard Each (ft)	Min. Rear Yard (ft)	Max. Building Height Stories	Max. Building Height (ft)
C-2 General Business								
Church and similar place of worship	P 7,500	75	100	30	30	30	3.5	40
Community parking area	P 5,000	50	100	5	5	10	3.5	40
Office	P 5,000	50	100	0/5*	0/5**	10	3.5	40
Personal service	P 5,000	50	100	0/5*	0/5**	10	3.5	40
Retail	P 5,000	50	100	0/5*	0/5**	10	3.5	40
Liquor store	P 5,000	50	100	0/5*	0/5**	10	3.5	40
Deli, convenience store	P 5,000	50	100	0/5*	0/5**	10	3.5	40
Bank	P 7,500	75	100	0/5*	0/5**	10	3.5	40
Theater	P 10,000	100	100	0/5*	0/5**	10	3.5	40
Restaurant	P 5,000	50	100	0/5*	0/5**	10	3.5	40
Fast food restaurant, w/ or w/o drive-through	P 5,000	50	100	0/5*	0/5**	10	3.5	40
Telephone exchange	P 5,000	50	100	0/5*	0/5**	10	3.5	40
Assembly hall, billiard or pool hall, bowling alley	P 5,000	50	100	0/5*	0/5**	10	3.5	40
Printing establishment	P 7,500	75	100	0/5*	5	10	3.5	40
Funeral parlor	P 5,000	50	100	0/5*	5	10	3.5	40
Drycleaning, provided cleaning agents are inflammable.	P 5,000	50	100	0/5*	5	10	3.5	40
Laundry, hand or self-service	P 5,000	50	100	0/5*	0/5	10	3.5	40
Amusement center	SP 5,000		100	0/5*	0/5	10	3.5	40
Wholesale retail	SP 10,000	100	100	10	10	20	3.5	40
Off-street parking	A							
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use.	A							

P = Permitted Use
 SP = Special Permit Use

A = Accessory
 X = Prohibited

* - Buildings fronting on Broadway and Mill Street permitted to be located along street line. All other lots require minimum of five foot front yard.
 ** - Existing attached buildings sharing common wall require no side yard; all other buildings require minimum 5 foot side yard.

PLANNED COMMERCIAL DISTRICT

Use Type	Min.	Min.	Min.	Min.	Min.	Min.	Max.	Stories	(ft)
	Lot Area (ft)	Lot Width (ft)	Lot Depth (ft)	Front Yard (ft)	Side Yard Each (ft)	Rear Yard (ft)	Building Height		
Shopping center	SP 20,000	100	150	10	15	20	2.5	35	
Public park, playground	P								
Community parking area	P 5,000	50	100	5	5	10	3.5	40	
Office	P 10,000	75	100	5	5	10	3.5	40	
Personal service	P 10,000	75	100	5	5	10	3.5	40	
Retail store	P 10,000	75	100	5	5	10	3.5	40	
Liquor store	P 10,000	75	100	5	5	10	3.5	40	
Grocery store	P 20,000	100	150	5	5	20	3.5	40	
Bank	P 10,000	75	100	5	5	10	3.5	40	
Restaurant	P 5,000	50	100	5	5	10	3.5	40	
Fast food restaurant, w/ or w/o drive-through	P 5,000	50	100	0/5*	0/5**	10	3.5	40	
Retail sale of automotive and truck tires	P 5,000	50	100	5	5	10	3.5	40	
Telephone exchange	P 5,000	50	100	5	5	10	3.5	40	
Drycleaning, provided cleaning agents are inflammable.	P 5,000	50	100	5	5	10	3.5	40	
Laundry, hand or self-service	P 5,000	50	100	5	5	10	3.5	40	
Technical and business school	P 10,000	100	100	5	5	10	3.5	40	
Theater	SP 10,000	75	100	5	5	10	3.5	40	
Funeral parlor	SP 10,000	75	100	5	5	10	3.5	40	
Off-street parking	A								
Other customary accessory uses and buildings provided that such use is clearly incidental to the principal use.	A								

* - Where dwelling shares common wall, no side yard is required.

P = Permitted Use

SP = Special Permit Use

A = Accessory

X = Prohibited

**TC-1
TOURIST COMMERCIAL DISTRICT**

Use Type	Min.	Min.	Min.	Min.	Min.	Min.	Max.	
	Lot Area (ft)	Lot Width (ft)	Lot Depth (ft)	Front Yard (ft)	Side Yard Each (ft)	Rear Yard (ft)	Building Height Stories (ft)	
TC-1 Tourist Commercial District								
One-family detached dwelling	P 7,500	50	100	15	10	20	2.5	35
One-family attached (duplex, townhome)	P 2,500**	25	100	15	0/10*	20	3	45
Two-family dwelling	P 5,000	50	100	15	10	20	2.5	35
Mixed use: residential on upper floors only***	P 2,500	25	100	15	0/5*	20	3	45
Professional and business office	P 2,500	25	100	15	0/5*	20	3	45
Governmental office	P 2,500	25	100	15	0/5*	20	3	45
Tourist-related retail use	P 2,500	25	100	15	0/5*	20	3	45
Church and similar place of worship	P 7,500	75	100	15	15	20	3	45
Places of assembly	SP 2,500	25	100	15	0/5*	20	3	45
Craft shop	SP 2,500	25	100	15	0/5*	20	3	45
Restaurant; bar	SP 2,500	25	100	15	0/5*	20	3	45
Fast food restaurant, without drive-through facility	SP 2,500	25	100	15	0/5*	20	3	45
Launderette	SP 2,500	25	100	15	0/5*	20	3	45
Conference center	SP 10,000	100	100	25	15	25	3	45
Hotel	SP 10,000	100	100	25	15	25	3	45
Swimming pools acc. to one-family det.	A							
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use.	A							
Gasoline & filling station, repair garage, automobile and truck sales area and use, car wash	X							
Adult use	X							
Amusement center	X							
Drycleaning	X							
Package liquor store	X							
Funeral parlor	X							
Theater	X							
Billiard or pool hall, bowling alley	X							

In the TC-1 District, residential uses are not permitted east of Washington Place and Colden Street.

* - Where existing building shares common wall, no side yard is required. All other buildings require 5 foot side yard.

** - Minimum lot area is per unit.

*** - One dwelling unit is permitted for each 1,000 square feet of gross floor area per upper story floor.

P = Permitted Use

A = Accessory

SP = Special Permit Use

X = Prohibited

HEAVY COMMERCIAL/LIGHT INDUSTRIAL DISTRICT

Use Type	Min. Lot Area (ft)	Min. Lot Width (ft)	Min. Lot Depth (ft)	Min. Front Yard (ft)	Min. Side Yard Each (ft)	Min. Rear Yard (ft)	Max. Building Height Stories	Max. Building Height (ft)
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I-1
Heavy Commercial/Light Industrial District

Light industry	P	20,000	100	150	20	15	25	3	40
Machine shop, steel fabricating	P	15,000	100	100	20	15	10	3	40
Distribution facility	P	20,000	100	150	20	15	25	3	40
Wholesale business	P	15,000	100	100	20	15	10	3	40
Storage building; warehouse	P	15,000	100	100	20	15	10	3	40
Repair garage, filling station	P	10,000	75	100	15	15	10	2	30
Automotive repair, painting, rebuilding, or reconditioning	P	15,000	100	100	15	15	15	2	30
Tire retreading or recapping	P	15,000	100	100	15	15	15	2	30
Automotive sales area or establishment	P	15,000	100	100	20	15	10	2	30
Veterinary, animal hospital, kennel	SP	15,000	100	100	20	15	15	2	30
Laundry and general cleaning	P	5,000	50	100	5	5	10	2	30
Contractor storage yard, excpt. concrete mixing	P	15,000	100	100	20	15	15	2	30
Retail sales of contractor equipment	P	15,000	100	100	20	15	10	2	30
Freight, truck yard or terminal	P	20,000	100	150	20	15	25	2	30
Fuel yard, including the storage of petroleum products less than 10,000 gallons	P	20,000	100	150	20	15	25	2	30
Plumbing or sheet metal shop	P	15,000	100	100	20	15	10	2	30
Small boat building, storage and sales	P	15,000	100	100	20	15	10	2	30
Stone monument works (employing less than five persons)	P	10,000	75	100	15	15	10	2	30
Adult uses	SP								
Off-street parking	A								
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use.									

P = Permitted Use
SP = Special Permit Use

A = Accessory
X = Prohibited

WAREHOUSE/LIGHT INDUSTRIAL/DISTRIBUTION DISTRICT

Use	Min.	Min.	Min.	Min.	Min.	Min.	Max.	
	Lot Area (ft)	Lot Width (ft)	Lot Depth (ft)	Front Yard (ft)	Side Yard Each (ft)	Rear Yard (ft)	Building Height Stories (ft)	
I-2								
Warehouse/Light Industrial/ Distribution District								
Light industry	P 15,000	100	100	20	15	10	3	40
Machine shop, steel fabricating	P 15,000	100	100	20	15	10	3	45
Distribution facility	P 20,000	100	150	20	15	25	3	40
Wholesale business	P 15,000	100	100	20	15	10	3	40
Storage building, warehouse	P 15,000	100	100	20	15	10	3	40
Contractor storage yard, except. concrete mixing	P 15,000	100	100	20	15	15	2	30
Retail sales of contractor equipment	P 15,000	100	100	20	15	10	2	30
Freight, truck yard or terminal	P 20,000	100	150	20	15	25	2	30
Off-street parking	A							
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use.	A							

P = Permitted Use
SP = Special Permit Use

A = Accessory
X = Prohibited

**PO-1
OFFICE AND MEDICAL TECHNOLOGY DISTRICT**

**PO-2
OFFICE AND DISTRIBUTION DISTRICT**

Use Type	Min. Lot Area (ft)	Min. Lot Width (ft)	Min. Lot Depth (ft)	Min. Front Yard (ft)	Min. Side Yard Each (ft)	Min. Rear Yard (ft)	Max. Building Height (ft)	Max. Building Height (Stories)
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**PO-1
Office and Medical Technology**

Professional and business office	P	40,000	100	100	25	15	25	2.5	40
Medical technology service	P	40,000	100	100	25	15	25	2.5	40
Daycare center acc. to professional office	SP;A								
Off-street parking	A								
Other customary accessory uses and buildings provided that such use is clearly incidental to the principal use.	A								

**PO-2
Office and Distribution District**

Professional and business office	P	40,000	100	100	25	15	25	2.5	40
Medical technology service	P	40,000	100	100	25	15	25	2.5	40
Warehouse	P	40,000	100	100	25	15	25	2.5	40
Distribution facility	P	40,000	100	100	25	15	25	2.5	40
Bank	P	10,000	75	100	25	15	20	2.5	35
Restaurant	SP	10,000	75	100	25	15	20	2.5	35
Off-street parking	A								
Other customary accessory uses and buildings provided that such use is clearly incidental to the principal use.	A								

P = Permitted Use
SP = Special Permit Use

A = Accessory
X = Prohibited

W-1
WATERFRONT MIXED USE DISTRICT

	Use Type - 1	Use Type - 2	Min. Lot Area (ft)	Min. Lot Width (ft)	Min. Lot Depth (ft)	Min. Front Yard (ft)	Min. Side Yard Each (ft)	Min. Rear Yard (ft)	Max. Building Height (ft)	Max. Stories
W-1 Waterfront Mixed Use District										
Yacht club, marina	P	P	10,000	75	100	15	15	20	2.5	35
Boat dock, slip, pier and wharves for yachts and pleasure boats	P	P	5,000	50	100	15	15	10	2.5	35
Boat building, storage, repair, sales, and services inc. offices, dockside equipment, and incidental accessory uses	P	P	10,000	75	100	15	15	20	2.5	35
Boat and marine engine sales and display, yacht broker and marine insurance broker	P	P	10,000	75	100	15	15	20	2.5	35
Boat rental	P	P	10,000	75	100	15	15	20	2.5	35
Boating, fishing, diving, and bathing supplies and equipment sales and rentals	P	P	5,000	50	100	15	15	10	2.5	35
Sail loft or ship's chandlery	P	P	10,000	75	100	15	15	20	2.5	35
Parks, aquariums, museums and libraries	P	P	10,000	75	100	15	15	20	2.5	35
Waterborne transportation terminals and passage ticket sales, providing parking lots for these uses shall not be located on any sites with river frontage.	P	P	10,000	75	100	15	15	20	2.5	35
Retail uses, no single store shall exceed 8,000 square feet.	SP	P	10,000	75	100	15	15	20	2.5	35
Restaurant	SP	P	10,000	75	100	15	15	20	2.5	35
Art and antique gallery	SP	P	10,000	75	100	15	15	20	2.5	35
Professional and business offices	SP	P	10,000	75	100	15	15	20	2.5	35
Adaptive reuse of existing building for residential use	SP	SP	40,000	100	100	25	25	20	3	40
Single family attached and multifamily dwellings	SP	SP	40,000	100	100	25	25	20	3	40
Fully enclosed storage	A	A								
Outdoor storage of operable boats	A	A								
Off-street parking	A	A								
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use.	A	A								

Use Type - 1 = Applies to lots having Hudson River frontage
 Use Type - 2 = Applies to lots not having Hudson River frontage

P = Permitted Use
 SP = Special Permit Use
 A = Accessory
 X = Prohibited

Refer also to Section 300-20 for additional standards.

W-2
WATERFRONT INDUSTRIAL DISTRICT

Use Type	Min. Lot Area (ft)	Min. Lot Width (ft)	Min. Lot Depth (ft)	Min. Front Yard (ft)	Min. Side Yard Each (ft)	Min. Rear Yard (ft)	Max. Building Height (ft)	Stories
W-2								
Waterfront Industrial District								
Boat building, storage, repair, sales, and services inc. offices, dockside equipment, and incidental accessory uses	P	7,500	50	100	25	10	20	2.5 35
Boat and marine engine sales and display, yacht broker and marine insurance broker	P	7,500	50	100	25	10	20	2.5 35
Boat rental	P	7,500	50	100	25	10	20	2.5 35
Boating, fishing, diving, and bathing supplies and equipment sales and rentals	P	7,500	50	100	25	10	20	2.5 35
Sail loft or ship's chandlery	P	7,500	50	100	25	10	20	2.5 35
Parks	P							
Municipal services	P							
Wholesale or retail trade of fish, provided that no processing occurs on-site.	SP	10,000	75	100	25	15	20	2.5 35
Water-dependent research, design and development laboratories	SP	10,000	75	100	25	15	20	2.5 35
Water dependent industrial use	SP	40,000	100	200	50	25	25	2.5 35
Passenger terminals	SP	10,000	75	100	15	15	20	2.5 35

Outdoor storage of operable boats A
 Off-street parking facilities A
 Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use. A

P = Permitted Use
 SP = Special Permit Use

A = Accessory
 X = Prohibited

APPENDIX G
Guidelines for Review of State and Federal Actions

NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM

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

I. PURPOSES OF GUIDELINES

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

II. DEFINITIONS

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

policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

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

III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
 1. Shall fully describe the nature and location of the action;
 2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
 3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. RESOLUTION OF CONFLICTS

- A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
 1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.

2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.
5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

PROCEDURAL GUIDELINES FOR COORDINATING
NYS DEPARTMENT OF STATE (DOS) & LWRP
CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS

DIRECT ACTIONS

1. 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 direct action to the program coordinator (of an approved LWRP) and other interested parties.
2. 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 action.
3. 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 direct federal agency action with local coastal policies.
4. 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 direct action.
5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. 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 program coordinator and will identify the Department's principal reviewer for the proposed action.
2. Within thirty (30) days of receiving such information, the 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 action with local coastal policies.
3. When DOS and the 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 program coordinator upon receipt.

4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.
5. After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action 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 action with local coastal policies.
6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant.
7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

FINANCIAL ASSISTANCE ACTIONS

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action 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 program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.
2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
3. 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 financial assistance actions.
4. The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty days (or other time agreed to by DOS and the 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 financial assistance action with local coastal policies.

5. 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 program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.